TOWNSHIP OF DENVILLE
BOARD OF ADJUSTMENT
MINUTES

May 4, 2011

The Board of Adjustment of the Township of Denville held its regular meeting on Wednesday, May 4, 2011. The meeting was held in the Municipal Building, 1 St. Mary's Place and commenced at 7:00 P.M. Chairperson Scollans presided.

Secretary Probasco read NOTICE OF PUBLIC MEETING.

ROLL CALL:
Present: Kevin Scollans, Sally Dankos, Arthur Korn, Frank Passucci, James Rodimer, Roger Spiess, Tom Dolan
Absent: John Murphy, Sean Ryan
Prof. Present: Larry Weiner, Esq., William Denzler, PP, John Ruschke, PE

Larry Wiener, Esq. stated that it was his understanding that the municipality has engaged Hatch Mott MacDonald as engineering firm with John Ruschke as Professional Engineer for the Township of Denville. Secretary Probasco confirmed. For the record, the Board Attorney commented that the board should make a motion to accept John Ruschke as Professional Engineer for the zoning board of adjustment. Motion to appoint John Ruschke as Professional Engineer was made by Mbr. Rodimer, seconded by Mbr. Korn and unanimously approved by all members present and able to vote. The board welcomed Mr. Ruschke.

Roll Call: Ayes: Rodimer, Korn, Spiess, Dankos, Passucci, Dolan, Scollans

MINUTES:
April 6, 2011
Motion to adopt the minutes as submitted was made by Mbr. Dankos, seconded by Mbr. Korn and unanimously approved by all members able to vote.

PURCHASING:
Motion to pay voucher(s) submitted by Larry I. Weiner dated April 12, 2011 subject to the availability of funds, was made by Mbr. Rodimer, seconded by Mbr. Dankos and unanimously approved by all Members present.

Motion to pay voucher(s) submitted by William Denzler & Associates dated April 4, 2011 subject to the availability of funds, was made by Mbr. Rodimer, seconded by Mbr. Dankos and unanimously approved by all Members present.

RESOLUTIONS:
BA 11-02: Jason & Sarah Wills
Block 60601, Lot 151
19 Whaleback Waddy
A motion was made to adopt the resolution by Mbr. Korn, seconded by Mbr. Dankos and unanimously approved by all members able to vote.
Roll Call: Ayes – Korn, Dankos, Spiess, Passucci, Dolan

BA 11-03: Barks Bed and Biscuit, LLC
Block 50101, Lot 8
267 Route 46 East
A motion was made to adopt the resolution by Mbr. Korn, seconded by Mbr. Dankos and unanimously approved by all members able to vote.
Roll Call: Ayes – Korn, Dankos, Spiess, Passucci, Dolan

BA 11-07: Martin & Karen Hogan
Block 41104, Lot 243
17 Forest Trail
A motion was made to adopt the resolution by Mbr. Korn, seconded by Mbr. Dankos and unanimously approved by all members able to vote.
Roll Call: Ayes – Korn, Dankos, Spiess, Passucci, Dolan
PUBLIC HEARINGS:

BA 11-04: Luis A. Samayoa  
Block 11201, Lot 2  
884 Miller Road

Luis A. Samayoa (159 Norway Lane, South Plainfield) was present as a contractor for the owner, Silas Ashmore (884 Miller Road) and sworn under oath. Mr. Samayoa proposed the addition of a 6' fence in the front yard. The purpose of the fence would be to keep deer and wildlife off the property. The fence would close with gates and would connect to the existing side yard fence and home security system.

Chr. Scollans opened the hearing to the professionals.

Bill Denzler, Township Planner asked Mr. Samayoa to provide a description of the fence. Luis Samayoa responded that the gate and the fence would be 6’ in the front of the house. Bill Denzler inquired if the gate would be locked or open. Luis Samayoa replied that it would be electric and connected through a home alarm system. Mr. Denzler stated that access from the road would be required for emergency services. Stating that 6’ fences are not permitted in the front yard by ordinance. The location of the fence would pose no visual detriment off Miller road.

Chr. Scollans opened the hearing to the board members.

Mbr. Spiess had no questions. Commented that the fence is smart would blend nicely with the neighborhood and was in favor of the proposed.
Mbr. Dolan had none.
Mbr. Rodimer commented that he had no problems with the application, provided that the fire and police departments have required access in case of emergency.
Mbr. Dankos had no questions and commented on the beautiful property.
Mbr. Korn voiced confusion regarding the fence height and the gate being locked not being consistent with keeping deer out. Voiced dislike for the fence in the front yard.
Mbr. Passucci inquired if the entire fence would be scalloped or only the gate. Luis Samayoa replied only the gate would be scalloped.
Mbr. Scollans didn’t have a major problem with the proposed based upon it being set back from the road.

Motion to approve this application with conditions regarding emergency service access, was made by Mbr. Spiess, seconded by Mbr. Dankos and approved by the majority of members eligible to vote. Roll Call: Ayes – Spiess, Dankos, Rodimer, Passucci, Dolan, Scollans Nays - Korn

ABA 11-08 Gaetano Liberti  
Block 40609, Lot 92  
33-35 Base Road

Gaetano Liberti (35A Base Road) and Jason Gonzalez (35B Base Road) were both present and sworn under oath. The applicants reside in a side-by-side duplex on the subject property. Applicant proposes to construct a covered front porch and rear deck requiring “C” variance relief for front yard setbacks. Gaetano Liberti spoke to the current wood landing being in a state of disrepair and the flower planter box having termites. Proposed roof would provide protection from elements and added safety by preventing ice on the steps. Proposed material of stucco and aesthetics would be consistent with homes in neighborhood. The replacement will use the existing footprint.

The Board Attorney, inquired if the property was zoned for a duplex. Bill Denzler responded that the property is located in the R4 zone and meets the criteria for a two-family home. Bill Denzler confirmed that it was the location of the current infrastructure being the primary hardship.

Gaetano Liberti continued regarding the rear deck replacement and slight expansion. Bill Denzler inquired if consideration was given to expanding the deck towards the center of the dwelling. Gaetano Liberti responded that it would impact the retaining wall as well as infringing on the rear yard.
John Ruschke, PE had no engineering concerns but commented on a shed off the property line. Gaetano Liberti confirmed that the shed was theirs but existed when the home was purchased for approximately 25 years on public property.

The Board Attorney explained that the shed should be relocated or an easement should be given for the paper road and approval obtained from the town.

Mbr. Spiess had no questions and liked the application. Agreed the expansion of the deck is a good fit and would improve functionality and aesthetics. In favor of the proposed, if the relocation of the shed was a condition of approval.

Mr. Denzler spoke that the shed was in line with Cherry Hill and was 5’ off the property line. Stating that more than enough room was available to relocate the shed.

Mbrs. Dolan, Rodimer, Dankos, Korn had none.

Mbr. Passucci inquired whether there would be lighting from the overhang. Mr. Liberti stated lighting exist on both sides of the door so that no overhead lighting is required or proposed.

Chr. Scollans stated he had no problems with the application, with the exception of the shed.

Mbr. Spiess made a motion to approve the application with the relocation of the shed as a condition of approval. Mbr. Dankos seconded the motion with unanimous approval from all members present and eligible to vote.

Roll Call:
Ayes – Spiess, Dankos, Rodimer, Passucci, Korn, Dolan, Scollans

BA/PSP/FSPV 11-01: Todd Garrett, LLC
Block 20701, Lot 26
3121 Route 10 East

Robert P. Avolio, Esq. of Avolio & Hanlon, PC (3150 Brunswick Pike, Lawrenceville) was present on behalf of the applicant. Todd Garrett, LLC., The Learning Experience, 3121 Route 10 in Denville. Applicant is proposing to convert an existing building to a child-care center requiring preliminary and final site plan approval with variance relief for outdoor storage, off-street parking setback, parking spaces and steep slopes. Mr. Avolio provided a brief explanation of the applicant’s business. Stating that the existing building and changes will not include expansion. Seeking use and bulk variances. The use variance is only for playground use and not for use of the building itself. Three witnesses will be called; the architect, engineer and planner.

Larry Weiner, Board Attorney spoke to the jurisdiction and use of the playground equipment. Stating that the trigger for the use variance is that the playground is considered outdoor storage by our ordinance and the zone. Strict use of the land use law.

Matthew B. Jarmel, AIA, MBA, Principal of Jarmel Kizel Architects and Engineers, Inc. (42 Okner Parkway) was present and accepted as an expert witness. Mr. Jarmel stated the Learning Experience is a client of their firm in multiple states. Testimony will include architectural components and the operation. The existing building is approximately 9,400 sq. ft. Extensive exterior renovation will include, complete exterior façade, canopies to be removed, windows removal and replacement. New floor plan and layout for the child care center. The hours of operation 6:30 to 6:30 Monday through Friday. Special events are handled on a class by class basis. For larger events offsite locations are used.

Exhibit A-1 Elevations dated May 4, 2011. These elevations are colorized, otherwise the same as those previously distributed. Matt Jarmel spoke to the proposed changes from a retail building to a child care center. Outdoor canopy to cover the entrance from the elements. Building to have synthetic stucco (EIFS) on all four sides. Proposed new windows of typical 30’ windowill height. Referenced the Space Plan (from the packet) which includes the floor plan and exterior playground. 6’ PVC fence perimeter on the playground with emergency egress. Playground to be divided in two parts for age appropriate equipment with a 4’ divider fence. Surfacing is a recycled wood mesh of approximately 8” thickness. Chemical free and pervious unlike the existing pavement. Allowing for recharging ground water. Outdoor play space does not exceed 40 at a time. Small box truck deliveries are made during the day when the parking lot is empty except the staff vehicles. The facility has no buses.

Chr. Scollans opened the hearing to the professionals.
Bill Denzler, PP inquired about peak time during the 6:30-9:30 drop off period. Matt Jarmel responded that drops are usually made close to their residence or to their place of employment. Stating that the subjective time would be 7:30-8:30.

John Ruschke, PE inquired about the parking during the peak hours. Matt Jarmel restated that there are 100 similar sites in operation and spoke to the 11 parking spaces (2 handicapped), 5 minute drop off and check-in process. Turnover of 90 children an hour when a three hour period is typical. John Ruschke suggested designated parking spaces. Matt Jarmel agreed applicant would be agreeable to pick-up and drop-off signs with a 10 minute maximum, as well as staff only parking signs.

Chrs. Scollans opened the public hearing to the board members.

Mbr. Korn inquired about noise generated by children on the playground, sizing of the 8x18 parking spaces and Matt Jarmel indicated that the highway noise would be greater than children and the angle allows for easier access. Bill Denzler responded to the 9x20 parking space size by ordinance. Stating that the applicant’s engineer should address circulation issues for this location.

Mbr. Passucci inquired about staff numbers. Matt Jarmel responded about background checks, teachers aids, etc. and that licensing requirements dictate the staffing numbers. Mbr. Passucci inquired about pantry without cooking. Mr. Jarmel confirmed that only microwaves exist with no ovens or hoods. Only prepared meals are served.

Mbr. Spiess had no questions.

Mbr. Dolan, Dankos and Scollans had none.

Chrs. Scollans opened the hearing to the public for questions.

David Reese, Chairman of API Systems (3117 Route 10 East) was present. API being a tenant at the Route 10 address that is adjacent to the subject property. Mr. Reese stated that he was also the Chairman for the owner of the building, Mr. Tom Boller. Spoke briefly. The Board Attorney explained that there would be an opportunity for public comments and statements to be heard at the end of the public hearing. Further clarification was required and Mr. Reese stated he misunderstood and seated himself.

Joseph Mele, PE, PLS, Director of Civil Engineering of Jarmel Kizel Architects and Engineers, Inc. (42 Okner Parkway, Livingston). Mr. Mele was present and accepted as an expert in engineering by the board. Mr. Mele referenced the site plan dated January 6, 2010 (same as application submission). One way access points from Route 10 East on both the east and west sides of the site. Outdoor play area and trash enclosure proposed for the west side of the building. Compliant parking spaces proposed of 10’ x 20’ in the rear of the building. East side of side retaining wall is proposed to raise the grade and additional pavement. Mr. Mele continued his testimony regarding lighting, drainage and grading. Existing facility retail with 9 spaces for drop-off and 2 additional ADA spaces. The front spaces will remain in front of the building. Circulation will remain as it currently exists. Vehicle enters through one way on the west side of the site and exits through one way on the east side of the site. Staff would utilize the parallel parking spaces. Existing 22 spaces with 13 additional spaces proposed. Without site changes the parking spaces would still be deficient. Requirement of 1 per 150 for retail totaling 62 spaces. MLUL states that child care centers are exempt from parking based upon floor area. Existing 22 spaces all 8’ x 18’ are existing. None are being created. Those in the rear of the building will be replaced with compliant sized spaces.

The applicant’s engineer continued with the drainage and grading plan of the site. Testifying that the front will remain unchanged and the east and backside will include some additional drainage, grading and Belgium block curbing. The existing drainage system for Route 10 will not be affected by the changes. Current drainage pattern is from the east side of the site and out to the existing concrete pipe and drainage system situated along Route 10. Utility plan overview to include sprinkler systems. Soil Erosion and Sediment Control Plan to include silt fence, inlet filters for disturbances. The Lighting Plan includes three light poles are proposed and will be directed to the building and away from adjacent properties. Low values of .1 to .2 foot candles and will include shields to prevent glare.

Proposed landscape plan to include additional shrubs and trees on all three sides. East side proposed retaining wall. Buffer existing parking, also additional evergreen and deciduous trees along the rear line. Existing 8’ buffer with an additional evergreen buffer of 5.9’ and stockade fence. Combined with the existing evergreen buffer will leave a
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nice buffer along adjacent rear line. Rob Avolio asked the engineer to speak to the sidewalks. Joe Mele testified that this site has a proposed sidewalk to connect to the adjacent properties that have existing sidewalks. Pylon sign exists and would be reused for this facility. Mr. Mele continued his testimony in response to the Planning report from Bill Denzler dated March 31, 2011.

Chr. Scollans opened the hearing to professionals.

Bill Denzler, Township Planner inquired about existing light fixtures and shielding to decrease the foot candles. Mr. Mele confirmed shielding will be used wherever possible if within the applicant’s control (i.e. non-utility). Similarly on the western portion of the lights are slightly over foot candles permitted. Joe Mele confirmed smaller bulbs or shielding should be used to reduce intensity. Confirming that applicant would comply on lighting. Joe Mele confirmed that the striped area was for ease in circulation. The Township Planner spoke to give consideration of increasing space sizes even if decreasing the number of spaces. Thirty-five spaces being a magic number to the applicant. Bill Denzler commented that 8’ is narrow with today’s vehicles. Acknowledge off street parking spaces. Child care facilities are not based on square footage but Denville’s Ordinance uses square footage. MLUL takes precedence over municipal ordinances.

John Ruschke, Consulting Engineer commented on the sidewalk that the existing curbing be removed and NJDOT compliance. Spoke to front parking area, basin repair and maintenance of crack sealing. Applicant agrees that reconditioning of the lot would be subject to the approval of the engineer as a condition of approval. Mr. Ruschke referenced the removal of a 30’ section of fence. Mr. Mele voiced the applicant would be agreeable to this. Mr. Ruschke suggested hatching in front of the dumpster area to prevent use as a parking space and made recommendations on signage details for parking and circulation.

Chr. Scollans opened the public hearing to the board members.

Mbr. Spiess referenced the fire departments comments being a condition of approval. Robert Avolio, Esq. stated no problem at all. Mbr. Spiess indicated his main concern regarding the stormwater management proposal being adequate for impervious coverage. With additional concern regarding snow removal. John Ruschke stated that he was comfortable with having it meet the engineer’s approval being a condition of approval. Joe Mele responded that the buffers surrounding the site would be sufficient for snow removal. If they were not, the applicant would have to remove it if it impacts the parking. Spoke to the reduction of spaces being preferred over the smaller 8’ spaces. Mbr. Spiess also voiced concern of stacking along Route 10 presenting a problem. Joe Mele stated there are three lanes in that direction. Similar ingress and egress to the adjacent property.

Mbr. Dolan had none.

Mbr. Dankos inquired about total number of children. Mr. Mele stated approved for 159. Mbr. Dankos voiced concern for stacking. Commented on the noise of children being a non-issue.

Mbr. Korn commented on parking regarding a grassy area of the neighboring property owner. Robert Avolio entered an aerial photograph as Exhibit A-2 to reflect none exists. Mbr. Korn retracted his question. Mbr. Korn stated all parking spaces should be 9’ and otherwise was in favor of the application. 6’ rough stone retaining wall with a fence on top.

Mbr. Passucci commented that if snow becomes a problem it must be removed. Concurred with Mbr. Dankos and voiced stacking concerns. Stating that parents not encroach on the other businesses parking lots. Regarding use of an adjacent parking lot, Joe Mele stated that there is a retaining wall making it difficult to use an adjacent lot. The applicants attorney stated that the signage will indicate short term parking.

Mbr. Scollans commented that 8’ x 18’ would be unsatisfactory and 9’ x 18’ at a minimum. Confirmed that Belgium block goes all the way around the parking lot and drainage off lot and roof to Route 10 storm drains. Joe Mele stated that the water would be captured via three catch basins (2 new and 1 existing) from the parking lot via existing pipes to the storm drains. Rob Avolio indicated that the applicant would satisfy the engineer as a condition of approval. Mbr. Scollans inquired if a traffic plan study was performed. Joe Mele stated that a traffic study was not done but that plans were being submitted to the NJDOT for sidewalk improvements along with a request for a letter of no interest. Any approval is subject to NJDOT approval. Larry Wiener added that those stopping at the facility will not be “trip generators”. Mbr. Scollans commented that snow removal is a
major issue and suggested a detailed snow plan. Joe Mele stated it would be subject to the engineers review and approval.

Chr. Scollans stated that one additional witness would be allowed but that the public hearing for this application would be carried. The meeting was carried to May 18, 2011.

David Barese (site to the east, Lot 25) spoke to the height differential of 10’ versus 6’ of retaining wall and inquired about the pitch. Mr. Mele stated that 10’ exists from the top of the wall in relation to the graded property from the building to top of that wall. One foot pitch. Mr. Barese inquired about visual impairments, wall construction and fill. Joe Mele confirmed that no impediments from a sight line standpoint. Mr. Mele responded that the wall is being constructed in layers. No issue since it’s a fill-wall and not a cut-wall. Import site of fill to the applicant’s site and not the neighboring site. 10’ setback from the neighboring property line and 2’ towards the front. Mr. Barese spoke to the chain-link fence not being sufficient to stop a vehicle. Mr. Mele stated that the spaces would be parallel parking spaces.

The Board Secretary confirmed that the public hearing would be carried to May 18, 2011 without further notice. The Board Attorney inquired if this would allow sufficient time. The Applicant’s Attorney believed that they could respond in time.

OLD BUSINESS

Chr. Scollans inquired about the outcome of the by-law review. The by-law revisions will be to change the agenda sequence of the meetings and to include a hand-out for more difficult public hearings.

Motion to Adjourn.

Denean Probasco, Board Secretary  Date Approved