

BOARD OF ADJUSTMENT  
CITY OF LAMBERTVILLE  
REGULAR MEETING MINUTES  
7:30 PM, JUSTICE CENTER, 25 SOUTH MAIN STREET  
Thursday, June 30, 2011

The meeting was called to order by the Chairman, Dave Moraski at 7:30 p.m. with a statement of compliance with the Open Public Meetings Act.

Roll Call

Mrs. Lawton called the roll as follows:

Present: Phil Mackey, Pat Pittore, Fred Eisinger, Maura Fennessy and Dave Moraski.

Absent: John Leyman, Bill Seaman, Kate Dunn and Georg Hambach

Also Present: Bd. Attorney Bill Shurts & Bd. Engineer Tom Cundey.

APPROVAL OF MINUTES

Phil Mackey made a motion to approve the May 28, 2011 meeting minutes as submitted. Pat Pittore seconded the motion. A unanimous voice vote in favor of the motion was taken by all members present.

MOTION CARRIED.

Ayes:

Nay:

Abstained:

Recused:

COMPLETENESS

250 South Franklin Street, Block 1057 Lot 7, Steep Slope Disturbance

Steve Parker, the applicant's engineer and the applicant, Nancy Anderson were present at the meeting.

The applicant is seeking approval for a waiver from the steep slope ordinance. She is proposing to add a new driveway and a patio with retaining walls to the property.

Mr. Cundey's letter dated June 28, 2011 listed additional items that were needed in order to deem this application complete. Those items were satisfied at the meeting.

Maura Fennessy made a motion to deem this application complete and schedule a public hearing for July 28, 2011. Phil Mackey

seconded the motion. A unanimous roll call vote in favor of the motion was taken by all eligible members able to vote.  
MOTION CARRIED.

Ayes: P. Mackey, P. Pittore, F. Eisinger, M. Fennessy and D. Moraski.  
Nay:  
Abstained:  
Recused:

## PUBLIC HEARING

### 245 South Franklin Street, Block 1048 Lot 51, Variance Request

The applicant seeking approval from the Board for a D-Variance. The applicant currently has approval for a subdivision from the Planning Board and is now seeking relief from the condition of providing public sewer and water to the property.

Since a D Variance requires five affirmative votes for an approval and the Board only had a total of five member present at the meeting, the applicant wished to carry the public hearing to the September 29, 2011 meeting to ensure that additional members would be present.

Maura Fennessy made a motion to carry the public hearing. Pat Pittore seconded the motion. A unanimous voice vote in favor of the motion was taken by all members present.  
MOTION CARRIED.

No further notices will be required for the September 29, 2011 public hearing.

Ayes: P. Mackey, P. Pittore, F. Eisinger, M. Fennessy and D. Moraski.  
Nay:  
Abstained:  
Recused:

## PUBLIC HEARING

### 59 Buttonwood Street, Block 1010 Lot 1.01, Variance Request

The applicant's attorney, Richard Mongelli and architect, Michael Burns were present at the meeting.

Mr. Burns was sworn in by Bill Shurts, the Board attorney.

The applicant is seeking approval to extend an existing rear second level deck. Mr. Mongelli state that he informally spoke to the Zoning Official, John Barczyk and he stated that he thought that the deck is considered as part of the principal building and that approval from the Board of Adjustment would be necessary.

There is currently an existing rear patio that is 9.5 feet from the property line. The deck will extend to where the patio ends and no further. There will be a spiral staircase at ground level.

Mr. Burns stated that the new changes would have not effect on the surrounding neighbor's properties or views. The proposed changes are consistent with what the neighbors currently have.

Mr. Shurts stated that he would prefer to see the Board grant a variance for this application as to not set precedence with future applications.

Phil Mackey made a motion to grant the variance request. Fred Eisinger seconded the motion. A unanimous roll call vote in favor of the motion was taken by all members present.

MOTION CARRIED.

## DISCUSSION

### 118 North Union Street, Block 1019 Lot 9, John Munice

Kathy Errickson was present at the meeting. Ms. Errickson's letter dated June 10, 2011 addressed to Mr. Moraski requested that the Board amend the resolution that has already been approved.

Ms. Errickson states that her client can not comply with the condition of COAH and therefore that condition should be amended from the resolution. She states that she has been told that there is nothing set up within the City of Lambertville to monitor the COAH restrictions.

Mr. Shurts advised Ms. Errickson that the Board has no jurisdiction to waive the COAH requirements. A new public hearing would be required in order to accomplish this request. Ms. Errickson stated that she didn't feel another public hearing is necessary at this time, as her client has spent so much money as it is.

Mr. Shurts stated that the notice would be a reconsideration of the original approval and not a new application.

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Ms. Errickson was advised that the next meeting will be held on July 28, 2011 at 7:30 at the Justice Center, 25 S. Union Street, Lambertville NJ.

#### PAYMENT OF BILLS

Phil Mackey made a motion to pay the bills when the funds become available. Pat Pittore seconded the motion. A unanimous voice vote of ayes was taken in favor of the motion by all members present.  
MOTION CARRIED.

#### PUBLIC PARTICIPATION

None

#### ADJOURNMENT

The meeting was adjourned at 9:20 pm.

Respectfully submitted,

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Pat Pittore  
Vice Chairman

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Crystal Lawton  
Administrative Officer

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Remington & Vernick Engineers  
232 Kings Highway East  
Haddonfield, NJ 08033  
(856) 795-9595  
(856) 795-1882 (fax)

Remington, Vernick  
& Vena Engineers  
9 Allen Street  
Toms River, NJ 08753  
(732) 286-9220  
(732) 505-8416 (fax)

3 Jocama Boulevard, Suite 300-400  
Old Bridge, NJ 08857  
(732) 955-8000  
(732) 591-2815 (fax)

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845 North Main Street  
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(609) 645-7110  
(609) 645-7076 (fax)

4907 New Jersey Avenue  
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(609) 522-5150  
(609) 522-5313 (fax)

Remington, Vernick  
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922 Fayette Street  
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(610) 940-1050  
(610) 940-1161 (fax)

5010 East Trindle Road, Suite 203  
Mechanicsburg, PA 17050  
(717) 766-1775  
(717) 766-0232 (fax)

U.S. Steel Tower  
600 Grant Street, Suite 1251  
Pittsburgh, PA 15219  
(412) 263-2200  
(412) 263-2210 (fax)

Univ. Office Plaza, Bellevue Building  
262 Chapman Road, Suite 105  
Newark, DE 19702  
(302) 266-0212  
(302) 266-6208 (fax)

Remington, Vernick  
& Arango Engineers  
The Presidential Center  
Lincoln Building, Suite 600  
101 Route 130  
Cinnaminson, NJ 08077  
(856) 303-1245  
(856) 303-1249 (fax)

300 Penhorn Avenue, 3rd Floor  
Secaucus, NJ 07094  
(201) 624-2137  
(201) 624-2136 (fax)

June 28, 2011

City of Lambertville  
Zoning Board of Adjustment  
Dave Moraski, Chairman  
18 York Street  
Lambertville, NJ 08530-2093

Attention: Crystal Lawton, Secretary

Re: Steep Slope Disturbance - Completeness Review  
Nancy Anderson  
250 South Franklin Street  
Block 1057, Lot 3

Dear Board Members:

We have received a Steep Slope Disturbance application submission, received on June 23, 2011, consisting of the following:

Sheet	Title	Date
1/2	Driveway and Grading Plan	06-09-11
2/2	Steep Slopes Plan	06-09-11

The plans were prepared by Daniel Parker, L.S., Parker Engineering & Surveying, PC, 370 East Main Street, Somerville, New Jersey 08876.

## I. GENERAL INFORMATION

Applicant: Nancy Anderson  
250 South Franklin Street  
Lambertville, NJ 08530

Proposal: To add a driveway and a patio with retaining walls to a single-family dwelling on a lot with steep slopes.

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Zoning: R-L (Residential Low Density)

## II. SUBMISSION INFORMATION

The requirements for completeness are included in Sections 516.5 and 516.6 of Lambertville's Ordinance. The plans comply with all of the applicable completeness items except for the items below:

- Plan received was not signed by a licensed engineer. The plan had a signature block area that names a licensed surveyor as the person that would sign the plan, but it was not signed. Furthermore, State law requires grading plans to be signed by an engineer instead of a surveyor.
- A listing of property owners within 200' of the applicant's property. The applicant will require a variance from the Steep Slope Ordinance, requiring notice.
- A landscaping plan was not submitted. The plan should show trees requiring removal including their size/caliper along with new trees or landscaping to be provided. Included with the landscaping plan must be a method to control erosion on the proposed 2:1 slope (10 feet high) which is adjacent to the proposed driveway.
- It is not clear if the pipe under the proposed driveway is existing or proposed. If it is proposed, drainage calculations are needed.
- Drainage calculations and details for the proposed stormwater tank are needed.

Due to the reasons stated above, we deem the application incomplete.

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If you have any questions concerning the above, please do not hesitate to call.

Sincerely yours,

**REMINGTON, VERNICK & ARANGO ENGINEERS, INC.**



Thomas E. Cundey, P.E., C.M.E.

TEC/mcb

cc: Nancy Anderson  
Daniel Parker, L.S.  
William Shurts, Esq.  
Ken Rodgers, Construction Code Official

ERRICKSON LAW OFFICE, L.L.C.

LIBERTY COURT, SUITE 1200  
260 US HIGHWAY 202/31, STE 1200  
FLEMINGTON, NEW JERSEY 08822

TEL: (908) 806-3171  
(609) 483-1090  
FAX: (908) 806-7402

E-MAIL: [kerrickson@errickson-law.com](mailto:kerrickson@errickson-law.com)

Katharine L. Errickson\*

\*Member NJ & VA Bar

June 10, 2011

David Moraski  
Board of Adjustment Chairman  
City of Lambertville  
18 York Street  
Lambertville, NJ 08530

Re: John Munice: 118 North Union Street

Dear Mr. Moraski:

I am writing regarding the above-referenced matter listed on the June 30, 2011 Board of Adjustment agenda.

As you will recall, Mr. Munice successfully retained variance relief on an accessory building located in the rear of his property. The Board based its decision, in part, on my client's willingness to abide by COAH restrictions regarding the efficiency apartment. Although such requirement was not discussed during my client's presentation to the board, included in the resolution was the condition that Mr. Munice record a deed for his property memorializing the COAH restrictions that applied solely to the efficiency apartment. Since the Board voted unanimously to grant Mr. Munice's requested relief, we were left with the unequivocal belief and understanding that the City of Lambertville was equipped to administer such relief.

I began to research the mechanisms of preparing a restrictive deed that only restricted part of a property, as well as the City of Lambertville's ability to monitor an efficiency apartment pursuant to COAH requirements. I contacted Mr. Shurts to see if he had a sample deed that would satisfy the specifics of our case. Mr. Shurts informed me that he had never possessed such a deed but would see if he could obtain one. My staff and I spent hours procuring sample deeds and crafting a deed that met the Board's demands but also protected my client. My client was billed for this time. Simultaneously, my client and I were on the telephone with various local and state officials attempting to ascertain how Mr. Munice's low/moderate income unit would be administered. Unfortunately, my client and I discovered, through the assistance of Ed Gebner (the city's de facto housing administrator) as well as through Heather Mahaley, COAH's Director of Plan Administration, the City of Lambertville is not equipped to monitor a Coah unit such as the one that my client was approved to build. Moreover, although Mr. Gebner has been approved on a case-by-case basis to monitor certain low and moderate income housing for the City of Lambertville, he informed me that he could not monitor and administer Mr. Munice's rental unit.

To date, Mr. Munice has spent approximately Fifteen Thousand (\$15,000.00) Dollars on the efficiency apartment renovation project that, although approved, is not even close to the start of construction. This leads me to the second reason we have requested to be listed on the agenda for the

board meeting to be held on June 30, 2011. I was informed several days ago by the board secretary that unless Mr. Munice pays additional funds into escrow, we will not be heard at the meeting. This begs the question since Mr. Munice is understandably disputing certain costs assessed by the Board of Adjustment. First, Mr. Munice is disputing Ms. Weber's fees that were incurred after March 31, 2011, based on Ms. Lawton's representations that the architectural plans would be signed by the board members at the March meeting and that our presence at the meeting was not necessary since all outstanding issues had been resolved. (See attached e-mails between myself and Ms. Lawton). After Ms. Lawton's representations, as well as the passing of the March meeting where you endorsed Mr. Munice's plans that were approved, Ms. Weber began her review of the architectural plans that clearly should have occurred at a much earlier date if Ms. Weber had any concerns or objections to the plans. Mr. Munice should not be financially responsible for Ms. Weber's invoice that accrued after the March, 2011 meeting.

Secondly, my client and I recently received Mr. Shurts' itemized bill to the city for his work on Mr. Munice's case. My client and I were led to believe that the city was equipped to review and approve Mr. Munice's restrictive deed and monitor Mr. Munice's low/moderate income housing unit. I only requested a sample deed if Mr. Shurts was in possession of one since ultimately Mr. Shurts would be approving same and it made no sense to re-create the wheel. I certainly never requested that Mr. Shurts conduct any research that would ultimately be billed against my client. My client is paying me for these services. If Mr. Shurts intended to bill Mr. Munice for any time spent researching issues that we believed were already established and implemented by the city, we should have been informed in advance. As it turns out, the requirement that Mr. Munice craft a restrictive deed and submit to COAH oversight was untenable in the first place. Clearly, this is not Mr. Munice's responsibility financially or otherwise. Mr. Munice has incurred excessive expenses of his own on these issues and it would be fundamentally unfair for the Board to require Mr. Munice to pay any expenses by city employees that relate to the deed restrictions and COAH requirements.

My client is prepared to satisfy all anticipated, specified and reasonable fees relating to this project. Mr. Munice simply desires to proceed and complete the renovations consistent with the variance relief for which we obtained approval approximately a year ago. The variance relief was also obtained based on the historical contribution the structure provided to the City of Lambertville. We are requesting the Board of Adjustment amend the resolution omitting the requirement of submitting to low/moderate income rental requirements and permit the project to proceed on the remaining merits of the application. In the alternative, we are requesting that the resolution in its original form be enforced and that Mr. Munice be permitted to move forward on building an efficiency apartment that will be correctly monitored and enforced under the City of Lambertville's COAH responsibilities.

Thank you for your anticipated attention and assistance in this matter.

Very truly yours,

Katharine L. Errickson

cc: John Munice (via e-mail only)  
William Shurts, Esq. (via e-mail only)  
Crystal Lawton (via e-mail only)