

Chairman Schwemmer called the regular Meeting of the Board of Adjustment of September 5, 2007 to order at 7:05 p.m.

MEMBERS PRESENT: Elliott Averett, Morris Bauer, Felix Graziano, Craig Schwemmer, Anthony Spina,
Alternate Members: Dorothy Walter
Members Absent: Turick, Ort, Baguiao
Others Present: Clerk Kesper, Attorney Fraser, Planner Banisch, Engineer Hall

STATEMENT OF COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT
 - Adequate notice of this meeting was sent to the Observer-Tribune and the Morristown Daily Record on January 12, 2007 and posted on the Bulletin Board on the same date.

Pledge of Allegiance

MINUTES

1. August 1, 2007 Regular Meeting

Mr. Bauer made a motion to approve the minutes, seconded by Mr. Averett. A voice vote was taken; Mr. Graziano abstained, all others were in favor and the motion carried.

RESOLUTIONS

07-21 Hvid - Block 47, Lot 15 – 276 Pleasant Grove Road – R-5 Zone – 1 Acre – Request for front yard setback (Porch), side yard setback (garage), insufficient lot size and expansion of a non-conforming structure variances

Mr. Averett made a motion to approve Resolution 07-21 as presented. Seconded by Mr. Spina. A roll call vote was taken:

Ayes: Averett, Bauer, Schwemmer, Spina, Walter
 Nays: None Abstentions: Graziano Absent: Ort, Turick, Baguiao

07-22 Birsner – Block 9, Lot 25 – 138 Mission Road – R-5 Zone – Request for Front yard Setback Variance and insufficient lot size

The resolution was reviewed.

Mr. Bauer made a motion to approve resolution 07-22. Seconded by Mr. Spina. A roll call vote was taken:

Ayes: Averett, Bauer, Schwemmer, Spina, Walter

Nays: None Abstentions: Graziano Absent: Ort, Turick, Baguiao

07-23 Bujtas – Block 15, Lot 43 – 9 Lower Sunset Terrace –R-5 Zone –
2.89 Acres – Request for rear yard setback, insufficient lot size and
ridgeline variances

The resolution was reviewed.

Mr. Averett made a motion to approve resolution 07-23. Seconded by Mrs. Walter. A roll call vote was taken:

Ayes: Averett, Bauer, Schwemmer, Spina, Walter

Nays: None Abstentions: None Ineligible: Graziano

Absent: Ort, Turick, Baguiao

The meeting was opened to the public for items not on the agenda. There were no comments from the public and the meeting was closed to the public for items not on the agenda.

APPLICATIONS

1. Iacampo – Block 25, Lot 4.01 - 176 Fairview Avenue – R-5 Zone –
3.43 Acres – Request for front yard, side yard and insufficient lot
size Variance

Vincent Iacampo, Applicant

Vincent Iacampo was sworn in by Attorney Fraser.

Mr. Iacampo referred to the application and photograph submitted and stated that the corner without a first floor under the second is the area of the bathroom extension. There will be no expansion beyond the second story of the building. The addition is for an expansion of the bathroom

Mr. Schwemmer reviewed the approval letter from the Washington Township Board of Health.

Mr. Iacampo stated he would comply with the Board of Health letter.

The meeting was opened to the public for questions and comments, there were no questions or comments and the meeting was closed to the public on this application.

Mrs. Walter made a motion to approve the application as presented, maintaining the plain of the second story. Seconded by Mr. Graziano

Ayes: Averett, Bauer, Graziano, Schwemmer, Spina, Walter

Nays: None Abstentions: None Ineligible: None

Absent: Baguiao, Turick, Ort

2. Colonial Investment – Block 56 Lots 10 & 11 – West Valley Brook Road – R-5 Zone – 4.259 Acres – Request for Steep Slope Variance, Ridgeline Variance – Deemed Complete December 6, 2006 – Previously Heard December 6, 2007 and February 7, 2007, May 2, 2007 -Public Hearing Continued – Expires – October 3, 2007

Mr. Schwemmer announced that the application was adjourned at the applicant's request to October 3, 2007

3. Ackerman – Block 30, Lot 22.02 – Schooley's Mountain Road - R-5 Zone – 5.52 Acres – Request for Steep Slope, Ridgeline and stream corridor variances – Previously Heard June 6, 2007 and August 1, 2007 -Expires November 7, 2007

Mr. Schwemmer announced that the application was adjourned at the applicant's request to October 3, 2007

4. Sprint Spectrum – Block 22, Lot 28 – 204 Schooley's Mountain Road – Request for Extension of time to obtain building permit under Resolution 06-25

The August 6, 2007 letter from Alan B. Zublatt requesting an extension of time for one year after the DEP litigation is resolved was reviewed.

Mrs. Walter made a motion to grant the requested extension for one year from the end of the current level of litigation with DEP. Seconded by Mr. Averett.

A voice vote was taken; all were in favor and the motion carried.

5. Montgomery – Block 54, Lot 21 – 400 West Mill Road – R-5 Zone – 2.538 Acres – Use Variance and Preliminary and Final Site Plan for mixed use of residential and agricultural nursery – Use Variance Previously Heard May 2, 2007 – Expires September 5, 2007

Glenn Montgomery, Applicant
Robert Mielich, Applicant's Attorney

Mr. Bauer stepped down due to a conflict of interest and left the meeting.

Mr. Schwemmer advised the applicant that there were only five members of the board available to vote on this application and all would have to be affirmative for a use variance approval.

Mr. Mielich stated that the applicant wished to continue.

Mrs. Walter stated that she could not vote on this application at this time as she was absent for the May 2nd meeting.

Mr. Mielich stated that because there were only five members of the board able to vote, and therefore a vote could not be taken; the applicant wished to adjourn at this time.

The board reviewed the file for completeness of the preliminary and final site plan.

Mr. Mielich reviewed Mr. Hall's letter of September 4, 2007 specifically the items under section I which Mr. Hall had not recommended a waiver. He stated that the applicant would supply the information requested under items IA and IB, but that the applicant was seeking a waiver from delineating the wetlands and showing the wetlands on the plan based on the DEP letter of 2004.

Mr. Hall did not object to the waiver on the wetlands.

Mr. Mielich stated that the applicant would provide the information requested under items IC and IF.

Mr. Hall recommended waivers from parking and circulation; ordinance requirements under 159-20 I and J.

Mr. Mielich stated that the applicant would attempt to address and provide the information requested under IG. A note will be added to the plan that there would be no signs (item II).

Mr. Hall recommended waiving the surface water management plan.

Mr. Mielich stated that the applicant would provide information requested under item K.

Mr. Mielich asked for a waiver from the submission of a development impact statement, soil disturbance permit and application to the Morris County Soil Conservation District.

Mr. Hall stated that the applicant would be exempt from these items because there is no import or export of soil proposed.

Attorney Hall objected to the wetlands waiver.

Mr. Banisch stated that a 2002 aerial could confirm that the footprint is the same today as it was in 2002.

Mr. Montgomery stated that what is on the plans and in the field is what was there in 2003 when the DEP was on site.

Attorney Hall stated the grading activity that had been done on the site previously may be over 5000 sf and would have required a permit.

Mr. Montgomery stated that some of the gravel was there and the remainder of the area was covered with junk and that he removed 30 dumpsters of junk, but did not take any soil off site.

Ms. Fraser reminded Mr. Montgomery he remained under oath from the last meeting and swore in Leon Hall, Township Engineer.

Mr. Hall stated that he is not sure that this is a completeness issue for the board.

Ms. Fraser agreed.

Ms. Kesper answered Attorney Hall that a site walk was held on August 30, 2007 and that Chairman Schwemmer, Engineer Hall and Planner Banisch attended with the applicant.

Mr. Averett made motion to deem application complete with waivers discussed for wetland delineation, existing features, topography, lighting details, sign details, surface water management and soil erosion plans, Phase I geologic study, development impact statement, soil disturbance permit and MCSCD and the applicant submitting revised plans at least ten days prior to the hearing for the items the applicant stated he would supply. Seconded by Graziano.

A voice vote was taken; all were in favor and the application was deemed complete.

The application was adjourned to October 3, 2007.

Averett, Graziano, Ort, Schwemmer, Spina, Turick, Baguiao
Absent: Walter (5/2) Ort, Baguiao, Turick (9/5)
Ineligible: Bauer

DISCUSSION - CORRESPONDENCE

1. Vouchers

The vouchers were reviewed. Mr. Averett made a motion to approve the vouchers reviewed by the Chairman and found in order and send same on for payment. Seconded by Mr. Spina. A voice vote was taken; all were in favor and the motion carried.

Mrs. Walter made a motion to adjourn, seconded by Mr. Spina. A voice vote was taken; all were in favor and the meeting was adjourned at 8:00 p.m.

Virginia R. Kesper, Clerk