

A meeting of the Township of Hamilton Zoning Board of Adjustment was held on the above date with Chairperson, Frank Tomasello presiding. Members present were Wayne Choyce, Eduardo Freire, Werner Raff, Bruce Strigh, and Elaine Valentino. Alternate present was Wayne Cain. Also present was Steven Maimon, Zoning Officer and Robert Cooper, Zoning Board Solicitor in addition to Robert A. Watkins, Zoning Board Planner.

The statement of compliance was read.

Approval of Minutes – Mr. Strigh moved, seconded by Mr. Choyce to approve the minutes of the April 26, 2010 Zoning Board of Adjustment meeting. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

South Jersey Gas Company – Solicitor, Robert Cooper verified that the proof package has been executed properly and property taxes are current.

Block 1301, Lot 2; 215 Cates Road; App. #4-10; Use variance approval requested to modify an existing Liquid Natural Gas (“LNG”) facility to add solar panels to the property. Present were Zoning Board Solicitor, Robert Cooper along with Zoning Board Planner, Robert A. Watkins. Representing South Jersey Gas, Co. was Attorney, Nicholas F. Talvacchia and NJ Licensed Planner/ Land Surveyor, Bill McManus.

Zoning Board Member, Mr. Choyce recused himself from the hearing because he owns property that abuts this site.

Mr. Talvacchia described this site as a LNG storage facility. He explained that this facility currently has dated equipment. One of the goals of the South Jersey Gas, Co. is to have the older equipment, some of which is 25 - 30 years old, replaced for increased fuel efficiency, reliability and safety. More efficient machinery would also be more cost-effective. Mr. Talvacchia explained that this type of facility is a permitted use and is considered an inherently beneficial use, as per the Township’s Zoning Ordinance.

Mrs. Valentino asked if the replacement components will be larger than what is already there. Mr. Talvacchia said they would not. Mrs. Valentino then asked if the elevation of the vaporizer would exceed the height of the one currently in place. Mr. Talvacchia said it would not.

Mr. Talvacchia went on to explain how this was a storage facility which does not actually generate energy, but only stores it. Therefore, he clarified that he thinks he does not have to apply for the D-Variance since Ordinance #203-184 allows for this type of facility in this area, making it a permitted use.

Mr. Cooper elaborated by stating that Mr. Talvacchia is raising the issue that he does not need to request a D-Variance from this Board because the anticipated utilization of this plan and the expansion is permitted based upon the fact that it meets section #203-184 of our Ordinance that it is not a generating plant, but basically a holding plant for a liquid form of energy which ultimately ends up in our homes as a gaseous form of that energy, primarily used to heat our homes. Mr. Cooper added that the Board does not have to determine if this is an expansion of a non-conforming use if the Board agrees that this facility is a substation and permitted. If the Board feels this does not meet the Ordinance’s standards as a storage facility, this applicant will have to come in front of the Board seeking an expansion of a non-conforming use.

Chairperson, Frank Tomasello, opened the hearing to public comment, and there was no response. Mr. Freire moved, seconded by Mr. Raff, to close the public portion of the hearing. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Mr. Freire moved, seconded by Mr. Raff on the South Jersey Gas, Co. application for the interpretation of the Zoning Ordinance to indicate that the property does not require a use permit change in order to install the new equipment.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. FREIRE - AYE

MR. RAFF - AYE

MR. STRIGH – AYE

MS. VALENTINO – AYE

MR. CAIN – AYE

MR. TOMASELLO – AYE

SAID MOTION CARRIED.

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

MR. FREIRE: I vote yes, as the current intent of the facility is not to produce electricity and is within the permitted uses on the site.

MR. RAFF: I vote yes. It is clearly not a generating facility, but is a storage station.

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

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

MR. CAIN: I vote yes for reasons previously stated.

MR. TOMASELLO: I vote yes. The applicant testified that the only purpose of the facility would be to store natural gas. Therefore, under the Ordinance, I feel that it meets the requirements of not requiring a D-Variance.

Mr. Talvacchia proceeded to address the second part of the application which is to add solar panels to the facility. At this time he asked Mr. McManus to elaborate on this. Mr. McManus explained that the site of the facility is ideally suited for solar. The property is already fenced in and secured. In addition, half of the site, on the Egg Harbor Township side already has solar panels on it. With the solar panels that are already in place, there is enough energy produced to run the entire LNG plant.

Mr. McManus also stated that the Egg Harbor Township side of the site did not need site plan approvals because the New Jersey Energy Master Plan, (“NJEMP”) has a series of pro-active steps and strategies that affect the New Jersey Land Use Law. Specifically, he was referring to legislation from the NJEMP that read: “wind and solar facilities will be permitted in commercial and industrial zones.” Also, “solar panels are not an impervious surface” was put into law in the state of New Jersey last year. McManus also added that Gov. Corzine made wind and solar energy an inherently beneficial use while in office.

Mr. McManus ended his testimony by stating that solar energy is very clean, reliable, and safe energy and he feels adding solar to the LNG facility on the Hamilton Township side will be in the best interest of the people of Hamilton Township and throughout Atlantic County. He also stated that this site alone will generate enough energy from the solar panels alone to generate electricity in 300 homes.

Bob Watkins went over his report stating he does not believe this project will be detrimental to the surrounding area in any way. He also stated that he feels that solar energy is an inherently beneficial use.

Mr. Tomasello opened this part of the hearing to the public for comment and there was no response. Mr. Raff moved, seconded by Mr. Freire to close the public portion of the hearing. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Mr. Freire moved, seconded by Mr. Raff for the South Jersey Gas, Co. Application #4-10 on Block 1301, Lot 2 located at 215 Cates Road for approval of a D-Variance to allow for the generation of power via solar.

ROLL CALL ON THE ABOVE MOTION:

MR. FREIRE – AYE	MR. RAFF – AYE	MR. STRIGH – AYE
MS. VALENTINO – AYE	MR. CAIN – AYE	MR. TOMASELLO – AYE

SAID MOTION CARRIED.

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

MR. FREIRE: I vote yes because I believe this Use Variance is in the best interest of Hamilton Township and the surrounding communities. It is inherently beneficial to reduce our dependence on foreign oil.

MR. RAFF: I vote yes for the reasons stated by Mr. Freire.

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

MS.VALENTINO: I vote yes. One of the listings included under 40:55D-2 #N is to promote utilization of renewable resource energy.

MR.CAIN: I vote yes for reasons previously stated.

MR. TOMASELLO: I vote yes as it was pointed out that this is clearly a beneficial use as stated in the statute itself under subsection "N" dealing with renewable energy resources. In terms of negative impacts, I see none. These are passive devices that require little or no maintenance and it is obviously a good thing in terms of clean energy generation. There is no detriment since no trees will have to be cut since its already flat, cleared ground. This serves the town as well as the state under the New Jersey Energy Master Plan and certainly qualifies for the D-Variance.

John & Kristina Carr – Solicitor, Robert Cooper, verified that the proof package has been executed properly, and property taxes are current.

Applicants, John and Kristina Carr were present and informed the Board that they are requesting variances for a rear yard setback and impervious lot coverage to permit for the construction of an 8' x 28' addition to their single family dwelling on 473 Franklin Drive on Block 984, Lot 3, App. #5-10. Also present was Harry Harper, the architect and planner for this project along with Louis Capone, the designer for Harry Harper's Office.

Mrs. Carr testified that when they were initially looking to purchase their home, they fell more in love with the neighborhood than the actual house. She explained that the purpose of the addition would be to meet the demands of her growing family. They have two children already and feel they are more than pressed for space and privacy. In addition, she feels the house is built in such an awkward shape that the addition would help to balance out the house and add a greater value to her property in addition to the neighborhood.

Mrs. Carr showed the Board what she was speaking of by providing three photos of her home demonstrating where the addition would be constructed. These were labeled exhibit A-1 by Mr. Cooper.

Mr. Harper and Mr. Capone showed the Board the proposed renovation and clarified what the new space would be used for, specifically.

Mr. Cooper stated that a report was received from the Township Engineer, Kevin Dixon, because of the potential impact of stormwater drainage. Mr. Cooper asked Mr. and Mrs. Carr to verify that the underground drainage system will be placed a minimum of two feet above seasonal high ground water with no downspouts or outlets directed toward neighbors or neighboring properties, as the report suggested. Both Mr. and Mrs. Carr agreed to this.

Mr. Choyce addressed to Chairperson Tomasello one of his concerns regarding the report submitted by the Engineer. He said he felt that the report did not state that the construction of this addition would cause a drainage problem on the property and he is not convinced that this underground storage system is something that is really required for this project.

Mr. Choyce asked Mr. Carr if they had any issues with the recent heavy snow this winter along with the flooding this spring. Mr. Carr said that they did not have any flooding issues and the inside of their home remained dry.

Mr. Choyce then noted that according to the drawing, the existing lot coverage is 22.2%. The proposed lot coverage is 23.7%. Mr. Choyce said that he feels this is a very minimal increase in coverage and does not feel it warrants an underground storage facility being installed.

Mr. Choyce stated that he did have the opportunity to visit this property over the weekend and one of the things he noticed in the backyard, along their back property line where this new addition will face; there is a very dense amount of tall vegetation.. Mr. Choyce then asked Mr. & Mrs. Carr if they were planning to keep the vegetation in place. Both Mr. and Mrs. Carr agreed that they do intend to keep the vegetation. Mr. Choyce stated that by keeping the vegetation they will be minimizing the impact of this project immensely.

Ms. Valentino asked if this project will change the status of their home from a single family home in any way. Mr. and Mrs. Carr said that it would not.

Mr. Choyce stated that he wanted to clarify what the actual rear yard setback is going to be. He noted that the Zoning Officers Report indicated that it is 33 ft. and 3 in. from the bottom of the stairway to the rear property line. Mr. and Mrs. Carr agreed that this was correct.

Mr. Tomasello opened the hearing to public comment, and John Mauthe of 462 Franklin Drive asked to say a few things. Mr. Mauthe testified that he lives directly behind Mr. and Mrs. Carr. He stated that as it was previously stated in the hearing, there were no stormwater issues after all the rain this year and he is totally in favor of the project Mr. and Mrs. Carr are undertaking.

Eustace Eggie of 464 Franklin Drive also asked to speak on behalf of the Carr application. He stated that his property is diagonally adjacent to the Carr family. He stated that many of their neighbors have done similar repairs to their properties and he feels it would really enhance their property in addition to the neighborhood.

Mr. Tomasello asked if there was anyone else from the public who would like to comment on this hearing, and there was no response. Mr. Strigh moved, seconded by Mr. Raff to close the public portion of the hearing. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Mr. Choyce moved, seconded by Mr. Strigh to grant John and Kristina Carr on Block 984, Lot 3 at 473 Franklin Drive a variance for a rear yard setback of 33 ft, plus or minus 1 ft. and lot coverage not to exceed 23.7%, plus or minus 1% for an addition to their single family home. Mr. Choyce stated that he would also stipulate that no additional modifications to the existing drainage system are necessary, but the downspouts from the new addition need to be tied in to the existing system. In addition, the existing vegetation throughout the rear property line is to be maintained.

ROLL CALL VOTE OF THE ABOVE MOTION:

MR. CHOYCE – AYE	MR. FREIRE – AYE	MR. RAFF – AYE
MR. STRIGH – AYE	MS. VALENTINO – AYE	MR. CAIN – AYE
		MR. TOMASELLO – AYE

SAID MOTION CARRIED.

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

MR. CHOYCE: I vote yes. I think the testimony that we've heard at this meeting from both from the applicant's professionals and from the members of the neighborhood, for what the Carr's are proposing to do, is certainly not going to have a negative impact to the neighborhood, but is providing a positive impact to the neighborhood. Also, seeing the neighbor who lives directly behind the Carr's has no objection to the rear yard setback, I vote yes.

MR. FREIRE: I thought it was very refreshing to have neighbors in favor of an application for a change. I think what is proposed is in line with the neighborhood. It's nice to have the neighbors come out and provide feedback which helps the Board reach a decision. I think this will be great for the family, so I vote yes.

MR. RAFF: I vote yes for reasons previously stated.

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

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

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

MR. TOMASELLO: I vote yes. Apparently, what the applicant is attempting to do is to gain some uniformity in the house itself. Being satisfied with the neighborhood, and slightly less satisfied with the house itself, they are seeking to create a more positive flow both on the interior and exterior, which is a positive for the neighborhood taking into account the neighbors both diagonal and directly behind the Carr's property have no objection and, in fact, making the trip here tonight to speak out in favor of the application. In addition, there is a tree buffer along the rear line of the property in addition to a six foot fence, which indicates to me that there is no negative impact for this application, and accordingly, I vote yes.

Memorialization of Resolutions – Resolutions prepared by the Solicitor for the following applications were accepted by those Members voting “AYE,” NO “NAY,” five “ABSTAIN.”:

Hope Animal, L.L.C. – Block 864, Lot 15 & Block 591, Lot 1.02; App. #7-09
Steven Lutz – Block 220, Lot 1.02; App. #1-10
Edgar C. & Virginia Kisby – Block 996.01, Lot 48; App. #2-10
Michael P. & Eileen M. Mason – Block 996.01, Lot 49; App. #3-10

Public Comment – Chairperson, Frank Tomasello opened the hearing to public comment, and there was no response. Mr. Strigh moved, seconded by Mr. Cain to close the public portion of the hearing. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Rules and Procedures – Mr. Tomasello stated that he has some suggestions for changes that he’d like to see applied to the Rules and Procedures. He also asked the Board for their comments and suggestions, as well. The suggestions made by Mr. Tomasello are as follows:

The current Rules and Procedures are not gender-sensitive and should really be gender-neutral.

Article 1, Section 2 recommends identification cards, which he liked. In addition, he feels Article 1, Section 3 where it states that all Board Members must undergo the proper training to be a NJ Planning/ Zoning Official is also a must.

He also brought up Article 2, Section 7 which recognizes the fact that the Board completes “Site Plan Reviews” on the applicant’s property. He suggested using the term “Site Inspection” instead since “Site Plan Review” sounds confusing and can easily be mixed up with “Site Plan Application.”

He addressed Article 3, Section 1 which gives the Board the flexibility to start at an earlier time if necessary.

In addition, he suggested on Page 2 where it says, “Site Plan” could be changed to “Site Review Committee.” There was a question as to whether this should be a requirement rather than an option, but it is questionable whether the Board can force an applicant to allow Board Members onto his or her property for review. It may be best, therefore, to word it in such a way that explains that allowing for a site inspection is beneficial to the Board Member because it assists them in making a decision.

Much discussion ensued.

Mr. Tomasello moved, seconded by Mr. Strigh to make the following changes to the Rules and Procedures:

1. Make gender-neutral
2. Change ‘Site Plan’ to ‘Site Inspection Committee’
3. Acquire Identification Cards for Board Members
4. Change meetings to earlier times as necessary

SAID MOTION CARRIED WITH THOSE MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Adjournment - Mr. Strigh moved, seconded by Mr. Choyce to adjourn the Zoning Board of Adjustment meeting. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Respectfully submitted,

Jeanne M. Parkinson, Secretary
Zoning Board of Adjustment

This entire meeting was taped. The tapes are on file in the Zoning Office and may be reviewed by interested persons during regular business hours.