

**STILLWATER TOWNSHIP  
ZONING BOARD OF ADJUSTMENT  
February 23, 2015**

**MEMBERS PRESENT:** Mr. Lippencott, Mr. Stachura, Mr. Sarni, Mrs. Draghi, Mr. Powell  
**MEMBERS ABSENT:** Mr. Hammond

A REORGANIZATION AND REGULAR MEETING OF THE Stillwater Township Zoning Board of Adjustment was held on Monday, February 23, 2015, at 7:30 p.m. at the Municipal Building in Middletown, 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.

**Appointments:** Mr. Sarni (term expiring 12/31/18) was appointed by the Township Committee and sworn in prior to the meeting.

**REORGANIZATION**

**ELECTION OF CHAIRPERSON:** Mr. Stachura made a **motion** to nominate Mr. Powell as Chairperson for 2015, seconded by Mrs. Draghi. There being no further nominations, nominations were closed and roll call was taken.

**Roll Call Vote:** Mr. Lippencott, yes, Mr. Stachura, yes, Mr. Sarni, yes, Mrs. Draghi, yes, Mr. Powell, yes

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

**ELECTION OF VICE-CHAIRPERSON:** Mr. Powell made a **motion** to nominate Mr. Stachura as Vice-Chairperson for 2015, seconded by Mr. Sarni. There being no further nominations, nominations were closed and roll call was taken.

**Roll Call Vote:** Mr. Lippencott, yes, Mr. Stachura, yes, Mr. Sarni, yes, Mrs. Draghi, yes, Mr. Powell, yes

**APPOINTMENT OF SECRETARY:** Mrs. Draghi made a **motion** to appoint Mrs. Wunder as Secretary for 2015, seconded by Mr. Stachura.

**Roll Call Vote:** Mr. Lippencott, yes, Mr. Stachura, yes, Mr. Sarni, yes, Mrs. Draghi, yes, Mr. Powell, yes

**APPOINTMENT OF BOARD ATTORNEY:** **Motion** was made by Mr. Sarni to appoint Robert Morgenstern, Esq. of Dolan & Dolan for the calendar year 2015 at a rate of \$161.00 per hour; and \$300.00 per meeting up until 10:30 p.m., \$161.00 per hour after 10:30 p.m., as per the contract, seconded by Mr. Stachura 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 2014 for the statutory term of the respective office:

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

**Roll Call Vote:** Mr. Lippencott, yes, Mr. Stachura, yes, Mr. Sarni, yes, Mrs. Draghi, yes, Mr. Powell, yes

**APPOINTMENT OF BOARD ENGINEER:** **Motion** was made by Mr. Lippencott to appoint Ted Rodman of Rodman Associates for the calendar year 2015 at a rate of \$115.00 per hour on an as needed basis, as per 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 2015 for the statutory term of the respective office:

**Ted Rodman  
Rodman Associates  
19 Main Street  
P.O. Box 647**

**Blairstown, New Jersey 07825**

**Roll Call Vote:** Mr. Lippencott, yes, Mr. Stachura, yes, Mr. Sarni, yes, Mrs. Draghi, yes, Mr. Powell, yes

**MEETING DATES:** Mr. Lippencott made a **motion** to approve the following meeting dates for 2015, seconded by Mrs. Draghi and read into the record by the Secretary:

January 26, 2015 (cancelled)	July 27, 2015
February 23, 2015 (Reorganization/Regular)	August 24, 2015
March 23, 2015	September 28, 2015
April 27, 2015	October 26, 2015
May 25, 2015	November 23, 2015
June 22, 2015	December 28, 2015
	January 25, 2016 (Reorganization/Regular)

**Roll Call Vote:** Mr. Lippencott, yes, Mr. Stachura, yes, Mr. Sarni, yes, Mrs. Draghi, yes, Mr. Powell, yes

**OFFICIAL NEWSPAPER:** Mr. Lippencott made a **motion** to designate the daily New Jersey Herald and the New Jersey Sunday Herald as the official newspapers of the Stillwater Township Zoning Board of Adjustment for 2015, seconded by Mrs. Draghi.

**Roll Call Vote:** Mr. Lippencott, yes, Mr. Stachura, yes, Mr. Sarni, yes, Mrs. Draghi, yes, Mr. Powell, yes

## MINUTES

Mrs. Draghi made a **motion** to approve the minutes of December 15, 2015, as amended, seconded by Mr. Sarni.

**Roll Call Vote:** Mr. Lippencott, yes, Mr. Stachura, yes, Mr. Sarni, yes, Mrs. Draghi, yes, Mr. Powell, yes

### **Other Business: Annual Summary 2014**

Mr. Lippencott made a **motion** to approve the 2014 Annual Report and forward a copy to the Township Committee and Planning Board, seconded by Mr. Sarni:

**Variances.** The Board granted the following variances:

**Nextel of New York, Inc. and Jersey Central Power and Light Company, Block 1703, Lot 21** application to construct a cell tower on property owned by the Swartswood Fire Department in the Neighborhood Commercial Zone. Variance was required because the application was for a conditional use and violated the following conditions: setback requirements; size of the equipment cabinet; height of the equipment cabinet, and location priorities set forth in the zoning ordinance. The Board adopted a Resolution granting the variances and site plan approval on January 28, 2013. The approval was mandated by Court Order. By Resolution dated May 30, 2013 the Board granted an amendment to the site plan approval to reduce the size of the fenced-in compound to eliminate any possible contention that any part of the proposed project is located within Hampton Township on August 25, 2014. The Applicant applied for and the Board granted a minor amendment to the final site plan approval to allow the fenced-in equipment compound to be relocated slightly to the south, the tower to be relocated 12 feet 3 inches to the south within the compound, and the landscaping to be revised to group the proposed evergreens immediately adjacent to the easterly corner of the parking lot.

**Theresa Martin, Block 3305, Lot 6.** The Board granted variances to construct an addition to an existing garage and a retaining wall in the front yard of the residential lot on Cedar Ridge Road in the R-5 Residential Zone District. The variance was to construct an accessory structure in the front yard and the variance from minimum setback requirements was also granted under N.J.S.A. 40: 55D-70c. The variance was also granted from the requirement for the maximum size of an accessory structure and a variance from the requirement for maximum lot coverage of the garage addition. The applications were approved by Resolutions adopted December 30, 2013. A nine month extension of the approval was granted by the Board on September 22, 2014 extending the approval to June 22, 2015.

**Rita Patrick, Block 703, Lot 1.03.** The Board granted the following variances for the Applicant, Rita Patrick to construct a 30' x 40' free-standing pole barn type garage building on the residential lot located on Hampton Road in the R-7.5 Residential Zone District. The Board granted a variance for the maximum size of an accessory structure to allow the barn of 1,200 square feet. The Board also granted a height variance to permit the structure to have a height of 15 feet 10 inches which exceeds the maximum height limitation of 15 feet. The Resolution was adopted September 22, 2014.

**Richard Gerber, Block 2401, Lot 44.02.** The Board granted a use variance to Richard Gerber to operate a landscaping and lawn care business on a residential lot located on Old Foundry Road in the R-7.5 Residential Zone District. The Board also granted preliminary and final site plan approval. The lot has an existing single family residential dwelling. The lot was well-screened. No customers come to the site. No new buildings or improvements were proposed to be constructed on the site. There were no objectors. The Board adopted the Resolution of Approval on November 24, 2014.

**Joseph Mackey, Block 703, Lot 2.** The Applicant applied for required variances to construct a free-standing garage building of a pole barn style on a residential lot. The proposed garage building was to be 30' x 40' on the lot located on Hampton Road in the R-7.5 Residential Zone District. The Board granted the following variances: (1) a variance from the Ordinance setting the maximum size of an accessory structure to allow the garage with an area of 1,200 square feet. (2) The Board also granted a variance from the maximum height requirements of the Ordinance to permit the garage to have a height of 18 feet where the maximum height set forth in the Zoning Ordinance is 15 feet. The Board found that the building with a height of 15 feet would not accommodate a camper which the Applicant proposed to store in the garage building. The Board was of the opinion that it was more esthetically pleasing to store the vehicles in a garage building out of sight. The Resolution of Approval was adopted November 24, 2014.

**Michael Passafaro, Block 801, Lot 8.** Application to construct a 16' x 20' addition onto the side of an existing single family dwelling on Mount Benevolence Road in the R-7.5 Residential Zone District requiring variance relief for the minimum side setback requirement. Further information was necessary and the application was carried to January 26, 2015.

**Residential Dwellings.** There were no applications for new residential dwellings heard by the Zoning Board in the year 2014.

### **STILLWATER BOARD OF ADJUSTMENT ANNUAL REPORT OBSERVATIONS AND RECOMMENDATIONS**

Based on the applications decided by the Stillwater Township Zoning Board of Adjustment in 2014 the Board makes the following observations and recommendations:

There were no new applications for the construction of new single-family residential dwellings.

There were no applications for the construction of commercial buildings.

There were no applications to construct additions on existing commercial buildings.

Cellular telephone facilities. The Board approved the application of Nextel of New York and Jersey Central Power and Light Company for a cellular telephone tower on the Swartswood Road. The Board initially denied the application. However, the Court ordered the Board to grant the variances and site plan approval because of existing New Jersey Case Law and the Federal Telephone Communications Act. The Board approved a minor amendment to the site in 2014.

The Board has not received any applications for the installation of solar facilities although adjoining municipalities have received such applications. Such an application could be received. The Zoning Board received an application for a wind turbine or wind tower to generate electricity in 2007. The application was withdrawn. An amendment to the Municipal Land Use Law makes renewable energy facilities inherently beneficial uses. This includes both solar facilities and wind turbines or wind towers. Accordingly, it appears that the State of New Jersey is taking over home rule in the field of renewable energy facilities. The Township Committee and Planning Board did adopting an Ordinance regulating solar facilities for residential lots. The Township has not yet approved an Ordinance regulating commercial solar facilities.

The Board notes that the Township did adopt an Ordinance regulating wood-burning furnaces which is contained in the Township Zoning Ordinance, Section 240-114P. The Board notes that N.J.A.C. 7:27-3.1 does have standards with respect to the construction of wood-burning furnaces. This Ordinance could be amended further if the Township Committee desires.

The economy, both locally and nationally, was somewhat slow in 2014, although improving slightly. The economy appears to be improving slowly after the recession. However, because of the relatively slow economy, the Zoning Board does not anticipate a large number of applications for 2015.

**Roll Call Vote:** Mr. Lippencott, yes, Mr. Stachura, yes, Mr. Sarni, yes, Mrs. Draghi, yes, Mr. Powell, yes

**HEARING:**

**Michael Passafaro, Block 801, Lot 8, Cal. No. 589 – application to construct an addition**

The applicant appeared before the Board in December and at that time the Board requested additional information and the application was carried. Mr. Passafaro has not provided the additional information and has verbally indicated to the Board Secretary that he would not be proceeding with the project and was moving as an alternative. He indicated he would withdraw the application. Mr. Passafaro was not in attendance at the meeting.

Mr. Lippencott made a **motion** to deny the application without prejudice, seconded by Mr. Stachura.

**Roll Call Vote:** Mr. Lippencott, yes Mr. Stachura, yes, Mr. Sarni, yes, Mrs. Draghi, yes, Mr. Powell, yes

**RESOLUTION**

**Patrick, Block 703, Lot 1.03, Cal. No. 587 – Condition #4, amendment request.**

Following review of a letter (via email) dated January 21, 2015, received from Ms. Patrick, Mr. Stachura made a **motion** to remove condition #4 of the Resolution memorialized on October 27, 2014, seconded by Mr. Sarni.

**Roll Call Vote:** Mr. Lippencott, yes Mr. Stachura, yes, Mr. Sarni, yes, Mrs. Draghi, yes, Mr. Powell, yes

**BILLS**

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

<u>Dolan &amp; Dolan:</u>	General – December 2014	\$ 118.50
	Escrow – Gerber	\$ 64.78
	Escrow – Passafaro	\$ 79.00
	General – January 2015	\$ 362.25
	Escrow – Martin	\$ 40.25
	Escrow – Patrick	\$ 40.25
<u>New Jersey Herald:</u>	Reorganization Meeting	\$ 6.60
	Resolution – Mackey	\$ 23.70
<u>Escrow Refunds:</u>	Bradley	\$ 392.25
	Goldberg	\$ 248.50
	Tanis	\$1,163.76
<u>NJPO Membership:</u>	2015 Dual PB/ZB	\$ 180.00

**Roll Call Vote:** Mr. Lippencott, yes, Mr. Stachura, yes, Mr. Sarni, yes, Mrs. Draghi, yes, Mr. Powell, yes

**Correspondence:**

NJLOM Mayor’s Advisory – Updated FCC Rule Published in Federal Register – Mrs. Draghi briefly discussed the order concerning collocation on existing towers and provided the following website for further information:

[www.gpo.gov/fdsys/pkg/FR-2015-01-08/pdf/2014-28897.pdf](http://www.gpo.gov/fdsys/pkg/FR-2015-01-08/pdf/2014-28897.pdf).

Krista Galante – Regular Member Resignation: Mr. Powell made a **motion** to accept with gratitude the resignation of Krista Galante, seconded by Mr. Lippencott.

**Roll Call Vote:** Mr. Lippencott, yes, Mr. Stachura, yes, Mr. Sarni, yes, Mrs. Draghi, yes, Mr. Powell, yes

NJPO Planner – November/December 2014

Special Meeting – Highlands Regional Master Plan Review – February 4, 2015

Citizen Leadership Form – Samuel Wykoff: Following review of the application and a brief discussion on the procedure to appoint a member, Mr. Lippencott made a **motion** authorizing the secretary to forward a memo to the Township Committee requesting they consider Mr. Wykoff for the regular member position, filling the unexpired term of Mrs. Galante, seconded by Mrs. Draghi.

All were in favor. None opposed, none abstained.

Frelinghuysen Township – Land Use Amendment – Ordinance 2015-06 (emailed 2/5/15)

**At this point, this portion of the meeting was opened to the public at 7:59 p.m.**

**There being no public present, this portion of the meeting was closed at 7:59 p.m.**

**Committee Liaison Report:**

Committeeman Gross was unable to attend the meeting tonight.

There being no further business, Mr. Lippencott made a **motion** to adjourn the meeting at 8 p.m., seconded by Mr. Sarni. In a voice vote, all were in favor.

Respectfully submitted,

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Kathy Wunder, Board Secretary

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Eric Powell, Chairman