

A meeting of the Township of Hamilton Zoning Board of Adjustment was held on the above date with Chairperson, Elaine Valentino, presiding. Members present were Wayne Choyce, William Christman, Dr. Robert Kahrmann, Carl Pitale, Bruce Strigh & Alternate James Santilli. Also present was Board Solicitor, Rebecca Lafferty; Zoning Officer, Hannah Desmond; Planner, Robert Watkins; Engineer Kevin Dixon; Landscape Consultant, Chris Carey.

Members Absent: Michael Angelo.

The Statement of Compliance was read.

Announcements: Ms. Valentino stated to Mr. Del Donna (App. #2017-7) the publishing was done on 4/18/17 which is not 10 days prior to the meeting therefore the case cannot proceed at this time.

Mr. Del Donna asked if he could proceed anyway. Ms. Lafferty gave him the state statute number NJSA 40:55-12 so he can review it.

Ms. Valentino gave him the next meeting date of 5/22/17. The applicant has to re-notice & republish no later than 10 days before the date.

A neighbor of Mr. Del Donna commented the zoning is unfair & was advised if he has questions about the ordinance he can do so during public comment.

Natalie Kelin; App. #2017-4; Block 988 Lots 1 & 2 ; located at 5616 Atlantic Avenue., was present along with her attorney, Michael Peacock. She is seeking a Use Variance & Site Plan Waiver for a multi-family dwelling & any other variance(s) found to be necessary.

Solicitor, Rebecca Lafferty, verified that the proof package had been executed properly.

Mr. Peacock stated the application was originally for four (4) units but tonight they will be asking for 3 units (2 in the large building & 1 in detached bungalow).

The application has been deemed complete by the professionals.

The following witnesses were sworn in:

Ms. Natalie Kelin, owner of the property

Mr. William McManus, licensed land surveyor & planner in NJ. His credentials are accepted by the Board.

Mr. McManus identified the following information & described the property along with the surrounding areas. The site plan shows the 2 units, the driveway on lot 1 (the bungalow is accessed by this). There is also a driveway access on Somers Point Mays Landing Road with an apron & drive. There are also some sheds on the property.

A-1: Cover sheet submitted with zoning charts, maps, aerial photos

A-2: Site plan

The driveways which cross over lot 1 & Somers Point Mays Landing Road will be eliminated. The parking on the east side of the property will be consolidated; a 24 ft. wide x 25 ft. deep asphalt driveway is proposed (as per Mr. Dixon); the parking lot can be reduced to 6 spaces due to the elimination of the 4th units & will be a dense grated aggregate with stalls identified with parking bumpers; site triangles will also be identified.

The duplex is served by sewer & water. The bungalow has water & septic (which is why the parking will be located on the east side).

The zoning (current & prior) is for single family dwellings. Due to that the applicant is asking for a Use Variance for multiple dwellings on 1 lot. The previous owner purchased the property in 1965 & it was used as a multi-family dwelling.

Use Variances have 3 categories & they will be using the Particular Suitability due to it being used as multifamily for over 50 years. The facts of the case are that it has been used as a multifamily for over 50 years & the site sensitive issue is that it is suitable for multifamily due to it being used as

multifamily for many years. Parking is sufficient for it & other houses in the area are being used as multifamily. A single family home isn't conducive in this area due to it being located on a County Road, near a signalized intersection which is near an auto body shop. The site warrants the granting of a Use Variance.

A waiver of site plan is also being asked for & what they are proposing is enough to satisfy the requirements of the use. The proposed parking area would be safer by allowing for the apron along with the site triangle. Mr. McManus reviewed the Board professional's reports & noted there is nothing of concern. The blocking of the driveway would be done by landscaping & that will provide screening from the roadway. They will work with Mr. Dixon to add lighting to the parking area.

Mr. McManus stated the negative criteria are there is no substantial detriment to the public good & no impairment to the zoning plan or ordinance. The property has been a multifamily dwelling for well over 50 years without any negative impact to the neighborhood. The area is well suited for multifamily dwellings & there are others across the street.

Mr. Watkins report referenced sidewalks being required for this project as per the pedestrian plan but Mr. McManus is asking for a waiver of this requirement. This area is not a pedestrian generator (schools, churches, retail, etc.).

Exhibit A-4 is the township tax map which shows the surrounding streets. Mr. McManus described the area & the sidewalks that are in the area. There are 5 single family homes between this property & the public works building. It is unlikely that sidewalks will be placed there by a homeowner. He also feels it is unlikely that the sportsman club, which is vacant, will put sidewalks in. The property line goes to the edge of Atlantic Ave. & if a sidewalk is created it would have to be done by easement across private property.

Per Mr. McManus the rough estimate of the on site improvements would be \$5,000.00 to \$8,000.00. He feels the application meets the standards for the Use Variance & Site Plan Waiver. The impervious coverages are under what is required.

The plan shows the new driveway being located off Atlantic Ave. (sheet 3-cross hatch area).

Mr. Peacock confirmed that the 2 story dwelling was never used as a 3 family unit, only a 2 family. The bungalow is 442 sf.

Ms. Lafferty reminded the board that the cost factor of the improvements have no bearing on this application.

Mr. Strigh asked if the bungalow qualifies as a live able unit & is there a minimum in the township. Mr. Watkins stated that is a building code concern & the land use ordinance does not have a minimum square footage.

Ms. Valentino had questions regarding the property record card & notes regarding curb/sidewalks. Mr. McManus confirmed there are none.

Mr. Watkins testified his report is dated March 3rd, 2017 & noted a density variance should be asked for as well. That zone has a density of 4.85 dwelling units per acre & they are proposing 5.79 dwelling units with 3. The setbacks are existing non-conforming. The positive & negative requirements have been addressed. The curb & sidewalk (Chapter 124C 3a) was put forth in the pedestrian plan to implement sidewalks along that area. There are options for the sidewalk & telephone pole.

As far as the drainage, Mr. Watkins hasn't reviewed it but a grade can be done if it is necessary. He feels the site plan waiver due to the elimination of the 4th site can be granted but the other professionals need to provide testimony.

Mr. Strigh asked about the 3 sheds mainly the one which sits on the property line. Mr. Peacock stated if there is an issue his client will move it. The other shed is existing non-conforming (3 ft. from property line) & the shed in the front yard (Somers Point Mays Landing Road) is not permitted in the front yard & both would need a variance.

Mr. Peacock will amend the application for the density variance.

Mr. Dixon testified his report is dated 3/3/17 & the application was reviewed for completeness along with traffic. The applicant did indicate it will be a 3 unit. If this is approved tonight a revised site plan with site triangle, utilities, parking lighting & wetlands added. He suggests 6 spaces for the tenants & 2 for visitors. The added driveway is sufficient & the minor improvements do not warrant a storm water management plan. If a sidewalk is required by the board then drainage can be addressed.

Mr. Carey testified his report is dated 3/10/17. The access on the East side on Atlantic would be closed off (fence or landscaping). Small shrubs would be suitable. The small single dwelling should be tied into the sewer but that is the MUA's jurisdiction. There is a small stone access way to get to the back dwelling.

Discussion ensued regarding the sidewalks & pedestrian plan.

Mr. Peacock handed out the following photos:

A-3: photo of the house before & after the renovation

A-5: letter from previous owner to Ms. Kelin (10/29/93) saying the house is 2 family house with detached bungalow

A-6: rental licenses from the Township

Ms. Kelin testified she moved to the township in 1963 & still lives here. She bought the property in 1993. If needed she will obtain a rental license for the rear bungalow & there has never been problems with the septic with that unit.

Originally she was asking for 3 units in the large house. She was going to use the back unit of the main house for herself if something happened to her health. No one has ever lived there & as a condition of the variance she would agree for it not to be used as a residential unit. There isn't a rental license for the rear building because the township doesn't require it. Prior to renovating the bungalow there was no license.

Mr. Strigh asked about what the 3rd unit will become & Ms. Kelin stated she will remove the cooking facility. There are 2 electric services to the main house. The bungalow has its own utilities & meters. There is 1 large shed that encroaches onto the neighboring property (under 2 feet) when she bought the house. Currently it is being used for storage for herself & tenants.

There is another shed which belongs to the 1st floor tenants & they will take it when they move. The wood shed on Somers Point Mays Landing Road stores the lawn mower.

Mr. Dixon's report has a total of 8 spaces (6 for the tenants & 2 over flow) & Mr. McManus agrees to this. The density for this property is 5.79% & 4.85% is permitted.

Mr. Choyce asked if the shed on the other property had foundation & Ms. Kelin said yes.

Discussion ensued regarding the sidewalks. If sidewalks are required, it would be along the applicant's property.

Mr. Peacock asked if the board looked at this application favorably, a condition could be made to for the next owner to install sidewalks prior to getting a CO. In order for Ms. Kelin to sell the property she needs approval of these variances. Ms. Lafferty stated this option is up to the board.

Ms. Valentino asked if anyone would like to speak for public comment. Mr. Constantine Medweew was sworn in & testified he owns lot 3. He stated one of the sheds encroaches on to his property & he would like it relocated.

Ms. Valentino asked if anyone else would like to speak for public comment Mr. Strigh 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. Peacock asked for separate votes on the forms of relief being requested.

If the plan is approved, the additional information required by the professionals can be done via administrative review.

Mr. Strigh moved on App. #2014-3, Block 988 Lots 1 & 2; located at 5616 Atlantic Avenue to waive the Site Plan Review, grant the Use Variance for 2 units in the 2 story frame dwelling and 1 unit in

the bungalow for a total of 3 units with the condition that the existing driveway on Atlantic Avenue be abandoned & landscaped so vehicles cannot access it. The driveway access on Somers Point Mays Landing Road to have vegetation planted as per the Landscape Consultant. The shed encroaching on lot 3 be moved 5 feet from the property line, install asphalt apron, install a sidewalk along the length of lot 2 (as per the Pedestrian Plan of the township & the advice of the professionals), 8 parking spaces as per traffic engineer, density as per the Planner be permitted. The following are conditions which will be reviewed administratively in strict compliance with the ordinance with Mr. Dixon: lighting in parking area, site triangles on revised plans, utility service, wetlands designation, no renting of the in-law quarters in main building & removal of cooking facility in the in-law structure. SAID MOTION CARRIED WITH FIVE (5) MEMBERS VOTING "AYE", ONE (1) MEMBERS VOTING "NAY" and NO "ABSTAIN."

- **The above motion died due to no member making a second motion.**

Mr. Choyce moved, seconded by Mr. Christman App. #2014-3, Block 988 Lots 1 & 2; located at 5616 Atlantic Avenue to waive the Site Plan Review, grant the Use Variance for 2 units in the 2 story frame dwelling and 1 unit in the bungalow for a total of 3 units with the condition that the existing driveway on Atlantic Avenue be abandoned & landscaped so vehicles cannot access it. The driveway access on Somers Point Mays Landing Road to have vegetation planted as per the Landscape Consultant. The shed encroaching on lot 3 be moved 5 feet from the property line, install asphalt apron, 8 parking spaces as per traffic engineer, density as per the Planner be permitted. The following are conditions which will be reviewed administratively in strict compliance with the ordinance with Mr. Dixon: lighting in parking area, site triangles on revised plans, utility service, wetlands designation, no renting of the in-law quarters in main building & removal of cooking facility in the in-law structure. SAID MOTION CARRIED WITH SIX (6) MEMBERS VOTING "AYE", ONE (1) MEMBERS VOTING "NAY" and NO "ABSTAIN."

ROLL CALL ON THE ABOVE MOTION

MR. CHOYCE-AYE
MR. PITALE-AYE
MS. VALENTINO-AYE

MR. CHRISTMAN-AYE
MR. STRIGH-NO

DR. KAHRMANN-AYE
MR. SANTILLI-AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made comments

MR. CHOYCE: Yes. I think the applicant's professional submitted the necessary proofs for the Use Variance associated with this property. I agree the property has existed as a multi dwelling prior to 1965 even though the proofs that it existed prior to 1954 could not be provided. The neighboring properties are also multifamily dwellings & this is well suited for the area. I agree with the parking requirements which the professionals gave & that 8 spaces are adequate. I thank the applicant for coming to multiple workshops to work out the details of this application.

MR. CHRISTMAN: Yes & I agree with everything Mr. Choyce stated. I want to thank the applicant for attending the workshop & clarifying the details. I also want to thank the professionals for their input. He still feels the sidewalk at the end of the street is an issue.

DR. KAHRMANN: Yes.

MR. PITALE: I vote yes. It meets all the positive/negative criteria & you have proved your case. Thank you.

MR. STRIGH: I vote no. I do acknowledge that the applicant & professionals have put a lot of thought & time into this application but I disagree with the lack of conditions of the sidewalks.

MR. SANTILLI: Yes.

MS. VALENTINO: I vote yes for the reasons outlined by Wayne Choyce. I think the board was correct in reviewing the application the 1st time & dismissing it without prejudice in order to give the applicant the opportunity to come back with the proofs, representation & merits that was needed for the board to make a decision.

The Board had discussion regarding the sidewalk before voting.

Mr. Choyce stated the applicant's proposal of suggesting the next owner of the property be responsible for installing curb & sidewalks is a viable option to meet the intent for the Master Plan of the township. It is obvious that the applicant is here due to her intention of selling the property. To put the burden of sidewalk & curbing installation on the next owner is an option.

Mr. Christman voiced his opinion on a sidewalk being built in that area.

Mr. Strigh moved, seconded by Mr. Choyce App. #2014-3, Block 988 Lots 1 & 2; located at 5616 Atlantic Avenue for the next owner of the property to install the sidewalk & curb. The applicant's attorney will need to submit a deed to the Board Solicitor for review of the deed notice & properly file it with the County. It would be installed after the sale & prior to a CO. SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY" and NO "ABSTAIN."

ROLL CALL ON THE ABOVE MOTION

MR. CHOYCE-AYE
MR. PITALE-AYE
MS. VALENTINO-AYE

MR. CHRISTMAN-AYE
MR. STRIGH-AYE

DR. KAHRMANN-AYE
MR. SANTILLI-AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made comments

MR. CHOYCE: I vote yes. I appreciate the applicant's willingness to compromise with the Board to meet the intent of the pedestrian plan that has been established in the Master Plan.

MR. CHRISTMAN: I vote yes & agree with Mr. Choyce's comments.

DR. KAHRMANN: Yes.

MR. PITALE: Yes.

MR. STRIGH: Yes for the reasons previously stated.

MR. SANTILLI: Yes.

MS. VALENTINO: Yes.

The Board recessed at 8:57 pm & reconvened at 9:05 pm with the same members present.

Thomas & Christy Dayton; App. #2017-8; Block 866 Lot 12; located at 6029 Peach Street, were present & is seeking a Variance for an accessory structure in the front yard area & any other variance(s) found to be necessary. They are represented by Mr. Schroder.

Solicitor, Rebecca Lafferty, verified that the proof package had been executed properly. Ms. Lafferty reviewed the certified receipts with Mr. Schroder & noted there is no date on them from the post office. His office did supply photocopies of the envelopes with the date stamp of 3/21/17. His office does the mailing as certified with return receipt. Ms. Lafferty is comfortable with the mailing being done during the time frame.

Mr. Schroder went on record that all the mail was sent of the same day (certified & regular). The postage machine in his office was malfunctioning that day.

Ms. Valentino asked for a roll call vote to see if members would accept the explanation & service provided.

MR. CHOYCE-AYE
MR. PITALE-AYE
MS. VALENTINO-AYE

MR. CHRISTMAN-AYE
MR. STRIGH-AYE

DR. KAHRMANN-AYE
MR. SANTILLI-AYE

Mr. Schroder stated Mr. Andrew Schaeffer will also be testifying. He also had a conversation earlier with a neighbor (Mr. Meischker) regarding the application.

The following were sworn in:
Christy Dayton, applicant
Andy Schaeffer, Planner

Mr. Schaeffer testified the proposal is for a garage in the front yard area of the property. It is separated from the house by a deck & is not physically attached to the house. The driveway is shaped like a horseshoe & the garage will create a half moon structure around the driveway which will be aesthetically pleasing. The garage will be the same color, texture & finish of the house. It will appear to be part of the house.

Ms. Valentino commented there would be double garage doors in the front, window on the 2nd floor, door on the right side, rear on 2nd floor would have a window & 2 windows on the 1st floor. The 2nd floor would be used for storage. The only utility will be electric.

Dr. Kahrman asked how the existing septic & propane will be accessed since they are located in the back of the house. Ms. Dayton said the propane tank is no longer in use due to them having natural gas. The septic truck does not have to drive in the back. Dr. Kahrman also asked about the trees being removed & if the applicant has to get Pinelands approval.

Mr. Schroder stated there are 3 trees being removed which is a di minimis situation & if a condition is proposed to look at the removal administratively they would agree.

Mr. Christman commented Pinelands goes by the diameter of the tree & he doesn't think they are more than 14-16 inches in diameter. Ms. Lafferty also stated the resolutions always require any outside agency approval.

Ms. Valentino asked what Phase 1 on the plan is. Ms. Dayton stated her original plan was to have a mudroom which would attach the garage to the house but decided to do the current plan instead. The dwelling would still be single family & no one would be living in the garage.

Mr. Choyce asked if there was an attempt to rotate the design of the garage so the side was parallel to the property line & set back so the front of the garage matched the front of the house. Mr. Schaeffer stated that could be done but as far as aesthetics that design wouldn't be desirable along with more trees being removed.

Mr. Strigh commented their neighbor will be facing the house to the left will be looking at the garage & it would not be pleasing to look at for them.

The back of the garage will be the same materials & finishes as the front.

Ms. Valentino asked about the height variance. Mr. Schroder stated one of the photos provided with the application shows the scale of the garage. Ms. Dayton had her contractor set a ribbon at 15 ft. & at 18'8" ft. & then then the graphic designer at Mr. Schroder's office super imposed it into the photo so the Board could see the difference compared to the house.

Mr. Choyce asked if the 18' 8" is to the peak of the roof & Mr. Schroder confirmed that it is. With the design of the house, Ms. Desmond does not feel the garage needs a variance for the height due to how the township designates the height. He also asked if the garage could be positioned so a variance is not required. Mr. Schroder stated that the positive criteria are fewer disturbances & less impervious coverage impacted due the proposed garage & there are not any negative criteria. Ms. Dayton commented her neighbor is aware of the garage & if they felt it was a negative impact they would be here tonight.

The applicants do not want to disturb the deck which is why they want the garage oriented in that area. Mr. Choyce asked if they could move the position of the garage in order to maintain the deck but Mr. Schroder said that configuration would call for a side yard setback variance.

There was discussion regarding the possibility of moving the garage to make it conforming.

The garage will be about 26 ft. high (that is to the highest part).

Ms. Valentino asked if anyone would like to speak for public comment. Mr. Strigh 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.”

Ms. Desmond confirmed there is no issue with lot coverage and impervious coverage in the scenic corridor; the driveway surfaces (gravel or pavement) are not included. Without the driveway the impervious coverage is 8.3%. & Mr. Schaeffer agrees.

Mr. Choyce noted that he visited the site & the small existing shed along with the play house has been removed & Ms. Dayton confirmed this. Mr. Choyce asked if the proposed garage would have an 82 ft. set back from the front yard property line & Mr. Schaeffer stated yes. The zone is RD-1 & the setback for principle structure is 75 ft.

Mr. Christman moved, seconded by Dr. Kahrman on App. #2017-8, Block 866 Lot 12; located at 6029 Peach Street to grant a variance for an accessory structure (garage) in the front yard area with a setback of 82 ft. from the front yard area & height variance of 3 ft. 8 inches with the condition that the loft area NOT to be used as residential use SAID MOTION CARRIED WITH SIX (6) MEMBERS VOTING “AYE”, “ONE (1)” MEMBER VOTING “NAY” and NO “ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION

MR. CHOYCE-AYE
MR. PITALE-AYE
MS. VALENTINO-AYE

MR. CHRISTMAN-AYE
MR. STRIGH-NO

DR. KAHRMANN-AYE
MR. SANTILLI-AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made comments

MR. CHOYCE: I vote yes. I think the testimony from the applicant & professionals regarding the positioning of the garage in a way other than what was requested would require additional trees to be removed, additional impervious coverage & modification of the current deck. I think the architecture is fitting for the property & the applicant has committed to finish the garage in the same textures & colors as the house. The property & house is well maintained & I expect the garage to reflect the same.

MR. CHRISTMAN: Yes. I agree with what Mr. Choyce said. The applicant also said her neighbor didn't have a problem with the placement of the garage. They also didn't come to the meeting tonight to express any concern.

DR. KAHRMANN: Yes for the same reasons.

MR. PITALE: Yes for the same reasons.

MR. STRIGH: I vote no. I simply do not believe this is a hardship. I feel the garage can be built in a position where it would not need a variance. By looking at the neighboring properties it would not be fair to them. I also feel it does not meet the definition of a C variance.

MR. SANTILLI: Yes.

MS. VALENTINO: I vote yes. I visited the property & think the placement of the garage in relationship to the contour of the driveway would be the best place for it. It would be an extension of the semi-circular driveway. The architecture is in keeping with the primary dwelling & the decision to use the same color scheme as the primary dwelling will keep in character with the neighborhood. It is in the Laureldale section of town which is a very rural area.

Approval of Minutes – Mr. Christman moved, seconded by Dr. Kahrman to approve the minutes from the March 27, 2017 meeting. SAID MOTION CARRIED WITH FIVE (5) MEMBERS VOTING “AYE,” NO “NAY,” and NO “ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION:

MR. CHOYCE-AYE
MR. STRIGH-AYE

MR. CHRISTMAN-AYE
MS. VALENTINO-AYE

DR. KAHRMANN-AYE

SAID MOTION CARRIED.

Memorialization of Resolutions- Dr. Kahrmann moved, seconded by Mr. Choyce to adopt the resolution for **James Higbee -App. #2017-3; Block 1119 Lot 33.** SAID MOTION CARRIED WITH FOUR (4) MEMBERS VOTING “AYE,” NO “NAY,” and ONE (1) “ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION:

MR. CHOYCE-AYE MR. CHRISTMAN-ABSTAIN DR. KAHRMANN-AYE
MR. STRIGH-AYE MS. VALENTINO-AYE

SAID MOTION CARRIED.

Mr. Choyce moved, seconded by Mr. Strigh to adopt the resolution for **Odeather Smith -App. #2017-5; Block 11 Lot 9.** SAID MOTION CARRIED WITH FIVE (5) MEMBERS VOTING “AYE,” NO “NAY,” and NO “ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION:

MR. CHOYCE-AYE MR. CHRISTMAN-AYE DR. KAHRMANN-AYE
MR. STRIGH-AYE MS. VALENTINO-AYE

SAID MOTION CARRIED.

Dr. Kahrmann made comment regarding the Fernmoor application & the issue of the retention basin looking like a swamp. He invited all members on the Board to come & look at the basin which has been cleaned up.

Public Comment- Ms. Valentino asked if anyone would like to speak for public comment. Mr. Strigh 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.”

Ms. Valentino handed out a sample spreadsheet which she called Post Approval Compliance Report for review by Board Members. She pointed out this report has suggestions of additional information & for members to bring their comments of it at the next meeting. If any members have comments regarding this report they can email Ms. Valentino individually.

There was discussion regarding Zoning Permits & Board Applications and the length of how long approvals are good for.

Adjournment – Mr. Christman moved, seconded by Dr. Kahrmann to adjourn the Zoning Board of Adjustment meeting at 10:11 p.m. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Respectfully submitted,

Deborah Ohnemuller, Secretary
Zoning Board of Adjustment