

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

DISCUSSION: Ades
Block 22 Lot 29

Planning Administrator Marianne Wilensky explained that the Board previously approved landscaping on the inside of the fence, which is reflected in the minutes from the hearing, but the resolution states that the landscaping was to be on the outside of the fence. Ms. Wilensky said that the applicant put all the landscaping on the outside without an approved landscaping plan. She said that the Board Engineer says that the landscaping must be removed. The Board unanimously agreed that the applicant should move the landscaping rather than returning to the Board. Ms. Wilensky said that she will relay that information to the applicant's attorney.

DISCUSSION: T-Mobile Northeast, LLC
Block 1 Lots, 30, 31, 31

Ms. Wilensky said that the payment was never received for the special meeting in April by the date it was due. Board Attorney Mark Steinberg, Esquire wrote a letter to the applicant's attorney and he responded that he had already paid for the special meeting that was scheduled in October. Ms. Wilensky explained that because the meeting was cancelled the day before, that they had to pay for another special meeting. She has not yet had a response from the attorney.

REGULAR MEETING: 7:30 P.M. Public Meeting Room
Deal and Monmouth Roads
Oakhurst

MEMBERS PRESENT: Maureen Bonney, Alt IV
Jane Grabelle
Russell Malta
Eric Menell, Alt II
Henry Schepiga, V Chair
Sylvia Sylvia, Alt I
James Worrell, Alt III
Warren Goode, Chair

MEMBERS ABSENT: David Messer
Leon Pflaster
Richard Van Wagner

OTHERS PRESENT Mark A. Steinberg, Zoning Board Attorney
James Higgins, P.P. Board Planner
William Fitzgerald, P.E. Board Engineer
Marianne Wilensky, Planning Administrator
Rachel Goncharko, 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 and the Coaster, posted in the Township Hall, and filed in the Office of the Township Clerk on March 6, 2013.

MINUTES FOR APPROVAL

A motion was made by Warren Goode and seconded by Russell Malta to approve the **minutes from the meeting of January 10, 2013.**

In Favor: Bonney, Malta, Sylvia, Worrell, Goode
Opposed: None
Ineligible: Grabelle, Menell, Schepiga
Absent: Messer, Pflaster, Van Wagner

A motion was made by Warren Goode and seconded by Maureen Bonney to approve the **minutes from the meeting of February 14, 2013.**

In Favor: Bonney, Grabelle, Malta, Menell, Sylvia, Worrell, Goode
Opposed: None
Ineligible: Schepiga
Absent: Messer, Pflaster, Van Wagner

RESOLUTION MEMORIALIZATIONS

Margaret Natter
Block 61.03 Lot 2
568 Deal Parkway
West Allenhurst
Bulk Variance Approval

MOVED: Grabelle SECOND: Malta
FAVOR: Grabelle, Malta, Sylvia, Goode
OPPOSED: None
INELIGIBLE: Bonney, Menell, Schepiga, Worrell
ABSENT: Messer, Pflaster, Van Wagner

Charles P. Babilya
Block 92 Lot 3
42 Park Boulevard
Wanamassa
Bulk Variance Approval

MOVED: Grabelle SECOND: Malta
FAVOR: Grabelle, Malta, Sylvia, Goode
OPPOSED: None
INELIGIBLE: Bonney, Menell, Schepiga, Worrell
ABSENT: Messer, Pflaster, Van Wagner

Ernest Maslaton
Block 26.08 Lot 15.06
308 Crimson Circle
Oakhurst
Bulk Variance Approval

MOVED: Grabelle SECOND: Malta
FAVOR: Grabelle, Malta, Sylvia, Goode
OPPOSED: None
INELIGIBLE: Bonney, Menell, Schepiga, Worrell
ABSENT: Messer, Pflaster, Van Wagner

James Manning
Block 17 Lot 14
329 Wells Avenue
Oakhurst
Dismissal

MOVED: Grabelle SECOND: Malta
FAVOR: Grabelle, Malta, Sylvia, Goode
OPPOSED: None
INELIGIBLE: Bonney, Menell, Schepiga, Worrell
ABSENT: Messer, Pflaster, Van Wagner

CASE CARRIED to April 11, 2013

Illiano's of Ocean, Inc.
Block 1.02 Lot 67
933 West Park Avenue
Ocean

CASES CARRIED to May 9, 2013

CBS Outdoor, Inc.
Block 215 Lot 3
1021 Route 35 North
Ocean

Madison Lease, LLC
Block 34 Lot 3.01
805 Deal Road
Ocean

NEW CASE

Woodshire Apartments, Inc.
Block 31.02 Lot 34
2152 Aldrin Road, #5A
Ocean
Zone R-6

This is an application for an appeal of the Zoning Officer's interpretation of Section 21-20.16 of the Land Development Ordinance.

Attorney for the applicant: Gabriel H. Halpern, Esquire

Planning Administrator Marianne Wilensky marked a packet of items submitted by the applicant as A-1 and a packet of items submitted by the Zoning Officer as B-1.

The attorney for the applicant, Gabriel Halpern, Esquire explained that they are before the Board to determine whether the applicant needs to obtain a variance to move silt elsewhere on the property. He said that the complex is bordered by Whalepond Brook which has a tremendous amount of debris and silt when the brook floods. Documentation going back to the 1980s was submitted indicating that Twinbrook complained about the flooding but nothing had been done and the silt had accumulated. Mr. Halpern referred to a survey to show that the sedimentation had been filling the banks of the brook. He said that a silt fence was erect to keep back the accumulated soil. Last year Freehold Soil and the Department of Environmental Protection said that the soil had accumulated too high and had to be removed. They received a letter from Freehold Soil that a permit is not required unless more than 5,000 sq ft is removed. He said that they removed the soil from the brook and moved it to the other side of the complex.

Chairman Goode referred to a letter dated June 11, 2012 from Freehold Soil stating that the land disturbance exceeded 5,000 sq ft and that an application must be filed. Mr. Halpern said that an application was not filed because their engineer determined the exact amount of soil that was removed. Ben Shotland from Freehold Soil performed inspections and verbally told them that it was not required. Mr. Halpern said that they will get something in writing from Freehold Soil if the Board agrees that they are superseded by Freehold Soil's jurisdiction.

Mr. Halpern cited Land Development Ordinance 21-20.16- Soil Removal. He said that no soil was removed or placed on the lot and that the change in grade was less than 2 ft. Board Attorney Mark Steinberg, Esquire said that the ordinance requires a variance for a change in grade of 2 ft or more, but that any change requires site plan approval.

Zoning Officer Jerome Donlon said that any change in grade needs an approval. He said that he has not received any documentation to show what was there and what changed. Mr. Donlon submitted five boards with up to 8 pictures of the site which was marked B-2. Mr. Donlon referred to the pictures to give a timeline of events. He said that on June 20, 2012 he first became aware of the situation and visited the site. He said that a large amount of sediment was on the banks and around the brook. He asked for more information to determine if a variance or more approvals were necessary. The letter from the applicant's attorney indicated that the soil had already been moved, and when Mr. Donlon visited the site again he observed that the soil had been moved. Mr. Donlon said that he had a meeting at the end of October 2012 with the property manager, Marko Ruso. Mr. Donlon said that there was a change in grade but he does not know how much. No plans were submitted to show the change.

Marko Ruso, 200 Central Avenue, Mountainside, NJ, is the manager of Twinbrook Apartments. Mr. Halpern asked him if he had delivered the plans. Mr. Ruso said that he delivered the nine copies of the application and the plans to the Board Secretary. Mr. Ruso explained that the dirt is coming from the brook which is their property and that they only moved the dirt to another location on the same property.

Chairman Goode said that they are there to decide whether Mr. Donlon's violation was correct. He said that they may not need a variance but do require some sort of approvals.

A motion to close the public hearing was made by Chairman Goode and seconded by Jane Grabelle.

In Favor: Grabelle, Malta, Menell, Schepiga, Sylvia, Worrell, Goode
Opposed: None

A motion to uphold the Zoning Officer's decision was made by Chairman Goode and seconded by Jane Grabelle.

In Favor: Grabelle, Malta, Menell, Schepiga, Sylvia, Worrell, Goode
Opposed: None
Ineligible: Bonney
Absent: Messer, Pflaster, Van Wagner

To be memorialized on April 11, 2013.

CARRIED CASES

Route 35 Realty, LLC
Block 141 Lots 7.01, 9
900 Highway 35
Ocean
Zone C-4

This is an application for preliminary and final site plan approval with "d" and "c" variances.

Attorney for the applicant: Peter S. Falvo, Jr., Esquire

Chairman Goode asked if he had a conflict with this application because he purchased a car from that dealership last year. Board Attorney Mark Steinberg, Esquire said that it was not a conflict.

The Board's information packet, containing the reports of the Board Professionals and in-house departments was marked B-1. Board Planner James Higgins, P.P. and Board Engineer William Fitzgerald, P.E. summarized their reports.

Attorney for the applicant, Peter S. Falvo, Jr., Esquire marked the following items into evidence:

- A-1 Site plan dated 8/20/11 revised through 1/30/13
- A-2 Photos the Jockey Lodge Motel dated 3/14/13
- A-3 Aerial photo dated 12/13/12
- A-4 Site plan rendering dated 12/13/12
- A-5 Site plan rendering dated 12/13/12
- A-6 Signage plan revised through 1/31/13
- A-7 Truck circulation plan dated 5/17/12 revised through 3/1/13
- A-8 Alternate plan revised through 3/1/13

The engineer for the applicant, Stephen Atkins, P.E. referred to the exhibits to describe the proposed changes to the site. Mr. Atkins agreed to perform the landscaping of lot 7.01 in Phase 1. More information on the proposed parking will be provided as well.

Mr. Atkins referred to A-6 and said that the signage is in accordance with state requirements for signage on vehicles. Planning Administrator Marianne Wilensky said that the plan displayed is different than the plan that was previously submitted. The plan previously submitted is marked as A-6, not the display board.

Mr. Atkins referred to A-7 to show the circulation plan. Trucks can now continue around the building in order to exit rather than doing a k-turn. Mr. Atkins referred to A-8 which shows the alternate plan should Phase 2 not be completed. He explained that there would be a 36 month period before the alternate plan comes into effect.

Mr. Atkins described the different phases of construction. He said that the signage on the building will remain. Mr. Higgins said that he does not know if those signs were approved. Ms. Wilensky said that several of the directional signs may not have had approvals or permits. Mr. Falvo said that he will look into it and make them part of the application in the event that they were not approved.

Mr. Atkins said that Lot 7.01 will have cars and Lot 9 will have trucks. The make-up of the cars on the lots will be 25% used and 75% new. No used trucks will exceed five years in age. Mr. Higgins said that this is not shown on the plans. Mr. Falvo said that they will add that. Mr. Atkins described that on Lot 9, the front row will only be new trucks and then used trucks will be in the rows behind. Small dump trucks will also be on the lot.

Chairman Goode carried the application to April 11, 2013.

The Board took a five minute break and resumed at 9:30 p.m.

Hermes J. Gomez

Block 210 Lot 8
1204 Lawrence Avenue
Wanamassa
Zone R-4

This is an application to keep a driveway with a variance for driveway width over maximum.

Eric Menell disqualified himself from this application and left the dais.

The Board's information packet containing the reports of the Board Engineer and Planning Administrator was marked as B-1. Planning Administrator, Marianne Wilensky read her report. Board Engineer William Fitzgerald, P.E. said that he has no engineering concern. He said that the driveway looks really nice.

Mr. Gomez said that it was a mistake and that it would be an economic hardship to redo.

A motion to close the public hearing was made by Henry Schepiga and seconded by Jane Grabelle.

In Favor: Bonney, Grabelle, Malta, Schepiga, Sylvia, Worrell, Goode
Opposed: None

A motion to approve the application made by Henry Schepiga and seconded by Jane Grabelle.

In Favor: Bonney, Grabelle, Malta, Schepiga, Sylvia, Worrell, Goode
Opposed: None
Ineligible: Menell (Disqualified)
Absent: Messer, Pflaster, Van Wagner

To be memorialized on April 11, 2013.

Eric Menell returned to the dais.

NEW CASES

Nathaniel Babayoff

Block 17 Lot 32
319 Roosevelt Avenue
Oakhurst
Zone R-4

This is an application to construct a patio and erect a fence on this corner lot with variances for side and rear yard setback for the patio and front yard setback for the fence.

The Board's information packet, containing the reports of the Board Engineer and in-house departments, was marked B-1. Planning Administrator, Marianne Wilensky read her report. Board Engineer William Fitzgerald, P.E. said that he agrees with Ms. Wilensky's report.

Chairman Goode explained that the Ordinance requires a 10' setback and that the Board needs a good reason to grant the variance. Mr. Babayoff asked why the ordinance requires the 10' setback. Ms. Wilensky said that one of the reasons is for privacy for the adjoining properties. Board Attorney Mark Steinberg suggested that Mr. Babayoff consult an attorney or a planner.

Ms. Wilensky suggested placing the fence 15' from the property line and having the area landscaped. Mr. Babayoff agreed.

Mr. Fitzgerald suggested a configuration for the patio around the pool. Mr. Babayoff will submit a new plan showing the fence at 15' and a new patio configuration and come back to the Board. The revised plans are due April 1, 2013.

Chairman Goode carried the application to April 11, 2013.

Maurice Pachtinger, M.M.
Master Presentations, LLC

Block 216 Lots 15, 16
1501 Allen Avenue
Wanamassa
Zone C-3

This is an application for a "d" variance.

Attorney for the applicant: Monica C. Kowalski,
Esquire

The Board's information packet, containing the reports of the Board Professionals, was marked B-1.

Maurice Pachtinger, 182 Hadassah Lane, Lakewood, NJ, was sworn in as the applicant.

Board Planner James Higgins, P.P. and Board Engineer William Fitzgerald, P.E. read their reports.

Attorney for the applicant, Monica C. Kowalski, Esquire submitted four resolutions which were marked into evidence A-1. She gave a history of the property, explaining that Mr. Pachtinger is the sole partner and owner of Lipac LLC which is the owner of the property. He is also the owner of Master Presentations, LLC. She referred to the resolutions marked as A-1 to give a history of the approvals granted to the previous owner. In 1992, the owner was granted use variance approval for a furniture warehouse. In 2001 the owner was granted use variance approvals for light manufacturing and self-storage facilities.

Ms. Kowalski submitted a floor plan consisting of 3 pages dated 8/25/01, revised through 3/29/02, which was marked into evidence A-2. She explained that the self-storage facility is not considered in this application as it already has use variance approval. She referred to A-2 to describe how the applicant is proposing to use the space.

A survey of the site dated 12/11/12 was marked into evidence A-3. She said that they do not propose to change the layout. A floor plan dated 2/20/13 was marked into evidence A-4. She said that the offices are separate and each has their own thermostat. The offices are accessed through external doors. Ms. Kowalski referred to the resolution dated 1/10/02 approving bulk variances to discuss the curb cuts referenced in Mr. Higgins' report. She explained that a traffic engineer testified that the curb cuts where they are were necessary for deliveries. She said that the Township chose parking on Allen Avenue over additional landscaping due to the nature of the business. She said that the applicant wants to turn the light manufacturing portion of the property into a distribution center. She said that the applicant was denied a business license. The Board discussed the use and whether it is conforming. Ms. Kowalski said that the use variance is not necessary, citing *Conselice v. Borough of Seaside*, 358 N.J. Super 327, 333, 817 A.2d 988.

Mr. Pachtinger gave a description of the business operations for Master Presentations. He said there are three employees that are not all there at the same time. In 2012, there were 16 deliveries and there is one UPS pick-up a day. He said that he has no use for the office space.

Chairman Goode carried the application to April 11, 2013.

Meeting adjourned at 10:45 P.M.

Rachel Goncharko
Board Secretary
Recording Secretary