

Unified Planning/Zoning Board of Adjustments Meeting
June 1, 2011

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. Butler, Mr. Cassidy, Mr. Gallego, Mr. Lopez, Mr. McKenna, Mr. Montfort, Mr. Saporito, and Ms. Malanga. Absent was: Mr. Urciuoli.

The first application was Mr. Bezrodny 46 Ravine Drive Block 82 Lot 13.01

This application is a continuation due to the fact that there was a site visit on May 26th which was advertised with an open public meetings act notice. It was attended by Mr. Montfort, Mr. Buccellato, Mr. Cassidy, Mr. Lopez, and Ms. Malanga visited at an earlier time.

Board questions:

Mr. Montfort said he had some concerns of the construction being done only based on architectural plans and wanted to know if the applicant had any structural plans done and the answer was no.

Mr. Montfort said he was worried about the hill and building a structure on it and also worried about the lot coverage issue because the calculations say it goes across the lake and then it goes on the other side. The applicant asked if he meant all of the lot coverage and Mr. Montfort said yes, including the driveway, garage, all of it. The applicant said the original calculations seemed to be accurate and that his driveway was also narrower now as well.

Mr. Montfort expressed concerns that there will be no side yard between the garage and the side of the house and it will be too close.

Mr. Cassidy said he is also worried about the slope but he said he is also worried that if the board does not help this applicant out then he may never be able to do anything with his property.

Mr. Montfort said he did not believe that to be true as the situation here is pre-existing. He stated he did not know if he could build on it as the structure looks unstable, but regardless of whether it can be built or not he should investigate the structure as it is.

Mr. Hadderer said it is on a steep slope and due to that he would suggest that a structural engineer look at it especially since the overhang looks to be on wooden pilings. He asked how the soil there would be stabilized when it is disturbed from the construction.

Mr. Buccellato said he could recommend a structural engineer if the applicant did not know of one and the applicant agreed that getting a structural engineer seemed like the best thing to do.

Mr. Gallego said he had concerns with the narrow property and if an emergency vehicle would have to get in there. He also said the side clearances have been exasperated and the neighbors have no privacy. The applicant said there are no windows on that side of his house. Mr. Gallego then said that the ordinance says the natural features of the property cannot be affected and he doesn't see how it is possible not to do that. The applicant responded by saying that he has to fix the property as it is falling apart and he is looking to the board then for any suggestions on how to do this.

Mr. Montfort asked if there had been soil evaluations and Mr. Hadderer said no but it behooves the applicant to get that done to see if it can withstand the building and if the soil is good.

Mr. McKenna said he is worried about the slope but doesn't know enough about the property to make a decision so he also suggested an engineer look at it.

The applicant said he would consider getting the engineer but would also have to look into the costs associated with that.

Mr. Irene asked if the lot coverage was an issue and Mr. Montfort asked what the proper calculation was. Mr. Irene said that if the board did not have that information it would be sent back to the board again if a variance was needed for that as well.

Mr. Cassidy asked the applicant if he wanted to carry the application and the applicant said he would so that he could get the calculations and also so he could look into getting a structural engineer.

Mr. Irene said he thought that was a good idea as it would save the applicant time.

Mr. Buccellato made a motion to carry the application to the July 6, 2011 meeting with extension of time granted and no re-notice necessary and Mr. McKenna second. The board voted with all members in favor.

The second application was Mr. Lacerre 29 Center Ave Block 119 Lot 2.04

The application was D variance so the Class 1 & Class 3 members stepped down. The survey was marked for exhibit. The notices were approved. Mr. Hadderer, the board engineer, was sworn in. Mr. Lacerre, the applicant, was sworn in. Mr. Alfieri is the applicant's attorney and stated that tonight they are here for a use variance only and not for site plan. Mr. Lacerre is the sole owner of the business which is a rear building behind the house that he and his dad have lived in since 1989. The building has 3 bays and was constructed in 1999-2000. It is basically an auto repair and lawn mower repair shop which is open from Mon-Fri 9-6. He has owned the house solely since 2004. The building has electrical and building permits obtained on it. It was originally a hobby that turned into a business due to his dad's health needs.

Mr. Alfieri asked the applicant if he advertises for the business and the applicant said no, only word of mouth.

He asked if there was any signage for the business and the answer was no and he is not asking for any. He stated that he has always worked on cars since a young age and has always had cars on the property.

Mr. Alfieri asked how many are parked on the property at one time and the applicant said he services maybe 20 cars per week but he only repairs them and does not sand or paint them.

Mr. Alfieri asked if the cars are driven or towed there and the applicant said some are towed but most are driven.

Mr. Alfieri asked if he services any Borough vehicles and the answer was yes, the fire chief's car and ambulances and he has also assisted the Borough mechanics for about 2 years now.

Mr. Alfieri asked about the delivery of parts or materials and the applicant said he gets oil, parts, etc but tries to get them delivered one time in the morning and that's it. There are no tractor trailers delivering anything, only plain vans.

Mr. Alfieri asked how he gets rid of waste and solvents and the applicant said he has a waste oil heater and recycles tires, batteries and scrap metal. He also has oil recycling containers that are placed in drums or kept in the garage itself.

Mr. Alfieri asked if the fire official has inspected the area and the applicant said yes he did and suggested some minor changes which have been completed.

Mr. Alfieri asked how he handles any spills and the applicant said he uses speedy dry and also handles spills by recycling.

Mr. Alfieri wanted confirmation that there are no exterior repairs being done and the applicant said no, only maybe minor scanner work- but that's it.

Mr. Alfieri asked if the board limited the business to only interior work, would he be ok with that and the applicant said he would comply with all reasonable issues. He added that he has no expansion plans and has no employees other than an apprentice.

Mr. Alfieri told the board that they would also have the fire official sign off on all fire issues.

Board questions:

Mr. Gallego asked if the applicant was here for a use variance than how was he conducting his business before tonight and Mr. Alfieri said he was in violation of the ordinance but that the business had just evolved to that level.

Mr. Gallego asked if he was in compliance with the EPA code or had their approval and the applicant said they did take soil samples for inspection and everything came back fine.

Mr. Gallego said that he was concerned about the fire issue and if the board approved the variance would any stipulations continue with the new owner and Mr. Alfieri said that the approval is really only needed for the life of the dad and would no longer be needed after that.

Mr. Irene said approvals usually go with the land but exceptions have been made for health care issues or certain situations but it cannot be guaranteed to be enforced.

Mr. Saporito asked if it could be for a hardship and Mr. Irene said it depends on the situation or to accommodate the needs of a person but usually the hardship is tied to the land and not the person.

Mr. Gallego said he wished the fire official would offer a suggestion towards their concerns but Mr. Irene said that the applicant already stated that he has no problem with complying with the fire official's ruling.

Mr. Saporito asked if there were any other businesses in that area or was it only residential and Mr. Cassidy said only residential.

Mr. Montfort stated his concern of how they would maintain the zoning rules if someone else comes before the board and says they need a similar situation as well.

Mr. Alfieri stated that this was not precedence but that every application stands on its own. The neighbors have said they have no problems with it and they will also have a planner that will explain to the board his reasons to approve the application.

Mr. Montfort said the applicant has no business license and has had no annual fire inspections but the applicant said he would comply with all of that in the future.

Public questions:

Mr. Hawk, 3 Center Ave Matawan, was sworn in and he stated that cars do speed down the street and delivery trucks do as well and the applicant said he did not know that but he did know that residents speed on the street also.

Mr. Auciello, the applicant's planner, of Red Bank NJ was sworn in. He had photos that were marked for exhibit and then he explained them. They were of the property and he went on to speak of the assets of the property.

Board questions:

Mr. McKenna stated that there is a JCP & L tower at the end of that street and asked how this business is more detrimental than that to the area. Mr. Auciello said there are also other non-residential items in this neighborhood and that the sub-station has trucks delivering to it and servicing it.

Mr. Gallego asked how many similar cases the planner has testified to and Mr. Auciello said he has not testified to auto body shops but has worked on other home businesses.

Mr. Gallego asked again about the fire issue and Mr. Alfieri said that is a site plan issue and not a use variance issue.

Public issues:

Mr. Mullaney, 36 Edgemere Dr Matawan, was sworn in and he had a question on the driveway width and if a fire truck could get there. Mr. Alfieri stated that there is a central monitoring system with a central station and therefore it is ok and they will comply with the fire official.

Mr. Auciello stated that this is not a planning issue and it is beyond his expertise.

Chief Bommer of Hook and Ladder Company was sworn in and he testified that they can fit a fire truck down that driveway to the building because they had just done so tonight before the meeting as a test.

Mr. Gallego asked what the typical response time was and the chief stated 3 minutes after it is dispatched from the central station.

Mr. Saporito asked if there were fire hydrants there and chief Bommer said yes, right at the top of the driveway.

Mr. Montfort asked if the monitor system is dispatched out of the county and the chief said yes.

Mr. Alfieri asked the chief if it was his recommendation to clear the area around the garage of brush and the chief said yes, but that the fire official would tell the applicant how far back to cut it.

Public comments:

Ms. Giordanelli, 6 Monroe Street Matawan, was sworn in and she said that she has lived in the town for 25 years and has seen many businesses come and go. She is a longtime customer of the applicants and has never witnessed any noise, dirt or excess traffic. She said the applicant cares for his dad and supports the household.

Mr. Barone, 30 Center Ave Matawan, was sworn in and said he has lived directly across the street from the business for 11 years and would never know a business was there because it is quiet, clean and very rarely is there traffic.

Mr. Antista, 26 Center Ave Matawan, was sworn in and said he has lived there for 28 years and they are nice neighbors, they keep a nice house and are very quiet.

Mr. Kozter, 31 Center Ave Matawan, was sworn in and stated that the neighborhood can't believe that there are auto repairs there because it is so quiet and they are also very considerate.

Ms. Loguori, 27 Center Ave Matawan, was sworn in and said that there is no noise, they are very considerate, and there is no additional traffic due to the business.

Mr. Cagnina, 28 Center Ave Matawan, was sworn in and stated the applicant is always very respectful and there is never any trouble or noise. He has never had any problems with this business.

Ms. Scheurich, 5 Sutphin Ave Matawan, was sworn in and said there is no change to the traffic patterns at all.

Mr. Stack, 7 Sutphin Ave Matawan, was sworn in and said there is no noise other than the regular general traffic in the neighborhood. The substation has had fires and blowups, electric lines shake and that's allowed to be there.

Ms. Komski, 25 Sutphin Ave Matawan, was sworn in and said that there are no trouble with the trucks. The trees have grown since they have been there and just need to be cut down. The applicant is a great neighbor.

Mr. Dunn, 414 Atlantic Ave Matawan, was sworn in and said he is a home improvement contractor and a small business owner himself so he understands the situation first hand. He wants the board to know that these applicants are great people.

Ms. Zeppilli, 2 Shainy Lane Matawan, was sworn in and said she is a new neighbor of 3 years and she didn't even know there was a business in the neighborhood until someone told her so she feels that speaks for itself.

Mr. Vickery, 11 Maple Ave Howell, was sworn in and stated he was a customer of the applicant and he knows they only do tows during business hours. He said they also do not allow cars to sit and that the business is not a disturbance.

Mr. Cleary, 11 Sutphin Ave Matawan, was sworn in and said he is a 20 year neighbor and he is unemployed so he is home and there is no traffic other than the normal.

Mr. Bowerman, 2 Center Ave Matawan, was sworn in and said this is a high tech operation. There are no leaking oil drums, no odors, no noise and no traffic issues.

Ms. Rogers, 22 Sutphin Ave Matawan, was sworn in and said she is an 8 year neighbor and did not even know about the business. It is clean; there is no danger and no smell.

Mr. Angello, 11 Center Ave Matawan, was sworn in and said he is a 50 year neighbor and was concerned about opening a Pandora's box and asked the board how they would close it if that happened.

Mr. Saporito said that many board members have that same concern.

Mr. Gallego said he had those concerns as he and his wife are unemployed and know of others who are also so how did they stop others from asking for the same thing.

Mr. Mullaney who was previously sworn in said this garage was originally for classic cars to be stored by the original owner as he had a letter stating such from the Borough records. He said this business that is there today does not pay commercial taxes and has used the property for commercial use for 11 years.

Mr. Alfieri stated that taxes are not an issue here before this board.

Mr. Irene said the board cannot consider taxes as others could use that in their argument saying they were a tax ratable so the board should approve their application as well. The board can only look at the land use for each application. The board marked the letter Mr. Mullaney referred to for exhibit.

Mr. Mullaney stated he is only asking for an even playing field. He referenced another business that was told to cease and assist as they did not have a variance to run a business either.

Mr. Alfieri objected saying that other businesses are not relevant.

Mr. Mullaney asked when they were advised that they were operating a business without the proper zoning and the applicant said 1 year ago and he got an attorney but his attorney did not follow up with the paperwork so he now has this new attorney, Mr. Alfieri.

Mr. Alfieri said the applicant hired an attorney as soon as they were advised of the problem.

The applicant verified he also hired Mr. Alfieri after nothing was being done and the fire official got annoyed with him.

Ms. Schurich who was sworn in previously stated she had a letter also that was circulated around the neighborhood unsigned that she wanted to address but Mr. Irene said if they did not know who signed it and no one is here tonight who did, then the letter is irrelevant.

Mr. Tomasello, 1795 Belmar Rd Wall, was sworn in and stated he was a letter carrier in the neighborhood and can vouch for the fact that there are no traffic issues.

The applicant spoke to the board and said the sub-station in the neighborhood is always buzzing and has had fires. His business does not increase traffic there and he rhetorically asked how what he is doing is any different than someone who is just doing car repairs in their own personal garage.

Mr. Alfieri then summed up for the board saying tonight there was only positive feedback from neighbors, no traffic issues and the applicant would comply with whatever is reasonably requested of him. He stated they would comply with the fire inspections, with deed restrictions that only he would work there and for as long as he and his dad lived there, hours of operation, any site plan issues, and would do no exterior work.

Board comments:

Ms. Mallanga said a lot of people were here tonight to support this applicant which was very nice to see.

Mr. Gallego said the applicant was admirable in the way he helps his dad but there is still the zoning issue. He is still concerned with how to stop someone else from doing the same thing.

Mr. Butler said that if the neighbors who have to live there are ok with this business so is he. He felt the resolution could be written and set it up with restrictions to address any other concerns.

Mr. Saporito said the applicant is obviously a good neighbor but he is concerned with the zoning issue and the precedence it may set but there is already a sub-station there as was brought up in testimony.

Mr. Irene said he didn't know if it would be enforceable because the restrictions usually go with the land and not the people.

Mr. Cassidy said he would usually vote no on something like this but he feels he would be putting the applicants out of house and home and could not do that. As long as restrictions can be set and the applicant agrees to comply, he thinks it would be ok as this is a unique situation.

Mr. Montfort said he is a stickler about his duties as a member of the board and this is one of the hardest cases he has had. However, he would grant it with restrictions on the deed and the applicants complying with the items agreed upon.

Mr. Cassidy reviewed the restrictions previously stated.

Mr. McKenna stated he felt the sub-station was worse than this business.

Mr. Butler made a motion to approve this application and Mr. Saporito second. The board voted with all eligible members in favor.

Resolutions:

White Resolution- Mr. McKenna made a motion to approve and Mr. Buccellato second. The following roll call vote was taken: Mr. Buccellato-yes, Mr. Butler-yes, Mr. Cassidy-yes, Mr. Lopez-yes, Mr. McKenna-yes and Ms. Malaga-yes.

Other business:

Mr. Montfort made a motion to approve the minutes of the May 2, 2011 meeting and Mr. Buccellato second. The board voted with all members in favor.

Mr. Cassidy made a motion to adjourn the meeting and Mr. Saporito second. The board voted with all members in favor.

The meeting was adjourned at 9:15 p.m.

Respectfully submitted,

Diane Cannon
Board Recording Secretary