

West Windsor Township Zoning Board of Adjustment

Minutes – Regular Meeting

February 1, 2018

The regular meeting of the Zoning Board of Adjustment was called to order at 7:30 p.m. on Thursday, February 1, 2018 by Chair Abbey in Meeting Room A of the Municipal Building.

STATEMENT OF ADEQUATE NOTICE

Pursuant to the Sunshine Law, a notice of this meeting's date, time, location and agenda was mailed to the news media, posted on the Township bulletin board and filed with the Municipal Clerk as required by law.

ROLL CALL AND DECLARATION OF QUORUM

Present: Susan Abbey
John Church
Michael Garzio
Curtis Hoberman
Henry Jacobsohn
Daniel Marks
Aleta Ricciardi
John Roeder

SWEARING IN OF MEMBERS

The following member was sworn in by Edwin Schmierer, Esq.: Michael Garzio. John Roeder advised that he has already provided his oath of office.

REORGANIZATION

- a. Election of Chair - Motion was made by C. Hoberman and J. Roeder seconded the motion to elect S. Abbey as Chair. The vote was 7-0 in favor. Motion carried.
- b) Election of Vice Chair - Motion was made by H. Jacobsohn and J. Roeder seconded the motion to elect C. Hoberman as Vice Chair. The vote was 7-0 in favor. Motion carried.
- c) Appointment of Administrative Secretary - Motion was made by J. Roeder and A. Ricciardi seconded the motion to appoint Barbara Watson as Administrative Secretary. The vote was 7-0 in favor. Motion carried.
- d) Appointment of Recording Secretary - Motion was made by J. Roeder and A. Ricciardi seconded the motion to appoint Kerry Philip as Recording Secretary. The vote was 7-0 in favor. Motion carried.
- e) Appointment of Zoning Board Members to SPRAB (2) - Motion was made by A. Ricciardi and J. Roeder seconded the motion to appoint S. Abbey and C. Van Dyke to SPRAB. The vote was 7-0 in favor. Motion carried.
- f) Appointment of Zoning Board Members to Site Inspection Review Subcommittee (3) - Motion was made by C. Hoberman and A. Ricciardi seconded the motion to appoint J. Church, H. Jacobsohn and D. Marks to the Site Inspection Review Committee. The vote was 7-0 in favor. Motion carried.

CONSENT AGENDA

- a) Declaration of Schedule of Regular Meetings
- b) Declaration of Official and Other Newspapers to Receive Meeting Notices (Princeton Packet; The Times; Windsor Plainsboro News)
- c) Authorization for Chairman or Vice Chairman to approve bills and vouchers
- d) Mason, Griffin and Pierson - Ed Schmierer (Board Attorney)
- e) Van Cleef Engineering - Ian Hill (Board Civil Engineer)
- f) Van Cleef Engineering - Chris Jepsen (Board Environmental Engineer)
- g) Burgis Associates, Inc. - David Novak (Board Planner)
- h) Arora and Associates - James Kochenour (Board Traffic Engineer)
- i) Landscape Architect - Daniel Dobromilsky
- j) Fire Marshall - Jim Yates
- k) Traffic Safety Officer - Sgt. Francis Bal

Motion was made by J. Roeder and C. Hoberman seconded the motion to approve all consent agenda items. The vote was 7-0 in favor. Motion carried.

CHAIRMAN'S COMMENTS AND CORRESPONDENCE

Sam Surtees, Land Use Manager, stated that the SPRAB membership is a concern. The Environmental Commission and the Planning Board have not appointed anyone to SPRAB and there is already a vacancy on this Board, there are presently four vacancies on SPRAB but this Board is an advisory board so there is no requirement for a quorum.

Chair Abbey stated that she wished to recognize and thank Councilwoman Rae Roeder and her many years as a volunteer to the Township, Mrs. Roeder passed away recently.

PUBLIC COMMENT

C. Hoberman stated that he is honored to serve as a Class II member on the Planning Board, currently the Planning Board is reviewing the Master Plan Reexamination Report. He advised that the revised draft report is scheduled for review on February 7th and he encouraged all members go to the website, read the report and provide feedback. Chair Abbey agreed because the Master Plan is our guideline on development, she requested a brief list of the changes being considered.

Mr. Surtees advised that the new members on the Board are required to take a training course within 18 months of their appointment. The classes are offered throughout the year and the new members were asked to contact him about upcoming sessions.

REPORTS

- a) End of Year Report for 2017

Motion was made by J. Roeder and C. Hoberman seconded the motion to approve the 2017 End of Year report. The vote was 7-0 in favor. Motion carried.

MINUTES

- a) July 27, 2017 - Motion was made by J. Roeder and J. Church seconded the motion to approve the minutes of July 27, 2017 as amended. The vote was 5-0 in favor of those eligible to vote. Motion carried.
- b) October 26, 2017 - Motion was made by C. Hoberman and S. Abbey seconded the motion to approve the minutes of October 26, 2017 as amended. The vote was 4-0 in favor of those eligible to vote. Motion carried.

RESOLUTION

- a) **ZB15-01**
3717 Route 1 LLC
d(1); d(4); C Bulk Variance and Design Waivers
Preliminary/Final Major Site Plan
3717 US Route 1; Block 3, Lot 18
Denial

Motion was made by J. Church and C. Hoberman seconded the motion to approve the resolution denying the application for ZB15-01 as amended. The vote was 5-0 in favor. Motion carried.

For: Abbey, Church, Hoberman, Jacobsohn, Marks
Against: None
Abstain: None

APPLICATION

- a) **ZB17-04**
Ammre & Jehan Mohamed
"c" Bulk Variance
Block 12.09, Lot 23
373 Clarksville Road
Property Zoned: R-20B District
MLUL: 3/6/18

Ed Schmierer, Esq., legal counsel for the board, stated that proof of notice is in order and the Board has jurisdiction.

Ammre Mohamed and Jehan Mohamed, applicants, were sworn in. Mr. Mohamed stated that the garage for their home is small and there is no access from the house, the proposal is to turn the current garage into an office.

Susan Sheffmaker, architect for the applicant, was sworn in. She stated that the proposal is to construct a two-car garage in front of the house and convert an existing one car garage into an office space. She advised that front and sideyard setback variances are required. The plans submitted as part of the application were referenced and marked as Exhibit A1, the Planner questioned the lot size and Ms. Sheffmark confirmed that the parcel is 17,000 square feet and the MIC was revised to 22.4%. J. Roeder stated that it appears that to gain access to the existing garage all the applicant needs to do is install a door. Ms. Sheffmaker stated that the floors are not flush for the garage and the home, there is a two foot difference. She advised that other locations for a garage were considered but the existing garage has a finished space above the garage so this would be impacted. If another location is chosen then this would require additional pavement. She advised that the proposal involves removing the paving behind the garage and also the smaller extension to the driveway in front. The driveway will be extended in the front slightly offering more room for a vehicle to get out of the site.

Chair Abbey asked if there was any other house in this area that has a garage in the front. Ms. Sheffmaker stated that she is not aware of any homes that have this. A. Ricciardi asked if the applicant considered moving the garage to the back of the property, Ms. Sheffmaker stated that the applicant does not want to demolish the garage. A. Ricciardi also suggested extending the garage and Ms. Sheffmaker stated that the paving coverage would increase, the frontyard setback would be eliminated but a sideyard setback would result. J. Church stated that the setback would be 14 feet to the property line whereas 20 feet is required, this is much better than what is being proposed.

Chair Abbey stated that she was concerned about the front yard setback and having a garage in the front does not go with the neighborhood. J. Church stated that the applicant should look at how this fits in with the goals of the land use law, whether this improvement promotes the public health, safety and welfare, and how will this be a benefit for the community. Mrs. Mohamed stated that she has two teen sons who will be driving soon and they need more room to park their vehicles. She stated that the garage will also add value to the property, there is another home in the area that added a garage and it looks very nice.

M. Garzio stated that this house is fairly unique in this area, the style is a cape cod with a breezeway. The other homes offer similar setbacks. C. Hoberman stated that two additional cars on the property results in four vehicles on site and he asked if the driveway design will be able to hold all four vehicles. Ms. Sheffmark stated that there will be two cars in the garage and stacked parking outside. A. Ricciardi asked if the applicant considered a large room in the rear of the home for the office. Mr. Mohamed stated that this was not considered, the proposed plan limits the amount of construction that would be required for this improvement. Chair Abbey stated that the Board's decision stays with the property, we must make a judgment based on the needs of the neighborhood and not individual needs.

Andrea Malcolm, Planning Consultant for the Board, was sworn in and presented the report from Clarke Caton Hintz dated January 21, 2018. She noted that single family homes are permitted in this district, the proposal requires front and sideyard setback variances, the design is out of character with the neighborhood and the aesthetics deviate with a garage in the front. The road is fairly busy and a

sidewalk is in the front of the property which is more of an encroachment with the garage. Item 2.4 pertains to the driveway and the applicant is proposing additional paving around the proposed garage reducing the driveway setback to 3' from the side property line. She stated that the Land Use Element of the Master Plan provides guidelines to maintain a range of residential development patterns and this proposal deviates from the guidelines. The applicant failed to provide the positive criteria and she recommended that the applicant address this. The applicant bears the burden of proof when considering the variances, the burden of proof is divided into two parts, and the applicant must justify both parts. She asked if the applicant has considered alternative designs to eliminate the need for the variances. The proposed driveway paving which extends to within 3' of the property line may exacerbate the visual impact of the addition, and it limits the ability to plant any landscaping to buffer the view from the neighboring lot.

J. Church stated that the garage is too close to the property line and asked if there is vegetation between the two properties. A. Mandel stated that there is no room to put in additional screening. D. Marks stated that the garage could be narrower. J. Roeder suggested that the applicant go back and return before the Board with another plan. Chair Abbey stated that the Zoning Board can approve or not approve the plan or request that the applicant go back and come up with another design. Mr. Schmierer stated that the Board can ask for a continuance, the application would be carried to another date in the near future so the applicant can present a new design for consideration.

The meeting was opened to the public. Being that there was no one who wished to address the Board, motion was made by H. Jacobsohn and J. Roeder seconded the motion to close the public portion of the meeting. The vote was 7-0 in favor. Motion carried.

Meeting recessed at 8:05 pm. At 8:10 pm all members returned to the dais. Ms. Sheffmark stated that the applicant would like to amend the proposal and pull the garage five feet further back from the proposed location in the front yard and will encroach not more than 9 feet into the required 40 foot setback. The garage will be made slightly shorter and the three foot extension from the garage to the new garage will be eliminated.

J. Roeder stated that the design should accommodate four cars on the property, the proposed design will require a lot of turns to get out of the spot. Ms. Sheffmark stated that the applicant expressed that the project is not acceptable if he is required to extend the garage.

Mr. Surtees stated that the redesign would result in a nine foot encroachment into the front yard setback. C. Hoberman stated that he has difficulty voting on something that is being redesigned. He recommended a continuation so the board can review plans with the amended design. Mr. Surtees stated that if members are uncomfortable with the five foot redesign, the applicant needs guidance about what is acceptable before spending the money on a redesign.

Board discussion took place, D. Marks stated that he is okay with the proposed change to the design. A. Ricciardi concurred with D. Marks. M. Garzio stated that the plan makes the improvement look like a much greater protrusion than it really is. Chair Abbey stated that a garage in the front is what someone sees when driving by.

Motion was made by D. Marks to approve the site plan as amended by pulling back the proposed two-

car garage a minimum of three feet and will not encroach more than 9 feet into the 40 foot required front yard setback. The motion was seconded by A. Ricciardi. The vote was 3-2-2 in favor.

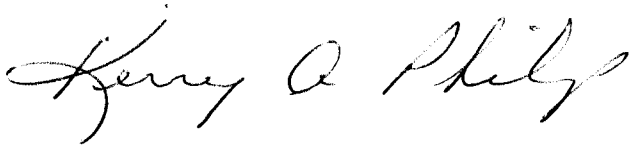
For: Jacobsohn, Marks, Ricciardi
Against: Abbey, Roeder
Abstain: Church, Hoberman

Mr. Schmierer stated that abstention votes are typically considered a no vote, this situation has not occurred before and he will review Roberts Rules to make a determination. He will advise in the morning what the decision is.

Mr. Surtees stated that his understanding is that abstention votes would not count therefore the vote is 3-2 in favor so the application is approved unless the Bylaws in the Administrative Code indicates otherwise. The Administrative Code regulations will be checked and if there is no regulation on abstention votes, Roberts Rules of Order will be followed.

Being that there was no other business before the Board, the meeting was adjourned at 10:00 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Kerry A. Philip".

Kerry A. Philip
Recording Secretary