

BOARD OF ADJUSTMENT
CITY OF LAMBERTVILLE
REGULAR MEETING MINUTES
7:30 PM, JUSTICE CENTER, 25 SOUTH MAIN STREET
Thursday, SEPTEMBER 27, 2012

The meeting was called to order by the Vice Chairman, Pat Pittore, 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: Pat Pittore, Fred Eisinger, Maura Fennessy Kate
Dunn, Sara Scully.

Absent: Phil Mackey, Georg Hambach and Dave Moraski

Also Present: Board. Attorney Bill Shurts and Board Planner
Linda Weber.

APPROVAL OF MINUTES

Fred Eisinger made a motion to approve the May 31, 2012 meeting minutes, as submitted. Kate Dunn seconded the motion. A unanimous voice vote in favor of the motion was taken by all members present.

MOTION CARRIED.

Ayes:

Nay:

Abstained: Maura Fennessy and Sara Scully

Recused:

PUBLIC HEARING

57 Bridge Street, Block 1042 Lot 28
Variance Application

Richard Mongelli, the applicant's attorney, was present at the meeting to ask the Board members to carry the public hearing for Lambertville Music Hall.

The applicant sent notices to the neighbors within 200' and advertised in the newspapers that the Zoning Board of Adjustment was going to hear the public hearing for this property on this date, September 27, 2012. However, the applicant was never advised to send the notices or advertise in the newspapers.

In fact the applicant was told that they would not be on the agenda for a public hearing for the September meeting.

Mr. Mongelli requested that the previous notices be sufficient for the October 25, 2012 meeting and that no further notices would be required.

It should be on record that William Shurts has reviewed the notices sent and the affidavit to the newspapers and finds that they were submitted in a timely manner and seem to be in order.

Pat Pittore stated that this application is a fairly significant application within the City of Lambertville and feels that certified notices should be sent once again for the public hearing for the October meeting.

Fred Eisinger inquired about an alternative option to notice the public and Mr. Shurts stated that a general notice in the approved newspapers is a possibility, however, it was the Boards decision.

Mr. Mongelli stated that sending the certified notices again is a costly process, but later agreed that his client would send the notices certified mail and advertise in the approved newspaper for the October 25, 2012 meeting.

214 South Franklin Street, Block 1057 Lot 2.01
Robert Simpson, Variance Relief

Mr. Larry Wohl advised the Board members that the applicant had sent the certified notices to the neighbors within 200' regarding the public hearing for this meeting. Mr. Shurts reviewed the documents and found them to be in order.

The following exhibits were marked as follows:

- A-1 Application for Variance.
- A-2 Affidavit of Service.
- A-3 As Built Survey Plan for block 1057 lot 2.01, prepared by site Works and dated July 26, 2010. Revision date December 6, 2010. This exhibit consists of one page.
- A-4 Marked up copy of plan attached to Mr. Clerico's report dated March 27, 2012.
- A-5 2004 Engineering Plan prepared for Jack Hannon.
- A-6 Copy of the Hunterdon County Soil Conservation District report dated September 8, 2010 and the Letter of Recertification dated September 7, 2010.

- A-7 Right of Way Easement from Hambach to Simpson dated July 2010.
- A-8 Conditions for Temporary Certificate of Occupancy dated June 10, 2010 and June 24, 2010.
- A-9 Affidavit of Service dated September 27, 2012.
- A-10 Proposed Grading, prepared by Site Works-sheet 2 of revised drawings, dated July 19, 2012 and revised through July 23, 2012.

Mr. Shurts swore in Robert Simpson, the property owner, and Jim Ceglia, the applicant's engineer. Mr. Ceglia was approved by the Board as an expert witness.

Mr. Wohl stated that the previous owner, Jack Hannan, obtained approval from the Lambertville Planning Board in 1994. However, the property was ultimately foreclosed on after receiving the approval.

When Mr. Simpson obtained the property, the construction had already started. Mr. Simpson completed the project, however, he deviated from the original approval in 1994, thus bringing him before the Lambertville Zoning Board of Adjustment for a Variance Relief.

Mr. Simpson stated that he does not feel that he deviated greatly from the original approval. He claims that when he acquired the property the driveway was 95% the way it exists now.

He also advised the Board members that on both sides of the driveway were filled with five feet of dirt, but that the rear of the house was not.

In Mr. Clerico's letter dated September 26, 2012, page 3, paragraph 3 a, states that the revised plans show that the applicant is proposing to reduce some of the excess impervious coverage by removing portions of the existing parking area in front of the dwelling and narrowing the width of the existing driveway. It also states that the impervious coverage can be further reduced by eliminating a 10 foot portion of the parking area.

Mr. Simpson stated that he is not willing to reduce the area any further because he utilizes that space for maneuvering cars and his construction vehicles.

Jim Ceglia stated that they are proposing to remove a three foot pipe to eliminate any hazards.

He also stated that they are reducing the impervious coverage by 1,067 square feet within driveway.

At this time the applicant is not agreeing or objecting to paving the parking area. However, Mr. Ceglia stated that he would prefer not to pave that area because it could cause hazardous conditions during inclement weather. Mr. Simpson advised the Board that he actually would prefer to pave the parking area and would comply with the conditions of paving the driveway as well.

Mr. Ceglia stated that the storm water chambers and the detention basin will allow the water to infiltrate.

They are proposing the maximum slope grading in basin to help with the draining issues.

The elevation will be lowered and will drain in the he new inlet.

Mr. Ceglia advised the Board members that his is not his testimony that the existing trees on the property will not be removed due to the proposed changes. It is possible the trees may need to be removed or relocated.

He advised that they will provide a plan that shows the trees that may be affected and also how to protect the trees from damage during the project.

Since this project is covered by the 2004-12 Storm Water Management Ordinance for the City of Lambertville, the applicant will be required to follow the criteria of that ordinance and not the 2006 Storm Water Management Ordinance.

Pat Pittore asked how the applicant proposed to prevent overflow on the paved driveway.

Mr. Clerico stated that there are two existing inlets on the property and suggested that the applicant re-evaluate the proposed storm water management plan.

Linda Weber stated that she was concerned for the deterioration of the existing slopes as a result of this site and the water run off.

Mr. Clerico stated that a strict time limit for this project be imposed.

Danny Whitaker of 270 South Franklin Street, stated that he has taken charge of the maintenance of the inlets and basins. The cost is shared among the neighbors. There is an informal agreement between the five neighbors.

Rob Mason of 257 South Franklin Street stated that time is critical with the winter weather approaching and the fact that emergency vehicles have a difficult time getting through on the existing site.

Motion: VARIANCE RELIEF & CONDITIONS

Maura Fennessy made a motion to grant to approval for a variance with the conditions as followed. Kate Dunn seconded the motion. A unanimous roll call in favor of the motion was taken by all members present. MOTION CARRIED.

CONDITIONS:

- 1) Work on the private driveway may begin once Mr. Clerico has reviewed and approved the applicant's revised plans. Copies of that revised plan will be provided to the Board Engineer, Dan Whitaker (as a representative of the neighboring property owners) and the Board of Adjustment.
- 2) Prior to the issuance of construction permits for any improvements that have not yet been constructed or modified, the following is required:
 - a) Submit a revised "overall" plan to be approved by the Board Engineer.
 - b) Public Works Department will review the revised Storm Water Management report as it applies to any water being discharged into the public right of way.
- 3) Prior to the construction of any improvements on the site, approved plans shall be provided to the Board Engineer, the Construction Official, Public Works Department and the Board of Adjustment.
- 4) All work to be done in accordance with the approved plans. No deviations from the approved plans will be permitted without the written approval of the Board Engineer.
- 5) No construction permit will be issued if there is a deficiency in with the escrow account.

Motion: ALLOWING WORK TO BEGIN WITHOUT WRITTEN APPROVAL

Fred Eisinger made a motion to grant approval to the applicant to begin work without the written approval from the Board of Adjustment. Maura Fennessy seconded the motion. A unanimous roll call in favor of the motion was taken by all members present. MOTION CARRIED.

PAYMENT OF BILLS

Kate Dunn made a motion to pay the bills when the funds become available. Fred Eisinger seconded the motion. A unanimous voice vote of ayes was taken in favor of the motion by all members present. MOTION CARRIED.

PUBLIC PARTICIPATION

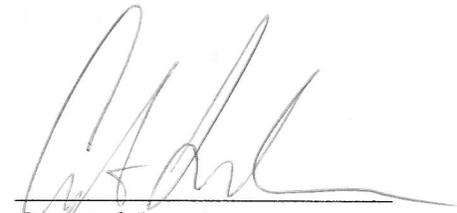
None

ADJOURNMENT

The meeting was adjourned at 9:10 pm.

Respectfully submitted,


Pat Pittore
Vice Chairman


Crystal Lawton
Administrative Officer



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Neil I. Van Cleef, P.E., L.S. & P.P.
Robert J. Clerico, P.E. & P.P.
Robert B. Heibell, P.E., L.S. & P.P.
Daniel A. Nagy, L.S. & P.P.
Samuel D. Costanzo, P.E. & P.P.

September 26, 2012

City of Lambertville
18 York Street
Lambertville, NJ 08530

Attention: Crystal Lawton (via e-mail construction@lambertvillenj.org)

Reference: Robert Simpson – Steep Slope Variance Application – Report #3
Block 1057, Lot 2.01
City of Lambertville, Hunterdon County, New Jersey

Dear Crystal:

On September 10, 2012 I received revised documentation relative to this application. The new submission included:

1. A letter dated 9/6/12 (copy attached) from the project engineer, Jim Ceglia PE, (Site Works Consultants Inc.) that provides a response to my prior report dated March 27, 2012. In a letter the engineer references the new documentation and outlines the plan revisions.
2. A modified As-Built Survey Plan dated 7/26/10 and revised 7/23/12 as prepared by John M Dura PLS from Site Works. The only revision to this previously submitted plan was the addition of note #4 that identifies the manufacturer and size of the underground storm water chambers
3. A Proposed Grading Plan dated 7/19/12 & revised 7/23/12. This is a new plan that depicts proposed modifications and additions to the existing driveway and fronting street improvements
4. A set of revised Stormwater Runoff Calculations that were originally dated 10/20/03 and revised 7/23/12.

In my initial report on this application (February 21, 2012), I provided a detailed outline of the chronology of events and prior applications associated with the development of this property over the past 23 years. My second report on the application (dated 3/27/12), I included comments relative to the constructed site conditions and outlined recommendations for possible modification to the site that could be made to address some of the problems created by the applicant's failure to follow the originally approved plan for development of this lot.

The application was deemed complete and the public hearing began on March 29, 2012, at which time the applicant started their testimony relative to the variance

Please Reply To:
WESTERN NEW JERSEY OFFICE • 1128 Route 31 • Lebanon, NJ 08833 • 908.735.9500
Fax: 908.735-6364

With Other Offices In:
Hamilton NJ • Hillsborough NJ • Phillipsburg NJ • Freehold NJ • Doylestown PA • Bethlehem PA • Wyomissing PA • Newark DE

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application and the Board reviewed my recommendations. The Board suggested that the applicant provide updated plans that would address my comments at a subsequent meeting where the Public Hearing could continue. Although it has been a delay of 6 months, the applicant will now be presenting their revised plans at the Public Hearing scheduled for Thursday, September 27, 2012. I am repeating my 3/27/12 comments in *italic type* and offering updated comments for consideration by the Board as follows:

1. *The submitted “as-built” plan documents that the applicant has created a significant amount of additional land disturbances which results in further violations of the City’s Steep Slope Ordinance beyond the limited relief that was previously granted to the former owner (Jack Hannon) under Resolution 2-2004. The plan previously approved for Mr. Hannon documented that the lot could be developed in a manner that would limit the disturbances of the 15-20% and 20-30% slopes so that it would remain below the allowable disturbance limits of the ordinance. The only relief previously granted to Mr. Hannon was to allow for a 38.6% disturbance of the 30%+ slope category which was beyond the 0% allowance disturbance of the ordinance. As documented on the current plan, Mr. Simpson has exceeded the allowable disturbance of the 15-20% category by a factor of 3 and the 20-30% category by a factor of 10. In addition the previously allowed variance for disturbance of the 30+ category has more than doubled what was previously granted.*
 - a) **The applicant is requesting variance relief in order to obtain (after the fact) approval for the extensive disturbance that previously occurred on the site. The applicant needs to obtain variance relief from the Board before he can obtain a Final CO for this structure that he already occupies.**
2. *The construction of the actual dwelling was started by Mr. Hannon in the location originally approved. However, when Mrs. Simpson acquired the property he deviated from Mr. Hannon’s approved plans in the following areas:*
 - *Sewer connection – the original plan required the sanitary sewer to be extended up South Franklin and the common driveway with the lateral then extending up Mr. Simpson’s driveway directly into the house in order to avoid additional disturbance of other steep slope areas on this property. As documented on the current plan, the sewer line was installed through the adjoining property and then through the northerly side of the lot in areas that were intended to remain undisturbed.*
 - *The area of disturbance and impervious coverage associated with the proposed driveway was to be minimized by running a straight driveway from the common access driveway off of South Franklin Street directly up the south side of the property for access to a garage which was to be located on the right side of the dwelling. As noted on the as-built plan, Mr. Simpson constructed a curved driveway through the central portion of the lot which then switches back toward the right side of the dwelling. This layout revision*

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creates more than double the amount of impervious coverage and land disturbance associated with the driveway construction.

- *The area of disturbance along the driveway and dwelling were to be minimized in order to meet the slope criteria. As noted on the as-built plan, essentially the entire front 2/3 of the property was disturbed including areas extending 65 feet to the rear of the structure. It is not clear from the review of the as-built plans why such extensive disturbance was necessary to complete even the modified layout installed by Mr. Simpson.*

I have mailed up a copy of the current as-built plans (copy attached) to reflect the location of the original driveway and area of disturbance as depicted on the plan approved for Mr. Hannon.

- a) **The applicant presented general testimony at the March hearing in which he offered some explanation of why the originally approved plan was not followed. Since six months has elapsed from when that testimony was offered, the Board should have the applicant summarize his prior testimony.**
3. *It is the applicant's obligation to provide credible testimony to justify this additional disturbance in order for the Board to consider this requested variance application. The only two (2) viable options available to address this level of disturbance would be to mitigate the negative impact of the disturbance and to reduce the impervious coverage associated with the current layout. The issue of reducing impervious coverage could be accomplished through a modification of the driveway to follow its original intended layout and mitigation measures could be adopted as referenced in this report. However, it would ultimately be the Zoning Board's decision to determine whether or not sufficient justification has been offered to grant the relief associated with the as-built conditions.*
 - a) **In their revised plan (C, above), the applicant proposes to reduce some of the excess impervious coverage by removing portions of the existing parking area in front of the dwelling and narrowing the width of the existing driveway. It appears that this impervious coverage can be further reduced by eliminating a 10 foot wide strip from the southerly portion of the parking area.**
 4. *The original approval required that the driveway to be paved with a cross slope to a curb constructed along the north side. The driveway in its current state has not been paved or properly graded and a curb has not been constructed. As a result there is evidence of erosion along the driveway along with a general failure of the driveway grading to direct water into the inlet that would convey it into the retention basin constructed in the northwest front corner of this lot. Although a profile of the driveway has not been provided, the site topo indicates that it was constructed at a slope of 15%. In this instance, the driveway must be paved and curbed with consideration given to first modify the layout to reduce the amount of impervious coverage.*
 - a) **The applicant is now proposing to pave the driveway, construct a curb along a portion of its northerly edge and re-grade the driveway**

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in order to drain toward the proposed curb. This proposal would be in lieu of the applicant actually relocating the driveway to follow its originally approved alignment. If the proposal is accepted, then it should be on the condition that the plan be further modified to reflect the following:

- i. extend proposed curb 80 feet to the east terminating at the northeast corner of the parking area
 - ii. limit the proposed bituminous pavement to the 10 foot wide driveway alignment which contains the steeper slopes
 - iii. maintain the upper parking area as a gravel surface and denote grading that would direct runoff in a northwest direction toward proposed curb

5. *Unless the applicant, with the Board's approval, can modify the driveway layout to reflect the original approval, there will be additional impervious coverage associated with this project. Accordingly, the applicant's engineer must provide stormwater management calculations to assess the ability of the onsite facilities to accommodate the additional runoff from the development of this property. In the event that the onsite facilities are unable to accommodate the runoff from the layout of infrastructure as approved by the Board, then the applicant's plan would also need to incorporate modifications of stormwater facilities to address those deficiencies. All calculations and SWM assessment must be provided in accordance with the provision of City Ordinance 2006-09.*
 - a) **In his letter (A), the engineer correctly states that this type of land disturbance would not normally be subject to the requirements of ordinance 2006 – 09. However, since the applicant is seeking a variance for significant steep slope disturbance, the Board would be entitled to require an enhanced stormwater management assessment following provisions of 2006 – 09. At a minimum, a typical application would be subject to the provision of 2004-12. The Board should discuss these options as part of any consideration to approve the requested variance relief.**

6. *The plan indicated that underground stormwater chambers that were constructed off the front corners of the dwelling. The as-built plan must document the size of the facilities that were installed.*
 - a) **The submitted plan (B) identifies the manufacturer for the installed storm water chamber. However, since this is a different unit from what was originally approved, the detail for the installed unit must be incorporated into the plan**

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7. *It is the applicant's responsibility to restore the areas along the common driveway frontage of this lot to a condition that existed prior to the construction of this property. Since this is a private common driveway with maintenance shared by multiple property owners, the extent of restoration should be made to the general satisfaction of the neighborhood.*
 - a) **In his letter (A), the engineer states that the applicant has come to an agreement with the neighbors regarding the regrading of the road shoulder along the common driveway. The plan must be revised to reflect a typical section of the common driveway depicting the proposed shoulder modifications.**

8. *The piping installed by the applicant along the frontage terminates at the existing 24-inch cross drain located beyond the applicant's frontage and near the intersection with South Franklin Street. Site observation indicates there are other storm drain pipes at that location that are not depicted on the applicant's plan. It is also noted that there is an open hole at this inlet which is relatively deep and along with the erosion along the frontage has created a hazardous condition. The applicant's plan should include a proposal to correct this condition with the specific plan for discharge of water out onto the City Street (South Franklin Street) subject to approval by the City Public Works.*
 - a) **In his letter (A) and on the plan (C), the engineer notes that a new inlet will be installed over the open end of the existing common driveway cross drain. This is acceptable, subject to verification that the installation will fit the final design conditions along the common driveway.**
 - b) **The plan also notes that the existing storm drain line will be removed and reset to provide proper cover over the pipe. The plan must include a profile of the pipe depicting its location and depth in relationship to the shoulder modifications referenced in 7a above.**

9. *The onsite stormwater basin contains standing water and has embankments that exceed the 3:1 slope approved as part of the original design. Specific as-built grades of this basin must be provided along with a plan depicting a regrading of the embankments to meet the maximum slope criteria. The regrading and reassessment of this basin would be undertaken in conjunction with the updated stormwater assessment referenced in Item 5 above.*
 - a) **The engineer depicts (C) a proposed regrading of the detention basin. The plan must show the location of any existing trees in the area of proposed regrading and document that no additional trees will be removed as part of any subsequent site modifications.**
 - b) **Ultimately, the storm water basin grading must be consistent with any requirements imposed as part of the updated storm water assessment referenced in 5a.**



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The above represents my technical comments relating to this submission. I will attend the Board's hearing on Thursday to hear the applicant's presentation and address any questions relating to these comments.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert J. Clerico".

Robert J. Clerico, P.E.
Project Review Engineer

RJC:

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cc: Board Members (via e-mail distribution)
William Shurts, Esq. (via e-mail fcslegal@netcarrier.com)
Linda Weber, PP (via e-mail Linda@BKUrbanDesign.com)
Lawrence C. Wohl, Esq. (via e-mail lwohl@archerlaw.com)
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