

**Call to Order:**

The meeting was called to order at 7:00 p.m. by Chairman McLaughlin who read the following statement: "Notice of this meeting was given as required by the Open Public Meetings Act in the Annual Notice of Meetings. This notice was sent in writing to the South Jersey Times on January 8, 2014. A copy was posted on the second floor bulletin board of Town Hall and a copy was given to the Township Clerk.

The Board saluted the flag.

Roll call: Present – Mr. Carney, Mr. Fitzgerald, Mr. Fritz, Mr. Manfredi, Ms. Hui, Mr. Kozak, Mr. McLaughlin. Absent – Mr. Price, (excused), Mr. Salvadori, (excused). Also present – Mr. Marmero, Solicitor, Ms. Pellegrini, Planner, Mr. Sander, Engineer.

**Public Portion:**

Motion passed to open the meeting to the public. There being none motion passed to close the meeting to the public.

**Educational Discussion:**

Mr. Marmero gave a brief outline of items for discussion with regard to different applications the Zoning Board will receive. The first type of application is for bulk variances, such as a side, rear, or front yard. A simple majority is enough to determine an approval or denial for that type of variance. The second type of application is for a use variance; which is to allow a use in an area where it is not permitted or the applicant cannot meet the conditions if it is a conditional use. Use variances require five affirmative votes in order to be approved and there have been instances where a full board hasn't been present and the applicant has been notified of his/her right to defer the vote or postpone the hearing until there is a full board present for the hearing.

Sometimes when a use variance is approved, it will be followed up by a site plan or subdivision, in that case the Zoning Board would also hear those applications. There are times, depending on the use, the applicant will ask for a site plan waiver. They are requested in cases where there is an existing building and no changes to the structure of the building are proposed. Consideration has to be given in terms of the parking and traffic and the Board and or the Board's professionals might want a site plan in order to address concerns with regard to those issues. The recommendation for a site plan is usually given by the Board's professionals but ultimately it is the Board's decision as to whether or not they want a site plan or are comfortable with a site plan waiver.

**Educational Discussion: (continued)**

Mr. Marmero commented that last year the Board also received two applications for Certificate's of a Non-Conforming use. These applications occur when a particular use was a permitted use in a zone but based on new zoning, the use is no longer permitted. The applicant has to prove that the use was permitted in the zone at that time and also that the use was never abandoned.

After the applications are submitted then the Board will determine completeness of the application at the hearing. At times completeness waivers are requested by the applicant. Mr. Sebastian inquired as to the submission requirement of providing the contours 200 feet beyond the property lines and why it's necessary to have that if it doesn't involve the applicant's property. Mr. Sander explained that it can affect the property's drainage as they may be receiving drainage from the surrounding properties. Mrs. Farrell stated that the Board should rely on the professionals to say whether or not particular submission items are necessary such as the one for the contours, which comes up quite often. It isn't always necessary for the applicant to provide them and the professional's report will indicate whether they recommend the waiver or they recommend submission of the item. Mr. Manfredi asked if there was a way that the applicant's can't ask for the waivers because he felt some applicant's can provide the requested submission items. It was explained that the submission items are the same for every applicant so they either have to provide them or ask for the waiver. They should also give an explanation as to why they are asking for the waiver. Sometimes the issue is the applicant does not have access to other properties. Ms. Pellegrini stated that as long as the topography of the existing roads and the immediate property line are shown, it is usually sufficient. The Board was advised that they can require the topography in a limited capacity if they choose to as well as that they can move forward with an application and make submission of certain items a condition of any approval.

Mr. Fritz asked if the applicant's give any explanation as to the reasons why they are requesting certain waivers or variances. Mr. Sander replied that they usually do include an explanation as to why they are requesting a waiver or variance which is included in their application. Ms. Pellegrini stated that sometimes waivers or variances may come up that they aren't aware they need. Mr. Marmero commented that if there are submission waivers, the professionals address them in their reports and usually the Board will defer whether or not they are needed to the professionals, but ultimately it is the Board's decision as to whether they want to require the applicant to provide those items.

**Educational Discussion:**

Site plan waivers were discussed by the Board. Mrs. Farrell explained that there is an application for a site plan waiver; this application is not sent to the Board's professionals nor is there public notice given. The Board reviews the application and the applicant will come into a meeting to present their waiver request. Items such as parking, ingress, egress, the number of employees, hours of operation are all included in the application and addressed at the meeting. If the Board feels that further information is needed or the site does not meet the requirements for a site plan waiver then the applicant must provide additional information and or a site plan. She also stated that there was a site plan waiver application before the Planning Board but the Board determined that public notice should be sent because there was a parking issue on the site. So they did have a public hearing as part of the site plan waiver. Mr. Kozak commented that they did address the resident's problems with the issue of parking at that particular site.

Mr. Sebastian stated that if the applicant is doing work on the outside of the building even if it is putting in parking stops, the Board should require a site plan. He was concerned about lawsuits if there are issues in the future. Mrs. Farrell replied that a site plan should not be required if it is an existing building as long as the use will meet the available parking and the use is not too intensive for the site. It really is common sense as to whether it should be a site plan waiver or a site plan should be required. The Board can require the applicant to make improvements to the site if necessary without requiring them to spend thousands of dollars on a site plan. All of the conditions of approval are part of the resolution and can be enforced just as if they had a site plan. Some of the Board members questioned how they can make the applicant do certain improvements without bonding. Mrs. Farrell replied that if the applicant agrees to the conditions of approval set by the Board then they must follow those conditions or they will not receive their Certificate of Occupancy. She added that she has been here many years and there haven't been any issues with compliance for site plan waivers because the conditions are reasonable. Mr. Kozak commented that it is important for the Board members to ride by the property so they have an idea what the site looks like before the applicant comes into the hearing.

Mr. Marmero commented that the key to any hearing is the Board members asking questions. He agreed that driving by the site is a good idea because it might trigger questions the Board needs answered. He also stated that listening to neighboring property owners, if they come out, is important as well. He thinks the Board does a good job of listening to any issues the neighbors may have and trying to address them; however a lot of times they have issues that the Board doesn't have jurisdiction over.

**Educational Discussion: (continued)**

After all the testimony is presented the Board votes on the application. There have been some questions about whether or not the motion should be in the affirmative even if you want to deny the application since it is less confusing with the vote; however legally the motion can be made in either the affirmative or the negative. After some discussion, it was agreed that the Board should make the motion in the affirmative even if they want to vote to deny because it is less confusing. Mr. Manfredi asked if a member votes in the negative do they have to give a reason for the denial. There was some discussion on this matter with Mr. Marmero advising the Board that the reason should be a valid reason; he has seen some cases where it might have better if the reason for denying an application wasn't given. The reason also doesn't have to be so specific; for example you could say you do not feel the applicant adequately met the positive and negative criteria, in the case of a use variance. Mr. Sebastian also commented on the lack of someone making a motion at all or not seconding a motion. Mr. Marmero stated that there no reason for that to happen, whether you want to approve it or not, a motion has to be put on the table.

Ms. Hui asked if you can reverse your vote once it's made. If the voting isn't over and you realize you meant to vote a different way, you can bring it to the Chairman's attention or ask for clarification. Another issue raised was there have been times for simple bulk variances that the Board doesn't ask any questions of the applicant. There was some discussion on this and the Board was advised that they should ask questions of the applicants even for simple bulk variances. Mr. Kozak asked if bulk variances of like two or three feet should be denied if the applicant can move the object. Mr. Sander commented that the Board should be predisposed to approve a bulk variance and deny a use variance. If there is room on the property and the applicant can meet the setbacks then the Board can deny the bulk variance. Mr. Marmero stated that the Board should ask why the applicant wants to place a shed or an addition in a certain location and why they can't meet the setbacks. Mr. Kozak asked how the Board should handle applications where the applicant already built a shed or other structure without getting permits. Mr. Marmero stated that the application is treated the same as if it isn't built; however the Township should incur some fines or penalties on the applicant. Mr. Sebastian stated that the Board has the right to make them move the structure. Mr. Kozak commented that if someone puts up a big garage, they know they need permits, but they blatantly build it without them, and then they get caught, but not only do they need permits, but now they need a variance because they don't meet the setbacks. Mr. Marmero stated that the penalty could be that the Board denies the variance and they have to move it.

**Educational Discussion: (continued)**

Mr. Kozak stated that it's not fair for the person who does follow the rules and comes in to request the variance and may be denied, while the person who doesn't follow the rules, builds what they want, knowing they need a permit, because today there is not excuse to not know, and they get approved without any penalty. He felt the Board should send a message to people who blatantly construct garages, sheds, etc without going through the proper procedures. Mr. Marmero commented that one of the grounds for a variance is a hardship, but if you create your own hardship then that's something the Board can consider.

**Reports:**

1. Mrs. Farrell reminded the Board that the next meeting was scheduled for February 18, 2014 and there is a use variance on the agenda.

**Approval of Minutes:**

1. 1/7/14 reorganization meeting.

Motion by Mr. Fritz, seconded by Mr. Carney to approve the minutes from the January 7, 2014 reorganization meeting. Voice vote; all ayes, motion passed.

**Adjournment:**

The meeting was adjourned at 7:55 p.m.

These minutes are an extract from the meeting that was held on the above date and are not a verbatim account or to be construed as an official transcript of the proceedings. The tape of the meeting is stored in the office of the Board.

Ninette Orbaczewski  
Clerk Transcriber