

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, Eduardo Freire, and Werner Raff. Alternates present were Joseph Mattia, III, and Frank Tomasello. Also present was Robert J. Campbell, Solicitor; and Steven Maimon, Zoning Officer.

The Statement of Compliance was read.

Announcements – Mr. Campbell, Sr. stated that the Zoning Board Secretary conducted a telephonic polling on March 7th of the Board Members to indicate if any Members had any objection to John Rosenberger's law partner, Samantha Wolf, standing in for him at the Diefenbeck/Pucci Appeal before the Governing Body on March 19<sup>th</sup>. Ms. deVecchis, Zoning Board Secretary, stated that she received responses from seven Board Members that they had no objection to Ms. Wolf appearing at the Appeal meeting. Mr. Campbell stated he would like the Board Members present to confirm this. Mr. Choyce moved, seconded by Mr. Raff, to officially confirm there are no objections to Ms. Wolf standing in for Mr. Rosenberger. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Mr. Campbell, Sr. discussed a letter of March 24, 2008, received from Zoning Board Alternate Solicitor, John Rosenberger, regarding the Pucci Appeal before the Governing Body. He noted the letter stated that the Township Committee unanimously upheld the Zoning Board decision regarding the Pucci application, with the exception of one change in the condition imposed regarding the removal of the dirt piles. He stated the Committee imposed a condition that the mounds of dirt be removed within a time period of six months, and that the applicant may return to them to request an extension, and if granted, would extend the condition for another six months. Mr. Campbell stated that Mr. Pucci can return to the Zoning Board for his site plan approval at a later date. Some discussion ensued regarding the dirt mounds.

Mr. Campbell, Jr., Solicitor, informed the Board that all briefs were filed pertaining to the DiNatale/Janosko Appeal matter and are available in the Zoning Board Office. He noted that this matter is scheduled to be before Judge Armstrong in Atlantic City on Wednesday, April 16, 2008.

Mr. Campbell, Sr. reminded the Board that Ms. deVecchis distributed their Ethics Disclosure forms and they should be filled out and returned to her or the Township Clerk as soon as possible.

Approval of Minutes – Mr. Raff moved, seconded by Mr. Cain, to approve the minutes of the February 25, 2008 Zoning Board of Adjustment meeting. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE", NO "NAY", ONE "ABSTAIN".

C. Richard Tunney III – Solicitor, Robert J. Campbell, verified that the proof package has been executed properly, and marked it as Exhibit A 1.

Mr. Tunney was present and informed the Board he is requesting a Variance for a front yard setback to allow the issuance of a final C.O. on his recently constructed single family dwelling on 7208 First Avenue, Block 219, Lot 1. Mr. Tunney testified that he previously received this variance from the Zoning Board. He stated they picked out a different style home, and upon completion of their as-built final survey, it was discovered that the setback line changed, and he is unable to meet the required 115' front yard setback from First Avenue that the Board previously granted. He stated the setback from First Avenue on the recently constructed home is 107.6' rather than the 115'.

Mr. Tunney stated that the measurement may have been mistakenly taken from the edge of the pavement line rather than the property line, and due to the change in style of the home, an error occurred. He noted that all other setback requirements have been met.

Some discussion ensued regarding any impact on the septic system. Mr. Friere commented that the requested setback should not impact the existing septic system in any way. Mr. Freire asked Mr. Tunney if all the tree buffers are intact, and he replied, yes.

Mr. Campbell, Sr. opened the hearing to public comment, and there was no response. Mr. Choyce moved, seconded by Mr. Mattia, to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Mr. Raff moved, seconded by Mr. Choyce, to grant a Variance to C. Richard Tunney, III, Block 219, Lot 1, App.# 10-08, for a front yard setback to allow the issuance of a final C.O. on a recently constructed single family dwelling, with a front yard setback of 107.6' +- 1' from First Avenue, conditioned upon the applicant obtaining all necessary permits and approvals from the building department.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – AYE  
MR. CHOYCE – AYE

MR. FREIRE – AYE  
MR. RAFF - AYE

MR. MATTIA – AYE  
MR. TOMASELLO – AYE  
MR. CAMPBELL, SR. – AYE

SAID MOTION CARRIED.

Mason Woodley – Solicitor, Robert J. Campbell, verified that the proof package has been executed properly, and marked it as Exhibit A 1.

Mr. Woodley was present and informed the Board he is requesting a Variance to allow the issuance of a final C.O. on his recently constructed detached Pole Barn located in a portion of the front yard area of his existing single family dwelling on 6197 Sterling Avenue, Block 607, Lot 3.

Mr. Woodley presented several photographs to the Board, and Mr. Campbell marked them into evidence as Exhibits A2 to A5. Mr. Maimon commented that the only thing on the site that is in the pole barn, and the property fronts two streets. He noted about the only place the applicant can locate the barn is where he did place 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 ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Mr. Freire commented there appears to be some trash on the parcel and asked Mr. Woodley if he plans to clean it up. Mr. Woodley replied yes, he definitely plans to clean up the site, noting the reason why he constructed the building was he needed space to clean up the site and store some of it in the barn. He informed the Board that he just had surgery on his shoulder and is unable to clean it up for a couple of months. Mr. Tomasello asked Mr. Woodley to confirm that he would not be utilizing the structure for any commercial purpose. Mr. Woodley testified that the barn will be utilized for only personal use – his woodworking hobby and for personal storage. He assured the Board that the tree buffer area will remain in tact and would not be disturbed.

Mr. Tomasello moved, seconded by Mr. Raff, to grant a Variance to Mason Woodley, Block 607, Lot 3, App.# 6-08, to allow the issuance of a final C.O. on a recently constructed detached Pole Barn located in a portion of the front yard area of an existing single family dwelling, conditioned upon the following: the applicant shall obtain the necessary construction permits from the Building Department; the tree buffer on all three sides of the parcel will remain intact and not be disturbed in any way; and the applicant shall clean up the debris on the site, as well as the buffer area, as testified to this evening, prior to the issuance of a final C.O.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – AYE

MR. FREIRE – AYE

MR. MATTIA – AYE

MR. CHOYCE – AYE

MR. RAFF – AYE

MR. TOMASELLO – AYE

MR. CAMPBELL, SR. – AYE

SAID MOTION CARRIED.

Warren & Nicole Nelson – Solicitor, Robert J. Campbell, verified that the proof package has been executed properly, and marked it as Exhibit A 1.

Applicant, Nicole Nelson, was present and informed the Board she is requesting a Variance to allow a recently constructed shed with a 6' high dog/run enclosure to remain in a portion of the front yard area of her existing single family dwelling on a double-fronted corner lot, on 426 Old River Road, Block 979, Lot 52.01.

Ms. Nelson testified that she is a police officer in a K-9 position with a K-9 police dog. She testified she constructed the 12' X 12' shed and dog run, not realizing that because of the double street frontage, her side and rear yard are considered her front yard. Ms. Nelson presented four photos to the Board to view, and Mr. Campbell marked them into evidence as Exhibit A2 to A5.

Mr. Choyce commented he visited the site and stated you could barely view the shed and fence from the road. He noted it appeared to be very tastefully done and looked very nice. Ms. Nelson stated that she has the dog at home and it is still in training. Mr. Campbell, Sr. commented that this is not a commercial use, and it is for the public good.

Mr. Campbell, Sr. opened the hearing to public comment. Ms. Aline Dix was present and questioned the fence around the property. She noted she believes this fence was built last summer, noting this fence came before the accessory structure. She questioned the reason for the fence being built in the air with chicken wire and dirt to change the grade. She asked if a 6' fence was necessary. Ms. Nelson replied she has her personal dog as well as the K-9 to contain, and that is the reason for 6' height and why they changed the grade. Ms. Dix questioned why it was installed in such a way. Mr. Maimon explained that only a 4' fence is permitted in a front yard area, and the applicant installed the fence in that manner to comply with the Ordinance. He noted the issue before the Board this evening is the shed with the dog run/fence enclosure. Mr. Campbell commented that the Zoning Officer has stated the other fence meets the criteria.

With no further comment, Mr. Mattia 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. Raff moved, seconded by Mr. Mattia, to grant a Variance to Warren & Nicole Nelson, Block 979, Lot 52.01, App.# 7-08, to allow a recently constructed a 12' X 12' shed with a 6' dog run/enclosure to remain in a portion of the front yard area of an

existing single family dwelling on a double-fronted corner parcel, conditioned upon the applicant obtaining all necessary Zoning & Building Permits, as required.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – AYE	MR. FREIRE – AYE	MR. MATTIA – AYE
MR. CHOYCE – AYE	MR. RAFF – AYE	MR. TOMASELLO – AYE
		MR. CAMPBELL, SR. – AYE

SAID MOTION CARRIED.

William & Joan Roeske – Solicitor, Robert J. Campbell, verified that the proof package has been executed properly, and marked it as Exhibit A 1.

William & Joan Roeske were both present and informed the Board they are seeking a Variance to allow the construction of a 24' X 30' detached Garage/Pole Barn in a portion of the front yard area of an existing single family dwelling on 6265 Pine Street, Block 862, Lot 19.

Mr. & Mrs. Roeske presented several photographs for the Board to view, and Mr. Campbell marked them into evidence as Exhibits A2 – A10. They testified that their home is located nearly 400' back and is not visible from the street. Mrs. Roeske stated they would be utilizing the garage/pole barn for personal storage and for their daughter's hobby. She stated that due to the location of their septic system, pool, and several existing accessory structures in the rear, this would be the most suitable place to locate the pole barn. She noted they have several buffers of trees all around the home.

Mr. Roeske stated the proposed 24' X 30' structure will aesthetically match their existing house, with shutters, etc. Mr. Roeske presented plans and a colored rendering, which Mr. Campbell marked as Exhibits A-11 & A12.

Mr. Campbell, Sr. opened the hearing to public comment, and there was no response. Mr. Mattia 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 commented that he visited the site and noted it is very difficult to even view the house from the street, and you will not even see this pole barn. Mr. Roeske commented that their existing home is 70' X 36' in size. Mr. Raff asked if they had any plans to clear any of the buffers. Mrs. Roeske testified, "absolutely not – they love the natural beauty of the buffer." Mr. Choyce asked if they intended any commercial use of any kind for the structure, and Mrs. Roeske replied, "absolutely not".

Mr. Freire moved, seconded by Mr. Mattia, to grant a Variance to William & Joan Roeske, Block 862, Lot 19, App.# 2-08, to allow the construction of a 24' X 30' detached Garage/Pole Barn in a portion of the front yard area of an existing single family dwelling, conditioned upon the following: the pole barn shall be constructed 340' +/- 5' from Pine Street; the existing tree buffer line must remain in tact; the proposed structure shall be utilized for only personal use and not for any commercial use; and the applicant shall obtain all necessary building permits, as required.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – AYE	MR. FREIRE – AYE	MR. MATTIA – AYE
MR. CHOYCE – AYE	MR. RAFF – AYE	MR. TOMASELLO – AYE
		MR. CAMPBELL, SR. - AYE

SAID MOTION CARRIED.

Rose Wixson – Solicitor, Robert J. Campbell verified that the proof package has been executed properly, and marked it as Exhibit A1.

Applicant, Rose Wixson, was present and informed the Board she is requesting a Variance to allow the construction of an inground swimming pool (accessory structure) in a P.U.R.D. (Planned Unit Residential Development) located on 58 Putters Lane, Block 1132.06, Lot 29.

Ms. Wixson presented several photographs of the buffer area in the rear of her dwelling, which Mr. Campbell marked into evidence as Exhibits A2 – A10; as well as a landscaping brochure marked as A11.

Mr. Maimon explained that due to recent clarification, it has been determined that accessory structures such as swimming pools are not permitted in P.U.R.D.'s, and now require either a flexible "C" or hardship variance from the Zoning Board. Much discussion ensued and Mr. Campbell, Jr. explained the difference to the Board Members. He noted that every application should be reviewed on their own merits and the Board should determine which variance may be granted. More discussion ensued.

Mr. Raff expressed his concerns to Ms. Wixson regarding her application, noting that her survey shows that the existing buffer has been cleared. He stated that the trees and buffer area were to be maintained and not removed. Ms. Wixson stated that she did have the buffer cleared by recently removing seven mature oak trees. She testified that she contacted the Zoning Officer and was told she could remove diseased or dead trees. She stated she consulted a tree expert and he determined that the trees had galls and were diseased, and she instructed him to remove them.

Mr. Raff questioned Mr. Maimon regarding what is required to remove trees from a natural buffer. Mr. Maimon replied the owner is asked to obtain a letter from a tree expert indicating that the trees are dead or diseased, and the property owner must replace what is removed. Ms. Wixson stated that she has been unable to obtain something in writing from her arborist, Matthew Kruse. She noted he has not returned her phone calls.

Mr. Raff stated that he has a problem with someone clearing a natural buffer which was approved by the Township Planning Board. Mr. Raff asked Ms. Wixson what she planned on planting to replace the mature trees she removed. Ms. Wixson stated she intends to replace them with two types of trees. Much discussion ensued.

Mr. Campbell, Sr. opened the hearing to public comment. Eileen Ballard, residing at 4218 Fairway Drive, was present and expressed her concerns. She testified she has several issues with her neighbors removing this natural buffer. She stated that many people are destroying these natural buffers and she has already contacted the Dept. of Environmental Protection regarding this issue. She stated the neighborhood is very concerned about this natural buffer zone being destroyed. She commented that only oak trees get these galls, and proper fertilizing and water may prevent this. Ms. Ballard stated she has no objection regarding the installation of the swimming pool itself, however, she does have a problem with the destroying of the buffer area. She stated she understands that the developer, Mr. Middleton, never built a recreation area and Ms. Wixson would like a pool. She stated, however, the destruction of the buffer areas is an ongoing issue and should be addressed.

With no further public comment, Mr. Mattia 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".

Mr. Cain commented that he has a problem with the developers regarding these P.U.R.D. & P.U.D.'s. Mr. Choyce asked Ms. Wixson why she removed all those

trees that were in the buffer zone and not in the area where the pool was to be constructed? Ms. Wixson replied that she was only going by what her tree person told her. Ms. Wixson commented that she would like to construct a 40' X 20' or 16' X 36' inground pool, and would like to replace at least seven of the trees she had removed in the buffer area. Some discussion ensued regarding the size of the trees to be replaced. Mr. Maimon suggested to the Board that they be a minimum of 6' in height.

Mr. Freire moved, seconded by Mr. Mattia, to grant a Variance to Rose Wixson, Block 1132.06, Lot 29, App.# 3-08, to allow the construction of a 16' X 36' or 20' X 40' inground swimming pool in a P.U.R.D. (Planned Unit Residential Development), conditioned upon the following: the proposed pool shall meet all required zoning setbacks; the applicant shall provide a suitable replacement of the tree buffer to the rear of the property by re-establishing a minimum of seven (7) trees, with a minimum height of 6 feet, to be approved by the Zoning Officer, and installed prior to the issuance of a Certificate of Occupancy for the swimming pool; and that the applicant obtain any other approvals, if necessary, as well as the required constructed permits from the Township Building Department.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – <i>NAY</i>	MR. FREIRE – <i>AYE</i>	MR. MATTIA – <i>AYE</i>
MR. CHOYCE – <i>AYE</i>	MR. RAFF – <i>NAY</i>	MR. TOMASELLO – <i>NAY</i>
		MR. CAMPBELL, SR. – <i>AYE</i>

SAID MOTION CARRIED.

**NOTE:** THE FOLLOWING BOARD MEMBERS MADE THE FOLLOWING COMMENTS REGARDING THEIR VOTE ON THE ABOVE APPLICATION:

MR. CHOYCE - BECAUSE OF THE APPLICANT REVEGITATING THE BUFFER.

MR. FREIRE - BECAUSE THE P.U.R.D. REGULATIONS ARE VAGUE AND IT IS A HARDSHIP FOR THE HOMEOWNERS WITH NO AMENITIES FOR RECREATION PROVIDED.

MR. MATTIA - THE P.U.R.D. REGULATIONS APPEAR UNCLEAR.

MR. TOMASELLO – NO ADVANCEMENT OF THE ZONING PLAN

MR. CAMPBELL, SR. - BECAUSE THE APPLICANT HAS AGREED TO RE-Forest THE BUFFER AREA AND BEAUTIFY HER YARD AND THE C.O. WILL NOT BE ISSUED UNTIL AFTER THE ZONING OFFICER HAS APPROVED ALL CONDITIONS.

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

Robert & Elizabeth Johnson – Block 980, Lot 18; App.# 1-08  
George & Michelle Phy – Block 735, Lot 15; App.# 5-08  
Michael J. Taylor – Block 619, Lot 2; App.#4-08

Adjournment – Mr. Choyce moved, seconded by Mr. Mattia, 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

