TOWNSHIP OF DENVILLE  
BOARD OF ADJUSTMENT  
MINUTES  

November 5, 2014

The Board of Adjustment of the Township of Denville held its regular scheduled meeting on Wednesday, November 5, 2014. The meeting was held in the Municipal Building, 1 St. Mary's Place and commenced at 7:00 P.M. Chairperson Spiess presided.

Secretary Probasco read NOTICE OF PUBLIC MEETING.

ROLL CALL: Present: Frank Passucci, Sally Dankos, Arthur Korn, James Rodimer, John Murphy, Susan Richter, Roger Spiess, William Zois
Absent: Tim Fisher
Prof. Present: Larry I. Wiener, Esq., Jason Kasler, AICP, PP, John Ruschke, PE

MINUTES:
October 1, 2014
Motion to adopt the minutes as submitted, was made by Mbr. Korn, seconded by Mbr. Passucci and unanimously approved by all Members present and able to vote.

PURCHASING:
Motion to pay vouchers submitted by Hatch Mott MacDonald, (dated September 18, 2014) subject to the availability of funds, was made by Mbr. Korn, seconded by Mbr. Richter and unanimously approved by all Members present and able to vote.

Motion to pay vouchers submitted by Kasler Associates, PA, (dated October 2 and October 29, 2014) subject to the availability of funds, was made by Mbr. Korn, seconded by Mbr. Richter and unanimously approved by all Members present and able to vote.

Motion to pay vouchers submitted by Larry I. Wiener, Esq., (dated October 14, 2014) subject to the availability of funds, was made by Mbr. Korn, seconded by Mbr. Richter and unanimously approved by all Members present and able to vote.

Motion to pay vouchers submitted by The Buzak Law Group, (dated August 15, 27 and October 2 2014) subject to the availability of funds, was made by Mbr. Korn, seconded by Mbr. Richter and unanimously approved by all Members present and able to vote.

RESOLUTIONS

BA/SS 14-14  
17 Long View Trail, LLC  
17 LongView Trail  
Block 40802, Lot 467
A motion to adopt this resolution was made by Mbr. Murphy, seconded by Mbr. Rodimer, and approved by a majority of board members eligible to vote.

Roll Call: Ayes – Murphy, Rodimer, Korn, Richter, Passucci, Zois
Nays – None

PUBLIC HEARINGS

BA 14-18  
David & Lisa Quincey  
92 West Shore Road  
Block 40517, Lot 224
Ted Einhorn, Esq. of the law firm Einhorn, Harris, Ascher, Barbarito & Frost (165 Main Street) represented the applicants, David and Lisa Quincey (23 Comanche Trail). The public hearing for this application was adjourned at the applicant's request to December 3, 2014 with legal notice.
BA 14-19  Joseph & Barbara Vitale
30 Magnolia Avenue
Block 30302, Lot 15

The applicants, Joseph & Barbara Vitale were present and sworn under oath. Mr. Vitale testified to seeking to construct a 4’ and 6’ solid fence in rear and front yard requiring ‘C’ bulk variance relief for road frontage on Magnolia Avenue and Hemlock Drive. Applicants received an August 7, 2014 denial letter for zoning ordinance 19-5.720 Walls and Fences from the zoning officer. Applicant testified to wanting the closed 4’ fence for safety, keeping debris out and to maintain privacy while using their hot tub.

The fence has existed for seventeen years and has already been replaced. Applicant testified to having received a building permit for the original fence but had not been required to receive a variance from the board at the time in 1997.

Chr. Spiess opened to the board professionals.

Jason Kasler, PP inquired about the 6’ fence height. Mr. Vitale stated that only a small ‘L’ portion of the fence is 6’ to square off the slope and would be completely hidden by the back of the home.

John Ruschke, PE had none.

Chr. Spiess opened to the members of the public and seeing none closed the public portion.

Chr. Spiess opened to the board members.

Mbr. Murphy commented that the fence looks fantastic and had no problem.
Mbr. Dankos had no questions or comments.
Mbrs. Zois and Richter had no questions.
Mbr. Korn had no questions and stated the fence is at a 20’ distance from the sidewalk.
Mbr. Rodimer commented that the fence is far from the road and having no problem with it.
Chr. Spiess stated he had no objection to the application. Larry Weiner, referenced the diagram that had been submitted by the applicant would be part of the record and any approvals.

A motion to approve this application was made by Mbr. Dankos, seconded by Mbr. Murphy, and approved by a majority of board members eligible to vote.

Roll Call:  Ayes – Dankos, Murphy, Korn, Richter, Rodimer, Passucci, Spiess
Nays – None

BA 14-23  Michael & Karen Spano
77 Cedar Lake West
Block 61003, Lot 210

The applicants, Karen and Michael Spano were present and sworn under oath. Applicant is seeking to construct a swim spa (8’ x 20’) requiring ‘C’ bulk variance relief for road frontage on Cedar Lake West and Cypress Drive. Applicant received a June 10, 2014 denial letter Zoning Ordinance 19-5.705 Accessory Building & Structures from the zoning officer. Applicant testified to the hardship of having two front yards requiring a variance. Mr. Spano testified to the impulse purchase of a swim spa and learning a variance would be required after submitting for building permit. Stated the 2,500 lb. swim spa could be relocated if required.

Chr. Spiess opened to the professionals.

Jason Kasler, the township planner and John Ruschke, the township engineer had none.

Chr. Spiess opened to members of the public and seeing none, closed the public portion of the meeting.

Chr. Spiess opened to members of the board.

Mbr. Murphy inquired about a fence being required. The applicant stated that the spa has a locking cover and he was told by the building department a fence would not be required.
Mbr. Passucci inquired about the location and the back wall and a small roof. Mr. Vitale confirmed that it’s 7’ from the wall where 5’ is required. Stating that it’s an enclosed portable unit that will not present a ‘jumping in’ hazard.

A motion to approve this application was made by Mbr. Rodimer, seconded by Mbr. Murphy, and approved by a majority of board members eligible to vote.

Roll Call:  Ayes – Rodimer, Murphy, Korn, Richter, Passucci, Dankos, Spiess
Nays - None
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I/BA 14-21  NJ Foundation for the Blind
155 Morris Avenue
Block 60702, Lot 14

Gary T. Hall, Esq. of McCarter & English, LLP (Four Gateway Center, 100 Mulberry Street, Newark) represented the applicant. Applicant was originally seeking an Interpretation of the Ordinance as a permitted ‘institutional use’. Alternatively, applicant was seeking a ‘D’ use variance relief to operate non-profit offices within the existing building of Church of the Saviour. Mr. Hall stated that the interpretation is no longer being pursued and the application is now a variance for two permitted principal uses from the same building. Spoke to leasing of the parish hall. Daycare has vacated. Would be used during the weekdays and still available to the church during the evenings and weekends. The Township Planner concurred, stating that the use variance would clean up the application from the prior day care use.

Iris Torres, Chairman Board of Trustees of Foundation for the Blind (400 East 56th Street, NY) was present, sworn under oath. Ms. Torres stated she is visually impaired herself and is an educator in the field for over thirty-six years. Spoke to being Program Director, Executive Director and now after retirement being on the Board of Trustees. These roles have taken a nine year progression. The Foundation has been operating at Diamond Spring Road since 1954. Ms. Torres spoke to the sale of property on Diamond Spring Road to Celebrate the Children. The Foundation has a lease from Celebrate the Children until 2015. Stated that the program is changing. Spoke to the bonds to the community and maintaining Denville as the main site for the organization. Spoke to the same program and use in a new location. Rehabilitation for vision loss, living skills, technology, cooking and wellness program. Wellness on Thursdays to 40 adults offering Technology Programs for 18 and over. NJ Transit system has a special program called access link and come through para-transit system of mini buses. Six or seven minibuses come over a course of hour picking up and dropping off. Four full time employees during training days and additional part time of additional four or five people on those days. On a busy day 10 to 15 employees and volunteers along with 40 visually impaired adults. Approximately 15 vehicles. 6-7 buses coming and going and maximum of 15 during the day. Church employees during the day of 2 or 3 employees performing office work. Exclusive use of the office and pre-arranged use on weekends once or twice per year.

Chr. Spiess opened to the board professionals.

Jason Kasler, PP inquired about the office use. Ms. Torres spoke to small group classroom settings with a ratio of 1:3. Larger classes of Wellness will be conducted for drumming, yoga or TaiChi of 15 people in the hall. Jason Kasler inquired about an existing fenced in play area. Ms. Torres didn’t know.

John Ruschke, PE inquired about the work hours. Ms. Torres responded 7:30-5:00 for employees and 9:30-2:30 for students. The buses would be staggered over a one hour timeframe during arrival and departure. The township engineer inquired about overnight parking. Ms. Torres stated there would be none. Approximately 15 employees/volunteers on a busy day. Mr. Ruschke’s inquiry about sign detail was deferred to the architect. The applicant’s attorney clarified that shuttle buses would be used. These mini-buses are a smaller size than buses.

Chr. Spiess opened to the board members.

Mbr. Murphy inquired about the shared use being identified. Jason Kasler indicated that the two uses on the site are independent and would be equal. Mbr. Dankos had no questions and commented that it was a good plan. Mbr. Passucci sought clarification for the classrooms and student classification. Ms. Torres deferred on the uses of the classrooms and clarified that the students are adults (the majority over 50 years of age) and have no classifications. Mbrs. Zois and Richter had none. Mbr. Kom inquired about signage as it relates to the uses. Mr. Kasler responded that essentially two principal uses would have two separate signs. Mbrs. Rodimer and Spiess had none.

Chr. Spiess opened to the public and seeing none, closed the public portion of the meeting.

Linda Groszew, Program Manager of the Foundation of the Blind (12 Summit Drive) was present and sworn under oath. Ms. Groszew stated having held this position for ten years. Ms. Groszew testified that the office space would be used for office space only. Shared space rooms, for ipad classes. The shared space rooms, one is music notes and the other is the memorial room. The Memorial Room, which is in the rear of the building, will be used as an art studio one day and another day as a technology room. Two offices towards Morris Avenue. Versus two office offices.

John Ruschke, PE inquired about the rest rooms being a shared use and not exclusive use to the Foundation. This was confirmed and will be unshaded on the plans. Jason Kasler, PP inquired about the number of seven offices. Ms. Groszew responded to some as offices and some as classrooms (i.e. low vision rooms).
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Chr. Spiess opened to the board members.

Mbr. Murphy inquired about seven offices exclusive for the Foundation. The Program Manager stated the four full-time employees will have offices. Instructors don’t have offices and are only onsite the day of the classes. Mbr. Murphy inquired about classes. Ms. Groszew responded to all Mbr. Murphy's questions. The kitchen will be used for living skills and will not be used for cooking meals.

Mbr. Dankos had no questions or comments.

Mbr. Passucci stated his concerns were addressed with the response of life skills in the kitchen. Different programs use different rooms on different days. Such as I-pad class on one day and art room on another day.

Mbr. Rodimer inquired about the number of students. Ms. Groszew indicated that the number varies by the day and the programs offered. On a busy day 37, on another day 21.

Mbr. Korn inquired about the rest room requirements being sufficient. Mr. Kasler stated they would be.

Mbr. Richter stated it was a good idea and inquired about the amount of space compared to current. Ms. Groszew stated it would be comparable, perhaps a little less.

Mbr. Zois and Mbr. Spiess had no questions.

John Ruschke, PE suggested clarifying for the record as to the maximum of participants. The testimony and the rider being different.

Chr. Spiess asked for other members of the public.

Steve Lang was present and inquired as to the time for departure. Ms. Groszew stated that the students leave around 3:45.

There were no other members of the public and the public portion of the hearing was closed.

Jeffry McEntee, AIA (59 Broadway, Suite 5,) was present and accepted as an expert witness. Mr. McEntee spoke to internal changes with the only exterior change being the proposed air conditioning units. The proposed ductless air conditioning units to avoid having the expense of installing roof top units. Stating they are similar to the size of residential units and are relatively quiet. The specifications indicate 55 decibels of sound. Mr. McEntee spoke to the existing site meeting the American Disabilities Act requirements.

Chr. Spiess opened to the professionals.

John Ruschke referenced that any ADA issues that would be required would need to be addressed.

Jason Kasler spoke to the concrete pads for the air conditioning units and the required setbacks. Mr. McEntee referenced the manufacturer’s specifications. The township planner commented on the access points on the survey. The board attorney stated that bollards could be added if necessary. Mr. McEntee spoke to the proposed signage. Entered Exhibit A-1. Signage to be located in a compliant location on the property and the sign would be externally lit. There may be a sign on the building but there will only be one street sign. There was a brief exchange between the township engineer and the applicant regarding the sign location and the front yard setback. The applicant agreed that the sign location to be field verified as a condition of approval.

Chr. Spiess opened to the board members.

Mbrs. Zois and Richter had none.

Mbr. Korn sought a clarification of the zone and setbacks. Pre-existing condition of the side yard setback. The board attorney stated that the two uses are complimentary. There will be no further exacerbation with two inherently beneficial uses. The township engineer stated there is no issue with the buses.

Mbr. Rodimer had no questions or comments.

Mbr. Passucci inquired about the two driveways and inquired about designation of entrance and exit or two-way traffic. Ms. Groszew confirmed that this could be done operationally by the buses for safety but the applicant could not speak for the church.

Mbr. Murphy inquired about signage and commented on being sensitive to the neighbors in a residential neighborhood. Mr. McEntee stated the air conditioning units were a distance of 60-120' away. If noise becomes a problem, the applicant agreed to screen the air conditioning units as a condition of approval. The township planner spoke to it being two separate uses and the board’s discretion as it relates to 12 sq. ft. and being two faced sign requiring 24 sq. ft. Gary Hall confirmed that being double-sided the signage would be a variance. The board attorney stated that the sign would not be an impediment or obstruction of any kind.

Mbr. Dankos had no questions.

Chr. Spiess referenced the comments from the fire department. The applicant confirmed.

Chr. Spiess opened to members of the public and seeing none, closed the public portion.

P. David Zimmerman, PP (21 Western Avenue, Morristown) was present and accepted as a professional witness. Mr. Zimmerman stated the application requires two variances. One being a special reasons, D1 use variance and the other being a ‘C’ bulk variance for a double-faced sign.
The location of the sign will conform to the ordinance. Testified to the institutional use being an inherently beneficial use. Proposed is significantly less intensive use than the day care facility. Primary changes would be internal. Condenser units are the only external change. Spoke to the positive and negative criteria. Stating there would be no negative criteria. Grant to special reasons on the property. Signage required from functional perspective.

Chr. Spiess opened to board professionals.

Jason Kasler, PP spoke to the applicant’s intentions of a third use on the property. Gary Hall, Esq. confirmed that there would not be a third use. John Ruschke, PE had no questions or comments.

Mbr. Korn inquired about the zone. The applicant’s attorney spoke to the riparian zone being 500’ from the river. Stating the A/C pads would be beyond the 300’ riparian buffer. John Ruschke stated it wasn’t the Rockaway River but more than the tributaries and referenced necessary compliance for the A/C units. Further stating that it’s a good use of the down time of the church.

Chr. Spiess opened to the public and seeing none, closed the public portion.

Conditions of approval included but not limited to; bollards around air conditioning units, sound attenuation if needed around air conditioning units, clear delineation of signage and striping for onsite circulation to meet the township engineer’s approval, sign to be externally illuminated, sign location to meet with township engineer’s approval, approval of all outside agencies including NJDEP.

A motion to approve this application with conditions was made by Mbr. Korn, seconded by Mbr. Rodimer, and approved by a majority of board members eligible to vote.

Roll Call: Ayes – Korn, Rodimer, Richter, Passucci, Dankos, Murphy, Spiess
Nays - None

OLD BUSINESS
Mbr. Korn referenced the parking at the Celebrate the Children facility on Diamond Spring Road. The board attorney mentioned that now there would be more available parking spaces.

NEW BUSINESS
None.

ADJOURNMENT

Motion to Adjourn at 8:48 pm.

Denean Probasco, Board Secretary Date Approved: December 3, 2014