

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, Dr. Robert Kahrman, Dr. Lawrence Mroz, Carl Pitale & Bruce Strigh. Also present was Board Solicitor, Rebecca Lafferty & Zoning Officer, Hannah Desmond.

Members Absent: William Christman

The Statement of Compliance was read & new member, Dr. Lawrence Mroz, was sworn in.

Announcements: Item #8 (2017-10) will be postponed until the July 24th meeting.

Regina Plocica; App. #2017-9: Block 1132.13 Lot 9; located at 38 Cranberry Drive, was present & is seeking a Variance for an accessory structure (shed) which is not allowed in the development & any other variance(s) found to be necessary.

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

The following were sworn in:

Ms. Regina Plocica 38 Cranberry Drive, Mays Landing, NJ

Mr. Arthur Hartwell 4762 Reading Ave., Egg Harbor City, NJ

This is a continuation of the May meeting; the applicant was instructed to provide certain information to the office & counsel, which she did. The items consisted of master deed, deed & resolutions.

Mr. Hartwell presented photos of others sheds in his development. Ms. Lafferty stated they can be introduced into evidence but the Board is only hearing this application tonight.

Ms. Lafferty reviewed the deed & noted that it didn't say anything about deed restrictions. She spent a significant amount of time reviewing documents (including plans) to see if there was any notation regarding the restrictions & who imposed them.

The applicant provided the survey & should understand that there are restrictions on the property.

Ms. Valentino & Mr. Choyce noted there are 2 restrictions on the property (as per the survey). A 20 ft. corridor along the rear property line where vegetation can't be disturbed & a 15 ft. line where there can't be any development.

Ms. Valentino asked Ms. Desmond what the setback requirements are for a shed. Ms. Desmond answered they are not allowed in this zone. The setbacks for GA-I would be 10 ft. from rear & side yard. Ms. Valentino stated there are 2 issues with this application. The 1st one is the placement, if there were no restrictions; the 2nd is that there are 2 areas that do not permit any accessory structures.

The township ordinance does not permit accessory structures in this zone (PURD).

Dr. Kahrman asked what the flooring consists of in the shed. Mr. Hartwell stated the shed is surrounded by block & the inside is ¾" pressure treated plywood.

Mr. Hartwell asked why the HOA didn't tell them they also needed a permit from the Township in addition to their approval. Ms. Lafferty explained the HOA doesn't overrule what the Township requires.

Discussion ensued regarding accessory structures in this zone.

Dr. Mroz asked if there has been any enforcement regarding neighbors with sheds. Mr. Hartwell stated sheds are all over the place in the development & many are close to the property lines. The HOA permits sheds in the single family houses but the Township does not.

Ms. Valentino would like the record to reflect that the applicant constructed an 8 x12 96 sf. shed in the rear of the property. The Zoning Officer received a complaint & subsequently investigated the situation. The applicant was cited a zoning violation for the shed because it is not allowed in the PURD

GA-I zone. The survey, which was provided by the applicant, shows the shed in the development restriction line & also encroaches in the vegetative preservation line. The applicant shows the shed one (1) ft. off the rear & side property lines. The applicant is seeking to allow the shed to deviate from the ordinance & restrictions of the survey. This area is in the GA-I zone & follow the standards of the Planned Adult Community. It is NOT a PAC it is a PUD (Planned Unit Development).

Ms. Lafferty read the section of the HOA application which discusses the sheds.

Mr. Hartwell commented the shed was installed for Ms. Plocica's mother & she uses it for gardening. There is no room in the garage for these items. He feels it is the nicest yard in the development. The shed is not a detriment & a neighbor complained about it.

The following exhibits were introduced into evidence:

- A-1: Architectural review application (supplied at the last meeting).
- A-2: Photos (8) various sheds.
- A-3: Photos (6) of applicants shed & property.

There isn't any way to identify if any of the neighbors who also have sheds have the buffers. Mr. Hartwell commented if he was able to move the shed it would have to be relocated closer to the patio.

Impervious coverage is not an issue with this application. The applicant stated a permit was obtained by the contractor for the concrete patio & it is permitted by the HOA. The survey does not show the patio.

Ms. Desmond stated her calculations do not include the patio (13 x 30). Mr. Strigh reviewed the property record card & commented the patio isn't notated on it. The maximum impermeable coverage is 50% & the maximum lot coverage is 40%. The lot is over 5,000 sf. Ms. Desmond stated based on the survey, the building coverage is 25.3%. The shed is 96 sf; the patio about 400 sf. & with those items the building coverage comes to about 32% (where 40% is the maximum).

Ms. Valentino asked if anyone would like to speak for public comment Mr. Choyce moved, seconded by Dr. Kahrman to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Ms. Valentino opened this portion of the meeting to Board Members regarding any discussion of this application prior to voting.

Mr. Choyce commented this community & ones like it in the township were imposed with restrictions from the Planning Board Professionals & Pinelands regarding open space along with development on lots. A lot of homeowners who move into these developments aren't given the correct information regarding restrictions by the developer or when property changes hands. The owner submitted a survey which clearly shows both the restricted zones & was aware of the restrictions with respect to development/vegetation removal on the property.

Mr. Strigh agrees with Mr. Choyce comments that when properties in these communities change hands the restrictions are sometimes not communicated. He appreciates the fact that in order to keep the developments nice looking restrictions are imposed. The area behind where the shed is placed is not densely wooded. It appears the shed may be on the other property.

Dr. Kahrman noted the shed is in a restricted area & feels it could be moved.

Mr. Pitale echoed Mr. Strigh's comments & doesn't know if other property owner's received variances for their sheds.

Mr. Choyce reviewed the photos again & noted that between the shed & patio is grass. If any vegetative growth was in that preservation area, it is now gone.

Mr. Choyce reminded members of previous applications that came before the Board who removed trees in a restrictive area. They are now complaining of the view of the development which is taking place in the area.

Mr. Hartwell stated the applicant's mother planted additional shrubs in the back so they can't see the old age development behind them.

Ms. Desmond stated in a development restrictive line nothing is to be disturbed.

Ms. Valentino stated the Board has to consider the HOA had no problem with the shed, the Township ordinance does not permit it & the shed is right on the property line. Does the Board consider it an immovable object & the application as presented as is or does the Board have the right to impose the applicant to move the shed? Ms. Lafferty stated the Board can make the applicant move the shed.

Mr. Hartwell stated the applicant will do whatever the Board wants so the owner can keep the shed.

Ms. Lafferty indicated the Board can approve this application with a time period imposed by the Board for the applicant to get a letter of no interest or approval from the agency/entity that imposed the restriction. In addition the Board can set different setbacks than what is presented in the application.

Mr. Choyce also noted that the patio is located in the restrictive vegetation area & if the shed was relocated it would also be in the restrictive area.

Mr. Strigh questioned if the patio had a zoning permit & Ms. Desmond stated if the patio had a zoning permit she would have asked them to change the size. She also stated all past permits are reviewed in respect to board applications & she would have come across a zoning permit. When the violation was reported for the shed she researched & didn't find any permits (even for the patio). To her knowledge she did not see any permits.

Mr. Hartwell commented the permit for the concrete patio was opened by the contractor about 2 years ago.

The shed cannot be moved anywhere else due to the concrete patio. If the shed was to be approved it would have to be placed on the patio due to the setbacks.

There was discussion regarding the vegetative restriction & possible areas where the shed could be moved to.

Dr. Mroz is unable to vote on this application due to him not being at the last meeting.

Mr. Choyce moved, seconded by Mr. Strigh App. #2017-9, Block 1132.13 Lot 9; located at 38 Cranberry Drive, to approve an 8 x 12 shed as shown & presented by the applicant with the event the proper approvals from other outside necessary agencies are obtained PRIOR to obtaining any zoning permits. It is also subject to any & all deed restrictions of record which are to be resolved within 12 months or they would have to come back to this board. If the motion does not pass, the shed will have to be removed within 30 days after the appeal period is over. **SAID MOTION CARRIED WITH FIVE (5) MEMBERS VOTING "NO", NO MEMBERS VOTING "AYE" and NO "ABSTAIN."**

ROLL CALL ON THE ABOVE MOTION

MR. CHOYCE-NO
MR. STRIGH-NO

DR. KAHRMANN-NO
MS. VALENTINO-NO

MR. PITALE-NO

SAID MOTION DENIED.

NOTE: The following Board Members made comments

MR. CHOYCE: I vote no. The documentation presented by the applicant clearly shows the development restrictions on the property & with that information they knowingly installed the shed. Our ordinance does not allow accessory structures in this zone plus it was constructed in a development restricted area of the property.

DR. KAHRMANN: I vote no for the same reasons.

MR. PITALE: I vote no for the same reasons.

MR. STRIGH: I vote no for the same reasons.

MS. VALENTINO: I vote no. Although the homeowners association had no problem with the accessory structure, it is not just the use, but the area (2 restrictive vegetative areas) where it was placed (as noted on the owner's survey).

Ms. Lafferty stated a Resolution will be adopted at the next meeting & the shed will have to be removed 30 days **AFTER** the appeal period is over. If they are going to appeal it would be wise to retain legal counsel.

Margaret Csaszar; App. #2017-12; Block 855 Lot 4.01; located at 5776 Birch Street, was present & is seeking a Variance to construct a 28 x 26 addition to an existing single family dwelling with a front yard setback of 100 ft. where 175 ft. is required & any other variance(s) found to be necessary.

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

Mrs. Csaszar & Mr. Csaszar, both of 5776 Birch Street, were sworn in.

Mrs. Csaszar testified they would like to construct a 28 x 26 addition on the side of their house. It will be located 7 ft. from the front of the house. It will be a 2 story addition consisting of 2 bedrooms, 1 bathroom & a small office. The 1st floor will be a garage. It is for residential use only.

There is a barn that they use for storage (dimensions are on the supplied plot plan) which has electric & a faucet for water. There is also an above ground pool & a small shed.

Mr. Choyce asked Ms. Desmond for details regarding the variance. Ms. Desmond replied the house has an existing non-conforming setback for the front yard & the addition will be an expansion of the non-conformity. The Board is voting on a 100 ft. setback for the addition & the existing non-conforming setback.

The accessory structures, lot coverage & impervious coverage are conforming.

Ms. Csaszar stated the current house has no bedrooms on the 1st level. The basement will have a wall removed & will become a large room. There are 2 bedrooms upstairs currently & after the addition one of the bedrooms will turn into a hallway entering the addition along with being used as storage. Once the addition is complete the house will have 3 bedrooms. The septic is located in the front & the well is in the back so this is the only area an addition can be built. There are other houses which are larger & have the same setback as theirs. It will match the neighborhood.

Dr. Kahrman stated the addition will have a garage on the 1st floor & 2 bedrooms on the 2nd floor. Ms. Csaszar replied that is correct & the carport will remain. The existing house was built in 1985.

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."

Mr. Choyce visited the property & commented that there are other homes located on the street which are closer to the front property line & are similar to what they are proposing. The addition will be further back than the current property it does not impact the existing non-conforming addition.

Dr. Kahrman moved, seconded by Mr. Strigh, App. #2014-12, Block 855 Lot 4.01; located at 5776 Birch Street to grant a 100 ft. front yard setback variance for the addition (28 ft. x 26 ft.) along with the existing non-conforming conditions. SAID MOTION CARRIED WITH SIX (6) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY" and NO "ABSTAIN."

ROLL CALL ON THE ABOVE MOTION

MR. CHOYCE-AYE
MR. PITALE-AYE

DR. KAHRMANN-AYE
MR. STRIGH-AYE

DR. MROZ-AYE
MS. VALENTINO-AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made comments

MR. CHOYCE: Yes. I don't see what the applicant is requesting is a detriment to the neighborhood. The proposed addition will be less than what already exists.

DR. KAHRMANN: Yes.

DR. MROZ: Yes.

MR. PITALE: Yes. There is no detriment there & as I stated before this will blend into the neighborhood.

MR. STRIGH: Yes for the previously stated reasons.

MS. VALENTINO: I also visited the property & note there is no established building line on the street. The proposal is consistent with other homes in the area & it will not impair the residential character of the neighborhood.

Gary Brenner; App. #2017-13: Block 36 Lot 9; located at 7400 Belmont Avenue, was present & is seeking a Variance for an accessory structure (ground mount solar array) in the front yard area of Belmont & McCall Avenues & any other variance(s) found to be necessary.

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

The following were sworn in:

Gary Brenner, applicant, 7400 Belmont Ave.
Joe Palumbo, salesperson, All Seasons Solar

Ms. Valentino stated there were some questions regarding documentations submitted, specifically the plot plan. She asked if the property fronts on McCall Avenue because the address is Belmont Ave. Mr. Brenner stated she is correct & it is confusing.

Mr. Choyce commented that one of the items on the check off list states the survey should have all existing structures sizes notated along with setbacks. The plot plan shows the setbacks for the proposed solar array for Belmont Ave. but not the other structures which are also in the front yard areas.

The drawing shows the size of the carport, shed & house but not the setbacks with respect to the property lines. The setbacks of these items should be in the resolution so the structures become legal on the property unless the owner received variances for them already. Mr. Brenner stated he would get rid of those structures but Mr. Choyce noted that is not necessary but they need the dimensions so the structures can be approved.

Mr. Kahrman asked which way the house faces & Ms. Valentino answered McCall Ave.

Ms. Lafferty told the applicant that the application can be deemed incomplete & they can come back in July for a continuation once the dimensions are received. The information should be presented to the office at least 10 days prior to the next meeting which is scheduled for July 24th. The advertising & mailing does not have to be done again.

There was discussion regarding the solar array, shed, carport & the proximity to Belmont Ave. Mr. Choyce read the section of the Zoning Board Application which states locations & dimensions of all buildings must be notated on the survey & their drawing only shows the proposed solar array dimensions.

Mr. Strigh moved, seconded by Mr. Choyce, App. #2014-13, Block 36 Lot 9; located at 7400 Belmont Ave. to deem the application **INCOMPLETE**. It will be heard at the next meeting, **July 24th** & the updated survey must be submitted by **July 14th**. SAID MOTION CARRIED WITH SIX (6) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY" and NO "ABSTAIN."

ROLL CALL ON THE ABOVE MOTION

MR. CHOYCE-AYE
MR. PITALE-AYE

DR. KAHRMANN-AYE
MR. STRIGH-AYE

DR. MROZ-AYE
MS. VALENTINO-AYE

SAID MOTION CARRIED.

Approval of Minutes – Mr. Choyce moved, seconded by Dr. Kahrman to approve the minutes from the May 22, 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

DR. KAHRMANN-AYE
MS. VALENTINO-AYE

MR. PITALE-AYE

SAID MOTION CARRIED.

Memorialization of Resolutions- Mr. Choyce moved, seconded by Dr. Kahrman to adopt the resolution for **Carlo Del Donna-App. #2017-07; Block 1303 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. STRIGH-AYE

DR. KAHRMANN-AYE
MS. VALENTINO-AYE

MR. PITALE-AYE

SAID MOTION CARRIED.

Mr. Strigh moved, seconded by Mr. Choyce to adopt the resolution for **Gordon Craig -App. #2017-11; Block 1121 Lot 5.** 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. STRIGH-AYE

DR. KAHRMANN-AYE
MS. VALENTINO-AYE

MR. PITALE-ABSTAIN

SAID MOTION CARRIED.

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. Lafferty advised Board members to hold onto all documents regarding the shed on Cranberry Drive.

Adjournment – Mr. Choyce moved, seconded by Dr. Kahrman to adjourn the Zoning Board of Adjustment meeting at 8:52 p.m. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Respectfully submitted,

Deborah Ohnemuller, Secretary
Zoning Board of Adjustment