

A meeting of the Township of Hamilton Zoning Board of Adjustment was held on the above date with Chairperson, Frank A. Tomasello, presiding. Members present were Wayne Cain, Wayne Choyce, William Christman, Bruce Strigh, Elaine Valentino and Amanda Zimmerman. Alternate member, George Samuelsen, was also present in addition to Board Solicitor, Robert Cooper and Zoning Officer, Philip Sartorio.

The Statement of Compliance was read.

Announcements: There are none.

D. Mincer Properties, LLC; App. #1-2013; Block 1177 Lot 1; located at 4350 West Jersey Avenue are seeking a front yard setback variance of 96' where 175' is required from First Avenue and a rear yard setback variance of 110' from the northern property line where 150' is required for the construction of a single family dwelling and any other variances found to be necessary. Kristopher Facenda, Esquire and Rami Nassar, Engineer were present and are representing the applicant.

Mr. Sartorio stated that Density Transfer was used to satisfy Pinelands and Municipal criteria for the lot size required in the RD5 Zone.

Solicitor, Robert Cooper verified that the proof package had been executed properly and property taxes are current.

Mr. Nassar was sworn in and testified the property is located at the bike path (lot 1) and Harbor Avenue with West Jersey Avenue located to the North. The lot has 3 street frontages and the only improved street is Harbor Avenue. The rest are unimproved First Avenue and Mt. Vernon Avenue). Wetlands are located on West Jersey Avenue. The lot is wooded and has a driveway easement running through it being for an existing house (Block 1182 Lot 1).

Mr. Facenda stated if there is a recorded driveway easement filed with the county it will be submitted. If one is not recorded it could be a condition of the resolution, if approved.

Mr. Nassar presented an aerial photograph of the property and the Zoning Board Members reviewed it.

There was discussion regarding where the frontage of the house will be.

Mr. Sartorio, Zoning Officer, was sworn in and stated much of the land surrounding this property is owned by NJ Natural Lands Trust.

Mr. Nassar testified the proposed dwelling will be a single family home which will utilize a well and septic system; the proposed size is 1,200 to 1,300 square feet and will face Harbor Avenue. The setbacks cannot comply due to the 3 street fronts.

Ms. Valentino asked if there will be 2 different house numbers on Harbor Avenue and Mr. Nassar answered yes.

Mr. Cooper stated the driveway easement will have to be reviewed and possibly modified, to reflect the rear lot having access. According to the township ordinance, the width of the driveway has to be at least 20 feet and composed of material that will hold a fire truck.

Mr. Strigh made note the plans state the driveway is 24 feet wide.

Ms. Zimmerman asked if at any point in time the 2 lots were owned by separate people or the same person. Mr. Nassar stated they were never subdivided and they were created approximately 50- 60 years ago.

Mr. Sartorio stated the Pinelands Commission gave approval for reconstruction in 1983 and this would have met their threshold for contiguous ownership and density transfer. It is his opinion that this was always considered 2 separate parcels.

Mr. Strigh has concerns about the end of the applicant's driveway crossing over onto Township owned property.

Discussion ensued regarding the driveway easement and what the Townships responsibility would be with portion that is located

Mr. Christman stated his property has a similar situation and the Planning and Zoning Board approved it in 1986. A public easement is shared between him and his neighbor and it is 200 feet long. The Township does not maintain it, they do. The difference is a paper street runs between applicant's property and the neighbor.

Mr. Cooper stated in addition to a driveway easement, a maintenance agreement will have to be recorded so emergency vehicles can get through. If an easement is already recorded, it will to be revised.

Ms. Valentino asked if the owner of the neighboring property was notified with the certified mailing and Mr. Facenda stated yes.

Mr. Satorio stated the request to vacate the street was from 2002 and the previous resolution (Block 1182 Lots 1 to 3, 15 & 16) was from 1982.

Mr. Christman asked if the resolution could state the following "not building in the wetlands area". Mr. Cooper stated that could be a condition of the Resolution.

Mr. Strigh asked if another condition of the Resolution could specify the driveway standards that the Township has.

Mr. Tomasello asked if anyone would like to speak during this portion of the hearing for public comment and there was none. Ms. Zimmerman moved, seconded by Mr. Cain to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Ms. Valentino moved, seconded by Ms. Zimmerman, on App. #1-13, Block 1177 Lot 1 located at 4350 West Jersey Avenue to permit a 96' front setback on First^t Avenue and 110' setback from the North Property Line for the construction of a single family dwelling. The 5 conditions associated with the Resolution and they are as follows:

1. The applicant must provide adequate proof of a recorded easement or have an easement recorded giving access to the rear property owner egress and ingress access along with a maintenance agreement to maintain the access easement in perpetuity.
2. The easement must be pursuant to code for rural driveway standards and meet all requirements in width and material.
3. No structure may be built in any designated wetland portion of the property.
4. All the conditions of the Pineland Certificate of Filing must be met.
5. The fire marshal will determine the width of the driveway and if a turnaround is necessary.

SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY," and "NO ABSTAIN."

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN-AYE
MR. STRIGH -AYE
MR. TOMASELLO- AYE

MR. CHOYCE-AYE
MS. VALENTINO-AYE

MR. CHRISTMAN-AYE
MS. ZIMMERMAN-AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made comments

MR. CAIN: Based on the testimony of the applicant and professionals and the Board, I vote yes.

MR. CHOYCE: The potential owner is facing a hardship with having 3 front yards in order to meet the required setbacks to properly place a dwelling on the property along with the wetlands. The variances are proper to be granted. The only concerns are the easement across the property & an existing township right of way around these properties to have access other than this easement. It did exist in the past and the easement has been there for some time. This can be worked out with the conditions that have been requested to be placed in the resolution. I vote yes.

MR. CHRISTMAN: Based on the comments previously made and the extreme hardships on this property, I vote yes.

MR. STRIGH: Yes for the previously stated reasons.

MS. VALENTINO: Yes. Although the lot size doesn't meet current requirements is consistent with other properties in the area and it appears no property remains available to make the lot conform. I vote yes.

MS. ZIMMERMAN: Based upon the reasons previously stated by the Board, I vote yes.

MR. TOMASELLO: I also vote yes. This is a traditional hardship scenario with 3 paper streets and the wetlands that exist on the property. I accept the testimony of the applicant that the building envelope requirements would be impossible to meet because of the zone it is in. I believe the positive criteria have been met and as far as the negative criteria, once built it will not be seen. I note that members of the Board who tried to find this location had a hard time doing so. It is consistent with the area and the parcels that are currently there have been so for many years, long before zoning was introduced.

Approval of Minutes – Ms. Zimmerman moved, seconded by Mr. Cain to approve the minutes from the January 14, 2013 meeting. SAID MOTION CARRIED WITH SIX (6) MEMBERS VOTING “AYE,” NO “NAY,” and ONE (1) “ABSTAIN.”

Memorialization of Resolutions – There were no resolutions to memorialize.

Approval of 2012 Annual Report (Required) 40:55d-70.1 –Mr. Strigh moved, seconded by Mr. Choyce to approve the 2012 Annual Report 40:55d-70.1. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY”.

Mr. Tomasello noted that 2 members of Township Committee are in the attendance and asked if they had any comments and there were none.

Public Comment- Mr. Tomasello opened this part of the hearing for public comment. There being none Mr. Strigh moved, seconded by Mr. Choyce to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Discussion ensued regarding the status of the home in Chancellor Place that had been before the Board for rebuilding due a fire.

An update of Application 27-2011 (asphalt removal) was discussed.

Adjournment – Ms. Zimmerman moved, seconded by Mr. Strigh to adjourn the Zoning Board of Adjustment meeting at 8:03 p.m. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Respectfully submitted,

Deborah Ohnemuller, Secretary
Zoning Board of Adjustment