

Unified Planning/Zoning Board of Adjustments Meeting  
July 6, 2009

The meeting was called to order by chairman, Ken Cassidy, and the pledge of allegiance was recited.

Roll call was taken with the following members present: Mr. Buccellato, Mr. Cassidy, Ms. Clifton, Mr. Dolan, Mr. Montfort, Mr. Shea, Mr. McKenna, and Mr. Gallego. The alternate present was Ms. Malanga.

Mr. McKenna made a motion to approve the minutes of the June 15, 2009 special meeting and Mr. Montfort second. The board voted with all eligible members voting in favor.

Resolution:

Middlesex Road Water Tower Resolution was approved with the changes that were on the emailed copy of the resolution by Mr. Cassidy and second by Mr. Dolan. All eligible members voted in favor.

The first application was: Mr. and Mrs. Murphy 13 Lakeside Dr Block 115, Lot 30

Mr. Irene stated that their attorney requested that they be carried over with new notices and the plans and application must be on file 10 days in advance of the meeting.

Mr. Lane of 15 Lakeside Dr. said this application has been postponed many times and he wants to be sure he will be at the meeting as an interested party. He is requesting that it be held over until the fall due to the summer being so busy and he does not want to miss the meeting when they come before the board. The board discussed dates and Mr. Montfort made a motion to carry it until the October 5, 2009 and Mr. Gallego second. The board voted with all members in favor.

The second application was Mr. and Mrs. Barr 20 Eisenhower Ct. Block 120.01, Lot 31

The applicants were sworn in. The board engineer, Mr. Venezia, was sworn in. The notices were reviewed and approved. The survey and plans were marked for exhibit. They would like to replace their patio and add a roof and a fireplace but the room would not be heated. They need variance relief. The setback is 9' and should be 25'. The dwelling is 22' and the pool is already 10' off the property line. The patio does not count as part of the setback.

Mr. Montfort said the lot coverage would be 23% and also for the applicant to remember that the chimney must be a certain height.

Ms. Clifton asked how far away were the neighbors and the applicant said the property line is not that close and the house is even farther away.

Mr. Gallego asked if the restaurant on Rt 34 is behind their house and the applicant said their house backs up to Mill Rd., the restaurant is on the other side with one house in between.

Mr. Irene asked how old the house was and the applicant said it was built in 1971 but they are not the original owners.

Mr. McKenna made a motion to approve the application and Mr. Buccellato second. The board voted with all members in favor.

The third application was Mr. and Mrs. Clare 155 Broad St. Block 33, Lot 4.01

The applicants were sworn in. Mr. Venezia, board engineer, was sworn in.

The notices were approved. Mr. Sinkiewicz of 153 Broad St. questioned what the notice was saying and Mr. Irene clarified the question on the side yard setback was on the left side of the property.

Their attorney is Mr. Soriano and he marked 3 surveys for exhibit from 2004, 2008, and 2009.

Mr. Buccellato questioned why many of the exhibits were from 2007 and stated that many of the board members were not here now. Mr. Irene asked if the applicant was related to a councilperson and the applicant said yes but remotely. Mr. Irene asked the board how they felt and if anyone wanted to be recused, but everyone said they had no problem with it.

Mr. Soriano gave an overview of the application that was approved from 2008 and stated the applicant did the work and then realized they were 2 or 3 tenths closer to the sideline than was permitted by the resolution. He stated the house was off a little on the prior survey so what lined up in front was off line in the back of the property. They spoke with the construction official, work stopped and they had to come back before the board for approval.

Mr. Soriano then questioned Mr. Clare and he stated he created a backroom, roof, and front porch across the house in the front. He used the 2003 survey and did not know there was a problem with the house being closer on one side than the other. He received his resolution, got his permits, and then got a letter from the construction official of the problem and had to get another survey.

Mr. Montfort asked if there was a basement and the applicant said only a crawlspace. He then asked if maybe the modifications of the new construction caused a problem with the survey. The applicant stated that during construction they replaced walls and repaired the original foundation but it did not change the house itself. The old foundation was 3.8' so the new one went the same way.

Mr. Montfort asked where this was on the old survey and the applicant stated it was not there and that is why he is before the board again.

Mr. Montfort stated that there was so much change to the property that perhaps it was originally right but got lost during the construction. The applicant said he did not think so because the survey after the original variances shows that.

The grading plan was marked for exhibit.

Mr. Venezia stated that the signed copy of the survey is the one the board should use and should go by. Mr. Irene reviewed the numbers for all 3 setbacks. Mr. Soriano asked the applicant if the construction was complete and nothing else would change the outside and the applicant said no, nothing would change.

Mr. Gallego asked if the original application was granted as a hardship to expand your family then only the applicant would live there is that right and the applicant said he and his family would only live there.

Mr. McKenna asked why there are 3 surveys and the applicant stated that he had one survey and the construction official asked for another one for the location of the foundation and then they had the final one done with the changes.

Mr. McKenna asked if multiple people did different surveys would they come up with different answers and Mr. Venezia said that maybe in tenths of inches but nothing more than that. They should be the same no matter who does the measuring.

Mr. Irene stated the board would use the final survey and the board could grant a little more in the measurements for leeway if they chose.

Public questions:

Mr. Hayes of 157 Broad St was sworn in and stated his house was damaged by all the construction next door. He stated there is nothing of the old house left there and he is concerned they are on his property and they will take more of it. He had photos that were marked for exhibit and he stated they were from more than a year ago but the house is still the same. The photos showed the pavers right next to his property and he says they are on his property. He stated the pavers went in awhile ago. Mr. Irene clarified that his house was on the right side and he stated yes.

Mr. Soriano then questioned his client and Mr. Clare stated the driveway was done in 2004 and the pavers were there then. He asked if the pavers were covered then and Mr. Clare said yes with dirt. Mr. Venezia said the grading plan showed the pavers were there and Mr. Soriano said they were called stone in the report.

Ms. Clifton asked if the pavers go beyond the driveway and the applicant said yes all the way to the back. Mr. Irene stated the current survey does not show that and Mr. Cassidy asked if they are part of the lot coverage and Mr. Buccellato said zoning says they do as of right now. Mr. Soriano reminded the board they are not here tonight for that reason. The board discussed if they needed new surveys. Mr. Gallego made a motion that the board gets a new engineering survey including lot coverage, setbacks and the construction official should go inside to be sure nothing has changed. Mr. Dolan second and the board voted with all members in favor except for Mr. McKenna and Mr. Shea who voted no.

Mr. Cassidy made a motion to carry the application to the August 3, 2009 meeting and Ms. Clifton second. The board voted with all members in favor. Mr. Soriano asked if his client could continue construction inside and Mr. Buccellato said there is no stop work order and to just verify with the construction official.

The fourth application was Mr. and Mrs. Carelli 183 Main St Block 35, Lot 7

Mr. Gallego made a motion to carry it until the August 3, 2009 meeting with notice and Mr. Cassidy second. The board voted with all members in favor. Ms. Malanga left.

The fifth application was Matawan Emerald Investments LLC 138 Jackson St Block 24, Lot 11

Mr. Venezia, the board engineer, was sworn in. The notices were approved. Ms. Voyt is the applicant's attorney. The surveys, plans and photos were marked for exhibit.

Mr. Hynes of 5 Belleview Lane Matawan was sworn in and the attorney questioned her client. Mr. Hynes is a partner in the LLC and the owner of the property. He stated the prior use of the property was a dental lab. He has made improvements to the property and he wants to add a third story to the office building. He needs more office space for his partner and for storage of files. The maximum number of employees at that location is 8-10 and 4-6 employees are there all the time. The business is open 8-5 but they mostly do construction projects offsite. He reviewed all the photos of the property.

Mr. Heuser, the applicant's engineer was sworn in and reviewed the site plan and the board engineer's letter. He reviewed the variances needed: front yard setback, rear yard setback, building height, parking and 2 completeness waivers. He reviewed traffic issues and handicap parking.

Board questions:

Mr. Montfort had questions on the buffer and the engineer explained why they needed it and why the handicap parking is there. Mr. Heuser then explained why he thought this application could benefit the town and stated they would comply with all town requests through the engineer.

Mr. Montfort asked about the shadow lighting on the residents and Mr. Venezia said they should be fine and the lights are off at 9 pm.

Mr. Montfort asked about emergency stairs from the third floor and the applicant said the architect would detail that in the floor plan construction. Mr. Cassidy asked if that would affect the setbacks and the applicant said it will be on the side so it should be alright. Mr. Irene asked if they would need a variance for an emergency exit and Mr. Montfort stated the stairs inside would take up floor space. The applicant's attorney stated they would make the stairs inside and make it a condition of approval so there would not be a problem. The attorney then went on to question Mr. Heuser who reviewed the fencing and stated he did not think all the sidewalks were needed.

The board discussed the facts of the case and Mr. Montfort wants a new site plan and architects plan before approval and Mr. Dolan thinks the outside looks great. Mr. Irene said the board can vote or carry the application. Ms. Voyt stated that if a staircase is required it would not impact the site plan and her client is looking for a vote. Mr. Gallego and Mr. Montfort would like to carry the application for questions. The attorney spoke with her client and agreed to carry it and asked what is needed by the board. The board

stated they would like the numbers on the plans, correct variances needed, information on the trash and recyclables with concrete block, interior staircase and architectural plans. Mr. Montfort made a motion to carry the application without re-notice to the August 3, 2009 meeting and Mr. Buccellato second. The board voted with all members in favor except Mr. Shea who voted no. Ms. Clifton left ill.

The sixth application was ESK Builders Block 113, Lot 1

Mr. Irene stated the applicant has no additional variances and they would like to be approved on administrative issues and not come back before an open meeting.

Mr. Venezia stated the changes: Change a free standing sign for the bank to a monument sign and put it on the Rt 34 entry as it was blocked by the trash enclosure; Change the fence height from 4' chain link to a 6' board on board for the day care; Change the location of the fence from the rear corner as it is a blind spot to see the children.

He stated Mr. Alfieri had one more item and that was to change the free standing sign to a monument sign for the day care as well. He added Mr. Quinn is alright with all the changes.

Mr. Montfort made a motion to have Mr. Irene do a resolution to approve the application with administrative changes for Mr. Alfieri and Mr. Venezia and Mr. McKenna second. The board voted with all members in favor.

Mr. Cassidy made a motion to go into Executive session and Mr. McKenna second.

Mr. Irene explained to the board that there was a letter sent to him stating the 226 Main Street application is bringing a lawsuit before the town and he needs permission to respond to the letter. Mr. McKenna made a motion and Mr. Montfort second. The board voted with all members in favor.

Mr. McKenna made a motion to adjourn the meeting and Mr. Cassidy second. The board voted with all members in favor. The meeting was adjourned at 11:15 pm.

Respectfully submitted,

Diane Cannon  
Board Recording Secretary