

**Call to Order:**

The meeting was called to order at 7:03 p.m. by Chairman Salvadori 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 on January 19, 2019. In addition, notice for this evening’s public hearings was sent in writing to the newspaper and published on September 7, 2019. Be advised, no new item of business will be started after 10:30 p.m. and the meeting shall terminate no later than 11:00 p.m.”.

The Board saluted the flag.

Roll call: Present – Mr. Cossaboon, Ms. Fox, Mr. Fritz, Mr. Mercado, Mr. McLaughlin, Mr. Sebastian, Mr. Kozak, Mr. Rybicki, Mr. Salvadori. Absent – Mr. Sander, (excused). Also present – Mr. Coe, Solicitor, Ms. Pellegrini, Planner, Mr. O’Reilly, Council Liaison, Mrs. Farrell, Secretary, Mrs. Orbaczewski, Clerk Transcriber.

**Public Hearings:**

1. #19-13 – Wood Management, LLC – Use Variance

Mr. Coe stated that the application submitted to the Board indicated that the means of ingress and egress were going to be through an existing driveway on Lot 10. The use variance is for Lots 8 and 9. He explained that the law governing land use has a very clear section that discusses a property subject to development. An integral part of the use of the property is the ingress and egress and as such the application as submitted, which implicates Lot 10, is inadequate since the 200-foot list for Lot 10 was not included in the notice. An objector has questioned the adequacy of the notice. Mr. Coe stated that he will give the applicant and the objector a chance to speak on the issue. The applicant has indicated that they are going to withdraw any means of ingress and egress from Lot 10. That constitutes an amendment to their application. It is within the discretion of the Board as to whether they will allow that amendment but he advised the Board to consider their vote very carefully. He asked the Chairman to allow the applicant and the objector to speak on the procedural issue only.

Mr. Rivlin, introduced himself as the applicant’s attorney. He stated that the notice that was sent to property owners relates to the proposed use on Lots 8 and 9. The checklist for the application does not require an actual site plan. What is being requested is a use variance for self-storage units and parking of work vehicles by the people using the storage units. Individually these uses are permitted uses in the Business Park zone; however, the two uses together are not listed in the code for the town, so they are required to request a use variance.

**Public Hearings: (continued)**

1. #19-13 – Wood Management, LLC (continued)

Due to some questions raised in the Planner's report, the applicant feels it makes more sense to have ingress and egress through Lots 8 and 9. If the use is granted, the site plan will show ingress and egress on Lots 8 and 9 only. Property owners within 200 feet of Lots 8 and 9 have received notice of the use variance. Mr. Rivlin stated that the applicant is stating the uses as well as any future ingress and egress to the site will be contained on Lots 8 and 9 and he felt the Board had the right to grant the amendment to the application eliminating Lot 10 and hear the application on the use variance for Lots 8 and 9 only.

Mr. Coe asked Mr. Rivlin if he would acknowledge that the application, as submitted, indicated ingress and egress from Lot 10. Mr. Rivlin stated that, yes, the initial plan submitted with the use variance application did indicate Lot 10; however, that is not what will be submitted with the actual site plan application. He stated that when the initial drawings were rendered, the ingress and egress made sense from the existing driveway on Lot 10; however, since it complicates matters for the Board and involves another property, that has nothing to do with the use proposed on Lots 8 and 9, it now makes more sense to just have ingress and egress on Lots 8 and 9. It may also make better sense with regard to the actual site plan based on comments in the Planner's report. Mr. Coe asked if Mr. Rivlin would agree that part of the use proposed on Lots 8 and 9 include how you access the use. Mr. Rivlin stated he does agree with that; however, the applicant has the right to make changes based on the Planner's comments and the issues raised by the Board before actually submitting for site plan approval. Mr. Coe asked if Mr. Rivlin would agree that the applicant would like to withdraw the documentation they submitted showing ingress and egress on Lot 10, and that now they would like to change the ingress and egress to Lots 8 and 9. Mr. Rivlin replied that they are withdrawing one page of the documentation submitted, which is not a required part of the use variance application.

Ms. Pellegrini commented that she wanted to make clear for the Board that a vehicle storage yard is a conditional use in the BP zone and not an outright permitted use. With regard to self-storage yards, there are conditions that must be met as well in the zone. She stated that the proposed use, while not based on the ingress and egress, is based on the ease of integration between the Lots 8 and 9 and Lot 10 for the purpose of the potential contractors of Lots 8 and 9 to get product from Lot 10. So there is a comingling of the existing use and the proposed use. It has not been determined whether the use of the existing Lot 10 driveway makes sense or not but it seems that having a separate driveway on either Lot 8 or 9 and then coming out from there and going into the driveway on Lot 10 may compound the issue with traffic on the roadway.

**Public Hearings: (continued)**

1. #19-13 – Wood Management, LLC (continued)

William Horner, counsel for Glen Groves and Jerry Lodge, addressed the Board concerning application #19-13. He stated they believe the Board is being improperly rushed to act on the application and have the hearing. A use variance is a high-level variance and requires a special vote by the Board to pass. He stated that Board should not accept a verbal amendment to the application so that he and his objectors and anyone else interested in the property can see it on paper. Mr. Horner continued his comments which were directed towards the merits of the use variance application and not the issue at hand which was the amendment and the notice not including Lot 10. Mr. Coe asked him to limit his address to the Board to the issue at hand.

Mr. Horner stated that when notice went out to the property owners within 200 feet of Lots 8 and 9, there was a drawing on file that included access through Lot 10. The address in the notice is the address for Lot 10. Mr. Horner pointed out that any property owner's noticed for Lots 8 and 9, who were interested in the proposal, might have seen that access was through Lot 10, and decided it wasn't an issue since access wasn't proposed on Lots 8 or 9. Now the applicant is proposing to verbally amend the application and have access on Lots 8 or 9 which may be of concern to those property owners who may have thought access was through Lot 10. He stated that the Board has 45 days to act on completeness of an application and in the case of a use variance, the Board has 120 days to make a decision. He stated the applicant should make the changes on paper and then submit that to the Board along with any other information, maybe addressing the comments in the Planner's letter as well, so the Board has the information to help them do their job right.

Mr. Rivlin responded that he appreciates the objectors, who object to anything being done on any property adjacent to their property, but at the end of the day, the application is about whether or not the proposed uses will be permitted on Lots 8 and 9. He understands that site plan will be required if the use is granted. They do not want to spend all the money on a site plan at this time, which is what the objector's counsel inferred, before they know if the use will be approved. Mr. Coe commented that the applicant has one of two choices; to amend the application and send notice prior to the hearing or ask for the discretion of the Board tonight to allow the verbal amendment. Mr. Rivlin stated that to the extent the Board believes an amendment is necessary, he will implore the Board to use its discretion, and approve the amendment, even though the use is only for Lots 8 and 9, which is the subject of the application.

Mr. Coe summarized the issue for the Board and stated he believes the application clearly implicated Lot 10 and as such notice was not properly given. The applicant is requesting an amendment eliminating Lot 10; however the Planner's report is based on access on Lot 10. He advised the Board that a motion should be made to approve the amendment or to deny the amendment and require the applicant to resubmit and send proper notice.

**Public Hearings: (continued)**

1. #19-13 – Wood Management, LLC (continued)

Motion by Mr. Fritz, seconded by Mr. Mercado to deny the amendment and for the applicant to reapply and notice the property owners within 200 feet for all lots included in the application. Roll call vote: Ayes – Mr. Fritz, Mr. Mercado, Mr. Cossaboon, Ms. Fox, Mr. McLaughlin, Mr. Sebastian, Mr. Salvadori. Nays – Zero. Abstentions – Zero.

The applicant was advised to resubmit their application to include Lot 10 or to resubmit a new application. Mr. Coe advised the applicant and the objector that they may contact his office if they wish to discuss the issues. At this time the application is deemed incomplete. Mrs. Farrell stated that since it's incomplete and there is no time running.

2. #19-14 – Gina & Brenden Foster – Side Yard Variance

Present – Gina & Brenden Foster, applicants.

The applicant is requesting a side yard variance in order to be allowed to construct an addition on the rear of the property. The required side yard is ten feet and the applicants are requesting eight feet. The property is located at 115 Lindale Avenue, also known as Block 1801, Lot 32 in the R-1 Zoning District.

Mrs. Foster were sworn in by Mr. Coe. Mrs. Foster stated that they would like to construct an addition on the house for the purpose of adding a bedroom and bathroom. The house is currently only eight feet from the side yard and they will not be extending the addition past the end of the house. Mr. Salvadori asked if the application can be deemed complete. Mrs. Farrell replied that it can be deemed complete. Motion by Mr. Sebastian, seconded by Mr. Mercado to deem application #19-14 complete. Voice vote; all ayes, motion passed.

Mr. Coe commented that the reason for the variance request is because the house was already only eight feet from the side yard and the applicants do not have any other recourse.

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

Mr. Coe reviewed the variance request subject to the applicant obtaining all required permits and maintaining their escrow account. Motion by Mr. McLaughlin, seconded by Mr. Mercado to grant he side yard variance of two feet and allow an eight-foot side yard. Roll call vote: Ayes – Mr. McLaughlin, Mr. Mercado, Mr. Cossaboon, Ms. Fox, Mr. Fritz, Mr. Sebastian, Mr. Salvadori. Nays – Zero. Abstentions – Zero.

**Public Hearings: (continued)**

3. #19-22 – Susan T. Sander – Rear Yard Variance

Present – Susan T. Sander, applicant, David R. DiDonato, applicant’s partner.

The applicant is requesting a rear yard variance in order to be allowed to construct a deck to the rear of their existing home. The required rear yard is 20 feet and the applicant is proposing 18 feet thus needing a two foot variance. The property is located at 632 St. Vincent Court, also known as Block 9.0302, Lot 27 in the RA Zoning District.

Mr. DiDonato and Ms. Sander were sworn in by Mr. Coe. He stated that they would like to construct a deck on the rear of the house the same distance as the existing sunroom and existing patio. The deck will not extend further than the house on the side. Mr. Salvadori asked if the application can be deemed complete. Mrs. Farrell replied the application can be deemed complete. Motion by Mr. Sebastian, seconded by Mr. Cossaboon to deem application #19-22 complete. Voice vote; all ayes, motion passed. Mr. Kozak commented that the applicant has received approval from the homeowner’s association.

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

Mr. Coe reviewed the variance for the Board subject to the applicant obtaining all necessary permits and maintaining their escrow account. Motion by Mr. Sebastian, seconded by Ms. Fox to grant the rear yard variance. Roll call vote: Ayes – Mr. Sebastian, Ms. Fox, Mr. Cossaboon, Mr. Fritz, Mr. McLaughlin, Mr. Mercado, Mr. Salvadori. Nays – Zero. Abstentions – Zero.

**Public Portion:**

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

**Reports:**

1. Mrs. Farrell informed the Board the WBA Arbours is scheduled for the November 12, 2019 meeting. She reminded the Board that the meeting is the second Tuesday that month, not the first Tuesday, due to Election Day. So there are two meetings in a row in November; the 12<sup>th</sup> and the 19<sup>th</sup>.

2. Mrs. Farrell stated that the regular meetings in October are booked. She asked the Board, if the application is resubmitted for Wood Management, would they be okay with holding a special meeting on October 29<sup>th</sup>. Mr. Coe thought it would be appropriate to have a special meeting and the Board was okay with holding the meeting on the 29<sup>th</sup> if the application is submitted in time.

**Approval of Minutes:**

1. 8/20/19 regular meeting.

Motion by Mr. McLaughlin, seconded by Mr. Sebastian to approve the minutes from the August 20, 2019 regular meeting. Voice vote; all ayes, motion passed.

**Adjournment:**

The meeting was adjourned at 7:50 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.

Respectfully submitted by: Ninette Orbaczewski, Clerk Transcriber