

**MINUTES OF THE REGULAR MEETING
OF THE TOWNSHIP OF JACKSON
ZONING BOARD OF ADJUSTMENT
DECEMBER 1, 2004**

The December 1, 2004 Jackson Township Board of Adjustment meeting was called to order by Chairman Michael Kelly at 7:40 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 Scott Weinstein
Larry Hartman Peter Maher, Alt. #1
Robert Paneque, Secy. Michael Kelly, Chairman

ABSENT: Meredith Acacia
Adam Ziobro, V. C.

ALSO PRESENT: Richard Megill, Director of Planning and Zoning
Robert Rothstein, Board Attorney
Evan Hill, Board Engineer
Leah Furey, The Ragan Design Group
Steve McCrystal, McCrystal Reporting

MEMORIALIZATION OF RESOLUTIONS:

2004-99 – Carl & Nathalie Mackerer- Block 78.23 Lot 4- Motion to approve by Weinstein/Hartman. YES: Clute, Hartman, Paneque, Weinstein, Maher & Kelly. **VARIANCE GRANTED**

2004-100 – Randy & Jennifer Karczewski.– Block 66.09, Lot 48.03 – Motion to approve by Weinstein/Hartman. YES: Clute, Hartman, Paneque, Weinstein, Maher & Kelly. **VARIANCE GRANTED**

2004-101 – Loni & Jill Cebulski - Block 155 Lot 29 – Motion to approve by Weinstein/Hartman. YES: Clute, Hartman, Paneque, Weinstein, Maher & Kelly. **VARIANCE GRANTED**

2004-102 –Limo Line, Inc. - Block 111 Lot 1.02 & 2 – Motion to approve use variance by Weinstein/Hartman. YES: Clute, Hartman, Paneque, Weinstein, & Kelly. **USE VARIANCE GRANTED**

2004-103 – John Centimole - Block 6, Lot 44.02 – Motion to approve by Hartman/Weinstein. YES: Clute, Hartman, Paneque, Weinstein, Maher & Kelly. **VARIANCE GRANTED**

2004-104 – A.J. Skora, Inc. – Block 84.01, Lot 108 — Motion to approve by Weinstein/Hartman. YES: Clute, Hartman, Paneque, Weinstein, & Kelly. **VARIANCE GRANTED**

Motion to approve minutes of November 3, 2004 by Hartman/Weinstein. YES: Clute, Hartman, Paneque, Weinstein, Maher & Kelly.

Motion to approve the voucher for the Recording Secretary by Maher/Clute. YES: Clute, Hartman, Paneque, Weinstein, Maher and Kelly.

ANNOUNCEMENTS:

Mr. Rothstein announced Item #2 on the agenda, Emery Farkas, will be adjourned to the January 5, 2005 meeting, and Item #9 on the agenda, Martin Salaj, is adjourned to the January 19, 2005 meeting at the request of the applicant. He also announced there are applications to be presented tonight that are use variances, and the application needs a 2/3 majority of the Board, or 5 votes, to pass. He said there is not a full board, but they have the ability to go forward in hearing the applications. He noted that most people in the audience were here for the use variance applications.

Steve McCrystal, McCrystal Reporting, swore Ms. Furey, Mr. Hill, and Mr. Megill.

APPLICATIONS:

7. APPLICANT: A & R DEVELOPMENT GROUP LLC (VARIANCE #2395)
BLOCK: 46.01 LOT: 23 ZONE: R-3
LOCATION: PEACH TREE STREET

Ray Shea is representing the applicant. Mr. Kelly asked Mr. Shea if he was aware the escrow account was deficient on this application. Mr. Shea replied no, but he was aware the property taxes were in arrears. The applicant then told Mr. Shea they were just notified yesterday about the escrow deficiency.

Mr. Shea greeted the board and stated A & R Development Group is a limited liability company and Albert Harrison is one of the principals. He is applying for approval to construct a single family dwelling on Peachtree Street. The street is fully improved and fully developed except for this one lot. He requests dimensional relief as the lot is in the R-3 zone. Variances are needed for lot area, lot width, and lot depth because of the change in zoning. The existing lots on the street are about the same size of 18,000 square feet. The proposed home will be the same in architectural detail and size of the home, around 1,800 square feet. They sent certified letters to bordering lot owners although they would not be able to convey enough land to make this lot conforming, but asked if the neighboring lot owners want to purchase this lot to defeat the variance. He received a response from Mr. and Mrs. Morris, owners of lot 2. They have no objection to the variance but request a 6' privacy fence between lot 2 & 3. This is acceptable to the client but he will defer to the Board. Initially Mr. Shea thought a variance would be required for the height of the fence, thinking only a 4' fence is allowed, but Mr. Megill stated a 6' privacy fence in the rear yard is allowed; it would not be allowed in the front yard.

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Mr. Shea went on to state his client would comply with the comments in the review letters from Evan Hill of JCA Associates and Leah Furey of The Ragan Design Group. He only requested a waiver from installing sidewalks as there are none on Peachtree Street. Instead, his client will contribute \$1,000 to the open space program in Jackson as a good faith effort to obtain that waiver. He stated his applicant is present if there are any questions the Board or its professionals wish to ask.

Mr. Hill noted the applicant is required to meet with the forester. Mr. Shea acknowledged that. Ms. Furey stated the waiver requested is appropriate, noting the \$1,000 will save the applicant money and the contribution is good for the town. Mr. Kelly agreed, stating this is the first time since he has been on the Board that anyone offered a concession like that up front.

Mr. Weinstein asked for confirmation that the home would be 1,800 square feet, and Mr. Shea said yes.

PUBLIC SESSION OPENED

No one came forward.

PUBLIC SESSION CLOSED

Mr. Rothstein asked if 1,800 square feet is for the entire home. Mr. Harrison stated there is a detached garage of about 400 square feet. He presented architectural plans dated 8/23/04, which were marked exhibit A-1, Job 04-33. Mr. Shea established the 6' foot privacy fence would be constructed between lots 2 & 3 in the rear side yard.

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

**8. APPLICANT: A & R DEVELOPMENT GROUP LLC (VARIANCE #2399)
BLOCK: 45 LOT: 1.01 ZONE: NC
LOCATION: 105 CASSVILLE ROAD**

Mr. Shea again represents this applicant. The applicant requests a use variance to construct a single family dwelling in the Neighborhood Commercial Zone. The lot is 1.11 acres at the intersection of Thompson Bridge Road and Route 571, Cassville Road. He referred to the report of October 27, 2004 from JCA Associates and the November 1, 2004 letter from Ragan Design group concerning the details of surrounding uses. This particular house has been many things over the years. The applicants were born and raised in Jackson. The house currently has suffered a fire and was on the unsafe structures list by Jackson Township. The clients appeared before Judge Clyne and Scott Kinnealy, Esq. represented Jackson Township. Mr. Shea referred to a November 2, 2004 memo from Mr. Kinnealy, stating Jackson Township has no objection to leaving the existing footprint and building a single family dwelling with a basement over the exact location. The Judge did not give a variance; the applicant needs Board approval because of the Neighborhood Commercial zone. Mr. Shea said he is aware there is not a full Board, but the clients have sufficient special reasons to support their application.

He noted the adjacent lot contains a brand new single family dwelling that meets the front yard setbacks, but really has no backyard. The wetlands come right up to the rear of that house. This area was dedicated as a Historic Village site. The houses are very close to the road as it was a stagecoach route. They intend to build the home with an historic design. Mr. Shea felt there is no commercial utility to this lot as public water and sewer is not present and wetlands are present on the property.

Mr. Richard Hart, 281 West Veterans Highway, and Mr. Albert Harrison, 353 East Pleasant Grove Road, were sworn. They are partners in A & R Development.

Mr. Megill stated he had no copy of the previously mentioned November 2, 2004 memo from Mr. Kinnealy, and Mr. Hill and Ms. Furey concurred they had no copy of that memo either. Mr. Rothstein suggested the applicant finish his presentation, open the meeting to the public, and finish this application at the next meeting.

Mr. Shea referred to Mr. Hill's report regarding the square footage of the floor area of the proposed home to be 1,200 square feet on the first floor, with an 1,800 to 2,400 square foot total of the proposed home, including three bedrooms, a garage and a driveway. Mr. Hill asked if the driveway entrance and exit would be on Thompson Bridge Road, and Mr. Harrison confirmed they would be using the existing driveway on Thompson Bridge Road. Mr. Hill requested a deed restriction for this property, restricting access to Cassville Road. Mr. Shea agreed. Mr. Hill stated a grading plan would be needed; Mr. Shea said he would supply that. Mr. Hill mentioned the response from the forester dated October 13, 2004. Mr. Shea said those comments from the forester were acceptable. Mr. Hill requested the location of the flood zone. Mr. Shea said he needs to supply that at the next hearing.

Ms. Furey stated that sidewalks were recommended for this lot. Mr. Shea answered there is a drainage easement that runs along Route 571, Cassville Road with a guardrail. He stated this is the last lot in the Neighborhood Commercial Zone along that route, and there are no sidewalks on Thompson Bridge Road due to wetlands. Ms. Furey replied there is an historic character to the area. She agrees with the house and historic standards. The lot across the street has been proposed Historic Commercial [zone], and she feels sidewalks are appropriate as this is no longer a stagecoach route and people either walk or drive past this lot. She went on to ask if they have contacted the County regarding the road widening expected in the next year or two. She is concerned about how close the house will be if the road is widened. Mr. Shea answered there was a proposal to plug Perrineville Road and create a crossover of Route 571.

Mr. Maher asked if the applicant would be using the same foundation. Mr. Shea clarified they would not be using the same foundation, just the same footprint. Mr. Hart noted the building has been there since 1945. It has been used as an office and a boarding house. It is run down and an eyesore, and they are trying to make it better [by constructing this new home].

Mr. Rothstein questioned if they are asking for a waiver of sidewalks. Mr. Shea offered to pay the \$1,000 contribution to the Open Space Fund, as in the previous application. Ms. Furey suggested a visual sidewalk inspection of this area before the next meeting so they could come to an agreement.

PUBLIC SESSION OPENED

Denise Garner, 14 Evergreen Court, sworn. She knows the location of the lot, and asked the square footage of the wetlands on the property. Mr. Shea answered approximately 50% of the lot is wetlands. Ms. Garner asked if they applied for a permit from the DEP. Mr. Shea responded he believes that is not required in this case. Mr. Hill noted the applicant is fully aware he has to comply with any permit requirements.

Priit Pals, resident, sworn. He asked if it is their intention to recreate the home, and Mr. Shea answered yes. Mr. Pals asked, "With a garage?", and Mr. Shea answered yes. Mr. Pals asked if there is a garage now, and Mr. Shea answered no; however, the garage will be incorporated into the existing footprint. Mr. Pals discussed the historic look and if it will front on Route 571. Ms. Furey interjected ideally the historic look will be on both sides [Cassville Road and Thompson Bridge Road]. Mr. Pals questioned the septic system, and was told the applicant would have to comply with the Board of Health requirements.

PUBLIC SESSION CLOSED

Mr. Kelly stated this application would be carried to the next meeting of January 5, 2004, as the Board requires further information to be provided then. Mr. Shea agreed to supply all requested information, including the memo from Mr. Kineally.

**10. APPLICANT: A1-JDK SPECIALTIES/PELSANG (MINOR SUBDIVISION #1344)
BLOCK: 111 LOT 27 ZONE: HC
LOCATION: N. COUNTY LINE ROAD**

Erin Kurowicki of the Galvin Law Firm represented this applicant. Mr. Rothstein explained to the Board that this applicant was previously granted approval for a minor subdivision on this lot, but because of an administrative error, he was unable to file his map at Ocean County within the requisite 190 days from the date of memorialization of the approving resolution. He needs a 45-day extension to get the map signed and filed. Evan Hill confirmed the applicant only needs signatures that this application is in resolution compliance.

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

**1. APPLICANT: COMMODORE POINT, LLC (VARIANCE #2388)
BLOCK: 99.01 LOT: 4 & 5 ZONE: R-3
LOCATION: W. COMMODORE BLVD. & INDIERO ROAD**

Thomas Carroll, Esq. is representing the applicant, Commodore Point, LLC. They are seeking three use variances in the R-3 zone. He said because of the concerns of the residents, the applicant now has a modified plan that keeps the housing and clubhouse, but proposes no office buildings or self-storage space. He maintained the original site plan as submitted is for the Board's consideration. The modified plan is only presented as an option should it be determined by them a less intensive use of the property would be more conducive to approval.

The applicant's professionals would be addressing engineering, traffic, fiscal impact and planning issues this evening. Henry Haley, PE, sworn. He is the president of Consulting Engineering Services. He has 28 years of experience as an engineer and has appeared before numerous boards in New Jersey, including Wall and Point Pleasant, but this is the first time in Jackson Township. The Board accepted his credentials. Mr. Haley presented a colorized version of the site plan that was submitted for this application, and it was marked exhibit CP1. The site is located on West Commodore Boulevard, bordering a portion of Fish Road and Indiero Road. They are proposing senior housing consisting of multi level buildings with garages, 36 town homes and a community center with recreation. The second half of the application proposes a commercial self-storage facility and a 20,000 square foot office building with parking. At Mr. Kelly's request, Mr. Haley showed the new alternate proposal, which was then marked exhibit CP2.

Mr. Hoffman, attorney for the objectors, objected to the public notice. If the applicant changes his application, he feels there are members of the public that are not here that otherwise would be if they knew the commercial portion was proposed to be taken away and only the residential portion would remain. Mr. Carroll, attorney for the applicant, responded that plans are revised all the time and he does not feel the notice was inadequate. Mr. Rothstein said the notice never changed. The applicant is still asking for everything they noticed for. They have now only indicated they might be willing to apply for less. He conceded it is not a bad idea to renotice for the next meeting, but as such, this meeting can go forward.

Mr. Haley described the alternate plan. They moved the residential buildings on the site to allow for additional buffering. This plan removes all commercial aspects of the site plan. He described the stormwater facilities that meet RSIS standards and stated sewer facilities are already existing in the area. With respect to environmental issues, the wetlands are not encroached on, and there are some trees noted to be removed.

Michael Brown, traffic engineer, sworn. He is also employed by Consulting Engineering Services. He is a professional engineer licensed in the state of New Jersey specializing in traffic engineering. He has prepared numerous traffic impact studies and testified before many boards. Mr. Kelly asked if any of those Boards are in the area, and was told no, but he has appeared before ten to twelve Boards in Camden and Gloucester Counties. His credentials were accepted.

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Mr. Brown said he conducted traffic counts on Commodore Boulevard and Diamond Road, and on Commodore Boulevard and Cedar Swamp Roads. These traffic counts were within acceptable limits. Site traffic has been estimated. Trips generated calculated higher than those under permitted zoning, but he feels the County roadways have sufficient capacity to handle the increase. The County plans to improve Commodore and Cedar Swamp Roads within the next few years, and they anticipate widening of Commodore Boulevard in front of this project. Mr. Kelly asked Mr. Brown if they considered other large developments such as Jackson Commons in this study. Mr. Brown said yes, their volumes are very high compared to this site, which he considers not to be a substantial detriment to this area. If the plan were changed to only residential, the anticipated traffic volume would decrease. They typically go by peak hour to get the worst case scenario.

Mr. Maher said there was nothing mentioned in the Traffic Impact Study regarding demographics and the expected population growth in Jackson. Mr. Brown said the State does traffic counts on all roadways in New Jersey and an increase in population is taken into consideration in their trip generation calculations. They use a 1.75% growth rate to determine trips. Ms. Furey responded there was a 4-5% increase in the population of Jackson from 2000-2003. Mr. Hill said Jackson Commons used higher projected numbers and percentages. He worked with them and suggested this applicant work with our professionals on this. Ms. Furey had a question about Mr. Brown's testimony that included left turn movements from Route 526 [Commodore] to Route 527 [Cedar Swamp], and Mr. Brown clarified that for her. Mr. Hill asked if a traffic signal was proposed for this site, and Mr. Brown said not at this time as it is not warranted. Mr. Hill said the County may require one. Mr. Brown explained the reasons why they felt no traffic signal would be required, and Mr. Hill said it was a site plan issue.

Mr. Hoffmann noted the applicant submitted an August 20, 2004 traffic report and asked if there is an amended report. Mr. Brown said no. Mr. Hoffmann said on page 8 of the report, under Other Traffic Development, it refers to Jackson Commons. They initially did not include those numbers in this report because the application for Jackson Commons is not approved at this time. The information is now available, and he feels the traffic report will have to be amended. Mr. Hill replied the Board is requesting a revision to be submitted at site plan application, but this is a use variance hearing only.

Peter Steck, 80 Maplewood Avenue, Maplewood, NJ, sworn. He is a self-employed planner with Community Planning Consultants; he is a professional engineer educated at Marquette University with a Masters Degree from Rutgers in Planning. He listed numerous credentials that were accepted by the Board. He began his fiscal impact testimony by stating any component of this project is a positive ratable as the tax revenues exceed the associated expenses. The \$39 million cost of the project has an assessed value of \$23 million. There will be no school age children. The development will produce 235 residents. The non residential component will produce 63 employees. The project is expected to raise \$833,000/year in local and county taxes, yielding a revenue to the school taxes of \$486,000 per year. \$137,250 will go to the local government. \$246/year is spent on residents by the town, or a total of \$58,548/year for those expected residents. Municipal services cost \$64,000/year, so the net gain per year is \$73,095. If the commercial component is dropped, the net gain for municipal services is \$57,000/year plus \$412,473/year for school taxes. There is an increase in the ratable base either way and this is not a burden on municipal services. Mr. Hoffmann asked Mr. Steck the number of age restricted developments in Jackson, the number of proposed age restricted developments in Jackson, how many storage facilities in Jackson, and how many affordable housing units were in Jackson. Mr. Steck did not know the answers to these questions, citing those questions were irrelevant and had nothing to do with his presentation. Mr. Carroll raised a legal objection to this line of questioning, stating Mr. Steck did a fiscal analysis only, and said Mr. Hoffmann is asking irrelevant questions to this witness. The next witness is a planner and can answer those questions.

Lawrence Ragone sworn. He is President of Lawrence Ragone Associates, a planning consulting firm in Cherry Hill. He is a licensed professional planner and member of AICP. His credentials were accepted. He described the zoning for the surrounding uses. An aerial map was marked exhibit CP3. It shows single family homes in the area consisting of 1-2 acre lots with some ½ acre parcels. Land O'Pines Mobile Home Park is next to this proposed development. The next aerial map was marked exhibit CP4, which provided a closer look at the area. There is vacant land across Commodore Boulevard, where Jackson Commons is proposed. The densities show the character of the area. He discussed the Leigh Realty application for 1600 units on 900 acres, including wetlands. That is zoned PMURD. The subject site is R-3, and R-20 in surrounding areas. He showed a rendering of the residential buildings proposed. These are multi family age restricted homes. He discussed the new concept and how that came about by discussions with residents in the area who had comments at the last meeting. In a bid to show special reasons for the use variances, he cited the purpose of Municipal Land Use Law and stated there is a need for these types of units. There are little environmental constraints on the site. The alternate plan concentrated the development inside the property with substantial buffers. The storm water management area is combined with pedestrian areas. All three requested use variances encourage planned development. This encourages senior citizen and commercial development. Baby boomers are numerous and there is a need for this type of housing. The number of baby boomers is a national and local phenomenon. There are fiscal benefits to this project. The Master Plan says there is a need to provide senior housing. Thirteen units are to be affordable units. He asked why not develop this tract into 3-acre lots. The Master Plan reflects the State Development Plan and adopted smart growth plans and ideas. There is sewer service available. The area surrounding this site contains higher density uses. Traffic can be handled on Commodore and Route 195. He cited a letter from the Office of Smart Growth dated November 17, 2004, which was marked exhibit CP7. The town zoning map was marked exhibit CP6. He said the plan is an efficient use of the land.

To offset negative criteria, he referred to the 1999 Master Plan which shows the population rising as well as the school population rising. They are seeking development in appropriate areas. The wetlands area is delineated. They are looking to price the units in the mid \$200,000 range. He said three acre zoning should be encouraged in areas outside sewer availability areas. Referring to the 2001 Master Plan, this area was called the Town Center area, but it is not shown on the zoning map at this time. Zoning on this site has changed from ½ acre to 1 acre to 3 acre zoning. He feels there is no substantial detriment to zoning or the public good.

Mr. Hoffmann asked for a copy of the Affordable Housing Plan and a copy of tonight's transcript of the Planner's testimony in order to be prepared for the next meeting.

This application was carried to January 19, 2005, opening with Mr. Hoffmann's questions.

RECESS AT 10:45 PM

RECONVENED AT 10:55 PM

6. **APPLICANT: CHARLES BAKER/SERGEY DIETZ (VARIANCE #2383)**
BLOCK: 6 LOT: 28.04 ZONE: R-3
LOCATION: SERGEY ROAD

This application was carried to January 19, 2005 with no further notice required and a time waiver granted.

3. **APPLICANT: KEVIN & DEBORAH MAYNARD (VARIANCE #2402)**
BLOCK: 125.21 LOT: 9 ZONE: R-9
LOCATION: 7 QUINCY DRIVE

Mr. and Mrs. Maynard sworn. Mr. Megill clarified the required setback for this lot is 35', not 40'. The applicant wants to add a covered porch, 8' x 18'; there is an existing fence, and they want to change it to a 6' privacy fence in the front yard. Mr. Hill had no comments.

PUBLIC SESSION OPENED

No one came forward

PUBLIC SESSION CLOSED

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

4. **APPLICANT: SCOTT & KRIS NILSEN (VARIANCE #2403)**
BLOCK: 135.12 LOT: 19 ZONE: R-3
LOCATION: 1 CHURCHILL COURT

Scott Nilsen sworn. He wants to construct a 6' privacy fence in the front yard of his corner lot. He has two small children and wants the fence for safety and security reasons. It will be constructed 11' from the property line. Mr. Hill had no comments.

PUBLIC SESSION OPENED

No one came forward

PUBLIC SESSION CLOSED

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

5. **APPLICANT: PAUL & JEANNIE DAVIS (VARIANCE #2404)**
BLOCK: 91 LOT: 1.02 ZONE: R-3
LOCATION: 563 SUNNYBROOK ROAD

The applicant was not present for the hearing.

Motion to deny without prejudice by Weinstein/Hartman. YES: Clute, Hartman, Paneque, Weinstein, Maher and Kelly.

Applicant is required to reapply and renounce.

Mr. Kelly made a recommendation that Meredith Acacia be removed from the Board as she missed eight out of twelve meetings. He wants to make recommendations for members who can attend meetings in order to continue to be a fair and impartial board.

ADJOURNMENT: Motion to close the meeting at 11:07 p.m. by Maher/Weinstein. YES by affirmation.

Respectfully submitted,

Janice Kisty
Zoning Board Recording Secretary