

West Windsor Township Zoning Board of Adjustment

Minutes – Regular Meeting

April 25, 2019

The regular meeting of the Zoning Board of Adjustment was called to order at 7:00 p.m. on Thursday, April 25, 2019 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
Curtis Hoberman
Henry Jacobsohn
Daniel Marks
Aleta Ricciardi
John Roeder
Carl Van Dyke

CHAIR'S COMMENTS & CORRESPONDENCE

No comments were provided.

PUBLIC COMMENT

No comments were provided.

RESOLUTION

ZB19-03 Christopher Hine & Marissa Kimmel-Hine
"c" Bulk (MIC) Variance
Block 21.20, Lot 64
6 Wynwood Drive
Property Zoned: R-30 District

Motion was made by J. Roeder and C. Van Dyke seconded the motion to approve the resolution for ZB19-03 as amended. The vote was 6-0 in favor of those eligible to vote. Motion Carried.

APPLICATION

a) ZB19-01
Princeton Research Lands
c Bulk & d-4 Variances
1530 Old Trenton Road
Block 23, Lot 110
Property Zoned: RR/C District
MLUL: 6/28/19

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

Archibald Reid, Esq., legal counsel for the applicant, stated that the proposal is for two variance applications. He is prepared to make two presentations if this is the preference of the Board.

Mr. Reid stated that in 2010 Thompson Land sold 500 plus acres to the Township for open space, excluding these two lots. A contract purchaser had approached them to develop these two lots but the house proposed was too large so they redesigned the home with a lesser square footage and the proposal was denied. The new proposal has a smaller home than what was previously presented, the FAR calculations now include the basement space so a FAR variance is needed.

Chair Abbey asked the square footage calculation on each floor. D. Geoffrey Brown, Engineer for the Applicant was sworn in and stated that the house is 3600 square feet, each floor will be 1200 square feet in size.

Samuel Surtees, land use manager/zoning officer, was sworn in and stated that the reason for the "c" and "d" variances are because of the zoning. He referenced a colored vicinity plan and noted that the two parcels are marked in blue and the surrounding parcels are green. There is another zone that surrounds this zone. A d4 variance is needed for the lot to exceed 5% of the permitted FAR. The applicant is requesting a d4 variance with the provision to construct a dwelling that conforms to the R30 zoning standards. The maximum FAR is 13% and the house was reduced to 13% FAR with a 17.9% MIC so there is only a slight variance when using the standards for the R30 district.

A. Ricciardi questioned if the two lots were carved out of the original open space dedication. Mr. Surtees stated that the Township purchased the 500 plus acres of land, this land was offered but the town did not want to spend the money and then rezoning took place. The rezoning was changed approximately twenty years ago.

Mr. Brown stated that the house was designed under the R30 zone requirements to be similar in size to the homes on surrounding parcels. There is no ability for the applicant to purchase land to make the lot a conforming parcel. The surrounding open space lands will always be preserved farmland; no further development will take place on those lands.

Mr. Brown stated that he attempted to get square footage information for the homes in the surrounding area, the tax assessors records include the basement space so the numbers are greater than what the Planner's Report identifies. He stated that there will be no increase in storm water; the soils are sassafras and testing of the soils has taken place. Septics are proposed on site and he confirmed that utilities are available nearby. This proposal has no negative impacts on adjacent properties or the general public and there will be no negative impact on the zoning ordinance. Typically, the septic system would be raised but there is new technology that field the house 2.5 feet so raising the system would not be needed.

J. Roeder stated that none of the homes on the other side of the street are larger than 2000 sf. Mr. Reid stated that the applicant is willing to reduce the size of the house to 2400 sf above ground with a full basement. The house can be reshaped by the architect. Mr. Surtees stated the basement would be a finished basement.

Mr. Novak wished to amend the FAR calculation in the Planner's report. The amendment will be a calculation showing 1,200 sf for the first floor, 1200 sf for the second floor and 1,200 sf for the basement resulting in an 11.01% FAR (approximately).

Mr. Surtees advised that these lots were involved in the zone change, downsizing took place for the parcels. There was litigation after the land was rezoned, and after the land preservation took place and the issue went away.

Chair Abbey noted that the lots are consistent with the lot sizes of other lots in the area. Mr. Reid stated that the appearance of the home has conforming sideyard setbacks and they are surrounded by open space.

Mr. Brown stated that an existing hedgerow along the front of the property provides screening and those trees will remain and street trees can be planted. He noted that the applicant will make a reasonable effort to preserve the trees on site.

A. Ricciardi asked if the applicant is willing to meet with the arborist to determine the trees to remain or species of tree to be planted. Mr. Clarke stated they are willing to plant additional trees and will work with the Township arborist.

David Novak, planning consultant for the Board, was sworn in and referenced the report from Burgis Associates dated March 27, 2019 and stated that some items on page 4 and 5 pertaining to the FAR can be excluded since the home is 3600 square feet and the total FAR calculation has been reduced.

Ian Hill, Engineer for the Board, was sworn in and stated that there is not much to review. A wastewater management plan was done but the applicant was asked to identify the nearest sewer facility. Mr. Clarke stated that he did not get a copy of the Engineering report. A copy of the report dated April 11, 2019 was handed to the applicant. Mr. Reid stated that if there is a sewer in the area he would be delighted. Mr. Hill asked that the utilities along Old Trenton Road be identified on the plans. A driveway access permit is needed from Mercer County; approval of the septic design requires health department approval; a grading plan must be submitted for review and approval; and, a soil erosion and sediment control plan certification must be obtained from the Mercer County Soil Conservation District. There are no issues other than the applicant must reapply for the septic design, the previous permit expired in 2010.

J. Roeder stated that all of the other single family homes in the area are less than 2000 sf so he would prefer to see that size home. Chair Abbey noted she was more concerned about the height of the structure, especially when fill is needed and the design of the house is an unknown.

Mr. Surtees stated that the homes in the area can increase in size without variances, the only lots that are not conforming are these two lots. Mr. Clarke stated that the applicant agrees to a height limitation of 35 feet but they are willing to limit the height of the home to 30 feet. The septic systems are being redesigned as an aerated system so two to three feet of fill is being reduced.

Chair Abbey stated that there are homes on the same side of the street and she asked their size and height. Mr. Clarke stated that since the Tax Assessor's records did not include basements he is not prepared to give an answer.

H. Jacobsohn asked if the building can return with a request for a larger house. Mr. Surtees stated that

we could make a home with 2400 sf above ground a condition of approval.

Chair Abbey noted the design of the house is important. Mr. Surtees stated that we have no architectural guidelines for any districts in West Windsor.

The meeting was opened to the public.

Tracy Sinatra, 1541 Old Trenton Road, stated that she lives across the street and was not aware that this land could be developed. She did not get a chance to speak with the developer but she is concerned that the house will be similar in size to what was proposed in 2010. She also had concerns because several neighbors did not get notice of the meeting. Mr. Schmierer confirmed that the notice was in order, property owners within 200 feet of the property were noticed.

Motion was made by J. Roeder to close the public portion of the meeting, seconded by J. Church and carried by a voice vote of 7-0. Motion carried.

J. Roeder noted that the square footage of this home is less than the original proposal but follows the standards of the R30 zone, which is the adjacent zone, with a home size of 2400 sf maximum. C. Van Dyke asked that the house is consistent with the style of other homes in this area. Chair Abbey asked for a maximum height of 30 feet to the peak of the house and a finished attic space is not permitted.

J. Church asked that the street trees planted are in accordance with the ordinance to address any screening concerns expressed by the neighbor.

Motion was made by C. Hoberman to approve the application including the required bulk and use variances with the conditions previously identified.

Chair Abbey wished to identify the reasons for approval as being that this is an existing lot, the lot size is consistent with other homes in both the RRC and R20 zones. The lot is surrounded by preserved farmland on three sides. The variance for the MIC is not a problem and is approved. The surrounding houses, although some are smaller, have the right to expand to a house much larger than what is being constructed on this lot.

The motion was seconded by H. Jacobsohn to approve the application with the following conditions of approval.

1. The d(4) use variance is granted to permit a single-family home not to exceed 3,600 square feet with not more than 1,200 sf on the first floor; 1,200 sf on the second floor; and 1,200 sf in a finished basement.
2. The height shall not exceed 30 feet.
3. The FAR shall not exceed 11.01%
4. A current permit from the Health Department for the septic design is required
5. The applicant shall reduce the final grade of the lots by two (2) feet
6. Preservation or replacement of the existing trees
7. Installation of street trees
8. A finished attic space is not permitted

Motion was carried by a voice vote of 7-0 in favor.

For: Church, Hoberman, Jacobsohn, Marks, Roeder, Van Dyke, Abbey
Against: None
Abstain: None

- b) ZB19-02
Princeton Research Lands
c Bulk & d-4 Variances
1602 Old Trenton Road
Block 23, Lot 111
Property Zoned: RR/C District
MLUL: 6/28/19

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

Archibald Reid, Esq., legal counsel for the applicant, stated that the second application involves a removal of four trees. D. Geoffrey Brown, Engineer for the applicant, previously sworn in stated that there will be a three-foot limitation on fill and they accept all the same conditions as the previous application (File #ZB19-01) including a 30-foot height restriction on the house. He stated that this proposal has no negative impacts on adjacent properties or the general public and there will be no negative impact on the zoning ordinance. There is no available adjoining land to make this lot conforming. The storm water runoff is not being increased since the land is existing agricultural use. They will re-apply with the Health Department for the design of the septic system. Soil testing was done and there are utility connections from the roadway. The development of this lot will not have a negative impact on adjacent properties or the public and there will be no negative impairment to the intent or purposes of the zone plan or ordinances. The variances are for lot width, lot depth, lot area, FAR and MIC.

Chair Abbey noted the house will be adjacent to another residence and asked if there are any trees on the lot. Mr. Brown noted that trees are across the frontage of the parcel. Chair Abbey advised that she is more concerned about landscaping on the property line adjacent to the other parcel. Mr. Brown stated that the applicant is willing to plant additional trees to buffer the adjacent residence.

David Novak, planning consultant for the Board, previously sworn in stated that the FAR calculation is reduced to 11.01% after the proposed design changes. The Planner's Report references a 13.1% FAR.

Chair Abbey asked if there are any issues. Mr. Novak stated that there is a wide array of square footages in this area, some lots are larger than other lots. The size of those homes can increase in size without a variance.

Ian Hill, engineering consultant for the Board, previously sworn in read his report dated April 11, 2019.

Ian Hill, Engineer for the Board, was sworn in and stated that there is not much to review. A driveway access permit is needed from Mercer County; approval of the septic design requires health department approval. The applicant must reapply for the septic design, the previous permit expired in 2010.

Chair Abbey noted the reasons for approval as being that this is an existing lot, the lot size is consistent with other houses in both the RRC and R20 zones. The lot is surrounded by preserved farmland on three sides. The variance for the MIC is not a problem and is approved. The surrounding houses,

although some are smaller, have the right to expand to a house much larger than what is being constructed on this lot.

The meeting was opened to the public. No one wished to address the board so motion was made by J. Roeder and seconded by C. Van Dyke to close the public portion of the meeting. The vote was 7-0 in favor.

Motion was made by J. Roeder to approve the application with the following conditions:

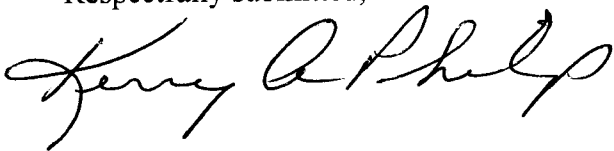
1. The d(4) use variance is granted to permit a single-family home not to exceed 3,600 square feet with not more than 1,200 sf on the first floor; 1,200 sf on the second floor; and 1,200 sf in a finished basement.
2. The height shall not exceed 30 feet.
3. The FAR shall not exceed 11.01%
4. A current permit from the Health Department for the septic design is required
5. The applicant shall reduce the final grade of the lots by two (2) feet
6. The applicant must consult with the Township landscape architect with regard to preservation or replacement of the existing trees
7. Installation of street trees
8. A finished attic space is not permitted

The motion was seconded by D. Marks. The vote was 7-0 in favor. Motion carried.

For: Church, Hoberman, Jacobsohn, Marks, Roeder, Van Dyke, Abbey
Against: None
Abstain: None

Being that there was no other business before the Board, the meeting was adjourned at 9:00 p.m.

Respectfully submitted,



Kerry A. Philip
Recording Secretary