

Township of Hamilton  
October 27, 2008

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, Kim Melton, & Werner Raff. Alternate present was Frank Tomasello. Also present was Robert J. Campbell, Jr., Solicitor; and Steven Maimon, Zoning Officer.

The Statement of Compliance was read.

Approval of Minutes – Ms. Melton moved, seconded by Mr. Choyce, to approve the minutes of the September 22, 2008 Zoning Board meeting. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”.

Chairperson, Robert J. Campbell, Sr., discussed the request by Mr. John Pucci to the Governing Body for a time extension for removing his existing dirt pile. Mr. Campbell stated that he spoke to the Board’s alternate Solicitor, John Rosenberger regarding the request. Mr. Campbell stated that following his consultation with Mr. Rosenberger, he conducted a telephonic polling to see if the Board members had any objections to the extension being granted. He informed the Board that none of the Zoning Board members expressed any objections, and instructed the Board Secretary to send a letter to the Governing Body informing them of this. Mr. Campbell stated the Board Members should have received a copy of the letter. They confirmed that they did. Mr. Choyce moved, seconded by Mr. Cain, to confirm that a letter regarding the decision of the Board was sent to the Governing Body and all Board Members. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”.

D.F. Equities of New Jersey, LLC – Chairperson, Robert J. Campbell, Sr. announced that the application of D.R. Equities of N. J., LLC, scheduled to be heard this evening, is being rescheduled for the next Zoning Board meeting on November 24, 2008. Solicitor, Robert J. Campbell, explained that due to a possible conflict of interest, he would step down as Solicitor on the above application, and a conflict attorney should be appointed. He noted that letters were sent by the State Ethics to some of the Zoning Board Professionals, and he feels more comfortable stepping down on this application. He stated that the Zoning Board Engineer, Robert Watkins, of Mott Associates, also expressed a conflict of interest, and the Board should appoint a conflict Engineer, as well. Mr. Campbell, Sr. stated that he, as well as Mr. Freire, would also not be participating in this application, as well. Mr. Campbell informed the Board that a letter requesting the rescheduling was received from the applicant’s attorney, Chris Baylinson, Esq.

Ms. Melton moved, seconded by Mr. Raff, to reschedule the application of D.F. Equities of New Jersey, LLC, to the November 24, 2008 Zoning Board meeting. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING “AYE”, NO “NAY”, TWO “ABSTAIN”.

Vice-Chairperson, Werner Raff, recommended that Timothy Maguire, Esq. be appointed as Conflict Solicitor, and Steven Bach of Bach Associates as Conflict Engineer. Mr. Choyce moved, seconded by Mr. Cain, to appoint Timothy Maguire, Esq., as conflict Solicitor & Steven Bach of Bach Associates, as conflict Engineer, in the application of D.F. Equities of New Jersey, LLC, rescheduled to be heard at the November 24, 2008 Zoning Board hearing. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING, “AYE”, NO “NAY”, TWO “ABSTAIN”.

Vincent & Janet Scalen – Solicitor, Robert J. Campbell, Jr. verified that the proof package has been executed properly, and marked it as Exhibit A 1. Mr. Campbell also marked the following submitted by the applicants into evidence:

- A-2 - Letter from Applicant's Engineer, dated October 1, 2008
- A-3 - Photograph of back view of home
- A-4 - Photograph depicting view of gap
- A-5 - Photograph depicting wooded area
- A-6 - Photograph depicting front view of home showing ground elevation
- A-7 - Survey

Mr. & Mrs. Scalen were present and informed the Board they are seeking a Variance to exceed lot coverage to allow the construction of an attached, elevated deck onto their existing single family dwelling on 102 Gasko Road, Block 994, Lots 2 & 3. Mrs. Scalen chose the location and this style house with the intention of adding the deck. She stated they did not think they would have any difficulties doing this deck and did not know anything about lot coverage.

Mrs. Scalen testified they retained an Engineer to review the site and he reassured them that this should not present any problem getting their deck. She stated they received an approval from their Homeowners Association and then found out from the Township that they needed a variance when they applied for their building permits.

Mr. Choyce stated that he visited the property and noted this situation is very similar to an application heard last month at Zoning Board hearing. He stated that the Scalen's elevation drops off dramatically in the rear yard. Mrs. Scalen stated the Homeowners Association owns a lot of the land behind our property, and it will never be developed. Mr. Freire commented that he did look at the property and it appears to be the same situation we are commonly seeing – the residents are left with no way of putting on their deck without a variance. Mr. Freire stated the applicant's request should have no impact on drainage. Mr. Cain asked the applicants if they were ever told they could not have a deck. The applicants replied they were never told that they could not have their deck.

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

Some discussion ensued regarding the amount of lot coverage. It was determined that a variance of 38.6% coverage would be necessary and this would appear to be a C-1 hardship application.

Mr. Freire moved, seconded by Mr. Cain, to grant a Variance to Vincent & Janet Scalen, Block 996.01, Lot 52, App.# 22-08, to exceed lot coverage to allow the construction of a deck, 12' X 21.75' +/- 6 inches, conditioned upon the following: the deck shall not exceed 38.6% +/- ½% lot coverage & not exceed 46.4% +/- ½% impervious coverage, and the applicant shall obtain all necessary building permits.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – AYE	MR. FREIRE – AYE	MR. RAFF – AYE
MR. CHOYCE – AY	MS. MELTON – AYE	MR. TOMASELLO – 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: Due to the topography of the backyard. The developers need to make a home buyer aware in the future.

MR. CHOYCE: Because there is a large amount of wooded ground. I see no detriment to the neighborhood. I have visited the applicant's site and the topography presents a hardship.

MR. FREIRE: For the same reasons as already stated.

MR. RAFF : For the same reasons already stated.

MR. TOMASELLO : I accept the applicant's Engineer's Report, as well as our Board's Site Plan Committee's comments. Also due to the wide slope in the back. The applicant purchased the property without knowing they could not place a deck there. The proposed deck will only be seen from the back.

MR. CAMPBELL, SR. : I feel the negative and positive criteria has been satisfied. Something needs to be done in the future about this problem.

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

James & Theresa DiNatale – Block 981, Lot 59.13; App.# 22-07

Michael & Alice DeFrancesco – Block 996.01, Lot 59; App.# 21-08

Newco Services Co., LLC (Taco Bell) – Block 1319, Lot 2; App.#16-08

Public Comment – Mr. John Pucci was present and informed the Board that he has major concerns regarding escrow charges for review by the conflict professionals during his application process before the Zoning Board. He informed the Board that he has paid \$6,000 and owes another \$4,000, and he feels he has been overcharged. He expressed concern because he now has his Pinelands Certificate of Filing and would like to come back before the Zoning Board for his Site Plan approval at the December 8, 2008 Zoning Board meeting. He stated that if he does not bring his escrow account up to date, he would not be able to proceed with his approval at that time. He stated that Ms. Rainbow is looking into the possible overcharges, but is not sure when this will be resolved. He requested that this policy be changed so that this does not happen to anyone else in the future.

Chairperson, Robert Campbell, Sr. suggested that Mr. Pucci submit a letter regarding the situation, and informed Mr. Pucci that he would speak to our Solicitor, John Rosenberger, about the matter. Mr. Pucci stated that he has already spoken to Ms. Rainbow, who handles the escrow accounts, on a few occasions, but it has not been resolved. Mr. Campbell suggested that Mr. Pucci do a letter explaining the situation, and perhaps I could set up a meeting with myself, Nancy Rainbow and Mr. Rosenberger.

With no further public comment, Mr. Tomasello 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”.

Adjournment – Mr. Raff moved, seconded by Ms. Melton, 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

