

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, Kathi Lentz, John Sacchinelli, Bruce Strigh, Elaine Valentino and Amanda Zimmerman. Solicitor, Robert Cooper and Zoning Officer, Philip Sartorio, were also present.

The Statement of Compliance was read.

Announcements – There were no announcements.

Ranjit & Balbir Dhaliwal- App. # 14-11; Block 801 Lot 5; 208 Route 50. Ranjit Dhaliwal was present and is seeking variances for lot area, lot frontage, lot coverage, front yard setback, front yard setback for porch and steps along with any other variance(s) found to be necessary along with a Certificate of Appropriateness for the demolition and reconstruction of a single family home within the Historic District.

Solicitor, Robert Cooper verified that the proof package had been executed properly and there is a balance of \$1.83 on the property taxes. It was recommended that the application can be heard and as a condition of any approvals it can be mandated the taxes be current prior to issuance of any building permits.

Rami Nassar was sworn in as a witness for this application. He stated that the property is within the historic district and Mr. Dhaliwal went before the Historic Preservation Commission on September 8, 2011 and obtained approval for the proposed structure which will be similar to what was is there now. The first floor elevation will be raised 1'. Currently the basement is 7' and to meet today's standards and be functional it should be 8'. The following 5 variances are being requested:

1. Variance to allow lot area of 5,000 sf where 9,000 is required.
2. Variance for lot frontage of 50' where 70' is required.
3. Variance to allow lot coverage of 52% where 40) maximum coverage is allowed.
4. Variance to allow front setback of 13' where 30' is required.
5. Variance to allow projection of greater than 6' into front setback for porch & steps.

A Certificate of Appropriateness is also is required due to the house being over 50 years old.

Mr. Nassar did not prepare the engineers report which is dated June 17, 2011. Mr. Tomasello had questions in regards to this report, mainly how much of the building was destroyed by fire.

Mr. Cooper stated that this should be looked at as a new application not a continuation of a non conforming use. The lot will be conforming if all the variances are granted.

Much discussion ensued regarding how much of the house was burned, if the foundation should be removed and replaced and if the owner decides not to rebuild and the lot is turned into a parking lot.

Ms. Valentino confirmed that the basement will be 8' high and asked about the dormers on the 2nd floor and steps to the attic. Mr. Nassar confirmed that this will be a single family home and the attic will be used for storage. The basement will remain unfinished and will have the electrical and mechanical equipment stored there. The basement has to be 8' high due to current standards.

Mr. Tomasello opened this part of the hearing for public comment and there was no response. Ms. Lentz 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. Tomasello polled the Board Members to see if this application should be tabled for next month after one the township engineering firms' reviews the physical structural damage and if demolition is appropriate.

NOTE: The following Board Members made comments

MR. CAIN: With no disrespect to the applicant, this has been an eyesore for quite a period of time. Based on your engineer's report, I would like to see more information and review what our professionals give us. At this point I am saying no.

MR. CHOYCE: Having heard testimony from the applicant and his professional and reviewing all the reports and information that has been provided to me tonight I think I can make a decision on any motion that might be made tonight. I am willing to move forward tonight.

MS. LENTZ: I would like to see the application go forward. Maybe I am too trusting but I am concerned about the historical aspect being maintained in our municipality. I believe the applicant's representation to us and he wants to build a house on that site. Tearing down the burnt property is an improvement. I think there are things at our disposal to make sure it doesn't turn into a parking lot and if it does municipal officials will take the proper steps to penalize the homeowner.

MR. SACCHINELLI: I agree to move forward tonight.

MR. STRIGH: I agree with everything Mr. Cain has said, I have the same concerns. I would like to hear more information.

MS. VALENTINO: I agree that we should move forward. We have the recommendations from the engineer, whether he was here or not. The historical preservation commission, to me that is like reading a report from the Pinelands. We have enough information before us to move forward without the need to carry for another month.

MR. TOMASELLO: I am against.

Mr. Cooper stated that the majority of the members want to move forward tonight and a motion of affirmment would be appropriate.

Mr. Sacchinelli moved, seconded by Ms. Lentz, on App. #14-11, Block 801, Lot 5 located at 208 Route 50 to grant the variances requested by the applicant together with the Certificate of Appropriateness and permission to demolish the building. The conditions are as follows: The taxes (\$1.83) must be made current prior to any permits being issued and the applicant complies with the testimony of the demolition of the building the rebuilding of same.

SAID MOTION CARRIED WITH FIVE (5) MEMBERS VOTING "AYE," TWO (2) "NAY", and "NO ABSTAIN."

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN – NO	MR. CHOYCE-AYE	MS. LENTZ – AYE
MR. SACCHINELLI-AYE	MR. STRIGH – AYE	MS. VALENTINO – AYE
MR. TOMASELLO – NO		

SAID MOTION CARRIED.

NOTE: The following Board Members made the following comments regarding the above motion:

MR. CAIN: No.

MR. CHOYCE: I am glad to see that someone is trying to rehabilitate this property. It has been in deplorable condition for some time now and I am disappointed that the township hasn't taken steps to force the existing owner to tear the building down. I am happy to see that someone is willing to demolish the building and rebuild it. What is being proposed is on a

smaller footprint than what exists. The building as it exists today, with the lot size, has many existing non-conforming issues and I believe what is being requested does not aggravate or make any of those non-conforming issues worse than what they presently are and they are improving. I vote yes.

MS. LENTZ: I vote yes for the same reasons. I also want to put our municipal officials on notice that should the property owner not follow through and do as he has promised and it becomes something other than what is being proposed and it is not legal within our municipal codes then I will be on the municipal official's doorstep making sure enforcement is being done. It is in our historical district and we do not want it to become a parking lot.

MR. SACCHINELLI: I vote yes for the reasons stated before. Please follow through and do what you have to do.

MR. STRIGH: Yes for the previously stated reasons.

MS. VALENTINO: Yes. The property is in a single family dwelling zone. The applicant is the contract purchaser and he is moving through with the terms of his contract to proceed with this application with this board. There is no adjoining property to make this lot larger than what it is. I am looking at this as a separate piece of property than the use continuous on the left side.

MR. TOMASELLO: I vote no. I believe the board has let their fascination with removing an eyesore by taking this short cut cloud their judgment in this case. It is the applicant's burden to present sufficient evidence upon which a board can base a decision and that is not here. We have an engineer who prepared a report which is essentially a net opinion and the engineer was not here to testify or be cross examined. The board was not given enough information to make the decision here. The board's function is to look out for the best interest of the township as a whole, not one particular application and we are not doing that here. It is important to the people of this community that the historic commission is an important part of this township. To make a decision lacking any scientific engineering basis simply taking on faith that the applicant is going to do what he says he is going to do and that demolition needs to be done in this case, to me, is dereliction of duty upon this board. Having said that I have no problem with the house as proposed assuming it occurs. My only concern is the demolition part and the issuance of the Certificate of Appropriateness based on the lack of information that was required of the applicant not being present for this hearing. For that reason I vote no. It is an eyesore and I do hope you follow through and do what you propose to do and I wish you well.

SAID MOTION CARRIED.

Brian & Diane Mohr – App. #24-11; Block 849 Lots 4 & 5 located at 2450 Columbia Road were present and seeking a rear yard setback variance to allow for an addition and a deck onto the back of the existing house 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. Mohr stated they have lived in the Laureldale section of the township for 20 years and were before the Zoning Board 21 years ago to get a variance to build their house. A variance is being requested for an addition on the back of the house which will consist of a room and a deck/outside living area.

Exhibit A-1: Plans of addition.

There was discussion about the rear yard setback. The required set back is 200' and when the addition is completed it will be a 50' rear yard setback.

Ms. Valentino asked Mr. Mohr if he is still the owner of Block 847 Lot 2, a triangular piece of property located across the street and he stated he is. Ms. Valentino also asked if the plot plan, dated 7/31/1990, accurately reflects everything presently on the property and Mr. Mohr stated there is a pole barn (30' x 50') located to the left of the house. He didn't have to go before the board because it is located in the rear yard and it does not affect lot coverage. There are also 2 storage sheds (8' x 8' and 8' x 16') located on the property. This a single

family home and will remain so after the addition is complete. There will be not be any trees removed and it will be used solely for residential use. Mr. Mohr is not aware about any wetland restrictions associated with this property.

Mr. Tomasello opened this part of the hearing for public comment and there was no response. Mr. Sacchinelli moved, seconded by Mr. Strigh 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. Sacchinelli, on App. #24-11, Block 849, Lots 4 & 5 located at 2450 Columbia Road to construct a 16’ x 8’ x 26’ x 8’ addition to be used as a great room and a deck/outside living area with a setback of 50’ from the rear property line.

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. CHOYCE - AYE	MS. LENTZ – AYE
MR. SACCHINELLI-AYE	MR. STRIGH – AYE	MS. VALENTINO –AYE
MR. TOMASELLO – AYE		

SAID MOTION DENIED.

NOTE: The following Board Members made the following comments regarding the above motion:

MR. CAIN: I am familiar with this property having been there before and living on Columbia Road at one time. Knowing the way the property is structured, there are no problems with the lot coverage and no wetlands to worry about. I vote yes.

MR. CHOYCE: We are again confronted with an applicant who has 2 front yards and on top of that the plot plan indicates the geography of the property owned by the applicant does create a hardship for the positioning of the home and any improvements to the property to meet present code requirements. Based on that I don’t see any of the improvements he is requesting to be in any way detrimental to the land use ordinances in this township or to the master plan. I vote yes.

MS. LENTZ: I vote yes for the reasons previously mentioned by my colleagues.

MR. SACCHINELLI: I vote yes.

MR. STRIGH: I vote yes for the previous reasons.

MS. VALENTINO: Yes.

MR. TOMASELLO: I also vote yes echoing the comments of Mr. Choyce. In addition this is basically a heavily wooded area and this addition will be to the back of the property completely buffered by the wooded area. The negative impact is basically nonexistent and the positive impacts are clear-Mr. Mohr is proposing to add an addition to his property which will not interfere with existing vegetation which preserves the open space, light and air as well as the native vegetation.

Anthony F. Dalton, Jr. – App. #25-11; Block 655 Lot 6; located at 6692 Millville Avenue was present and is seeking a front yard setback along with a Certificate of Appropriateness for the demolition and reconstruction of a structure over 50 years old which was destroyed by fire 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. Dalton stated that his home caught on fire on August 12, 2011 and burnt beyond repair. He plans to rebuild it and would like to change the setback on Pittsburg Avenue from 150’ to 137’ and increase the setback on Millville Avenue from 30’ to 50’. These changes

would accommodate the new house and front porch with steps that is being proposed. This property has 2 front yards, the South River & existing accessory structures are also located on the property. There are no plans to build on the rest of the property. The front of the house will face Pittsburg Avenue.

Exhibit A-1: Sketch of proposed dwelling (6 pages)

Exhibit A-2: Revised plot plan (4 pages)

Mr. Tomasello asked about the 2 concrete foundations that are indicated on the plot plan and Mr. Dalton explained that one previously housed an egg farm (Nash's) and the other has a detached non-permanent garage along with some small sheds. Ms Valentino asked if the building marked as garage is indeed a garage. Mr. Dalton stated yes and the upstairs is used as an office. The unregistered vehicles on the property are being removed and the others are being sold. This property will be used as a residence only.

Ms. Valentino asked about the building located in the woods and Mr. Dalton stated it was not on his property.

Mr. Choyce asked about lot coverage and Mr. Sartorio stated this is a 13 acre lot in a 5 acre zone.

Mr. Tomasello asked if this application requires a Certificate of Appropriateness and Mr. Sartorio stated it did because the structure is over 50 years old and not in a historic district. There is also an authorization needed to demolish and Pinelands Approval is not required.

There was discussion about issuing a Certificate of Appropriateness between the Board Members, the Solicitor and the Zoning Officer.

Ms. Valentino asked if Mr. Dalton had insurance and if the company determined the degree of damage to his house. He stated he had insurance and the company advised the house was beyond repair. The Township issued a notice on 9/2/2011 indicating the building should be demolished by January 1, 2012.

Exhibit A-3: Notice of Unsafe Structure

Mr. Tomasello stated to Mr. Dalton that the Resolution will be memorialized at the next meeting and there is a 45 day appeal period from that date. If there a legal issue is being overlooked it could set him back months. If he feels an objector will challenge the Board's decision he should be aware that he is proceeding at his own risk. Mr. Cooper stated that Planning Board should recommend to the City Commission that they incorporate into our municipal land use law guidelines of Certificate of Appropriates other than in historic districts.

The house was originally built in 1902. There were photos taken with Mrs. Dalton's cell phone showing the damage and will submit them at a later date.

Mr. Tomasello opened this part of the hearing for public comment and Mr. Mike Kelly, Quality Modular Homes, was present and sworn in by Mr. Cooper.

Mr. Kelly stated that he has known Mr. Dalton for many years and that he works for him as a subcontractor. He has seen the house and noted that the Township's Fire Inspector, Frank Primavera, would not go into the house to do his report because it was too dangerous. Mr. Kelly is selling Mr. Dalton a modular home and feels he is capable of doing the work himself.

Mr. Tomasello asked if there was anyone else who wanted to speak during the public portion and there was no response. Mr. Sacchinelli moved, seconded by Mr. Strigh to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," ONE "ABSTAIN."

Mr. Dalton has a letter from an engineer stating that the house was burned beyond repair.

Exhibit A-4: Letter from George Ray Thomas, Architect & Engineer

Mr. Choyce moved, seconded by Mr. Strigh, on App. #25-11, Block 655 Lot 6 located at 6692 Millville Avenue to grant a Certificate of Appropriateness with a right to demolish together with a 50' setback variance off Millville Road and a 137' setback off Pittsburg Avenue.

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

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN – AYE	MR. CHOYCE-AYE	MS. LENTZ – AYE
MR. SACCHINELLI-AYE	MR. STRIGH – AYE	MS. VALENTINO-AYE
MR. TOMASELLO – AYE		

SAID MOTION CARRIED.

NOTE: The following Board Members made the following comments regarding the above motion:

MR. CAIN: Based on the unfortunate aspect of having a fire that forced them out of their home, having 2 front and rear yards, the applicants plan and size of their lot (about 15 acres) which is basically wetlands I vote yes.

MR. CHOYCE: After hearing testimony and reviewing information which was provided I see nothing negative about the applicants request to rebuild on his property. Knowing the property is effected by wetlands and the irregular geometry of the property having 2 front yards, which presents a hardship to the applicant. The applicant is proposing to improve the setback off Millville Road which is a positive in this situation. Based on all those facts & testimony tonight I vote yes.

MS. LENTZ: Based on the tragic fire that consumed the home and the fact that there are 2 front and rear yards, wetlands, a river, etc. There is no negative aspect and your house will be moved back further from Millville Road so I vote yes.

MR. SACCHINELLI: I vote yes for the reasons stated previously.

MR. STRIGH: I vote yes for the reasons stated previously.

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

MR. TOMASELLO: I vote yes. I concur with the comments of my colleagues. With regard to the issuance of the Certificate of Appropriateness apparently the only law we have to go by is the one in our Ordinance which deals for the most part the historic district. This property is not in the historic district and it is before us for the Certificate of Appropriateness because of the age of the building. Having observed the photos on the cell phone clearly showing the extent of damage to the building coupled with the fact our Township ordered the house demolished. Whatever criteria that may exist and we are missing would be satisfied. With that being said I think the Certificate of Appropriateness to demolish is warranted and the applicant is doing a service by moving this house from a dangerous curve in the road. The building that is being proposed would be an asset to that area, the multiple front yard scenario is a hardship, the positive criteria has been met and there is no negative criteria that would prevent this application to go forward.

Approval of Minutes – Mr. Sacchinelli moved, seconded by Mr. Strigh to approve the minutes from the August 22, 2011 meeting. SAID MOTION CARRIED WITH MEMBERS VOTING "AYE," NO "NAY".

Memorialization of Resolutions - Resolutions prepared by the Solicitor for the following applications from the August 22, 2011 meeting were adopted as follows:

Mr. Strigh moved, seconded by Mr. Cain to adopt the resolution for Kewy and Pedro Santana, App. 11-11 located at Block 854.03 Lot 12. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Mr. Choyce moved, seconded by Ms. Lentz to adopt the resolution for Pashely Builders, Inc., App. #13-11 located at Block 668 Lot 3. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Mr. Cain moved, seconded by Mr. Strigh to adopt the resolution for Laura Suhmann, App. #15-11 located at Block 202 Lot 3. SAID MOTION CARRIED WITH SIX (6) MEMBERS VOTING “AYE,” NO “NAY,” ONE “ABSTAIN.”

Mr. Strigh moved, seconded by Mr. Choyce to adopt the resolution for Gabriel and Iris Pencheff Valentin, App. #16-11 located at Block 1132.24 Lot 2. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Mr. Cain moved, seconded by Mr. Sacchinelli to adopt the resolution for David and Marie Hughes, App. #17-11 located at Block 1132.24 Lot43. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Mr. Choyce moved, seconded by Mr. Strigh to adopt the resolution for Cynthia Vogt, App. #18-11 located at Block 1132.24 Lot 6. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Mr. Strigh moved, seconded by Ms. Lentz to adopt the resolution for Marcia Marcano and Kevin Samuel, App. #19-11 located at Block 1132.24 Lot 7. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Ms. Lentz moved, seconded by Mr. Cain to adopt the resolution for Joseph and Jessica Taylor, App. #20-11 located at Block 1132.24 Lot 8. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Mr. Choyce moved, seconded by Mr. Strigh to adopt the resolution for Joseph Reyes and Cheryl Bacarro, App. #21-11 located at Block 1132.24 Lot 9. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Mr. Strigh moved, seconded by Mr. Choyce to adopt the resolution for Wilfredo and Susie Reyes, App. #22-11 located at Block 1132.24 Lot 10. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Ms. Lentz moved, seconded by Mr. Strigh to adopt the resolution for Joseph and Carol Fraone, App. #23-11 located at Block 1132.24 Lot 3. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Mr. Tomasello asked if Mr. Floyd submitted any documentation in regards to building in the buffer. Mr. Cooper stated that there are conditions in the Resolutions in regards to not being able to build in the buffer zone.

Public Comment – Chairperson, Frank Tomasello opened this portion of the meeting for public comment. Ms. Aline Dix was present and had questions in regards to the Certificate of Appropriateness.

Discussion ensued in regards to Pinelands, our ordinance, issuance of a Certificates of Appropriateness and the guidelines to follow. Mr. Sartorio will look into this matter.

Mr. Tomasello asked if anyone else wanted to speak for this portion of public comment and there was no response. Mr. Choyce moved, seconded by Mr. Strigh to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Adjournment – Mr. Sacchinelli moved, seconded by Mr. Choyce to adjourn the Zoning Board of Adjustment meeting at 9:05 pm. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Respectfully submitted,

Deborah Ohnemuller, Secretary
Zoning Board of Adjustment