

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, Bruce Strigh, Elaine Valentino and alternate member, George Samuelsen. Also present was the Board Solicitor, Robert Cooper; Zoning Officer, Philip Sartorio; Engineering Consultant, Steven Mazur and Planner, Gregory Schneider (substituting for Robert Watkins).

The Statement of Compliance was read.

Announcements: The first application requires a D Variance and the Board is short by 2 members and another member has a conflict, it will be tabled until additional members show up.

Wayne & Eileen Choyce; App. #7-2013; Block 1291 Lot 1; located at 1010 Grand Avenue were present and are seeking a variance to allow for 2 accessory structures (carport & shed) and a fence (5' height) in the front yard area and any other variances(s) found to be necessary.

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

Mr. Cooper stated that Mr. Choyce will not be testifying tonight and asked that the board members give him the normal due deference that any other applicant would be given. There is no greater weight given to this applicant because he is a Board Member than any other member of the public that comes before this board on an application.

Ms. Zimmerman arrived at 7:02 pm.

Mrs. Choyce testified in regards to the hardship of the property having 4 front yard areas. She stated that adding any accessory structures or having a fence higher than 4' are not allowed in the front yard area (as per the ordinance). The items being requested are as follows and are shown in the photos that were part of the application package.

24' x 30' carport (trailer will be stored there to protect it from the elements)
12' x 20' storage shed (yard and recreational equipment storage)

These items will have a 160' setback from 4th Street & 165' setback from Cherry Avenue. The area is heavily wooded as indicated on the aerial photo. The structures are typical of residential properties and will not present a negative impact on the neighborhood or impair the intent or purpose of the zoning or master plan to the township. There are similar structures on neighboring properties that front Grand Avenue and what is being proposed will be over 275' from Grand Avenue and buffered by existing natural growth.

The 5' high fence will screen the area on the North side of the dwelling where the air conditioning sits. The style of the vinyl fence is indicated in the application. The total area will be 20' x 80' and be setback 167' from 3rd Street and there is a 135' wooded buffer along that property line on 3rd Street. The fence will have no negative impact on the neighborhood or impair the intent or purpose of the township zoning board.

The following are the front yard areas which variances are being requested:

4th Street (undeveloped) –South
Cherry Avenue (undeveloped)-East
3rd Street-(gas company access-not improved & has guard rail) North

The neighboring property on the south side of 4th Street is similar in size, has 4 front yards & a single family house on it. There are also wetlands to the south of this property which restrict any further development of it. The possibility of improving the 1 block portion of 4th Street is very small.

The neighboring property to the east of Cherry Avenue is owned by the South Jersey Gas Company and is fully developed as an industrial utility use. It has liquid natural gas, storage sites and solar equipment panels which cover the entire property. The size of the site and equipment which is stored can be seen in the aerial photo submitted with the application. It is believed that Cherry Avenue proceeds south into the designated wetlands and there is little possibility that it will be improved.

The property to the north of 3rd Street is 6.3 acres, undeveloped and has 4 front yards.

Mr. Tomasello asked if the shed will have any utilities and Mrs. Choyce replied no and it will be for personal use only.

Ms. Valentino asked if the carport will be used to protect a recreational vehicle from the elements and Mrs. Choyce replied yes. Ms. Valentino confirmed that the property to the rear is owned by the gas company and that it is undeveloped.

Mr. Cooper swore in Mrs. Choyce and she confirmed that any previous and future testimony is the truth.

Mr. Sartorio was sworn in and testified that the gas company property sits on the municipal boundary and can be accessed through Egg Harbor Township on an improved street. The property is in a GA-L zone which has a 40' minimum front yard setback for a principal structure and the applicant is proposing at least 160' front yard setback. There is no lot or impervious coverage issues.

Ms. Valentino visited the property and noted there is vacant property to the right and left when facing the house. She also observed the solar panels through the woods. It is in a residential area with no established building line.

Mr. Samuelson also visited the site and noted all the corners were marked out on the property which made it easy to identify where the structures were going to be placed.

Mr. Cain also visited the property and stated the additions will be in line with the surrounding properties and will not be seen from the road. It will have no detriment since it will not be seen from the road.

Mr. Tomasello asked if anyone else would like to speak during this portion of the hearing for public comment and there was none. Mr. Strigh moved, seconded by Ms. Zimmerman 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 Mr. Cain, on App. #7-13, Block 1291 Lot 1 located at 1010 Grand Avenue to permit 3 setback variances: 1). 5' fence which will be 20' x 80' and it will conceal a residential air conditioning unit; 2). A 24' x 30' carport which will be used to protect a recreational vehicle, that is used for personal use, from the elements 3). A 12' x 20' shed for personal storage. The setbacks are to be 167'+ from 3rd Street, 152'+ from 4th Street and 165'+ from Cherry Avenue.

SAID MOTION CARRIED WITH SIX (6) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY," and "NO ABSTAIN."

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN-AYE

MR. STRIGH -AYE

MS. VALENTINO-AYE

MS. ZIMMERMAN-AYE

MR. SAMUELSEN-AYE

MR. TOMASELLO- AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made comments

MR. CAIN: We are always running into the 2 and 3 front yard scenarios and this is a 4 yard situation. Basically with the property and everything being undeveloped, it falls in line with the other properties in that area. I see no negative impact and vote yes.

MR. STRIGH: Yes for the same reasons.

MS. VALENTINO: Yes. We hold the residents and applicants to the same standards for improved lots and paper streets that we do for improved streets. The property, the way it is located, has 1 front yard (where the address is) and it is hard to impose the requirements on the 3 unimproved streets.

MS. ZIMMERMAN: I vote yes for the previously stated reasons.

MR. SAMUELSEN: I vote yes for the reasons previously stated by my colleagues.

MR. TOMASELLO: I vote yes. This board has recognized multiple front yard scenarios are truly a hardship. I don't recall an instance where we have had 4 front yards, this is a first. Therefore the applicant has clearly demonstrated a hardship. In regards to the negative criteria, I have listened to the reports from my committee and I myself note that this is truly a rural area. For the most part the streets are unimproved & it doesn't look like there will be any further development in that area. The proposal by the applicant will in no way harm the intent of the zone plan for the township.

Michael Kelly; App #6-2013 Block 792.01 Lot 3; located at 1409 Route 50 was present and is seeking a Use Variance to allow the addition of a real estate office to the current use, amend the exterior sign and any other variance(s) found to be necessary.

Mr. Cain recused himself from this application and Mr. Choyce will rejoin the Board for the hearing. There will be a total of 6 Board members to hear this application and Mr. Kelly would like to proceed.

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

Mr. Kelly testified that he would like a variance to allow 2 separate professional offices to operate in his existing building. The original variance was for a new home sales office with a maximum of 5 employees. He is not proposing any physical changes to the building other than the exterior sign. Due to the economy he would like to add real estate sales to the building with 3-4 employees. The new business name would be Quality Realty.

Mr. Kelly feels his business is the gateway to the community and one of the 1st things that are seen when entering Mays Landing. He takes great pride in maintaining the yard and if he doesn't get the variance he will have to sell or rent it and feels no one else will keep it looking as good as he does. Since the business is across from the rescue squad it can't be converted back to a house due to the noise associated with the ambulances.

A copy of the proposed sign was included in the application and the change is minor. Most of his business is done by word of mouth and he doesn't require a flashing sign.

Mr. Cooper clarified that the applicant is expanding his previous Use Variance by having a 2nd professional office.

The building is 2,400 square feet with 10 parking spaces. He is proposing 4 employees plus himself. The other 5 spaces can be used by clients. Real estate agents have various schedules that do not overlap.

Mr. Kelly purchased his property and the one to the left in prior to 2004. He built the one to the left and then sold it. He also put in 600' of sewer and water lines to come down the street. He built the house and then came before the Board to turn it into a professional office in 2007. In 2008 he was before the Board for preliminary and minor site plan approval and met all the requirements that were requested.

Mr. Strigh asked Mr. Kelly why he didn't make it an office in the first place. Mr. Kelly doesn't recall the exact details but believes it had to do with adhering to the existing conditions for a commercial building. In the October 22nd decision, Mr. Kelly stated the building would not be an ideal location for a single family residence.

If the real estate business doesn't work Mr. Kelly wouldn't be looking for a tenant in the building.

There was discussion regarding professional business and what would be limited in that space. Mr. Kelly could lease to another professional business as long as it does not exceed 5 employees due to the change in intensity and more parking would be required.

Steven Mazur, Traffic Engineer, was sworn in and testified there was no specification in the trip generator between a real estate and modular home sales office. These are low traffic generating uses.

Mr. Gregory Schneider, Planner with Mott Associates, testified that Mr. Watkins report stated the positive criteria is that it would be consistent with other offices along Route 50 south of the project site. The negative criteria is that professional offices are not permitted in that zone. There will not significant

impairment of the zone plan or zone ordinance. The applicant has provided the burden of proof for granting of the variance.

There was discussion regarding the building being in a government zone and the highest and best use in that zone. Personal hardship is not a determination for granting a variance.

Mr. Tomasello asked if anyone would like to speak during this portion of the hearing for public comment and there was 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."

Mr. Choyce moved, seconded by Ms. Zimmerman, on App. #6-13, Block 792.01 Lot 3 located at 1409 Route 50 to grant the applicant a Use Variance to modify the existing use to 2 separate professional offices with a maximum of 5 employees total and the number of parking spaces specified per the ordinance along with a waiver of site plan approval.

SAID MOTION CARRIED WITH FIVE (5) MEMBERS VOTING "AYE", ONE (1) MEMBER VOTING "NAY," and "NO ABSTAIN."

ROLL CALL ON THE ABOVE MOTION:

MR. CHOYCE-AYE

MR. STRIGH-NO

MS. VALENTINO-AYE

MS. ZIMMERMAN-AYE

MR. SAMUELSEN-AYE

MR. TOMASELLO- AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made comments

MR. CHOYCE: I vote yes. The fact that the issue of a Use Variance has already been granted for this property as testimony from the applicant and professionals by adding a 2nd professional business at this address there will be minimal impact on the neighborhood. I see no substantial negative impact.

MR. STRIGH: I vote no. I believe the original Variance and application to provide single family dwelling was keeping with the surrounding neighborhood. The primary reason for the reason for applying for the variance was economic hardship and I don't think that is a reason for a use change.

MS. VALENTINO: I vote yes. I think the Board had an interesting conversation prior to voting to consider all the possibilities and the assurances that we have that if there is a deviation from what is being represented tonight then the applicant would have to return to the Board for additional relief.

MS. ZIMMERMAN: I vote yes in light of the minimal changes that will take place by adding a 2nd profession. A new and different use will not be added. Its placement across from the rescue squad, prior history and to encourage business growth in the township is the reasons I vote yes.

MR. SAMUELSEN: I vote yes. I agree with the reasons previously stated and see no detriment to the surrounding areas and it is a good looking building.

MR. TOMASELLO: I also vote yes. As I stated earlier, if you take the initial history, the parcel was originally zoned for municipal buildings, which is why the rescue squad is across the street. The Township decided it wasn't going to develop this property for governmental use for any point in time. It is hard to say it's an expansion. The property is already constrained with what has been already granted. There will not be any more than 10 parking spaces or 5 people working there at any given time. It is an opportunity to have more than 1 activity going on in the hopes that it becomes viable. I am not convinced that it is can't be developed as a residential property. I know people who live in far worse situations and thrive.

Robert Sandler; App. #8-2013; Block 670 Lot 4; located at 6852 Millville Avenue was present along with James Castle (Castle Energy). A Variance is being requested to allow an accessory structure (ground mount solar array) in the front yard area and any other variance(s) found to be necessary.

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

Mr. Cain rejoined the Board for the application and Mr. Choyce has left the meeting.

Mr. Castle testified his company is proposing to install ground mount solar array for Mr. Sendler and the property has 2 front yard areas. The owner will not be in the electric business selling excess energy created from this array. Mr. Sendler has oil heat.

The array will be a 10,000 watt system and the size will be 50' x 17'. It will be 9' high and 50' in length. The footings are grounded into the soil and will have no moving parts. The elevation from the ground to the 1st panel will be approximately 15" and rock chafe will go underneath along with perimeter of railroad ties.

The will be minor tree cutting along with trimming of trees on the east side of the array.

Mr. Cain visited the property and noted that Millville Avenue has a good buffer and could see where the array will sit, it will be near the flagpole. To the right of the flagpole there are some trees that will have to be removed. Mr. Castle stated about 6 to 7 trees will be removed.

Ms. Valentino also visited the property and noted that where the solar array will be placed in an obvious area. It will be a distance from the next property and will not be seen from the road.

Mr. Castle reviewed the photos that were submitted with the application.

Ms. Zimmerman asked if any of the trees being removed are near the street and Mr. Castle replied no.

Mr. Samuelsen also visited the property.

Mr. Sartorio had 1 correction to his report and noted the paper street was previously named Kloyndke Avenue and now it is known as Hunter Street.

Mr. Tomasello asked if anyone would like to speak during this portion of the hearing for public comment and Mr. Peter Dorsa was sworn in. Mr. Dorsa stated he knew nothing about this application until 18 days ago and he is the applicant's neighbor (across Hunter Street). He reviewed the application at the Zoning Office and the array will be across Hunter Street against his property. In a few years he will develop the property with his daughter. He feels the owner made no effort to get in touch with him instead of doing this application. Mr. Cooper stated he was notified within the 10 day period.

Mr. Sartorio stated Mr. Dorsa owns lot 1, on the other side of Hunter Street. Mr. Dorsa feels this proposed array will be too close to his property.

Mr. Tomasello asked if anyone else would like to speak during this portion of the hearing for public comment and there was none. Mr. Strigh 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 Mr. Strigh, on App. #8-13, Block 644 Lot 7 located at 6852 Millville Avenue to allow an accessory structure, ground mount solar array (50' x 17') to be placed 70' from Hunter Avenue, an unimproved street. It will be situated on a diagonal and at its lowest point will be 15" from the ground and the highest point will be 9' from the ground.

SAID MOTION CARRIED WITH SIX (6) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY," and "NO ABSTAIN."

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN-AYE	MR. STRIGH -AYE	MS. VALENTINO-AYE
MS. ZIMMERMAN-AYE	MR. SAMUELSEN-AYE	MR. TOMASELLO- AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made comments

MR. CAIN: I visited the property and noted the property is 10 acres on an undeveloped street which does cause a hardship with having 2 front yards. I don't see where this will have a negative impact on the property next door and there will still be a buffer. I vote yes.

MR. STRIGH: Yes for the same reasons.

MS. VALENTINO: Yes for the reasons previously stated.

MS. ZIMMERMAN: Yes for the reasons previously stated.

MR. SAMUELSEN: Yes for the reasons previously stated.

MR. TOMASELLO: I vote yes. Having multiple front yards is a hardship, especially when one of the streets is unimproved. There is a statute on the books which states a solar array automatically satisfies the positive criteria and I agree with that. I am in favor of anything that promotes green energy generation and reduces our need foreign sources of energy. The positive criteria have been met by statute and the hardship. The negative criteria are that this is a 10 acre parcel which is extensively wooded and a proposal to build a solar array in an area that is already cleared. I do not see how this would have a negative impact on the zoning plan or intent for the township.

Approval of Minutes – Mr. Cain moved, seconded by Mr. Strigh to approve the minutes from the May 13, 2013 meeting. SAID MOTION CARRIED WITH FIVE (5) MEMBERS VOTING “AYE,” NO “NAY,” and NO “ABSTAIN.”

Memorialization of Resolution – Ms. Valentino moved, seconded by Mr. Cain to adopt the resolution for Thomas Parker-App. #4-2013; Block 663 Lot 2. SAID MOTION CARRIED WITH FIVE (5) MEMBERS VOTING “AYE,” NO “NAY,” and NO “ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN-AYE	MR. STRIGH-AYE	MS. VALENTINO-AYE
MS. ZIMMERMAN-AYE	MR. TOMASELLO- AYE	

SAID MOTION CARRIED.

Memorialization of Resolution – Mr. Cain moved, seconded by Mr. Strigh to adopt the resolution for Diane Sinatra-App. #5-2013; Block 1345 Lot 3. SAID MOTION CARRIED WITH FIVE (5) MEMBERS VOTING “AYE,” NO “NAY,” and NO “ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN-AYE	MR. STRIGH	MS. VALENTINO-AYE
MS. ZIMMERMAN-AYE	MR. TOMASELLO- AYE	

SAID MOTION CARRIED.

Memorialization of Resolution – Mr. Cain moved, seconded by Ms. Zimmerman to adopt the resolution for 6408 Harding Highway, LLC-App. #20-2012; Block 670 Lot 4. SAID MOTION CARRIED WITH FIVE (5) MEMBERS VOTING “AYE,” NO “NAY,” and NO “ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN-AYE	MR. STRIGH-AYE	MS. VALENTINO-AYE
MS. ZIMMERMAN-AYE	MR. TOMASELLO- AYE	

SAID MOTION CARRIED.

Public Comment- Mr. Tomasello opened this part of the hearing for public comment and there was none. Mr. Cain moved, seconded by Ms. Zimmerman to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Mr. Cain commented that Application # 27-11 (Yang) has corrected their driveway and are adding the required landscaping. Mr. Sartorio commented that the Township has not released the performance bond; he believes they are waiting on the as built survey of the property.

Discussion ensued regarding what the Township does if a Resolution is granted and the applicant does not comply. There was also discussion regarding rental units.

Adjournment – Mr. Strigh moved, seconded by Ms. Zimmerman to adjourn the Zoning Board of Adjustment meeting at 8:35 p.m. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Respectfully submitted,

Deborah Ohnemuller, Secretary
Zoning Board of Adjustment