

**STILLWATER TOWNSHIP
ZONING BOARD OF ADJUSTMENT
May 30, 2013**

MEMBERS PRESENT: Mr. Powell, Mr. Hammond, Mr. Sarni, Mr. Stachura, Mr. Lippencott, Mrs. Galante

MEMBERS ABSENT: None

ALSO PRESENT: Board Attorney Robert Morgenstern
Board Engineer Ted Rodman

A REGULAR MEETING OF THE Stillwater Township Zoning Board of Adjustment was held on Thursday, May 30, 2013 at 7:30 p.m. at the Municipal Building in Middletown, New Jersey. The meeting was called to order by Chairman Powell in accordance with the Open Public Meetings Act.

The flag was saluted and roll call taken.

MINUTES

Mrs. Galante made a **motion** to approve the Regular Minutes of April 22, 2013, seconded by Mr. Lippencott:

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

Mr. Lippencott made a **motion** to approve the Executive Minutes of April 22, 2013, seconded by Mr. Stachura:

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

HEARING

Peter Tanis, Block 1703, Lot 2.01, Cal. No. 580

Application to use an existing eight unit multi-family dwelling building for long-term residential occupancy for low and moderate income housing pursuant to the applicant's Affordable Housing Agreement with the Township of Stillwater executed on 6/14/12; with site plan approval requested. All notices appeared to be in order.

John Segreto, Esq. of Segreto, Segreto & Segreto, Haledon, New Jersey, was present on behalf of the applicant. Also present and sworn in was Peter Tanis, owner of the property, and Professional Planner Michael Kauker of Kauker & Kauker, Bergen County.

Mr. Segreto provided an opening statement and submitted the following exhibits:

A-1: An as-built site plan

A-2: Photographs of the property

A-3: Affordable Housing Agreement (w/application)

A-4: Resolution Entering into the Agreement (w/application)

The applicant is seeking a use variance and preliminary/final site plan approval. The property has been used as long-term residential for 40 years, as well as hotel/motel prior to that. Mr. Tanis has owned the property since 1986, the township is interested in dedicating the property to low/moderate income housing and an agreement has been completed. Mr. Tanis concurred with Mr. Segreto's opening remarks starting he purchased the property as an existing long-term residential use, registered with the DCA Bureau of Housing as a multiple dwelling with an inspection conducted every 5 years, and as recent as last month. Mr. Tanis described the property referring to the site plan, an 8-unit residential building and a two-family home which is not included in the low income housing agreement. Spring Brook is located to the west and west of that is a single-family residential dwelling. Mr. Tanis described the floor plan of each unit consisting of one room and a bath, with a dorm sized refrigerator and microwave, no other cooking facilities. Each unit is currently single person occupancy, some individuals are low income, and others are disabled. He further described the property as follows: existing well, each building has its own septic system, a dumpster is provided for trash removal, he visits the property 2-3 times per week, the property was offered to Green Acres at one time and they were not interested, and the property was also offered to the township for use as a post office/police department. Mr. Tanis described the property further using A-2, photographs of different views, noting the Affordable Housing Agreement is pending use variance approval.

The Board accepted the qualifications of **Michael Kauker, P.P.** Mr. Kauker visited the site and reviewed the agreement. He referred to SICA requirements; stating the property provides low income housing, is a low profile continuation of an 8-unit residential housing with no impact on the surrounding area, fits the site, is flat and wooded, there is sufficient parking to serve the units, the benefits outweigh any detriment, the use is beneficial to the township, consistent with the Master Plan and Housing Element, and there is no negative impact to the zone. Mr. Morgenstern noted the use is an inherently beneficial one as it provides affordable housing as recognized by the court, satisfying the D1 criteria. Mr. Kauker indicated a fully functioning kitchen would be constructed in the existing utility room as required by COAH for the 8-unit dwelling. A propane furnace and hot water heater is currently located in the utility room separated by a wall from the area that will become the kitchen. Mr. Hammond expressed concern with eight people sharing a kitchen and the maintenance and upkeep of such; as well as the small size of the units. Mr. Tanis indicated the tenant of the two-family unit will help maintain the kitchen, which will be locked with each tenant having a key. He also noted there is a dumpster located on the northwest portion of the property, with sliding locked doors, emptied every two weeks with no trash issues. Mr. Kauker addressed the size of the units as recognized by COAH. Mr. Rodman noted the two-family house will also require a use variance, two principal structures on the lot.

At this point, this portion of the meeting was opened to the public at 8:07 p.m.

There being no public testimony, this portion of the meeting was closed at 8:07 p.m.

Mr. Morgenstern reviewed the variances as follows:

-Use variance for the 8-unit long-term occupancy for low and moderate income housing according to the agreement with the township dated 6/14/12.

-Use variance – two principal uses on one lot – 240-106(a); 240-104(g)(1)

-Lot area – 240-s105(e)(1) – 48, 319 sq. ft.

-Front yard setback: Existing – 43.8'; Required – 75'

-Side yard setback: Existing 26.5'; Required – 30'

-Preliminary/Final Site Plan

Possible Conditions:

- Sussex County Planning Board approval
- COAH agreement to be adhered to
- Record agreement in SC Clerks Office
- Install communal kitchen in accordance with COAH regulations
- Obtain zoning permit
- Comply with Zoning Board Engineer report dated May 24, 2013
- If required by the Zoning Officer, must submit an as-built of the kitchen
- Comply with COAH regulations
- Cooperate with township and COAH regulations, furnishing any information required
- COAH approval
- Deed restricted pursuant to the agreement
- Include location of the dumpster on the site plan
- All other standard conditions applying

The Board and applicant briefly discussed providing an outside eating area. Mr. Tanis indicated an area and gazebo currently exist.

Mr. Kauker indicated COAH currently regulates the monthly rent, low income efficiency cannot exceed \$437.20 (2011) and moderate income cannot exceed \$728.00 (2011). Occupancy in each unit cannot exceed two.

Mr. Hammond made a **motion** to grant the necessary variances with conditions applying, seconded by Mr. Lippencott, carrying the application to 6/24/13 for the memorializing resolution.

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

Mr. Stachura made a **motion** to grant preliminary and final site plan approval, seconded by Mr. Hammond.

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

HEARING

Edward Mueller, Block 1102, Lot 25, Cal. No. 582

Application for approval of an existing deck requiring variance relief for the front yard setback and being within 100’ of a hydrologically sensitive area (lake). Notices appeared to be in order and Edward Mueller, 68 Unionville Road, Wantage, was sworn in. Mr. Mueller testified he purchased the home with an existing 10’ x 30’ deck on the front (lakeside) of the house and after seeking a zoning permit for two additional balcony decks it was determined the existing deck would need variance approval.

Mr. Morgenstern reviewed the variances as follows:

- 240-104(j) w/in 100’ of a lake; deck has a setback of 50.63’
- 240-106(d) front yard setback (lakeside), deck has a setback of 50.63’; 75’ is required
- Two balconies (2nd floor) – 50.63’ from the lake and front yard setback

Mr. Rodman submitted photographs of the home and property marked as **ZBA-1**. He noted the adjoining property to the right has a similar deck in a similar location; and existing fencing provides screening. The other adjoining property owner is set much further back. Mr. Rodman visited the site and submitted a report dated May 24, 2013.

Mr. Mueller testified that the existing concrete foundations located on the property may have been for a garage at one time and he has no plans to build on the foundations. The deck will not need any reconstruction and is solid as existing. He noted the well had to be raised as it was located underneath the deck. The Environmental Commission conducted a site survey with no issues.

Possible Conditions:

- Deck shall not encroach further than existing, 50.63’ from the lake and front yard setback.
- All other standard conditions applying.

Removal of the existing foundations was briefly discussed, with Mr. Morgenstern noting use of the foundations would require zoning compliance or variance approval if necessary.

No public was present at the meeting.

Mrs. Galante made a **motion** to grant the necessary variances with conditions applying, seconded by Mr. Sarni, with the applicant waiving his right to wait to receive the resolution, at his own risk.

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

RESOLUTION

Nextel of New York, Inc. & JCP&L, Block 1703, Lot 21 – approval of a minor amendment to the final site plan reducing the size of the fenced –in compound.

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

1. The Applicant shall submit a revised sheet of the site plan showing the reduced equipment compound.
2. Applicant shall submit an as-built plan of the entire project including the monopole tower, the equipment cabinets and the fenced in compound after it is constructed and file same with this Board.
3. All other conditions contained in the Resolution of this Board granting variances and preliminary and final site plan approval dated January 28, 2013 remain in full force and effect.

Roll Call Vote: Mr. Lippencott, yes, Mr. Stachura, yes, Mrs. Galante, yes, Mr. Powell, yes

BILLS

Mr. Lippencott made a **motion** to pay the following bills, seconded by Mrs. Galante:

Dolan & Dolan:	General – April 2013	\$232.50
	Escrow – Mueller	\$ 51.15
	Escrow – Cellco Partnership	\$218.55
	Escrow – Tanis	\$516.15
Rodman Associates:	Escrow – Burke	\$678.00
Staples:	Flash Drive	\$ 14.99

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

Correspondence:

Nextel Developer's Agreement, R. Morgenstern
2013 Budget – through 5/9/13

At this point, this portion of the meeting was opened to the public at 8:54 p.m.

There being no members of the public present, this portion of the meeting was closed at 8:54 p.m.

Discussion: Mr. Powell expressed concern with the conflict between the front yard setback of 75' and the setback to a lake of 100', with the lakeside being the front yard. He suggested including the issue in the annual report of recommendations to the Planning Board and Township Committee.

The Board briefly discussed Mr. Hammond concerns with requiring cell tower placement on municipal property as a priority.

Committee Liaison Report (Mayor Gross): No report.

There being no further business, Mr. Hammond made a **motion** to adjourn the meeting at 8:54 p.m., seconded by Mr. Sarni. In a voice vote, all were in favor.

Respectfully submitted,

Kathy Wunder, Board Secretary

Eric Powell, Chairman