

**STILLWATER TOWNSHIP
ZONING BOARD OF ADJUSTMENT
January 23, 2012**

MEMBERS PRESENT: Mr. Powell, Mr. Saal, Mr. Sarni, Mr. Daingerfield, Mr. Hammond, Mr. Stachura, Mr. Lippencott, Mrs. Feenstra

MEMBERS ABSENT: None

ALSO PRESENT: Board Attorney Morgenstern; Board Engineer Rodman

A REORGANIZATION AND REGULAR MEETING OF THE Stillwater Township Zoning Board of Adjustment was held on Monday, January 23, 2012, at 7:30 p.m. at the Municipal Building in Middleville, New Jersey. The meeting was called to order by Mrs. Wunder in accordance with the Open Public Meetings Act. The flag was saluted and roll call taken.

Mr. Lippencott was re-appointed by the Township Committee as an Alternate #1 Member, term expiring 12/31/13 and was sworn in prior to the meeting. Mr. Hammond was re-appointed by the Township Committee as a Regular Member, term expiring 12/31/15 and was sworn in prior to the meeting.

REORGANIZATION

ELECTION OF CHAIRPERSON: Mr. Stachura made a **motion** to nominate Mr. Powell as Chairperson for 2012, seconded by Mr. Daingerfield. There being no further nominations, nominations were closed and roll call was taken.

Roll Call Vote: Mr. Daingerfield, yes, Mr. Hammond, yes, Mr. Stachura, yes, Mr. Saal, yes, Mr. Sarni, yes, Mr. Lippencott, yes, Mr. Powell, yes

At this point, the meeting was turned over to Mr. Powell.

ELECTION OF VICE-CHAIRPERSON: Mr. Sarni made a **motion** to nominate Mr. Stachura as Vice-Chairperson for 2012, seconded by Mr. Hammond. There being no further nominations, nominations were closed and roll call was taken.

Roll Call Vote: Mr. Daingerfield, yes, Mr. Hammond, yes, Mr. Stachura, yes, Mr. Saal, yes, Mr. Sarni, yes, Mr. Lippencott, yes, Mr. Powell, yes

APPOINTMENT OF SECRETARY: Mr. Hammond made a **motion** to appoint Mrs. Wunder as Secretary for 2012, seconded by Mr. Saal.

Roll Call Vote: Mr. Daingerfield, yes, Mr. Hammond, yes, Mr. Stachura, yes, Mr. Saal, yes, Mr. Sarni, yes, Mr. Lippencott, yes, Mr. Powell, yes

APPOINTMENT OF BOARD ATTORNEY: **Motion** was made by Mr. Stachura to appoint Robert Morgenstern, Esq. of Dolan & Dolan for the calendar year 2012 at a rate of \$150 per hour; and \$280.00 per meeting up until 10:30 p.m., \$150.00 per hour after 10:30 p.m., as per the contract, seconded by Mr. Sarni and unanimously carried that the following Resolution be adopted:

WHEREAS, N.J.S.A. 40A:11-5, "The Local Public Contract Law," permits governing bodies to Contract for Certain Professional Services Without Competitive Bidding,"

NOW THEREFORE BE IT RESOLVED by the Zoning Board of Adjustment of the Township of Stillwater, County of Sussex, State of New Jersey that the following appointment is made for the calendar year 2012 for the statutory term of the respective office:

**Robert Morgenstern, Esq.
Dolan & Dolan
One Legal Lane
53 Spring Street
Newton, New Jersey 07860**

There being no further discussion, roll call was taken.

Roll Call Vote: Mr. Daingerfield, yes, Mr. Hammond, yes, Mr. Stachura, yes, Mr. Saal, yes, Mr. Sarni, yes, Mr. Lippencott, yes, Mr. Powell, yes

APPOINTMENT OF BOARD ENGINEER: **Motion** was made by Mr. Stachura to appoint Ted Rodman of Rodman Associates for the calendar year 2012 at a rate of \$113.00 per hour on an as needed basis, as per contract, seconded by Mr. Hammond and unanimously carried that the following Resolution be adopted:

WHEREAS, N.J.S.A. 40A:11-5, "The Local Public Contract Law," permits governing bodies to Contract for Certain Professional Services Without Competitive Bidding,"

NOW THEREFORE BE IT RESOLVED by the Zoning Board of Adjustment of the Township of Stillwater, County of Sussex, State of New Jersey that the following appointment is made for the calendar year 2012 for the statutory term of the respective office:

**Ted Rodman
Rodman Associates
19 Main Street
P.O. Box 647
Blairstown, New Jersey 07825**

There being no further discussion, roll call was taken.

Roll Call Vote: Mr. Daingerfield, yes, Mr. Hammond, yes, Mr. Stachura, yes, Mr. Saal, yes, Mr. Sarni, yes, Mr. Lippencott, yes, Mr. Powell, yes

MEETING DATES: Mr. Daingerfield made a **motion** to approve the following meeting dates for 2012, seconded by Mr. Stachura and read into the record by the Secretary:

January 23, 2012 (Reorganization/Regular)

February 27, 2012

March 26, 2012

April 23, 2012

May 31, 2012 (Fifth Thursday)

June 25, 2012

July 23, 2012

August 27, 2012

September 24, 2012

October 22, 2012

November 26, 2012

December 17, 2012 (Third Monday)

January 28, 2013 Reorganization/Regular

Roll Call Vote: Mr. Daingerfield, yes, Mr. Hammond, yes, Mr. Stachura, yes, Mr. Saal, yes, Mr. Sarni, yes, Mr. Lippencott, yes, Mr. Powell, yes

OFFICIAL NEWSPAPER: Mr. Daingerfield made a **motion** to designate the Daily New Jersey Herald and the Sunday Herald as the official newspapers of the Stillwater Township Zoning Board of Adjustment for 2012, seconded by Mr. Stachura.

Roll Call Vote: Mr. Daingerfield, yes, Mr. Hammond, yes, Mr. Stachura, yes, Mr. Saal, yes, Mr. Sarni, yes, Mr. Lippencott, yes, Mr. Powell, yes

MINUTES

Mr. Stachura made a **motion** to approve the minutes of December 20, 2011, seconded by Mr. Lippencott.

Roll Call Vote: Mr. Hammond, yes, Mr. Stachura, yes, Mr. Saal, yes, Mr. Sarni, abstain, Mr. Lippencott, yes, Mrs. Feenstra, yes, Mr. Powell, yes

RESOLUTION

Nextel of New York, Inc. & JCP&L, Block 1703, Lot 21, Cal. No. 569

Mr. Sarni cited a conflict and stepped down. Mr. Stachura made a **motion** to adopt the Resolution, seconded by Mrs. Feenstra, denying the application by Nextel of New York, Inc., and Jersey Central Power and Light Company for required variances and preliminary and final site plan approval to construct a monopole tower to provide cellular telephone service and also to provide intercompany communications among the employees of Jersey Central Power and Light Company on a lot owned by the Swartswood Volunteer Fire Department at 931 Swartswood Road, Stillwater Township, New Jersey plus an equipment cabinet to house related equipment on a lot known as Block 1703, Lot 21 on the Stillwater Township Tax Map.

A Board discussion was held and the following changes were made to the Resolution: Page 2, line 17 was changed from "12" antennae to "6" antennae; Page 4, Section III, line four was changed to read "The Village of Swartswood is an older village containing some older buildings and older residences, some historic but not registered."

At this point, this portion of the meeting was opened to the public at 7:50 p.m.

The following members of the public spoke and asked the Board to consider additional changes to the Resolution:

Ken Bradley, 10 East Side Drive, Swartswood

Kathleen Bradley, 10 East Side Drive, Swartswood

Randall Sprague, 982 Route 521, Stillwater

Following further discussion, the Board agreed to make the following revisions:

Page 6, #2, the last portion referencing Section 240-114J.2(e)(1) was removed; Page 6, #3, "162 ft." was changed to "plus or minus 166 ft."; Page 9, last sentence was removed.

The meeting was closed to the public at 8:23 p.m.

Mr. Stachura amended the **motion** to include the revisions, seconded by Mrs. Feenstra.

Roll Call Vote: Mr. Hammond, yes, Mr. Saal, yes, Mr. Lippencott, yes, Mrs. Feenstra, yes, Mr. Stachura, yes, Mr. Powell, yes

Mr. Sarni rejoined the Board at this time.

RESOLUTION

Manser, New Image Landscape Services, Block 2401, Lot 19.06, Cal. No. 558 – 90 day extension

Mr. Stachura made a **motion** to adopt the Resolution, seconded by Mr. Sarni, with the following terms and conditions applying:

NOW, THEREFORE, BE IT RESOLVED by the Stillwater Township Zoning Board of Adjustment that the Resolution granting a use variance to David and Hillary Manser dated December 28, 2009, is hereby amended in the following respects:

1. The grant of the variance is extended until March 20, 2012.
2. The time for the Applicant to obtain a Letter of Interpretation from the New Jersey Department of Environmental Protection is extended until March 20, 2012.
3. The deadline for the Applicant to obtain site plan approval from this Board is extended until March 20, 2012.

BE IT FURTHER RESOLVED that the Zoning Board of Adjustment hereby reserves decision on the following issues:

1. Whether the Applicants will be required to construct a pole barn, and
2. Whether the Applicants will be required to remove the plastic shed and storage container.

These issues will be determined at the time of site plan review by this Board.

This approval is subject to the following terms and conditions:

1. Applicant shall comply with Paragraph No. 1 of the report of Ted Rodman, P.E., dated July 23, 2010.
2. The wooden pallets and tires shall be removed immediately if they have not been removed already.
3. A list of equipment stored on site should be supplied to this Board immediately.
4. All other terms and conditions of the Resolution of this Board dated December 28, 2009 shall remain in full force and effect unless specifically altered by the within Resolution.

Roll Call Vote: Mr. Hammond, yes, Mr. Saal, yes, Mr. Sarni, yes, Mr. Lippencott, yes, Mr. Stachura, yes, Mr. Powell, yes

OTHER BUSINESS

Burke, Block 3401, Lot 4.01, Cal. No. 562 request for an extension of original approval and conditions Mr. Hammond and Mr. Stachura recused themselves as they were both noticed property owners. All notices appeared to be in order.

John Burke, 951 Stillwater Road, was sworn in. Mr. Burke purchased the Huff Farm and has spent the last year renovating the farmhouse and barn. He would like to take a year to enjoy the property and house before beginning the construction of the second house. He requested an 18-month extension as that would allow construction of the foundation during a time of year when it would be feasible, either spring or summer of 2013. It would also allow time to obtain plans and appropriate permits. Mr. Morgenstern provided a brief history on the original application.

Mr. Daingerfield made a **motion** to grant an 18-month extension, due to expire on September 21, 2013, seconded by Mr. Sarni.

Roll Call Vote: Mr. Daingerfield, yes, Mr. Saal, yes, Mr. Lippencott, yes, Mrs. Feenstra, abstain, Mr. Powell, yes

Mr. Hammond and Mr. Stachura rejoined the Board at this time.

HEARING

William Doolittle, Block 3602, Lot 4, Cal. No. 571, application to construct a free-standing patio in the front yard (lakeside) of the subject lot, within 100 feet of a hydrologically sensitive area.

All notices appeared to be in order. Mr. Daingerfield made a **motion** to deem the application complete, seconded by Mr. Stachura.

Roll Call Vote: Mr. Daingerfield, yes, Mr. Hammond, yes, Mr. Saal, yes, Mr. Sarni, yes, Mr. Lippencott, yes, Mr. Stachura, yes, Mr. Powell, yes

Mr. Doolittle testified that he grew up on Emmons Lane and purchased his aunt's summer house on the lake. He would like to construct a free-standing patio, 12' x 20', in the front yard, lake side portion of the property. The patio would allow additional space on the small lot, which has a minimal yard and due to the grade of the property, very little usable space. The septic and pump system are located on the left side of the property and Mr. Doolittle hoped to construct an addition to the house on the right side of the property. If the patio was placed on the rear of the property there would be no view of the lake to enjoy. He has four children who use and enjoy the property with their families; and the patio will help keep people off the grass, there will be less contact with ticks, and everyone will be able to enjoy a view of the lake.

Mr. Morgenstern reviewed the necessary variances:

240-104(g) (4)/240-104(l) (1): accessory structure is not to be located in the front yard

240-104(j)(1): structure cannot be less than 100 feet from the lake or hydrologically sensitive lands or lake area.

240-114(l)(2): structures permitted in the front yard should be limited to bbqs, boathouses, docks, and fences.

Mr. Morgenstern noted relief from 240-114(l)(2) would require a d variance.

Mr. Doolittle described the patio as a free-standing board patio at ground level on one end increasing to approximately three feet on the opposite end.

In response to Board questioning, Mr. Doolittle stated the patio would be located 13 feet from the water in a level area, no roof, a patio type structure, with walk down lawn access, and the decking would be treated to avoid rotting. The patio would have footings and will be located 15' from the neighboring property due to the slope.

Mr. Doolittle agreed to install stones if necessary to prevent erosion and he noted there is a bed of pachysandra currently located in the area of the proposed patio. Mr. Rodman stated that 4" stone would be sufficient and Mr.

Doolittle agreed to do so. The Board indicated that a railing may be required on the 3' foot side of the patio, to be determined by the Construction Official.

At this point, this portion of the meeting was opened to the public at 8:45 p.m.

Patrick Chin, 918 Emmons Lane, Stillwater was sworn in stating that he resides to the right of the Doolittle property and has no objection to the application, stating Mr. Doolittle is only trying to recover usable land.

There being no further public testimony, this portion of the meeting was closed at 8:46 p.m.

The Board referenced the Environmental Commission site survey noting the stabilization concern was addressed by requiring the installation of the stone. Mr. Doolittle referenced a letter from Blanca Chevrestt, Superintendent, Swartswood State Park, which was included with the application and indicated the park had no issue with the patio.

Mr. Hammond made a **motion** to approve the required variances to permit the patio, seconded by Mr. Daingerfield, the following conditions applying:

-4" stone to be installed under the patio.

-Railings to be installed if required.

-All other standard conditions applying

Roll Call Vote: Mr. Daingerfield, yes, Mr. Hammond, yes, Mr. Saal, yes, Mr. Sarni, yes, Mr. Lippencott, yes, Mr. Stachura, yes, Mr. Powell, yes

Mr. Stachura made a **motion** to carry the application for the memorializing Resolution to February 27, 2012, seconded by Mr. Lippencott.

Roll Call Vote: Mr. Daingerfield, yes, Mr. Hammond, yes, Mr. Saal, yes, Mr. Sarni, yes, Mr. Lippencott, yes, Mr. Stachura, yes, Mr. Powell, yes

BILLS

Mr. Stachura made a **motion** to pay the following bills, seconded by Mr. Hammond:

<u>Dolan & Dolan:</u>	General – November 2011	\$ 54.16
	Meeting – November 2011	\$ 317.50
	Meeting – December 2011	\$ 280.00
	Escrow – Scalley	\$ 99.00
	Escrow – Tanis	\$ 187.50
<u>Rodman Associates:</u>	General – November/December 2011	\$ 28.25

Roll Call Vote: Mr. Daingerfield, abstain, Mr. Hammond, yes, Mr. Saal, yes, Mr. Sarni, abstain, Mr. Lippencott, yes, Mr. Stachura, yes, Mr. Powell, yes

ANNUAL REPORT 2011: Mr. Powell made a **motion** to accept the 2011 Annual Summary, seconded by Mr. Sarni, to be forwarded to the Planning Board and Township Committee.

STILLWATER TOWNSHIP ZONING BOARD OF ADJUSTMENT
ANNUAL REPORT ON APPLICATIONS HEARD BY
THE STILLWATER TOWNSHIP ZONING BOARD OF ADJUSTMENT
FOR THE CALENDAR YEAR 2011
PURSUANT TO N.J.S. 40:55D-70.1

WHEREAS, the Zoning Board of Adjustment of the Township of Stillwater is required by N.J.S.A. 40:55D-70.1 to review its decisions on applications for variances and appeals and prepare and adopt by resolution an annual report of its findings concerning the Zoning ordinance provisions which were the subject of applications in the year 2011 and its recommendations for Zoning Ordinance amendments or revisions, if any; and

WHEREAS, the Zoning Board of Adjustment has conducted this review as required by the State Statutes;

NOW, THEREFORE, BE IT RESOLVED, by the Stillwater Township Zoning Board of Adjustment that the following constitutes its annual report for the calendar year 2011;

A list of the applicants to the Zoning Board of Adjustment, the tax lot and block of the property which is the subject of the application, the provisions of the Zoning Ordinance from which variances or appeals are sought, the type of variance or relief sought and the date of the Board's decision, and whether the application was granted or denied, is contained on Schedule A annexed hereto.

STILLWATER TOWNSHIP ZONING BOARD OF ADJUSTMENT
2011 Annual Report

Based upon the applications decided by the Stillwater Township Zoning Board of Adjustment in 2011, the Stillwater Township Zoning Board of Adjustment makes the following recommendations:

1. The Zoning Board of Adjustment received an application for the construction of a wind turbine or wind tower to generate electricity in 2007. The application was withdrawn. The law P.L. 2009, Chapter 146 adopted November 20, 2009 makes renewable energy facilities an inherently beneficial use. The law defines a renewable energy facility as "A facility or structure for the purpose of supplying electrical energy produced from wind, solar or photo-voltaic technologies whether such facility or structure is a principal use, a part of a principal use or an accessory use or structure." The Township Committee could consider adopting a specific ordinance regulating these uses. It appears that the State of New Jersey is taking over home rule in this area. Accordingly, the Township Committee could consider regulating these uses. The Solar Energy Advancement and Fair Competition Act requires that power suppliers generate an annually increasing minimum amount of energy from solar electric power. Accordingly, the Township Committee and the Planning Board could consider adopting amendments to the Land Development ordinances to address these issues

2. Overall Observations. The Zoning Board of Adjustment received only two new applications in the year 2011. The first was from William and Beverly Gordon to construct a new lakefront home on a lot after they had demolished the existing lakefront home. The second was the construction of the monopole cellular telephone tower application by Nextel of New York and JCP&L. There were no applications for the construction of new homes on vacant lots. There were no applications for the construction of commercial buildings. There were not even any applications for the construction of additions to existing residential or commercial buildings. The economy, both locally and nationally, was extremely slow in 2011. The economy appears to be improving slowly. However, because of the slow economy, the Zoning board does not anticipate a large number of applications for 2012. There have been applications for solar energy installations in adjacent and nearby municipalities. The Zoning Board recommends that the Planning Board and Township Committee consider adopting ordinances relating to renewable energy uses.

Roll Call Vote: Mr. Daingerfield, yes, Mr. Hammond, yes, Mr. Stachura, yes, Mr. Saal, yes, Mr. Sarni, yes, Mr. Lippencott, yes, Mr. Powell, yes

2012 Budget Worksheet Review:

Following review of the 2012 Budget Worksheet, Mr. Daingerfield made a **motion** to make the following budget recommendations for 2012, seconded by Mr. Powell:

101 Salaries & Wages	\$ 5,723
201 Advertising	\$ 500
202 Forms & Books	\$ 125
203 Office Supplies	\$ 75
204 Postage	\$ 350
207 Equipment & Maintenance	\$ 75
208 Membership Dues	\$ 220
211 School, Training, Seminars	\$ 500
247 Legal Fees	\$ 4,000
299 Other Expenses	\$ 25
555 Temporary Budget	\$ 0
<u>700 Engineering</u>	<u>\$ 750</u>
Total:	\$12,343

*The Board agreed to request an additional line item for possible litigation in the amount of \$10,000.

Roll Call Vote: Mr. Daingerfield, yes, Mr. Hammond, yes, Mr. Saal, yes, Mr. Sarni, yes, Mr. Lippencott, yes, Mr. Stachura, yes, Mr. Powell, yes

Correspondence:

NJPO Planner

December 28, 2011: Received from Attorney Morgenstern, re: Peter Tanis

There being no further business, Mr. Sarni made a **motion** to adjourn the meeting at 9:23 p.m., seconded by Mr. Daingerfield. In a voice vote, all were in favor.

Respectfully submitted,

Kathy Wunder, Board Secretary

Eric Powell, Chairman