

AMENDED MINUTES

JULY 5, 2016

BOARD OF ADJUSTMENT

LONG HILL TOWNSHIP

CALL TO ORDER AND STATEMENT OF COMPLIANCE

The Vice Chairman, Mr. Gerecht, called the meeting to order at 8:00 P.M. He then read the following statement: Adequate notice of this meeting has been provided by posting a copy of the public meetings on the municipal bulletin board, by sending a copy to the Courier News and Echoes-Sentinel and by filing a copy with the Municipal Clerk IN January 2016.

MEETING CUT-OFF

Vice Chairman Gerecht read the following statement: Announcement is made that as a matter of procedure, it is the intention of the Board of Adjustment not to continue any matter past 11:00 P.M. at any Regular or Special Meeting of the Board unless a motion is passed by the members then present to extend the meeting to a later specified cut-off time.

CELL PHONES AND PAGERS

Vice Chairman Gerecht read the following statement: All in attendance are requested to turn off cell phones and pagers as they interfere with the court room taping mechanism.

PLEDGE OF ALLEGIANCE

ROLL CALL

On a call of the roll, the following were Present:

Edwin F. Gerecht, Jr., Vice-Chairman
Richard Keegan, Member
Michael Pesce, Member
Thomas Sims, Member
Jeffrey Wills, 1st Alternate
Brian Johnson, 2nd Alternate

Dan Bernstein, Bd. Attorney
Thomas Lemanowicz, Bd. Engineer
Kevin O'Brien, Bd. Planner
Cyndi Kiefer, Bd. Secretary

Excused:

E. Thomas Behr, Chairman
Jerry Aroneo, Member
Michael O'Mullan, Member

Ms. Kiefer advised Vice Chairman Gerecht that he had a quorum and could proceed.

EXECUTIVE SESSION

Mr. Bernstein stated that the Board of Adjustment had a personnel matter and that the Sunshine Act provided that a board could convene in Executive Session to discuss such a matter, NOW THEREFORE BE IT RESOLVED that the Zoning Board of Adjustment of the Township of Long Hill will convene in Executive Session to discuss a personnel matter. Mr. Pesce moved and Mr. Johnson seconded. A **ROLL CALL VOTE** was taken. Those in Favor: Mr. Keegan, Mr. Pesce, Mr. Sims, Mr. Wills, Mr. Johnson, Vice Chairman Gerecht. Those Opposed: NONE. The meeting was adjourned at 8:05 PM.

The meeting was reconvened at 8:13 PM.

Mr. Bernstein stated the following: "BE IT RESOLVED that the Zoning Board of Adjustment directs its Chairman and Vice Chairman to meet with the Township Administrator/Township Committee to effectuate the hiring of a person to replace Cyndi Kiefer." Mr. Sims motioned and Mr. Pesce seconded. A **ROLL CALL VOTE** was taken. Those in Favor: Mr. Keegan, Mr. Pesce, Mr. Sims, Mr. Wills, Mr. Johnson, Vice Chairman Gerecht. Those Opposed: NONE.

APPROVAL OF MINUTES

Mr. Pesce moved approval of the minutes as written of March 1, 2016. Mr. Wills seconded the motion. A **ROLL CALL VOTE** was taken. Those in Favor: Mr. Pesce, Mr. Sims, Mr. Wills, Mr. Johnson, Vice Chairman Gerecht. Those Opposed: NONE. The minutes of March 1, 2016

were unanimously approved as written. Mr. Keegan was in eligible to vote since he was not present at that meeting.

Mr. Wills moved approval of the minutes as written of March 15, 2016. Mr. Johnson seconded the motion. A **ROLL CALL VOTE** was taken. Those in Favor: Mr. Sims, Mr. Wills, Mr. Johnson, Vice Chairman Gerecht. Those Opposed: NONE. The minutes of March 15, 2016 were unanimously approved as written. Mr. Keegan and Mr. Pesce were ineligible to vote since they were not present at that meeting.

PUBLIC HEARING

NICHOLAS COCUZZA
Mercer St. & Main Ave.
Block 11601, Lot 15

#16-04Z
Bulk Variances
Development Permit

PROOF OF SERVICE PROVIDED
Court Reporter Appearance Waived

Present: Nicholas Cocuzza, Applicant
August N. Santore, jr., Attorney for the Applicant
Brent N. Papi, jr., Engineer for the Applicant

The applicant, Nicholas Cocuzza, applied to the Zoning Board of Adjustment for a Development Permit and bulk or dimensional variances under N.J.S.A. 40:55D-70c for the construction of a single family residence on property which is located at the intersection of Mercer Street and Main Avenue, Stirling, and designated as Lot 15, Block 11601 on the Long Hill Township Tax Map. It is located in the R-4 Residential Zone. The application was presented by Attorney August Santore, Jr., Esq.; Civil Engineer Brent N. Papi, Jr., P.E.; and Nicholas Cocuzza at the July 5, 2016 Zoning Board meeting.

The application was reviewed by Zoning Board Planner Kevin O'Brien, P.P. of the firm ***Shamrock Enterprises, Ltd.*** and Zoning Board Civil Engineer Thomas Lemanowicz, P.E. of the firm ***Remington, Vernick & Arango Engineers.***

The Subject Property

The 27,920 square foot vacant subject property has 100 feet of frontage on Main Avenue and 229.20 feet on Mercer Street. A 100 feet deep by 50 feet wide appendage adjoins Lot 23, Block 11601, which is commonly known as 1320 Valley Road, Stirling, NJ. The site is heavily wooded and located within an established residential neighborhood. Mr. Pesce noted the property was an "exceptionally challenged site".

Mr. Papi presented ***Exhibit A-1***, which was a colored version of sheet 1 of 3 of his plans, highlighting the environmental constraints on the lot. Substantially all of the appendage, and extending into the main body of the lot, are wetlands. A wetlands buffer or transition area is within the northwest corner of the lot. A circular 5,080 square feet of noncritical area (buildable area) is surrounded by a flood hazard area. The buildable area is at elevations of 216 while the hazard area design flood minimum flood elevation is 215.7.

The applicant obtained permits from the New Jersey Department of Environmental Protection (N.J.D.E.P.) 1430-14-0001.1 FHA 15001 and 1430-14-0001.1 FHA 15002 for a Flood Hazard Area Individual Permit and a Flood Hazard Area Verification which "...authorizes the construction of a single family dwelling, garage and associated driveway with (sic) the flood hazard area of said river, located immediately southerly of the intersection of Mercer Street and Main Avenue ..."

The Proposal

Mr. Cocuzza proposed to construct a two-story colonial style home on a concrete slab. The home, which is not large for a new home, will have a footprint of 1,357 square feet. The proposed home will front on and have driveway access to Mercer Street and it will be built on a slab at a minimum elevation of 217 and the garage at 216.70 which is above the design flood elevation. The applicant agreed to elevate the utilities as a precaution against flooding.

Required Relief

A critical area is defined in Section 111 of the Long Hill Township Land Use Ordinance as "... an area of special flood hazard; and/or any wetlands areas; and any surface retention and detention basins, wet basin, dry well and underground detention basin."

A Development Permit is required as the driveway traverses a critical area, a flood hazard area.

The proposed home will have a front yard setback of 40 feet while 50 feet is required in the R-4 Zone. Section 142.1d requires a principal building to have a front and rear yard setback of 50 feet and a sideyard setback of 25 feet from any critical area. The proposed home will have a 23.1 foot front yard setback from a critical area, a rear yard setback of 3.1 feet from a drywell (recommended by Planning Board to Township Committee to remove drywells as critical areas in the Zoning Ordinance), and side yards of 15.0 feet and 7.8 feet to critical areas.

Pursuant to Section 142B, all single family residential lots created after the adoption of the Ordinance in 1996 must contain 10,000 square feet of non-critical area. The lot contains less than 6,000 square feet of non-critical area. However, the lot was created prior to the adoption of the Ordinance and therefore Section 142B does not apply.

Justification for Relief

A Development Permit is required for the driveway which crosses a flood hazard area. The N.J.D.E.P. has approved the crossing, however, that decision does not pre-empt the Zoning Board. Without crossing the flood hazard area, there would be no vehicular access to the site, an impossible situation for a new home.

Variances for the critical area setbacks are justified under N.J.S.A. 40:55D-70c(1)(b) "by reason of exception ... physical features uniquely affecting a specific property" which includes wetlands, a wetlands transition or buffer area, and a flood hazard area proximate to the circular building area where the N.J.D.E.P. authorized construction.

The home on Lot 18, Block 11601 has a sideyard setback of about 15 feet, making it close to the property line with the subject property.

The Board Professionals asked the applicant to provide a nonconforming 40 foot front yard setback rather than the required 50 feet, in order to provide more separation for the home on Lot 18 and the proposed new home. This is a classic c-2 variance by providing a "better zoning alternative" Kaufmann v. Planning Bd. for Warren Tp., 110 N.J. 551, 563 (1998).

All the variances are also justified under N.J.S.A. 40:55D-70c(2) by advancing several purposes of the Municipal Land Use Law under N.J.S.A. 40:55D-2:

"b. To secure safety from fire, flood, panic and other natural and man-made disasters;" by providing an appropriate Stormwater Management Facility.

"c. To provide adequate light, air and open space;" by limiting impervious lot coverage to 9.1% while 25% is permitted in the R-4 Zone.

"e. To promote the establishment of appropriate population densities ... and preservation of the environment;" by the construction of a single family residence on a 27,920 square foot lot while the minimum lot size required in the R-4 Zone is 20,000 square feet while respecting the environmental constraints.

"g. To provide sufficient space in appropriate locations for a variety of ... residential ... uses ... according to their respective environmental requirements in order to meet the needs ...;" by allowing the construction of a small sized new home on an appropriate location on the site.

The benefits from the deviations substantially outweigh any detriments.

The requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Long Hill.

Drainage

Mr. Papi designed a Stormwater Management Plan consisting of 12 inch perforated pipe, 2½-3 feet in the ground, on a bed of clean stone with a filter fabric. He testified that runoff from the lot will be reduced after construction from existing runoff.

Trees

Mr. Papi agreed that not all trees which will be removed are shown on the plan. The Long Hill Township Environmental Commission estimated that 70 trees would be removed from the site while Mr. Papi estimated there would be between 7-10 trees removed. He proposed to replace these trees with 9 Norway Spruce and 4 Boxwood. In the event that more trees are removed, there will be a report adjustment in the number of trees included in the landscape plan.

After deliberating, Mr. Johnson moved approval of the application and Mr. Sims seconded the motion. A **ROLL CALL VOTE** was taken. Those in Favor: Mr. Keegan, Mr. Pesce, Mr. Sims, Mr. Wills, Mr. Johnson, Vice Chairman Gerecht. Those Opposed: NONE. Application #16-04Z was approved unanimously subject, however, to the following conditions:

The following conditions shall be reviewed by and are subject to the approval of the Board Engineer:

- 1) Submit DEP approved plans to the Board Engineer and compare to revised plan of June 25th, 2016.
- 2) Complete curbing along Mercer Street.
- 3) Identify storm pipe from subject property draining into existing inlet along Main Avenue.
- 4) Reconcile architectural and engineering plan elevations.
- 5) Show code compliant location of hot water heater, furnace and utility closet in revised plans.
- 6) In accordance with Ordinance Section 146.8 d, the plans shall contain a note as follows:

All roof gutters shall be protected from the accumulation of leaves and litter by the installation of an aluminum gutter cap leaf separation device. Gutter screens or louvers are not acceptable.

The following conditions shall be reviewed by and are subject to the approval of the Board Planner:

- 7) Only dead or diseased trees may be removed from the Main Avenue street frontage.
- 8) Revise landscaping plan to add nine (9) Norway Spruce along Main Avenue, four (4) Boxwood trees, show all trees on site and identify those which are healthy and not healthy. Show all trees which are to be removed. If more than 7-10 trees are to be removed, additional landscaping shall be provided. The landscape plan is to be permanently maintained. Dead, diseased and missing landscaping is to be replaced to the approval of the Zoning Board Planner.
- 9) Raise all utilities and mechanicals two feet above floor level as a flood prevention measure.
- 10) Revise Lighting Plan to show obscured and shielded light sources.

The following conditions shall be reviewed by the Planning & Zoning Coordinator:

- 11) Applicant shall satisfy all fee and escrow responsibilities associated with the application.
- 12) Applicant shall provide proof of payment of real estate taxes through the third quarter of 2016.

Mr. Sims motioned, Mr. Keegan seconded and the meeting was adjourned at 10:00 PM.

Date: _____

Cyndi Kiefer
Planning & Zoning Coordinator