

Waterford Township Planning Board
Regular Meeting

February 19th, 2013

The regular meeting of the Waterford Township Planning Board was called to order by Chairman Tom Giangliulo followed by the salute to the flag.

Chairman Giangliulo read the notice to the public.

Roll Call was taken and the following members were present: Michael Achey, Bill Richardson (Late 8:22 pm.), Carl Lange, Francis Di Rocco, John Rowley, Rich Jacoby, Tom Giangliulo, and Mayor Critelli. Also present were Jeff Hanson of ERI, Board Engineer, Ed Toussaint, Zoning Official, and Ted Brennan, Board Solicitor. Those absent were: Rick Yeatman, Harry Rheam, Lou Severino.

Regular Meeting:

Motions for adjournments of cases or other motions:

None

Old Business:

None

New Business:

Frank Olsack 614 Jackson Rd. Block: 148 Lot 1.01. Bulk Variance for rear yard set back and size of an accessory building.

Frank Olsack, property owner addressed the board. Mr. Olsack stated he would like to clarify an error on his paperwork, the building dimensions are 24 x 40 not 24 x 48, and it is not a 2 story building, it is one story. The building is proposed to have 15 ft. rear set back so he can utilize his yard, and avoid cutting a tree down. Mr. Olsack submitted a plan showing where is well is located in his front yard.

Jeff Hanson of ERI asked what the height of the building would be, Mr. Olsack testified 18 feet. Mr. Hanson also questioned the drainage, Mr. Olsack stated there would be a gutter system that drains to the driveway. The gravel drive will be extended to the rear of the property. Mr. Hanson commented that even with adding to the existing gravel driveway, the applicant is under the allowable amount of disturbance prior to needing Pinelands approval.

Mr. DiRocco commented on the drawing submitted with the application that shows the garage. He asked the applicant if he would be storing cars? Mr Olsack stated there would be some equipment and maybe a car. Mr. Jacoby asked the applicant if he would use the garage for commercial purposes? Mr. Olsack stated no, it is for personal use

only. With nothing further from the board, Chairman Giangiulio opened this portion of the meeting up to the public. With no one from the public wishing to speak on this application, Chairman Giangiulio closed the public portion. Mr. DiRocco stated he has a concern with the drainage to the back of the property; he does not want to see any issues for neighboring properties. Currently the lot drains towards lot 3. Mr. DiRocco mentioned providing a berm. Mr. Olsack stated there is a slight berm in place now.

Mr. Jacoby made a motion to approve the application for Frank Olsack, and Mr. Achey seconded the motion. Roll Call:

M. Achey	Yes	C. Lange	Yes
F. Di Rocco	Yes	J. Rowley	Yes
R. Jacoby	Yes	T. Giangiulio	Yes
R. Critelli	Yes		

Andrew Wade, 2363 Anderson Avenue, Block: 43.01 Lot: 3. Appeal of Administrative Officers Decision.

Board Solicitor Ted Brennan gave a brief summary as to why the applicant is in front of the board, and when the board votes, please give an explanation either way if the vote is to approve or deny the appeal. All members are entitled to vote, there is no request for an alternative review for any variances. This is not an application before the board; it is an appeal of the Zoning Officer's decision. We are not considering any variances that may be needed. Mr. Wade is arguing that this is not an abandoned use, and should be permitted to maintain the same use. Mayor Critelli requested the legal definition of abandonment, and Mr. Brennan read it on the record.

Appearing on behalf of the applicant is Michael Aimino Esq. Mr. Andrew Wade and Mr. Gregory Sharp, an employee of Mr. Wade were both sworn in. Mr. Aimino explained that Mr. Wade owns the adjoining lots to this property approximately 30 acres. Mr. Wade testified that in October of 2009 was the first auction, there were other sales, he was the highest bidder, however there were complications with that sale. Mr. Wade testified that he finally purchased the property in October of 2012. The Township advertised the sale as a garage and the property. He owns 3 sides of property surrounding the garage. Inside of the garage he witnessed school bus repairs, fire and emergency vehicle repairs, the repair of leaf trucks, blowers, graders, sweeper, dump trucks, rollers.

Mr. Richardson is now in attendance at 8:22pm.

Mr. Wade testified that there was an oil drop off, hazardous waste materials drop off. There were approximately 25 employees when things were busier, and now they are down to about 8 or 9 employees. The main entrance was on Anderson Avenue. Mr. Wade proposes to use Jackson Road as the main entrance. The back of the garage faces Anderson. Mr. Wade also testified that it is his intention to use the facility to repair his own equipment, not as a repair station, and he intends on re-painting the building the

same color, red. As for signage, it is also Mr. Wade's intention to install the required 6-inch letters for emergency management. Mr. Wade also addressed that there were several items left from the Township. There were a lot of car parts, a skid of emergency vehicle lights, radio equipment, air compressor for the building was left, all the lifts, racks, tires, etc. There was a semi-tractor trailer on the front lot that was removed. Mr. Wade testified that he is looking to do the same type of use, just less intense.

Mr. Greg Sharp testified that he is an employee of Mr. Wade. Mr. Sharp testified that the utilities were on in the building; he worked with the Township to get them transferred to Mr. Wade. Mr. Sharp also testified that there were several pieces of equipment left in the building.

Township Zoning Officer Mr. Toussaint gave testimony as to his reasoning for denial. Mr. Toussaint stated that it is his responsibility to either accept or deny an application. If the Township Ordinances state that things have to be done a certain way that is what he bases of his decisions on. If there is a gray area, he directs the applicant to the board for a decision. This particular applicant, was not denied. There were conditions that were put on the application that must be met. Mr. Toussaint received a business license application. Based on the information on that application, Mr. Toussaint received a detailed letter in December 28th, 2012 with a detailed list of 7 uses on that application. Per land use section 176.13, there is only one principal use permitted. Mr. Wade listed Commercial Retail, designing of props, light manufacturing, warehousing of props, wholesale of props, entertainment filming of a t.v. show, and conditional or accessory use of an automobile repair shop. What is the principal use, and that will determine where the application goes from here. If you look at the commercial retail, everything pertaining to the props, one of those could be the principal use, the rest are accessory uses to the principal. By adding filming, and auto repair shop, they are not accessory uses to any retail, manufacturing, or warehousing of props. The manufacturing, housing, and retail all constitute a change of use from the previous use, which would involve Pinelands. Mr. Toussaint stated his letter does not mention abandonment at all. If the auto repair is the principal use, it would not require an application to the Pineland for a change of use, but it would require a conditional use variance application before this board. The auto repair is a permitted use, but it is listed as a conditional use, that would require a site plan. The conditions that are set in a conditional use, the board deals with lighting, outdoor storage, buffers, parking, vehicles on the lot and length of stay. If the auto repair is the secondary use, then the applicant will need a use variance for a secondary use. Mr. Toussaint also informed Mr. Wade that no materials could be stored outside. Mr. Wade stated that the Township used to do that. There was no building on the smaller lot. Section 118.1 of the ordinance states there is no display of goods outside. Props can be stored but not displayed for sale. We have a section in our codebook, that the Township can have an ordinance addressing abandonment, and is dealt with on a case-by-case basis. The municipal land use ordinance states you must meet 2 criteria. The first is an "overt act or failure to carry sufficient implication neither claims or retains interest in the subject matter." Mr. Toussaint stated in his opinion, the overt act was that the Township purchased another building. They moved all of their equipment and employees. They had all intentions of selling the building the day they moved. The

second is the intention of abandonment the Township did move to another location. They had all control, and intention of operating in a new location. All materials left were unusable, trash, and unwanted. In his opinion, it meets these two conditions. The Township has come up with a Master Plan. The Township wants businesses to look a certain way based on that Master Plan. Mr. Toussaint feels that this applicant should meet those same conditions and requirements as any other applicant.

Chairman Giangiulio asked if there would be any conflict in the 2-committee members hearing or voting on this. If any decision were to be appealed would it go before Township Committee? Mr. Brennan stated no, it would go before superior court, not the committee, since it is an appeal of the decision of the Zoning Officer.

Mr. Aimino stated he has reviewed the letter from Mr. Toussaint. The Township did not abandon the property, there is no change of use, it is proposed to be the same use as it was in 1988. Testimony vacated the building, but never did anything to use it in any other fashion. The Township bought another building, however they could go back to this building should they so choose. The mere intent to sell does not indicate abandonment. This is a permitted use. Mr. Wade testified that he does not intend on selling props. The Township use the outside until about 2010 then the Township moved their concrete blocks, and materials. On December 10th, of 2012 the Township Administrator addressed Mr. Wade to see if the Township could rent the building back since the new building is unusable. Mr. Wade testified that with respect to the filming it is his intention to film the work he does, not a production company.

Mr. Toussaint testified that the Township Administrator addressed Mr. Wade prior to this application. Mr. Toussaint went by what the applicant put on the application. If that is not what he is doing then he needs to clarify that on his application. The applicant is still required to meet conditions, and he needs clarification.

Mr. Aimino commented this is the same use as before, Mr. Wade will use the garage as the Township previously used it. Mayor Critelli asked if there would be light manufacturing? Mr. Wade testified no. Mr. Rowley made a motion to retire the board to a closed session, and Mayor Critelli seconded the motion at 8:53pm.

B. Richardson	Yes	M. Achey	Yes
C. Lange	Yes	F. DiRocco	Yes
J. Rowley	Yes	R. Jacoby	Yes
T. Giangiulio	Yes		

Meeting resumed at 9:25pm.

Roll Call:

B. Richardson	Present	M. Achey	Present
C. Lange	Present	F. DiRocco	Present

J.Rowley	Present	R. Jacoby	Present
T. Giangliulio	Present	R. Critelli	Present

Mr. Brennan stated the board has determined they would like to reserve the right to make a decision, in the event the parties can work this out. If an amended application is filed some of these issues can be resolved. The board is asking for the applicant to return on March 5th. Mr. Jacoby made a motion to continue the hearing until March 5th, and Mr. Lange seconded the motion. On roll call vote:

B. Richardson	Yes	M. Achey	Yes
C. Lange	Yes	F. DiRocco	Yes
J. Rowley	Yes	R. Jacoby	Yes
T. Giangliulio	Yes	R.Critelli	Yes

Communications:

None

Resolutions:

Resolution 13-01 David Decker Block: 45.05 Lot: 36.04 Denial for a Use and Bulk Variance.

Mayor Critelli made a motion to approve the resolution, Carl Lange seconded the motion. Roll call:

M. Achey	Yes	C. Lange	Yes
F. DiRocco	Yes	J. Rowley	Yes
R. Jacoby	Yes	T. Giangliulio	Yes

Mr. Lange asked what the time frame was to remove the sign. Mr. Toussaint stated the board did not give him a time frame, and Mr. Toussaint sent Mr. Decker a letter. With no response to the letter, a summons has been issued.

Resolution 13-02 Martin Silverstein, Block: 2426 Lot: 3 Bulk Variance

Mr. DiRocco made a motion to approve this resolution, Mr. Rowley seconded the motion. Roll Call:

M. Achey	Yes	C. Lange	Yes
F. DiRocco	Yes	J. Rowley	Yes
R. Jacoby	Yes	T. Giangliulio	Yes
R. Critelli	Yes		

Minutes:

Minutes for Re-Organization of January 15th, 2013

Mayor Critelli made a motion to approve the minutes, John Rowley seconded the motion. Mr. DiRocco requested that a change be made regarding a comment he made on the Appointment of Board Engineer, as well as adding an additional comment from Chairman Giangulio. With those changes made, Roll Call:

B. Richardson	Yes	M. Achey	Yes
C. Lange	Yes	F. DiRocco	Yes
J. Rowley	Yes	R. Jacoby	Yes
T. Giangulio	Yes	R. Critelli	Yes

Reports:

Mr. Toussaint reported that Mr. Decker is over his due date and is being handled. The last meeting prior to Re-Organization, there were comments on the Rabbit Rescue. Township Committee on January 31st held a special meeting to address the issues at the Rabbit Rescue. The committee voted to revoke the business license to the Rabbit Rescue. She is a tenant in that building, and the owner of the building came in to speak to Mr. Toussaint. The animals are in a foster home, there are no animals in that building. Following her facebook page, it is conflicting information.

On January 29th, Mr. Toussaint attended a Pinelands Commission meeting. He represents Waterford Township at those meetings. The Executive Director and Cindy Randazzo of DEP attend all Commission meetings. Mr. Toussaint handed out copies of proposed rule changes giving municipalities more power. These rules should be adopted by the last meeting in March. There were 2 guest speakers, one was Cindy Randazzo, and the second was Mark Miller of Pinelands Commission. Mark spoke of the new septic systems, there are 4 new approved systems. There are 3 from the past, and 4 new ones. The cheapest of the new ones is about \$30,000. It is the type of system that can be installed in the basement of your house. There is an annual service, if power goes out, it will never back up or overflow. The water purification system is about \$50,000.

On March 23rd, there is a Pinelands short course. It gives information regarding Pinelands. It is an all day event at Burlington County College. Members must pay for it themselves.

Waterford Township has been chosen to host a Pinelands Commission Meeting on November 26th at 7:30pm. The Executive Director will be there, Cindy Randazzo will be there, and the Township Engineer. There are 5 members on the board, and the Mayor or designee can vote. They need 15 members for a quorum. Typically there may be 45 people at the meeting. The meeting will be in Shamong in September.

Mr. Toussaint also reported that there are 2 ordinances that the Township Committee has had there 1st reading for. They involve the Master Plan changes that John Helbig

reviewed. Those changes will be memorialized at the next meeting, which address the zoning map changes, and the changes made for Archway School, and then the Master Plan will be completed, and certified. This has to be done every 6 years.

Mr. Lange addressed 2 properties in town with issues. Mr. Toussaint stated the house on Anderson Avenue; the property owner has been in court. Taxes have not been paid, the house is abandoned, and the house is in the process of foreclosure. It is still the homeowners' responsibility; the bank has not taken it over yet. The judge required covering the building, so a tarp has been placed over the roof. A summons was issued to the bank, and was denied since the bank does not own it. Mr. Toussaint issued an imminent hazard, and the bank will need to bring it to a safe condition by boarding it up. If the Township knocks the house down and liens the property, the Township is not in a financial position to do that.

A contractor owns the second house on Raritan Avenue; the house was sitting on stone that has since been fixed. Work was commencing on the property; the owner has been diagnosed with cancer, and has let the property go. There are 3 failures to appear for court. There is no bank involved; the owner does have engineered plans to rebuild. The Township also has the option to knock the house down, and sell the property with a lien. Taxes are current, by a lien holder.

Open to the Public:

None

Board Comments and Questions:

Mr. Rowley made a comment that he wanted to thank Mr. Toussaint for his professionalism and accuracy of his report. He is not only an asset to the board, but also an asset to the town.

Mr. DiRocco made a motion to adjourn the meeting, Mr. Jacoby seconded the motion. Meeting adjourned.

Respectfully Submitted,

Ed Toussaint, Planning Board Secretary