

**MINUTES OF THE REGULAR MEETING
OF THE TOWNSHIP OF JACKSON
ZONING BOARD OF ADJUSTMENT
NOVEMBER 2, 2005**

The November 2, 2005 Jackson Township Board of Adjustment meeting was called to order at 7:35 p.m. with a salute to the flag by all present. Attorney Robert Rothstein read the Open Public Meetings Act Statement.

ROLL CALL: Peter Clute, V. Chair
Larry Hartman
Peter Maher
Scott Weinstein, Sec'y.

Donna Hopkins, Alt. #1
Howard Falkowitz, Alt. #2
Michael Kelly, Chairperson

ABSENT: Meredith Acacia
Kevin Sullivan

ALSO PRESENT: Richard Megill, Director of Planning and Zoning
Robert Rothstein, Board Attorney
Al Yodakis, Board Engineer, T&M Associates
Leah Furey, Planner, Ragan Design Group
Steven McCrystal, McCrystal Reporting

Mr. Kelly advised the Board that Meredith Acacia resigned and a new Board member would be appointed by next month's meeting. He said he would like to discuss the reorganization meeting for January 2006 at the end of this meeting.

MEMORIALIZATION OF RESOLUTIONS:

2005-107 – Robert & Deborah Malet - Block 78.24, Lot 6 - Motion to approve by Clute/Hartman. YES: Clute, Hartman, Weinstein Hopkins & Kelly. **VARIANCE GRANTED**

2005-108 – Serge & Viktoria Balsirow – Block 128.01, Lot 42 – Motion to approve by Weinstein/Clute. YES: Clute, Hartman, Weinstein, Hopkins & Kelly. **VARIANCE GRANTED**

2005-109 – Mark & Jodi Taylor - Block 3.06, Lot 4 – Motion to approve by Clute/Weinstein. YES: Clute, Hartman, Weinstein, Hopkins & Kelly. **VARIANCE GRANTED**

2005-110 – Raymond & Lisha Morgan – Block 131, Lot 4.03 – Motion to approve by Weinstein/Clute. YES: Clute, Hartman, Weinstein, Hopkins & Kelly. **VARIANCE GRANTED**

2005-111 – Edward Tobin – Block 38, Lot 19.05 – Motion to approve by Weinstein/Hartman. YES: Clute, Hartman, Weinstein, Hopkins & Kelly. **VARIANCE GRANTED**

2005-112 – Greg & Lillian Levine– Block 67, Lot 27.03 – Motion to accept withdrawal of application by Clute/Weinstein. YES: Clute, Hartman, Weinstein, Hopkins & Kelly. **APPLICATION WITHDRAWN**

2005-113 – Salvatore Salemi – Block 99.06, Lot 7 - Motion to approve by Weinstein/ Hartman. YES: Clute, Hartman, Weinstein, Hopkins & Kelly. **VARIANCE GRANTED**

2005-114– Adam Davino – Block 5.01, Lot 19– Motion to approve by Weinstein/Clute. YES: Clute, Hartman, Weinstein, Hopkins & Kelly. **VARIANCE GRANTED**

2005-115 – Jerry Burke - Block 152.01, Lot 17.03 – Motion to approve by Weinstein/Clute. YES: Clute, Hartman, Weinstein, Hopkins & Kelly. **VARIANCE GRANTED**

2005-116 – Jackson Academy LLC– Block 108, Lot 4 – Motion to approve by Weinstein/Clute. YES: Clute, Hartman, Weinstein, Hopkins & Kelly. **VARIANCE and SITE PLAN APPROVAL GRANTED**

2005-117 – Brantley/Zoning Board of Adjustment/Jackson Township/Holbrook Little League Lawsuit. Motion to approve by Weinstein/Clute. YES: Clute, Hartman, Maher, Weinstein, Hopkins, Falkowitz and Kelly. **ADMINISTRATIVE APPROVAL APPROVED.**

2005-106 (Amended) – Hyson Estates, LLC – Block 145.01, Lot 29.02 – Motion to approve by Weinstein/Clute. YES: Clute, Hartman, Maher, Weinstein, & Kelly. **AMENDED RESOLUTION APPROVED**

The Minutes of October 5, 2005 were approved. Motion by Clute/Weinstein. YES: Clute, Hartman, Weinstein, Hopkins and Kelly.

The voucher for the recording secretary for tonight's meeting was approved. Motion by Clute/Falkowitz. YES: Clute, Hartman, Maher, Weinstein, Hopkins, Falkowitz & Kelly.

ANNOUNCEMENTS

Mr. Megill stated there were no announcements this evening. Steve McCrystal swore the professionals.

MATTERS FOR DISCUSSION:

- 1. APPLICANT: ROBERT SOLOMON**
BLOCK: 132 LOT: 24.01 ZONE: R-5
LOCATION: 1080 FARMINGDALE ROAD

Denis Kelly, Esq. represented the applicant. Robert Yuro of Kenderian-Zilinski Associates was sworn and his credentials accepted. Mr. Kelly stated this matter concerns 1080 Farmingdale Road, which is 2.6 acres in the R-5 zone. There are two buildings on the site, 4,800 sf and 9000 sf in size. The current owner has approvals from the Planning Board and a variance granted in 1983 allows storage of commercial refrigeration equipment. In 1983 the zoning classification was R-40, residential, necessitating a use variance. The property is now in the R-5 zone (residential) with the same business. The owner proposes to use one existing building for different equipment – a fire suppression business – and the building would be sprinklered. The back building would be used to allow storage of other equipment for other businesses. The site is to be improved considerably with landscaping.

Ms. Furey noted she had no site plan, only a survey. Mr. Kelly clarified a concept plan only was submitted. Ms. Furey responded this applicant presented his ideas at the Economic Development meeting and it seemed like a good idea. This interpretation request seems to be an expansion of a non-conforming use, however. Mr. Megill concurred, stating this plan was a rendering, and the applicant was here for an interpretation only. Mr. Rothstein added with possibly seven contractors renting space, this is not just an extension of an industrial warehouse. Mr. Kelly countered they were not expanding the footprint of the building. Mr. Rothstein answered they were changing the tenor of the use. This is no longer a single tenant occupancy; it is an eight tenant occupancy. Mr. Kelly stated they are not subdividing the building – the new owner will leave the site as is, using it for storage, and renting out space. Ms. Furey said that is an expansion of a non-conforming use. The 1983 approval was for industrial storage. This appears to be an expansion, needing site plan approval at least for parking. Mr. Rothstein said they were not saying no, they just need site plan approval. Mr. Kelly responded they submitted a concept plan to show parking and landscaping and he wanted to show that to the Board. Mr. Rothstein stated that action needs to be public-noticed for site plan. Mr. Megill wanted to bring it to the Board's attention the fees were collected for an interpretation only. It is presumptuous to say they are applying for a variance. Mr. Megill's denial of the application for Zoning Certificate in June 2005 was for the applicant's proposal to use the property as stated here tonight. The applicant needs an interpretation to go forward as applied or do they need use variance and site plan approval?

The Board could not review this interpretation with what they felt was partial information. The applicant is to submit maps for all Board members and this request for interpretation will be carried to December 7th, first on the agenda.

2. APPLICANT: ROSEMARIE MOGERMAN
BLOCK: 40.01 LOT: 1.01 ZONE: FA2
LOCATION: 480 DON CONNOR BOULEVARD

Elizabeth Eaton, Esq. represented the applicant. Douglas Klee, Professional Engineer and Professional Planner with Owen, Little and Associates, 143 Atlantic City Boulevard, Beachwood, sworn and his credentials accepted. Ms. Eaton stated Ms. Mogerma was appealing the denial of her application for a zoning permit to build a single family dwelling and a shelter for animals on this block and lot. On September 15, 2005, the Zoning Officer denied the application for non-compliance with Jackson Township Ordinance 109-6 – No record of a lot consolidation and subdivision taking place. Ordinance 24-03 vacated paper streets with two streets left to access three out parcels. Eighty lots were consolidated and Dennis Raftery, Jackson Township Tax Assessor, assigned two block and lot numbers. Mr. Rothstein asked how the property was subdivided? Ms. Eaton said the tax assessor assigned the block and lot numbers. All lots are owned by the same person. Mr. Klee concurred, stating a 2002 ordinance vacated the majority of roads, leaving two roads, Fairview and Union, for access to the three out parcels. Mr. Rothstein said we have a lot 3 not attached to anything. Ms. Eaton stated several maps were submitted and they are in the process of correcting that. A discussion ensued as to what is the proper map.

Mr. Klee stated lots in contiguous ownership merged and no consolidation was needed. Mr. Rothstein said it was better form to consolidate the lots. Ms. Eaton asked for memorialization of the current Block and Lot.

Mr. Klee spoke regarding the house and barn. In the FA2 zone, agriculture is a permitted use; as an accessory use, structures incidental to the principal use are allowed. Mr. Rothstein said in order to have an accessory structure, you need a principal structure. He asked if the applicant could build them both. Mr. Megill said the accessory structure could go up first and he has no authority to give a Certificate of Occupancy or a zoning permit for an accessory structure before a primary structure exists with a Certificate of Occupancy on the lot. Mr. Klee said agriculture is a permitted use. A permitted accessory use would be other customary structures (the house). Mr. Rothstein said the problem is not the use, but the issue of the building. Agriculture is permitted. The problem is they want to put up a building for livestock and there would be nobody around for the animals because there is no principal building. If there were an apartment over the barn, then the shelter could be a principal use. With nobody out there, no one is comfortable with leaving the animals there alone. Ms. Furey stated the definition of agricultural use is for crops or livestock. Mr. Rothstein said again the use of the land is not at issue – timing is the issue.

Rosemarie Mogerma sworn. She stated she has been unable to obtain a zoning permit since 2002. She submitted her first application just for the house and was told she needed a consolidation. She resubmitted for the house and barn and was unable to secure her permit. Mr. Megill stated there is a procedure to do that. Mr. Rothstein said it takes little time to do a deed of consolidation, and it should be forwarded to him for review. Mr. Megill said the Pinelands Certificate of Filing is for the house. Ms. Mogerma said it was for the barn, too. Ms. Furey noted the applicant agreed to clear a 10 acre area and then the Pinelands would require an Threatened and Endangered study if land beyond 10 acres is cleared. Mr. Megill referred to the Pinelands Commission letter of June 9, 2005 regarding the single family dwelling and the T&E study. The Board members reviewed the letter. Mr. Megill noted on Page 2, it states for personal use only. Ms. Mogerma said this is for personal use only, and she may breed horse and alpaca; that is not a commercial use. Ms. Eaton stated the original plan was to build the house first, but she can't get a zoning permit. Mr.

Kelly said Page 2 of the letter speaks of boarding horses from other people. Ms. Mogergerman answered the Pinelands misinterpreted her, and said she can have a barn but can't board horses. Ms. Eaton asked if they file a lot consolidation for the two existing lots, can they apply for both structures together? Mr. Megill answered yes, with the condition of no Certificate of Occupancy until the C of O for the house is issued. Ms. Eaton said the barn would be done first; can't she do that? Ms. Mogergerman said her animals would need care and she would be there. Ms. Hopkins asked what would happen if something occurred while she is not there? Ms. Mogergerman stated her animals are insured and asked why Ms. Hopkins was concerned with that. Mr. Megill said it was in the code to sprinkler the building. Ms. Mogergerman asked why she has been denied her permits after all the taxes she's paid? Mr. Megill countered they are back to square one – why? Had they filed their deed of consolidation three years ago when they were told to do so, this would never have happened. He said if the Board wishes to approve this proposal, give her a time limit and move this forward. Ms. Eaton said she was fine with the consolidation and would do that. She asked what they need to do to secure a zoning permit for the house and the barn. Mr. Rothstein responded they must consolidate the lots, then apply for a building permit for the house and the barn. He wants them to guarantee the house would be built first. Mr. Clute added that building codes must be met. Mr. Megill said they were originally asked to do a lot consolidation and build the principal structure first. Mr. Rothstein said several different maps confused the issue. Ms. Furey said there was confusion whether the barn was accessory or principal in use. If it is accessory, they need a house; if permitted principal use, the barn is ok. She said they need to establish if the house or barn is the principal structure. Ms. Eaton said they want to build the barn first and then the house. Mr. Rothstein asked if there is a way to build the barn as an accessory structure. Mr. Megill said he can allow the barn as an accessory. Ms. Mogergerman said the barn can go up quickly, and asked for a time frame to get the house up by; it may take her 2 ½ years to build her house. She can't start the house at least until March. Mr. Kelly said 18 months, then. Mr. Megill said he needs a new plot plan.

Mr. Rothstein recapped saying they need to consolidate the lots, build the house and barn at the same time, and the house needs to be completed in 18 months or the C of O would be revoked for the barn. Ms. Mogergerman wanted the time frame to be 18 months from the time she got her building permit. She said she would apply for the barn and house at the same time. Mr. Rothstein said she would have 18 months from the date of the resolution, which would be memorialized next month, and will allow extensions if Ms. Mogergerman can show due cause as to why she experienced delays in completing the house. He said his concern is putting the cart before the horse. If the time frame is 18 months from the time of the building permit, this process could take much longer. Mr. Maher asked if they need Pinelands approval first. Ms. Eaton said no, they can go for permits based on the current Certificate of Filing. Mr. Megill clarified after all local permits are in hand, the applicant must go to the Pinelands for a letter allowing them to proceed with construction. Mr. Hartman asked how soon after the barn is built can the animals go in? He also asked about fencing. Mr. Rothstein answered as soon as it is built, and paddock fencing needs no permits. He recapped again, stating the Board will allow the house and barn to be applied for simultaneously; they must consolidate their lots, the barn will be an accessory structure, and the house must be completed 18 months after the date of this resolution, or the Certificate of Occupancy will be revoked. A time extension will be allowed, if necessary.

Motion to approve by Clute/Weinstein. YES: Clute, Hartman, Maher, Weinstein, Hopkins, Falkowitz, and Kelly.

APPLICATIONS:

- 1. APPLICANT: JOSEPH & LESLIE GALUCCI (VARIANCE #2501)**
BLOCK: 126.35 LOT: 3 ZONE: R-15
LOCATION: 9 NEBRASKA DRIVE

Joseph & Leslie Galucci sworn. They wish to construct a 28' x 6' covered cement porch and need a variance for front yard setback, where 35' is required and 26' is proposed.

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

Motion to approve by Hopkins/Weinstein. YES: Clute, Hartman, Maher, Weinstein, Hopkins, Falkowitz and Kelly.

- 2. APPLICANT: LEONORE RIVERA (VARIANCE #2505)**
BLOCK: 125.24 LOT: 17 ZONE: R-1/R-3
LOCATION: 40 VALLEY ROAD

Leonore Rivera sworn. She wishes to construct a 21'6" x 12' deck to the rear of her home and needs a variance for side yard setback. She is proposing 10 feet and 20 feet is required. Mr. Megill noted the house is not square on the lot, necessitating the variance.

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

Motion to approve by Clute/Weinstein. YES: Clute, Hartman, Maher, Weinstein, Hopkins, Falkowitz and Kelly.

- 3. APPLICANT: ANTHONY MARTINO (VARIANCE #2506)**
BLOCK: 135.22 LOT: 15.03 ZONE: R-3
LOCATION: 455 MEADOWOOD ROAD

Anthony Martino sworn. He wants to construct a 10' x 10' shed 3 feet from the side and rear property lines, where 15' is required for each setback. Mr. Kelly asked if Mr. Martino spoke to the neighbor to the rear of his property about his intentions. Mr. Martino answered he didn't know the people. Mr. Megill

noted the plot plan indicated the shed would be in a wooded area. Mr. Kelly said the area is not wooded – there is a fence. Mr. Kelly furthered he is on the Board for the Homeowner's Association, and the neighbors were told to come to this meeting if they had any concerns about the placement of the proposed shed.

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

Motion to approve by Weinstein/Clute. YES: Clute, Hartman, Maher, Weinstein, Hopkins, Falkowitz and Kelly.

4. **APPLICANT: FRANK & SUZANNE SPAGNOLO (VARIANCE #2507)**
BLOCK: 5.04 **LOT: 9** **ZONE: R-3**
LOCATION: 29 LEONE BLVD.

Frank Spagnolo sworn. He stated he wants to construct a 6' fence around the perimeter of his home. Mr. Kelly asked how many feet off the property line? Mr. Yodakis scaled off 95' and 20' for the site triangle. 95' would be 24' off the property line, adding the applicant would have to stay out of the site triangle. Mr. Yodakis showed the applicant what was meant. The applicant said the back of the property would be solid fencing, and the front would be aluminum fencing. The applicant asked if trees are in the site triangle, and was told the trees are not a concern with this application.

PUBLIC SESSION OPENED; no one came forward; **PUBLIC SESSION CLOSED.**

Motion to approve by Weinstein/Falkowitz. YES: Clute, Hartman, Maher, Weinstein, Hopkins, Falkowitz and Kelly.

5. **APPLICANT: REAL & MARTHA NERON (VARIANCE #2508)**
BLOCK: 130.02 **LOT: 37.01** **ZONE: R-3**
LOCATION: 325 CHANDLER ROAD

Real and Martha Neron sworn. They need a variance to rebuild their front porch where the front yard setback is 60' and they can provide 51'4". Mr. Kelly commented they would be making a nice improvement to the home.

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

Motion to approve by Weinstein/Hopkins. YES: Clute, Hartman, Maher, Weinstein, Hopkins, Falkowitz and Kelly.

6. **APPLICANT: ELLEN & ROBERT REPASY (MINOR SITE PLAN 627)**
BLOCK: 66.09 **LOT: 28.01** **ZONE: R-3**
LOCATION: 173 SAMS ROAD

Ellen & Robert Repasy sworn. They are asking for permission to operate a Home Occupation for boarding dogs, which was described as a very small business. The husband has a mobile dog grooming business and is licensed. Ms. Repasy wants to watch some of those dogs for their clients. Ms. Repasy said this is not "doggie day care." She needs a home occupation because she cares for her elderly mother and wants to help with her husband's clients. She intends to watch no more than four dogs plus her own dog, and no dog would be larger than 65 pounds. She would care for no aggressive dogs, just house pets. She would require proof of rabies and other vaccines. Ms. Repasy addressed all the conditions of Jackson Ordinance 109-112A for Home Occupations. She had pictures of her yard and kitchen where she would be providing the service, as well as the deck and carport outside. Dogs would be inside from 10 PM to 6:30 AM and would allow no barkers. She did not anticipate many cars coming and going from her driveway. Mr. Kelly asked to see the pictures. Ms. Furey noted this application was being heard by the Zoning Board because Ms. Repasy could not meet the bulk requirements of her zone; otherwise, this home occupation is a permitted, conditional use. Mr. Megill stated animals can't be outside between 9 PM and 7 AM. He also stated the carport is not 50' away from the property line, but the Board could grant a variance for that area to be used. Ms. Hopkins asked how the animal waste would be disposed of. Ms. Repasy said it would be bagged and put in the garbage, and there was not too much waste to be created.

PUBLIC SESSION OPENED

Dora Esposito, 179 Sams Road, and Deanet Patan, 169 Sams Road, sworn. Ms. Patan was Ms. Repasy's neighbor for three years and recently moved. She said any dogs that were kept by Ms. Repasy were well behaved and hardly seen. Ms. Repasy kept her place clean and there was no smell. Ms. Esposito is a neighbor of seven years and said Ms. Repasy loves animals. Ms. Esposito had no problem with this proposal as the Repasy property is clean.

PUBLIC SESSION CLOSED

Motion to approve by Hartman/Hopkins. YES: Clute, Hartman, Maher, Weinstein, Hopkins, Falkowitz and Kelly.

Mr. Kelly said that before the meeting was closed, they needed to discuss reorganization. The Board discussed whether to hear applications at its Reorganization meeting in January, or to reorganize at the first meeting and hear applications at a second scheduled meeting in January. The Board decided to reorganize and hear applications at its January 4, 2006 meeting.

Motion to adjourn at 9:35 pm by affirmation.

Respectfully submitted,
Janice Kisty
Zoning Board Recording Secretary