

**MINUTES OF THE REGULAR MEETING
OF THE TOWNSHIP OF JACKSON
ZONING BOARD OF ADJUSTMENT
JANUARY 16, 2008**

The January 16, 2008 Jackson Township Board of Adjustment meeting was called to order at 7:02 p.m. with a salute to the flag by all present. Board Attorney Sean Gertner read the Open Public Meetings Act Statement.

ROLL CALL: Joy Ann Harmer William Santos, Alt. #1
Jeffrey Bowen Peter Maher, Secretary
Barry Calogero Diana LaBianca, Vice Chairwoman
Stephen Costanzo Vincent Sgro, Chairman

ABSENT: No one

ALSO PRESENT: Lee Ann Hoffmann, Engineer of Gravatt Consulting Group, Donna Miller, Planner of Geller Sive & Company, Jeffrey Purpuro, Zoning Officer and Steven McCrystal, McCrystal Reporting

APPROVAL OF RESOLUTIONS

Recording Secretary Janice Kisty announced the following resolutions and those eligible to vote:

2008-01 – Vecchione – Block 3801, Lot 68 – Variance approval for a 6' solid fence in the front yard

2008-02 – Scher – Block 7207, Lot 3 – Variance approval for a shed with insufficient side and rear yard setbacks

2008-03 – Desai – Block 5205, Lot 1 – Variance approval for a shed and 6' solid fence in the front yard

2008-04 – Bassignani – Block 9701, Lot 31.25 – Variance approval for side yard setback for an addition to their home

2008-05 – Women's Massage Center – Block 6401, Lot 64 – Amendment to resolution #2006-91 to permit massage therapy for men in accordance with a newly amended township ordinance

2008-06 – Hyson Estates – Block 4801, Lot 10 – One year time extension for a major subdivision

Motion to approve the foregoing by MAHER/LaBianca. YES: Bowen, Calogero, Costanzo, Maher, LaBianca, Sgro.

2008-07 – Dee Dee's Doodles – Block 16701, Lot 9 – Variance denial to operate an animal care facility in their home

Motion to approve this denial by CALOGERO/Costanzo. YES: Calogero, Costanzo, LaBianca.

Resolution to appoint Donna Miller of the firm Geller Sive & Company as Board Planner for the term January 1, 2008 to December 31, 2008. Motion by MAHER/LaBianca. YES: Bowen, Maher, LaBianca, Sgro.

Resolution to appoint Leanne Hoffmann of the firm Gravatt Consulting Group as Board Engineer for the term January 1, 2008 to December 31, 2008. Motion by HARMER/Calogero. YES: Harmer, Bowen, Calogero, Costanzo, Maher, LaBianca, Sgro.

Resolution to appoint Sean D. Gertner of the firm GertnerSnyder LLC as Board Attorney for the term January 1, 2008 to December 31, 2008. Motion by HARMER/LaBianca. YES: Harmer, Bowen, Costanzo, Maher, LaBianca, Sgro. Mr. Calogero noted that Mr. Gertner agreed to reduce the rate for the paralegal from \$85 to \$75, and in the contract that was emailed to him, it still stated \$85 per hour. Mr. Gertner said that was a mistake and it is \$75 per hour, and he did in fact change it. Other board members had the corrected copy, although it was unclear if everyone had a corrected copy of the contract. Mr. Gertner said he would personally re-send the contract to everyone. Mr. Calogero said he would forward the email he received back to Mr. Gertner so he could see. The vote was then taken for memorializing the resolution.

APPROVAL OF MINUTES OF DECEMBER 5, 2007

Motion to approve by CALOGERO/Maher. YES: Bowen, Calogero, Costanzo, Maher, LaBianca, Sgro.

APPROVAL OF MINUTES OF DECEMBER 19, 2007

Motion to approve by MAHER/Harmer. YES: Harmer, Bowen, Calogero, Costanzo, Maher, LaBianca, Sgro.

APPROVAL OF VOUCHER

Motion to approve the voucher in the amount of \$120.00 for the Recording Secretary for tonight's meeting by HARMER/LaBianca. YES: Harmer, Bowen, Calogero, Costanzo, Maher, LaBianca, Sgro.

ANNOUNCEMENTS

Mr. Gertner said he had a letter from Mr. Shea requesting the Martorano matter be carried. He said this is beyond the first time and the applicant would have to re-notice. They have waived time constraints. The February meeting seems full, and while we accept the letter, the application would have to be scheduled at the Board's convenience. Mr. Calogero said this was carried three times already and Mr. Sgro asked if they can carry that many times. Mr. Gertner said as long as they paid their fees its okay. Mr. Santos said they must re-notice and there is a full meeting in February, so we should look at some future meeting. Ms. LaBianca said the Board reserves the right to carry an application, agreeing with Mr. Santos. Mr. Sgro suggested putting it on last for February's agenda, but Mr. Calogero said people from the public come to the meetings and if it is not reached that is not fair to them. Mr. Sgro said there may be time. Mr. Calogero said there are three final site plan applications on that agenda and it may be a long meeting. At the earliest, he thought March, and Mr. Santos agreed. Ms. LaBianca asked if they can assign a date to an application and Mr. Gertner said they could direct it tentatively to be scheduled to be heard whatever date. Mr. Costanzo asked why they wanted to be carried and Mr. Gertner said their planner couldn't come. Mr. Gertner said the odds are good that application would not be reached in February in fairness to the applicant, who would have to pay his professionals. Mr. Sgro said we could notify them to be heard in March. Mr. Maher suggested carrying them even further since this is the third time they asked to be carried, but the Board decided to carry them to March. Mr. Gertner asked if there was any feeling from the Board when to use the second meeting in a month. He raised the question due to this situation. Mr. Calogero said it is arbitrary each month. He would not want to accommodate this applicant since they asked to be carried.

Ms. Hoffmann wanted the Board to be aware that applications 4, 5 & 6 plus two more site plans all have traffic reports associated with them. She asked the Board to retain a consulting traffic engineer, who would bill the applicant's escrow, and she said the Board might want to think about retaining a professional traffic engineer. She said Geller Sive has a traffic engineer who could review the traffic report. Mr. Bowen asked if they would have enough time to review it. Ms. Hoffmann said the Board's vote on a site plan could not be made in one meeting, and the applicant could present his case and then be carried to another meeting to finish up. Mr. Sgro already asked Mr. Gertner if they could hire a traffic engineer, and Ms. Hoffmann said they have options. Mr. Gertner said they could utilize the municipal traffic engineer and the applicants would be charged. If Ms. Miller's office available, Mr. Gertner said the contract carries over, and they could use her firm. Or, they could advertise via a Request for Proposal. Mr. Maher said if the town has a traffic engineer, the Board could use them. Mr. Sgro said if Geller Sive has an engineer, there would be no difference in cost. Ms. Miller asked if the town appointed a municipal traffic engineer yet, but no one knew. Mr. Calogero agreed with Mr. Maher and Mr. Sgro liked the idea of the planner working with the traffic engineer. Mr. Gertner said he will check with the Township Clerk if a traffic engineer was appointed. Mr. Calogero asked if the Board needed to vote on this and was told no, they just stated their opinion.

Ms. Hoffmann asked when the applications are carried to. Mr. Gertner said he would come in and speak with Dawn to get a better handle on the agenda. Ms. Harmer said number 4, 5, & 6 are to be carried to February 6 and Martorano was carried to March. Mr. Calogero asked if they agree to use the township's traffic engineer in the case of #4, is that subject to the traffic engineer's report being filed. Ms. Hoffmann said when the Board decides on a consultant, notification must be given to the applicant that this is the consultant. Ms. Miller said the traffic consultant would only review the applicant's reports to make sure they have done it right. Mr. Gertner said it is a methodology question. Mr. Sgro thought the traffic engineer would actually do his own study. Mr. Calogero said that is the same as what our engineer does now. Mr. Sgro said if we take the word of their traffic guy, our guy will have to accept it. Mr. Maher said the Board hired its own traffic engineer when Jackson Commons was heard. It is on a case by case basis; the application for Beth Zion does not have one now. Mr. Gertner asked if a traffic study is required and Ms. Hoffmann said not to her knowledge. Mr. Gertner said that application could be heard on February 6 because the traffic report is not needed. The second issue is that the rebutting is to ascertain the methodology, not to challenge the figures. Methodology review involves whether the traffic during peak hours or holiday schedules, as appropriate for the application, was done. There are provisions to allow this. Generally a methodology review to rebut is a normal course. Mr. Sgro questioned why a religious structure needs a traffic report. Ms. Hoffmann said it could be brought up during the hearing for the application. Although the site plan checklist requires a traffic study for buildings of 20,000 square feet or more, it could still be requested. Mr. Santos cautioned this should not be discussed without the applicant being present. Mr. Sgro said they should know they need a traffic report. Mr. Gertner said it is not required on the checklist and the applicant has a right to reject the request for a traffic report, go forward, and have the application reviewed on its merits. Mr. Calogero said it could be contingent on final approval. Mr. Gertner said the Board could ask the Council to consider amending the ordinance perhaps 10,000 square feet.

The matters of "Other Appointments" listed on the agenda are items that are handled at the Board's annual re-organization meeting in July.

The professionals were sworn by Steve McCrystal and their affiliations stated for the record. Mr. Sgro announced the Martorano application would not be heard tonight and carried to March 5, for the benefit of those members of the public who were present.

APPLICATIONS

1. Joel Rosenstack – 5 Ruby Court – Block 1002, Lot 16 – Zone R-5

Joel Rosenstack was sworn. He wishes to place a shed 15' from his rear property line. Adhering to the required 25' would be in the center of his usable property. Ms. Hoffmann asked height of shed and Mr.

Rosenstack did not know, but testified it would be less than 20' high. Ms. Hoffmann noted it would be close to his neighbor on Sapphire Drive, and asked if there was any discussion with his neighbor. Mr. Rosenstack said he didn't receive any feedback; his fence is pretty far back and it is behind the fence.

PUBLIC SESSION OPENED; No one came forward; PUBLIC SESSION CLOSED.

Mr. Gertner said he had an opportunity to speak with Mr. Rosenstack and appreciated his understanding that this is relatively simple variance. Mr. Gertner wanted the Board to know his understanding of the process, and then thanked Mr. Rosenstack. Mr. Calogero visited the property, stating it is a beautiful home and the shed would be 40' from Sapphire. Ms. Hoffmann said she meant Amethyst Drive when she spoke earlier. Mr. Calogero said he had no problem with this proposal.

Motion to approve by CALOGERO/LaBianca. YES: Harmer, Bowen, Calogero, Costanzo, Maher, LaBianca, Sgro.

2. Fred Hohnhorst – 22 Lehigh Boulevard – Block 7804, Lot 3 – Zone R-9

Fred Hohnhorst was sworn. He would like to build a two-car detached garage. His address is Lehigh Boulevard but his house faces County Line Road, and he needs a variance. Ms. Hoffmann noted there is a temporary canopy and asked if it would be removed when the garage is built, and Mr. Hohnhorst said yes. Ms. Miller said he needs a variance due to the double frontage lot. Mr. Costanzo said pictures of garages were submitted and asked which one he proposed to build, and Mr. Hohnhorst said the circled one, 22' x 24', is the one. Mr. Costanzo just wanted clarification. Mr. Bowen asked if he is putting electric in there and was told yes, but no heat or air conditioning.

PUBLIC SESSION OPENED; No one came forward; PUBLIC SESSION CLOSED

Mr. Calogero said this is a unique property with the front is on one side and the driveway on another, and it would look better than the canopy that is there now. Ms. Harmer asked if there will be electric and was told yes.

Motion to approve by MAHER/Calogero. YES: Harmer, Bowen, Calogero, Costanzo, Maher, LaBianca, Sgro.

3. Stephen Martorano – 610 Reed Road – Block 10305, Lot 60 – Zone R-3

carried to March 5, 2008. Applicant must re-notice.

4. Beth Zion Synagogue – 206 West Veterans Highway – Block 11801, Lot 79 – Zone R-3

carried to February 6, 2008.

5. JCP&L First Energy – Bennetts Mills Road – Block 12101, Lot 32 – Zone NC

carried to February 6, 2008.

6. Megan's Associates – County Line Road – Block 5601, Lot 61 & 74 – Zone HC & MF

carried to February 6, 2008.

PUBLIC COMMENT

Kenneth Bressi, 462 Diamond Road and Chairman of the Planning Board, addressed the Board, stating the Planning Board is in the process of reviewing the Master Plan and he will be coming to the Zoning Board for advice and opinions on any problems they have encountered or any ambiguous problems with the ordinance, and he asked for opinions from the Chairman and members of the Board. Chairman and members of the Board for opinions. He will be depending on them voicing their issues or maybe an ordinance that should be looked at. He stated it will be a pleasure to work with them. Mr. Bressi cautioned the Board that if they don't request reports at Preliminary, they cannot ask for it at final, referring to several cases remanded for that reason. Mr. Sgro thought if they want it for next month and it is not in place, they can't ask for it. Mr. Bressi said it must be requested at Preliminary. Mr. Calogero said Ms. Miller advised their applications are use variances and this Board can ask for whatever it wishes. Mr. Sgro said they want independent traffic reports and asked Mr. Bressi for his thoughts. Mr. Bressi said if our expert agrees, we are bound to accept it; if they disagree, do you hire another consultant? Traffic reports are real numbers and are very hard to accept at times. An application for religious purposes has different peak hours than a retail site; and he said the Zoning Board has a slight edge over the Planning Board where if an applicant meets the ordinance, they get the approval. The Zoning Board has an edge. Mr. Bressi stated the Board had a situation at its last meeting where the basement counts toward the square footage of the application. Mr. Sgro thanked Mr. Bressi for his input. Mr. Maher noted both Boards will be working on similar situations, and slight variances send the application to the Zoning Board. Mr. Bressi agreed, noting the rules regarding jurisdiction have changed over the years. Mr. Sgro said they heard the Planning Board is jammed. Mr. Bressi said the backup is due to incomplete applications or further information being required of an applicant. They have not been taken to court because they are not hearing the applications quick enough. Mr. Bressi stated the prior Planning Board left 18 applications to be acted on, and Hovbilt took twelve meetings to finish. Most applications take 2-3 meetings; they are not a quick board. Mr. Gertner asked if it takes the Planning two to three meetings for a site plan, and Mr. Bressi said yes. If reports are asked for, they take time, and it must be on file ten days prior to a meeting. He said site plans are not same as [a variance for] a deck or a pool; they take longer. That is why Board members attend the courses; you are looking at the same things the

Planning Board is and no one is entitled to a variance. Mr. Bressi thanked the Zoning Board for doing such a great job, and Mr. Sgro returned the compliment.

ANNOUNCEMENT

Ms. Harmer announced she has made a difficult decision to resign effective immediately due to family matters and that she is moving. She thanked her fellow Board members and stated she respects the Board's professionals' opinions. She addressed Chairman Sgro, stating they worked together quite a few years, he always held his head high and kept Jackson first. She said to keep up the good work, wished good luck to all, and stated it was a pleasure working with all. Mr. Sgro said he will miss her and Mr. Santos said it was great working with Joy, who voted her conscience and what is right for the residents. Mr. Sgro said she will be missed.

Motion to adjourn at 7:57 p.m. by MAHER/LaBianca. Yes, by affirmation.

Respectfully submitted,

Janice Kisty
Zoning Board Recording Secretary