

A meeting of the Township of Hamilton Zoning Board of Adjustment was held on the above date with Chairperson, Robert J. Campbell, Sr., presiding. Members present were Charles Cain, Wayne Choyce, Kathi Lentz, Werner Raff, & Frank Tomasello. Alternates present were Elaine Valentino & David Grassi. Also present was Robert Watkins of Mott Associates, Zoning Board Planner; Robert Cooper, Zoning Board Solicitor; & Steven Maimon, Zoning Officer.

The Statement of Compliance was read.

Approval of Minutes – Mr. Choyce moved, seconded by Mr. Raff, to approve the minutes of the April 27, 2009 Zoning Board of Adjustment meeting. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”.

Mr. Choyce moved, seconded by Mr. Raff, to approve the minutes of the May 11, 2009 Zoning Board of Adjustment meeting. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING “AYE”, NO “NAY”, ONE “ABSTAIN”.

C.W. News, Inc. – Solicitor, Robert Cooper, stated that this application is continued from the May 11, 2009 Zoning Board hearing. Applicant, Curtis Wunder, was present, as well as his attorney, Thomas Darcy, Esq. Mr. Darcy stated that they are requesting several favorable Interpretations from the Board pertaining to the use of an existing bar/restaurant facility on Block 720, Lot 59, on 6494 Weymouth Road. He stated that upon presenting their application at the last Zoning Board hearing, the Board suggested that they continue the application to the next meeting in order to attempt to locate some witnesses who could testify that outdoor seating/activity took place at the site prior to 1955. Mr. Darcy stated they are prepared to present three witnesses this evening to testify on behalf of the applicant, as the Board suggested.

Mr. Darcy stated that at the last meeting, Mr. Charles Wunder, father of the applicant, did testify that outdoor seating/activity did take place in the early 1950's, however, the Board indicated that they would feel more comfortable if there were other witnesses who could attend another meeting and testify to that as well. Mr. Darcy presented a letter received from Mr. Norman Jeffries, Jr., stating that he recalled attending outdoor eating, drinking, and activities at the site in the early 1950's, and that he actually proposed to his wife there in 1955. Mr. Darcy informed the Board that there are three witnesses present this evening to testify on behalf of Mr. Wunder. He stated they are: Mr. Elmer Ripley, Mr. William Bartelt, and Mrs. Nancy Herbert. Mr. Darcy read statements hand written by each of the witnesses to the Board.

Mr. Darcy called upon Mr. Ripley to testify. Mr. Elmer Ripley informed the Board he has been a resident of Mays Landing for 81 years, and recalls there being 50 tables outside on the site in the early 1950's when it was Doakes Bar. He stated there were all kinds of outdoor activities back then in the early 1950's by Lake Lenape Land Company such as camping, water skiing, picnicking and there was an air horn that used to go off. Mr. Ripley testified that he attended activities at the site and his brother-in-law was the bar tender at the site at that time. He stated he recalls many people eating and picnicking at the outside tables at the site in the early 1950's.

Mr. Darcy called upon Mr. William Bartelt. Mr. Bartelt testified that he has been a resident for 93 years and has lived in Mays Landing along the river. He stated he was in the food business then and sold foods to Mr. Doakes for his business at the site in the early 1950's. He stated people ate and drank outside and there were turkey shoots, picnics, as well as baseball games.

Mr. Darcy called upon Mrs. Herbert. Mrs. Nancy Herbert testified that her family owned a farm market right next door to the Doakes site, and she recalls being there

many times in the early 1950's. She stated everyone would eat and drink outside then, and she and her family did as well, and recalled several outside parties, turkey shoots, picnics, baseball games, etc. She stated they were a good neighbor and there were no problems.

Mr. Darcy stated they are seeking a favorable Interpretation from the Board for the seasonal continuation of outdoor seating with a site plan waiver for the existing bar/restaurant operation. Mr. Watkins, Zoning Board Planner, stated that if the Board feels there has been sufficient testimony and wishes to grant the Interpretation, he does not have a problem with that, noting it is up to the Board. He noted they are keeping the total seating to 96, 60 inside and 36 outside on the concrete patio area, which consists of pavers with sand and gravel, and has no roof. Mr. Darcy stated there are more than 100 existing parking spaces.

Mr. Campbell, Sr. opened the hearing to public comment. Some discussion ensued regarding the living quarters attached to the bar/restaurant. Mr. Elmer Ripley commented that Mr. Doakes resided upstairs at the site back in the 1950's, but later moved across the street.

With no further public comment, Mr. Choyce 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".

Mr. Choyce moved, seconded by Mr. Raff, to grant a favorable Interpretation to C.W. News, Inc. (Curt Wunder), Block 720, Lot 8.02, App.# 8-09, to allow a continuation of seasonal outdoor seating consisting of 36 seats on the existing patio area of pavers of sand and gravel which is part of an existing bar/restaurant facility with 60 existing inside seats & 36 outdoor for a total of 96 seats.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – AYE	MR. RAFF – AYE	MR. GRASSI – AYE
MR. CHOYCE – AYE	MS. VALENTINO – AYE	MR. CAMPBELL, SR. – AYE

SAID MOTION CARRIED.

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

MR. CAIN: Yes, based upon the compelling testimony from the three witnesses this evening.

MR. CHOYCE: Yes, I commend the applicant for bringing these witnesses in, and having heard their testimony that there was outdoor seating, I do not have a problem, based upon there being not more than 96 seats in total.

MR. RAFF: Yes, I feel the testimony provided by our distinguished residents prove to me that there was outdoor seating before 1955.

MS. VALENTINO: Yes, for the same reasons as stated above.

MR. GRASSI: Yes, for the same reasons as stated above.

MR. CAMPBELL, SR.: Yes, with the added testimony this evening from the three witnesses, I believe the criteria has been met for this outdoor area.

Richard Dickson – Solicitor, Robert Cooper, verified that the proof package has been executed properly, and property taxes are current.

Richard Dickson and his spouse, Barbara Dickson were present, and Mr. Dickson informed the Board that they are seeking a variance for a rear yard setback to allow the construction of an attached deck on their existing single family dwelling on 68 Gasko Road, Block 996.01, Lot 35.

Mr. Dickson presented four colored photographs on one page depicting the front of their home as well as several angles of the rear yard area of the home for the Board to view. Mr. Cooper marked the page into evidence as Exhibit A-1.

Mr. Dickson testified they are requesting a rear yard setback of 12' to construct a 19' 6" X 12' attached deck. He stated that they have french doors on their second level of their home that lead to just a small landing with a set of stairs into their yard. He stated they would like to remove the landing & steps and construct the deck, in order to better utilize their back yard and enjoy the outdoors. He stated there are several other existing decks in that area, and due to the slope and topography of their property, they are unable to locate the deck on the ground level. He noted there are no neighbors located behind them.

Mr. Choyce stated he visited the site and can confirm what Mr. Dickson is saying. Mr. Choyce stated there are several other existing decks in that area, and due to the slope and topography of their property, there is a hardship. Mr. Cain agreed, noting there will be no neighbors behind them. Mr. Maimon agreed, as well. Ms. Valentino asked Mr. Dickson if they obtained permission for the deck from their Homeowners Association, and he replied, yes.

Mr. Campbell, Sr. opened the hearing to public comment, and there was no response. Mr. Choyce 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. Raff, to grant a Variance for a rear yard setback to Richard Dickson, Block 996.01, Lot 35, App.# 10-09, to allow the construction of a 19' 6" X 12' attached deck to an existing single family dwelling, with a rear yard setback of 12' +- 1', conditioned upon the applicant obtaining all necessary building permits.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – AYE	MS. LENTZ – AYE	MR. TOMASELLO – AYE
MR. CHOYCE – AYE	MR. RAFF – AYE	MS. VALENTINO – AYE
		MR. CAMPBELL, SR. – AYE

SAID MOTION CARRIED.

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

MR. CAIN: Yes, due to the topography of the property and that there will be no neighbors behind them.

MR. CHOYCE: Yes, I agree with Mr. Cain regarding the topography hardship and also I feel the 12' setback is not contrary to the intent of the Land Use Ordinance.

MS. LENTZ: Yes, I feel the 12' rear yard setback will not be detrimental.

MR. RAFF: Yes, due to the topography, they are not able to fully utilize their backyard, and I feel the intent of the Zoning Ordinance will not be compromised.

MR. TOMASELLO: Yes, I agree with the comments of the other Board Members.

MS. VALENTINO: Yes, I also agree for the same reasons.

MR. CAMPBELL, SR.: Yes, I feel the criteria has been established and I, too, agree with the other Board Members.

John E. Angier, Jr. – Solicitor, Robert Cooper, verified that the proof package has been executed properly, and that property taxes are current.

Applicant, John Angier, Jr., was present, as well as his contractor, William Gottschall of Idea Energy. Mr. Angier testified that he is requesting a variance to allow the installation of a Solar Array accessory structure to be located in a portion of the front yard area of his existing single family dwelling, located on 6224 Holly Street, Block 868, Lot 13.03.

Mr. Gottschall stated that he has prepared an information packet for each of the Board Members and distributed it. Mr. Cooper marked it into evidence as Exhibit A.

Mr. Angier testified that this area is the most ideal location since it was already cleared and we do not have to remove any trees, noting the array requires a great deal of sunlight. He stated the State came out and also approved this location. He stated there are no obstructions at all.

Mr. Angier stated his house is set back about 300 to 400 feet from Holly Street and there is no view of it from the street and there will be no view of the Array from the street. He noted they would have to remove 70 to 80 trees if we were to place it in the backyard area, referring to a photo presented showing this. He stated it would make no sense to do that.

Mr. Choyce stated he did visit the site and it is very difficult to see the house from the street, let alone the Solar Array. Mr. Choyce noted there is very dense vegetation in the front yard area. Mr. Angier commented there are existing homes on each side of his property, however, you cannot see them. Mr. Raff asked Mr. Angier if there will be any additional clearing for the Array, and he replied, no.

Mr. Gottschall described the proposed 60' long X 13' high accessory structure and explained to the Board how it works. He noted foundation poles are installed.

Mr. Campbell, Sr. opened the hearing to public comment, and there was no response. Mr. Cain 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. Raff moved, seconded by Mr. Tomasello, to grant a Variance to John E. Angier, Jr., Block 868, Lot 13.03, App.# 9-09, to allow the installation of an accessory structure consisting of a 60' X 13' +- 1' Solar Array, located in the front yard area of an existing single family dwelling, conditioned upon the following: the applicant shall maintain a sufficient buffer to prevent the Array from being observed from Holly Street and the side yard as well; and shall obtain all necessary construction permits from the Building Department.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – AYE	MS. LENTZ – AYE	MR. TOMASELLO - AYE
MR. CHOYCE – AYE	MR. RAFF – AYE	MS. VALENTINO – NAY
		MR. CAMPBELL, SR. – AYE

SAID MOTION CARRIED.

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

MR. CAIN: Yes, I feel preserving the trees outweigh any detriments.

MR. CHOYCE: Yes, I agree with Mr. Cain and I feel there would be a negative impact by moving the structure to the rear and removing the trees. I feel there is adequate vegetation blocking the view of their neighbors.

MS. LENTZ: Yes, for all the same reasons.

MR. RAFF: Yes, I commend the applicant for the preservation of the trees. This solar energy preserves the atmosphere and carbon emissions and I highly commend the applicant.

MR. TOMASELLO: Yes, I agree that the applicant is doing a service and there is more than adequate buffering.

MS. VALENTINO: **NO**, I do not feel that a structure should be located in the front yard and it is not in the best interest on a residential property.

MR. CAMPBELL, SR.: Yes, no neighbors are present to give any negative testimony, and I feel this type of structure will bring substantial value to our community.

David J. Parker – Solicitor, Robert Cooper, verified that the proof package has been executed properly, and property taxes are current.

Applicant, David J. Parker, was present, and informed the Board that he is requesting a total of three variances this evening - a Use Variance to allow an existing dwelling to remain on his parcel during the reconstruction of a new single family dwelling; a variance to allow an existing 20' X 30' pole barn to remain on what will become the front yard area of the newly construction dwelling; and a variance to exceed impermeable lot coverage. Mr. Parker testified that there is also an existing shed on the site which is in disrepair and will be torn down. He noted the existing pole barn is located about 650' back from the road.

Mr. Parker testified that he found someone – Steven Houck, that wants to take the house. Mr. Choyce asked if there is a time line regarding him removing the house. Mr. Parker replied, yes, and I am requesting the variance so I can start construction of my new house before the existing house is removed. He noted Mr. Houck is not sure exactly when he will be able to remove it.

Mr. Campbell, Sr. opened the hearing to public comment, and there was no response. Mr. Choyce 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”.

Some discussion ensued regarding the suitability of the existing surface of the driveway leading back to the proposed new home. Mr. Maimon stated the Township Fire Official verbally suggested that the existing 15' driveway should be widened to 18' in width or a turn-around with a 50' radius be created to accommodate a fire truck, as well as other emergency vehicles. Mr. Parker stated that he does not feel it will be a problem getting a fire truck to the proposed house and does not feel a turn-around would be necessary. Mr. Raff asked about the wetlands buffer, and Mr. Parker replied that he has permission from the Pinelands Commission to construct the new home.

More discussion ensued regarding an existing concrete slab and whether it can be removed by the applicant. Several Board Members commented they would like the applicant to remove the existing concrete slab.

Mr. Choyce moved, seconded by Mr. Cain, to grant a Use Variance to David J. Parker, Block 587, Lot 22, App.# 11-09, to allow an existing dwelling to remain on the parcel during the construction of a new single family dwelling, conditioned upon the following: the old existing dwelling shall be removed before a C.O. is issued for the new dwelling; the existing concrete slab shall be removed before the C.O. is issued; no structure shall ever be placed on the existing foundation of the old dwelling to be moved; a stable base shall be installed to the driveway to the newly constructed dwelling, and shall be properly maintained for emergency vehicles; and the applicant shall obtain all required approvals and permits from the N. J. Pinelands Commission, the Township Construction Department; and any other agencies exercising jurisdiction.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – AYE	MS. LENTZ – AYE	MR. TOMASELLO – AYE
MR. CHOYCE – AYE	MR. RAFF – AYE	MS. VALENTINO – AYE
		MR. CAMPBELL, SR. – AYE

SAID MOTION CARRIED.

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

MR. CAIN - Yes.

MR. CHOYCE – Yes, the applicant has adequately shown the impact if he would not be able to move forward and construct his home until after the existing house is moved.

MR. RAFF - Yes, I just want to thank the applicant and commend him for having the old house taken away and moved without destroying it.

MR. TOMASELLO - Yes, I agree with Mr. Raff. I am in favor of preservation and I, too, commend the applicant, as well. I do not see any negative impact.

MS. VALENTINO – Yes.

MR. CAMPBELL, SR. - Yes, I feel the applicant has met all the criteria and did everything he needed to do.

Mr. Raff moved, seconded by Mr. Choyce, to grant a Variance to David J. Parker, Block 587, Lot 22, App.# 11-09, to allow an existing 20' X 30' pole barn to remain on what will become the front yard area of a proposed newly construction single family dwelling, conditioned upon the following: once the old house is removed, no trees shall be removed from the buffer facing Weymouth Road to the pole barn, with the exception of the necessary removal of some trees and shrubs for safety purposes to clear the Weymouth Road sight triangle.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – AYE	MS. LENTZ – AYE	MR. TOMASELLO – AYE
MR. CHOYCE – AYE	MR. RAFF – AYE	MS. VALENTINO – AYE
		MR. CAMPBELL, SR. – AYE

SAID MOTION CARRIED.

Some discussion ensued regarding the variance requested to exceed the impermeable lot coverage. Mr. Cain commented that the applicant provided a letter from an engineer stating that the additional impermeable lot coverage would not result in any adverse drainage impact on adjacent properties. He noted, however, on the submitted plot plan, prepared by another engineer, a variance is being requested for .029% impermeable lot coverage, but with no calculations shown. Mr. Cain commented he does question that. More discussion ensued.

Mr. Tomasello moved, seconded by Mr. Raff, to grant a Variance to David J. Parker, Block 587, Lot 22, App.# 11-09, to exceed maximum impervious lot coverage to allow the construction of a new single family dwelling, with the total impervious lot coverage not to exceed 0.29%.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – <i>NAY</i>	MS. LENTZ – AYE	MR. TOMASELLO – AYE
MR. CHOYCE – AYE	MR. RAFF – AYE	MS. VALENTINO – AYE
		MR. CAMPBELL, SR. – AYE

SAID MOTION CARRIED.

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

MR. CAIN – No, because I would like to see how these calculations were done.

MR. CHOYCE - Yes, I feel the applicant has presented documents from professional engineers.

MS. LENTZ - Yes, I believe the engineers are correct in their calculations.

MR. RAFF - Yes, I agree with Ms. Lentz.

MR. TOMASELLO - Yes, I agree with Mr. Choyce.

MS. VALENTINO – Yes, for the same reasons.

MR. CAMPBELL, SR. – Yes, for the same reasons.

Memorialization of Resolutions - Resolution prepared by the Solicitor for the following application was accepted by those Members voting: “AYE”, NO “NAY”, TWO “ABSTAIN”:

Citta Freedman ReDevelopment, LLC; Block 732, Lots 59, 62, 63, 65, & 75
App.# 6-09

Public Comment - Mr. Campbell, Sr. opened the hearing to public comment, and there was no response. Mr. Choyce 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”.

Adjournment - Mr. Tomasello moved, seconded by Mr. Raff, to adjourn the Zoning Board of Adjustment meeting. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”.

Respectfully submitted,

Jeanne C. deVecchis, 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.

