

CAUCUS SESSION: 7:15 P.M. Municipal Building First Floor Conference Room
Deal and Monmouth Roads
Oakhurst

REGULAR MEETING: 7:31 P.M. Public Meeting Room
Deal and Monmouth Roads
Oakhurst

MEMBERS Tracy Berkowitz, Alt. I
PRESENT: Jane Grabelle
Warren Goode, Chair
Brian Lefferson, Alt. IV
Russell Malta
Richard Van Wagner, Arr: 7:42

MEMBERS Mario Delano, Alt. III
ABSENT: Jennifer Lombardi
David Messer
Leon Pflaster, Alt. II
Henry Schepiga, Vice Chair

OTHERS PRESENT Mark A. Steinberg, Zoning Board Attorney
Marianne Wilensky, Planning Administrator
William Fitzgerald, Board Engineer
Allison Coffen, Board Planner
Margo Simpson, Board Secretary
Recording Secretary

Chairman Warren Goode announced that the notice requirements for the Open Public Meetings Act have been satisfied, a copy of the notice was sent to the Asbury Park Press, the Coaster, and the Atlanticville, posted in the Township Hall, and filed in the Office of the Township Clerk on July 9, 2010.

MINUTES FOR APPROVAL A motion was made by Warren Goode and seconded by Jane Grabelle to approve the **minutes from the meeting of August 26, 2010**

In Favor: Berkowitz, Grabelle, Lefferson, Malta, Goode
Opposed: None
Ineligible: None
Absent: Delano, Lombardi, Messer, Pflaster, Schepiga, Van Wagner

RESOLUTION MEMORIALIZATIONS

Mian Jameel

Block 36, Lot 8
751 Bowne Road
Wayside

Bulk variance denial

MOVED: Grabelle SECOND: Berkowitz
FAVOR: Berkowitz, Grabelle, Goode, Malta
OPPOSED: None
INELIGIBLE: Lefferson
ABSENT: Delano, Lombardi, Messer, Pflaster,
Schepiga, Van Wagner

Theodora J. Maio

Block 38.03, Lot 1
2 Sharon Drive
Wayside

Bulk variance approval

MOVED: Grabelle SECOND: Berkowitz
FAVOR: Berkowitz, Grabelle, Goode, Malta
OPPOSED: None
INELIGIBLE: Lefferson
ABSENT: Delano, Lombardi, Messer, Pflaster,
Schepiga, Van Wagner

Jolanta and Chris Zraly

Block 35.08, Lot 12
2 Hartshorne Road
Wayside

Bulk variance approval

MOVED: Grabelle SECOND: Berkowitz
FAVOR: Berkowitz, Grabelle, Goode, Malta
OPPOSED: None
INELIGIBLE: Lefferson
ABSENT: Delano, Lombardi, Messer, Pflaster,
Schepiga, Van Wagner

CARRIED to
October 14, 2010

Congregation Sons of Israel
Block 34.03, Lots 2, 2.01
Poplar Road and Poplar
Place
Wayside

Yeshiva of Ocean
Block 34.03, Lots 5.01, 5.02
1001 Deal Road
Wayside

CARRIED CASE

Christian and Megan Anderson

Block 109, Lot 17
2306 Sunset Avenue
Wanamassa
Zone R-6

This is an application for a patio and 6' fence on a corner lot with a variance for front yard setbacks for a patio and a fence.

The Board's information packet, containing the reports of both the Board's professionals and in-house departments, was marked into **evidence B-1** and the reports were read into the record.

Planning Administrator Marianne Wilensky explained that the applicant is seeking to erect a fence and a deck. She had no concerns with the 5' setback, but there needs to be 18' of driveway before the fence.

Board Engineer William Fitzgerald felt that the corner of the fence must have an 8' X 8' chamfer for visibility at the corner adjacent to the driveway and he recommended nineteen plantings along the fence to soften the look of the façade.

Christian Anderson said he wants a six-foot, solid PVC fence to enclose the yard as much as possible because they live on a corner lot on Sunset Avenue, which is a very busy street. The property is only 50' wide and if they had to meet the 30' requirement, the usable yard would only be 20'. He also wants to erect a deck and have as much privacy as possible. Part of the driveway will be enclosed in the fence for his children to have a play area.

Ms. Wilensky explained that the driveway is in poor condition and needs repairs. It might even need replacement. It is 12' wide and cannot be replaced in the current location because it is too close to the property line. If the fence is on the edge of the driveway and the driveway has to be replaced later, they will only have 7' of driveway. Two off-street parking spaces are required.

Mr. Fitzgerald noted that the applicant only has one off-street parking space now. He could move the fence back 5' and if in the future he moved the driveway it would allow room to put in a conforming driveway outside the fence. It would have to be an 18' X 18' slab for two parking stalls.

Mr. Anderson said that the driveway is a pre-existing condition and he does not know if it is repairable.

Ms. Wilensky noted that the pad from a demolished garage is still there and it should have been removed when the garage was removed. However, the pad and the driveway provide two off-street parking spaces. The driveway is not big enough to park two cars.

Chairman Warren Goode said that he did not like the fence going across the driveway. He felt that the Board needs to know if the driveway is repairable or needs replacement.

Mr. Fitzgerald agreed to visit the site and make recommendations. If the driveway is overlaid, it might not last.

Chairman Goode carried this application to the meeting of October 14, 2010.

NEW CASES

Thomas Tallman

Block 25.34, Lot 24
430 Redmond Avenue
Oakhurst
Zone R-4

This is an application to erect a fence, shed/carport and keep a gravel bed with a wood border with variances for side yard setback for the shed/carport and stone bed, lot coverage, and construction in a flood plain.

The Board's information packet, containing the reports of both the Board's professionals and in-house departments, was marked into **evidence B-1** and the reports were read into the record.

Planning Administrator Marianne Wilensky said that she found no planning reasons for approval of the requested variances other than the fence. The existing driveway is 18' wide and 40' long.

Board Engineer William Fitzgerald noted that the applicant has a garage and plenty of driveway. There is a shed that could be increased in size. He felt that the applicant should provide testimony as to why he needed all the space. He is asking for too much driveway for the size of the lot.

Thomas Tallman said that he might not have been clear in his application regarding the gravel. Currently, the gravel is up to the property line. After speaking with the Zoning Officer, the gravel will be moved to a 3' setback with a wooden border. The reason for the gravel is for drainage issues. Water would sit in the yard and there is better drainage with the gravel there. No grass will grow in that area because of a pine tree.

Mr. Tallman said that there is a 12' X 8' shed that he wants to replace with a 10' X 20' shed. He needs to increase storage for his equipment that is currently outdoors.

Mr. Fitzgerald felt that the shed could be located some place else on the property.

Ms. Wilensky said that she made a site visit on the date of the hearing and found that there are other things that go on at this property. There were several cars, some of which were covered with tarps. The applicant needs to explain what the additional storage will be for.

Mr. Fitzgerald suggested a 150 square foot shed with a driveway that has a 5' setback from the property line. There is no planning reason to put a larger shed close to the property line. There is no justification for it to be 3' from the property line. There is no reason why the shed cannot be moved another two feet from the property line.

Ms. Rosanna Tallman explained that there is a play area on the opposite side of the yard for her son. There are also steps from the deck and there is not room to move the shed. Bushes will also have to be taken out.

Mr. Tallman said that he would agree to a 150 square foot shed with a 5' setback.

Chairman Warren Goode suggested that the applicant move the gravel back to a 5' setback.

From the audience: Gladys Goldenthal, 432 Redmond Avenue, explained that she lives next door to the applicant. The issues with the neighbor has been going on for four years and makes her feel like she is living in an auto repair garage with noise and fumes and cars going back and forth all the time. Ms. Goldenthal said that her quality of life is gone because of the fumes and noise. From her bedroom window, the Tallman property looks like a repair shop. She placed the following into evidence:

Evidence O-1 - A photograph of the view from her art room window showing garbage cans and items covered with tarps.

- Evidence O-2** - A photograph showing the fence and items stored along the garage.
- Evidence O-3** - A photograph of the view of the garage area from her back yard.
- Evidence O-4** - A photograph of the view of the garage from her back yard showing garbage cans and items covered with tarps.
- Evidence O-5** - A photograph of the view of Redmond Avenue in front of the house showing card covered in tarps.

Ms. Wilensky asked Mr. Tallman what type of employment he held. Mr. Tallman said that he works as a supervisor for the phone company. He works on cars as a hobby.

Mrs. Tallman said that they attend car shows and the cars on the property are all registered, operable, restored classic cars with QQ license plates. The Zoning Officer had sent them a notice that they were running a repair shop. She said that they are not. All the cars are their own.

Mr. Tallman said that he will move the setback for the gravel to 5'. Mrs. Tallman said that if they have a larger shed there will be room to store a lot of things that are outdoors now.

A motion to close the public hearing was made by Jane Grabelle and seconded by Russell Malta.

In Favor: Berkowitz, Grabelle, Lefferson, Malta, Van Wagner, Goode
Opposed: None

A motion of approval was made by Jane Grabelle and seconded by Russell Malta.

In Favor: Berkowitz, Grabelle, Lefferson, Malta, Van Wagner, Goode
Opposed: None
Ineligible: None
Absent: Delano, Lombardi, Messer, Pflaster, Schepiga,

To be memorialized on October 14, 2010.

Robert and Wilma Wright This is an application to erect a fence around a patio with a variance for fencing not permitted on an individual homeowner's lot.
Block 150.09, Lot 7
74 Cedar Village Boulevard
Wayside
Zone R-3/PAC

The Board's information packet, containing the reports of both the Board's professionals and in-house departments, was marked into **evidence B-1** and the reports were read into the record.

Planning Administrator Marianne Wilensky explained that the applicant is seeking to erect a 3' high fence around a ground level patio. A variance is necessary because the Land Development Ordinance prohibits fencing on an individual lot in Cedar Village. The fence around a patio would be used like a railing, not as a fence.

Board Engineer William Fitzgerald felt that Cedar Village was designed as a planned community and if there are changes to be made, they should be done by changing the regulations, not by variance.

Ms. Wilma Wright explained that her husband is disabled and currently hospitalized. They want a railing on the patio to make it safe for him as he loses his balance easily. They have received approval from the Cedar Village Architectural Committee to put up the railing. There are other railings on some of the patios in Cedar Village.

Chairman Warren Goode said that he agrees that it is more of a railing than a fence and felt that perhaps this type of situation should have been contemplated when the ordinance was approved.

A motion to close the public hearing was made by Jane Grabelle and seconded by Russell Malta.

In Favor: Berkowitz, Grabelle, Lefferson, Malta, Van Wagner, Goode
Opposed: None

A motion of approval was made by Jane Grabelle and seconded by Russell Malta.

In Favor: Berkowitz, Grabelle, Lefferson, Malta, Van Wagner, Goode
Opposed: None
Ineligible: None
Absent: Delano, Lombardi, Messer, Pflaster, Schepiga,

To be memorialized on October 14, 2010.

Christopher and Janice Lanzafame

Block 200, Lot 18

1320 Franklin Avenue This is an application to erect a roof over an existing front entry
Wanamassa with a variance for a front yard setback.

Zone R-4

The Board's information packet, containing the reports of both the Board's professionals and in-house departments, was marked into **evidence B-1** and the reports were read into the record.

Planning Administrator Marianne Wilensky explained that the applicant wants to replace an awning that was over the front door and was destroyed in a storm with a 4' X 6' roof. Board Engineer William Fitzgerald had no engineering issues with this request.

Christopher Lanzafame explained that there was an awning over the front door that was very old and leaked water into the house. It was destroyed in a storm and he wants to replace it with a peaked roof porch roof to match the house.

A motion to close the public hearing was made by Jane Grabelle and seconded by Russell Malta.

In Favor: Berkowitz, Grabelle, Lefferson, Malta, Van Wagner, Goode
Opposed: None

A motion of approval was made by Jane Grabelle and seconded by Russell Malta.

In Favor: Berkowitz, Grabelle, Lefferson, Malta, Van Wagner, Goode
Opposed: None
Ineligible: None
Absent: Delano, Lombardi, Messer, Pflaster, Schepiga,

To be memorialized on October 14, 2010.

Edelsberg Realty, LLC
Irving and Joan Edelsberg

Block 217, Lot 2

3331 Sunset Avenue
Wanamassa

Zone C-3

This is an application for an appeal of the Zoning Officer's decision to replace a sign.

Attorney for the applicant:
Gerald N. Sonnenblick, Esquire

Planning Administrator Marianne Wilensky explained that normally for an appeal of the Zoning Officer's decision the Zoning Officer is present at the meeting. However, in this case, he is on medical leave. He has provided a detailed report which was in the Board's information packet.

The Board's information packet, containing the reports of both the Board's professionals and in-house departments, was marked into **evidence B-1** and the reports were read into the record.

For the Board, Allison Coffen, P.P., from the firm of J. W. Higgins Associates, read the Planner's report into the record. Board Engineer William Fitzgerald said that he had no engineering concerns with this application.

Gerald Sonnenblick, Esquire, representing the applicant, said that his client thought that there would be no problem re-erecting a sign that was blown down in a storm. The sign is located on Fairmont Avenue. The property fronts on Sunset Avenue and the ordinance only allows one free-standing sign.

Mr. Sonnenblick presented the applicant, Irving Edelsberg, who explained that he had thought there would be no problem putting up a sign in the same location. The square footage will be the less than the original sign. When he went to replace the sign he was told by the Zoning Officer that he needed a variance.

Board Attorney Mark Steinberg noted that the application is for an appeal of the Zoning Officer's decision, not for a variance to replace the sign.

Mr. Sonnenblick said that he does not think the applicant needs a variance to replace the sign.

Mr. Steinberg said that if the Board agrees with the Zoning Officer and the applicant needs site plan approval. However, in that case, the Board of Adjustment does not have jurisdiction and the application would go to the Planning Board.

Dr. Irving Edelsberg explained that he purchased the property ten years ago from a chiropractor. There were two signs on the property at that time. Prior to the chiropractor, there was a bank in the building for forty years.

During a windstorm last winter the sign on Fairmont Avenue was blown down. The insurance company said it had to be removed from the parking lot because it was a safety hazard. The sign could have been put back up, but he did not know that there was a problem to replace it. The replacement sign will be 28 square feet.

Mr. Sonnenblick said that he was unaware that site plan approval would be required. Mr. Steinberg told him that there was a letter sent to Mr. Sonnenblick on July 17, 2010, from Marianne Wilensky, with that information.

Mr. Sonnenblick presented Thomas A. Thomas, Planner for the applicant. Mr. Thomas said that in speaking to Dr. Edelsberg he found that the sign was not destroyed when it came down, it was only damaged. It was the pole that broke. It would only have been a maintenance issue to put up the same sign.

Dr. Edelsberg said that he will replace the sign with the same sign that has been there for the last 40 years.

Mr. Sonnenblick said that the use has not changed and the sign will not change. The sign is non-conforming because the ordinance does not allow two free-standing signs on a property.

Chairman Warren Goode noted that there was a letter from the Zoning Officer in the Board's information packet. Ms. Wilensky read the Zoning Officer's letter, dated May 10, 2010, to Peter Licata into the record.

Mr. Sonnenblick said that the structure was not fully destroyed. It could have been put back up. Mr. Thomas agreed that the sign was broken, not destroyed.

Dr. Edelsberg said that after the sign collapsed he called the insurance company. They told him it was a safety hazard to have it in the parking lot and asked him to remove it. If he had known it was an issue, he would have left the sign there because it had fallen inward on his property. The sign itself was slightly cracked and could have been replaced with a new panel. It completely snapped off at the pole.

Mr. Sonnenblick said that the sign could have been put up, but now under the circumstances it must be replaced.

Mr. Steinberg noted that the Zoning Officer said the sign was destroyed and needed a variance to replace it. The Board needs to decide if they think it was fully destroyed.

Mr. Sonnenblick noted that Dr. Edelsberg testified that he could have put back the sign and that it was broken, but not destroyed. Dr. Edelsberg explained that the sign company said that they would pay to replace it and that it should be removed from the property.

Board Member Russell Malta noted that the wind started the process and knocked it down, but not is it gone, so it has been destroyed. Perhaps the sign that fell down was bent and the doctor did not want to put it back up because it was bent.

Mr. Sonnenblick felt that replacing the sign does not create any hardship to any one in town. The sign was not destroyed more than 50% and the doctor could have put it back up.

Chairman Goode pointed out that the Zoning Officer's report stated that the pipe was broken off.

Mr. Van Wagner thought that the Board does not have enough evidence to say that it was totally destroyed. He said that he was willing to overturn the Zoning Officer's decision that they need site plan approval. He felt that the Zoning Officer's interpretation of the zoning ordinance was 'right-on', but this is a difficult circumstance.

Mr. Steinberg told the Board that they need to focus on whether they think the sign was more than partially destroyed.

Mr. Sonnenblick felt that there was an original site plan for this property that approved the sign. The sign did not break; the pole broke.

Mr. Malta felt that the evidence indicates that the sign was not destroyed.

Chairman Goode said that if the Zoning Officer had the benefit of the information that has been presented, he might have made a different decision. He did not have the benefit of the factual information that was presented in the testimony.

Dr. Edelsberg said that the sign could have been repaired. The loss of the sign has had an affect on his business from Fairmont Avenue because it advertises the business.

Mr. Sonnenblick said that his client has agreed to put up the exact same sign.

Mr. Steinberg explained to the Board Members that this is a factual decision they have to make. If the decision of the Zoning Officer is reversed, they can put up the sign with only a sign permit.

The Board discussed the height of the sign. Mr. Thomas said that the sign has to be high enough for vehicles to pass under it. The sign in the front is lower.

Mr. Fitzgerald recommended an 18' height, which was agreed upon.

A motion to close the public hearing was made by Jane Grabelle and seconded by Russell Malta.

In Favor: Berkowitz, Grabelle, Lefferson, Malta, Van Wagner, Goode
Opposed: None

A motion to reverse the decision of the Zoning Officer was made by Warren Goode and seconded by Russell Malta.

In Favor: Berkowitz, Grabelle, Lefferson, Malta, Van Wagner, Goode
Opposed: None
Ineligible: None
Absent: Delano, Lombardi, Messer, Pflaster, Schepiga,

To be memorialized on October 14, 2010.

Meeting adjourned P.M. 10:00 P.M.

Margo Simpson
Board Secretary
Recording Secretary