

**STILLWATER TOWNSHIP
ZONING BOARD OF ADJUSTMENT
June 25, 2012**

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

MEMBERS ABSENT: Mr. Powell, Mr. Sarni

ALSO PRESENT: Board Attorney Morgenstern; Board Engineer Rodman

A REGULAR MEETING OF THE Stillwater Township Zoning Board of Adjustment was held on Monday, June 25, 2012, at 7:30 p.m. at the Municipal Building in Middletown, New Jersey. The meeting was called to order by Vice-Chairman Stachura in accordance with the Open Public Meetings Act.

The flag was saluted and roll call taken.

Certification was submitted by Mr. Hammond for the May 31, 2012 meeting.

MINUTES

Mr. Daingerfield made a **motion** to approve the minutes of May 31, 2012, seconded by Mr. Saal.

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

OTHER BUSINESS

Lee, Block 1501, Lot 14.01, Cal. No. 573, application to construct a pole barn requiring side yard setback relief. Kevin Lee was sworn in. He provided a brief history on his application before the Board and the approval to construct a pole barn on his property. Following the memorialization of the Resolution, Mr. Lee realized that condition #6 required an as-built survey to be submitted prior to condition #11, which states that a Certificate of Occupancy could not be issued until all conditions are met. Mr. Lee requested relief from conditions #6 and #11 and asked if an as-built was a legal requirement. Mr. Morgenstern stated the condition was included as the pole barn is located very close to the southwest property line and a member had expressed concern during the application hearing. Mr. Lee indicated the building has a setback of 11'8", which exceeds the approval for 11', and all other conditions of the Resolution have been satisfied.

George Scott, a neighbor of Mr. Lee, was present and stated he had no objection to the application or request. There were no objectors present at the original hearing.

Following further discussion, Mr. Daingerfield made a **motion** to amend the Resolution adopted on 5/31/12, revising Condition #6 as follows seconded by Mr. Lippencott:

Amended Condition #6: *The Applicant shall submit a notarized letter of certification indicating the southwest side yard setback from the pole barn after the construction is completed.*

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

Mr. Hammond left the meeting at 7:50 p.m.

HEARING

Cellco Partnership, Block 3101, Lot 13, Cal. No. 578 – Completeness Hearing

Mr. Stachura cited a conflict and recused himself from the hearing. Mr. Daingerfield acted as Chairperson during this portion of the meeting.

David Soloway, of Vogel, Chait, Collins and Schneider, was present on behalf of the applicant.

Mr. Soloway provided a brief history of the prior application for Cellco Partnership which was deemed incomplete on February 28, 2011 with a memorializing Resolution adopted on March 28, 2011. The applicant later withdrew the application and the Board denied it without prejudice. Included in the March 28, 2011 Resolution was a list of items that were incomplete. Mr. Soloway has since re-filed the cell tower application and has addressed the items deemed incomplete. Mr. Morgenstern agreed the items of incompleteness have been addressed with the exception of 1b., location of existing wells. The application indicates there is no data available. Mr. Soloway noted the structure will not require the use of water, and is not in the area of the house or existing well. Mr. Morgenstern recommended waiving this requirement. The Board reviewed the waiver statement included with the application and Mr. Morgenstern and Mr. Rodman indicated they had no objection to granting the waivers requested. Mr. Soloway noted the same waivers were granted during the completeness hearing for the prior application. He stated that critical slopes will be provided in the area of the driveway and proposed development.

Mr. Rodman submitted the following report dated June 21, 2012, with respect to completeness:

As discussed and agreed with the Board Chairman, the Board Attorney and the Zoning Officer, it was agreed to address the items for completeness on the March 28, 2011, resolution, which found this application incomplete.

1. Preliminary and Final Site Plan Checklist, Schedule B:

a. A letter of interpretation from the NJDEP indicating the location of wetlands and a copy of the application to the DEP regarding wetlands. - *The Applicant has obtained an Authorization for Freshwater Wetlands General Permit No. 10B, Waiver of Transition Area for Access and Water Quality Certification. A copy of which is included in the Environmental Impact Statement as Appendix E.*

b. Location of existing wells. - *The Applicant is unable to locate the well for the vacant dwelling, and the Applicant has not been able to find any data or records regarding it. Wells are shown within 200 feet on Sheet %2 and on site on SP-5.*

2. Administrative Checklist

a. The owner of the property should be identified. - *The owner of the property is Castners, a Partnership, and revised application and Affidavit of Ownership have been provided. A copy of the Deed has been submitted with the application.*

3. Memorandum from Arlene Fisher, Zoning Officer, dated February 18, 2011:

A memo, dated June 22, 2012, (attached) has been provided from Zoning Officer, Arlene Fisher, stating that items in Item number #3 of the resolution have now been submitted for completeness.

4. Additional Information.

a Applicant should determine the effect of the proposed access driveway on wetlands. – *The applicant has obtained a Freshwater Wetlands General Permit which should resolve any questions on this. Any additional questions could be addressed at the hearing.*

b. Correct EIS description. – *The applicant has corrected the typo in the EIS and it now reads correctly “A 133-foot high lattice tower”.*

Mrs. Feenstra made a **motion** declaring the application complete, seconded by Mr. Saal.

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

The Board briefly discussed membership for the hearing, as three members have cited a conflict and others may be on vacation. Mr. Soloway asked for the hearing to be scheduled for the July 23, 2012 meeting and if there is an issue he would consent to carry the application.

At this point, Mr. Stachura rejoined the Board as Chairperson.

HEARING

Hollinger, Block 3304 , Lot 3, Cal. No. 575 – Change of Use (Cabinet Shop)

As requested by a letter dated June 20, 2012 from William Vosper, Esq. on behalf of Mr. Hollinger, Mr.

Daingerfield made a **motion** to carry the application to July 23, 2012, amended application and notice required, seconded by Mr. Lippencott.

Roll Call Vote: Mr. Daingerfield, yes, Mr. Saal, yes, Mr. Lippencott, yes, Mrs. Feenstra, yes, Mr. Stachura, yes
Mr. Hammond expressed concern with not being allowed on the property during a recent site visit. The Board agreed the secretary would forward a letter to Mr. Hollinger with a copy of the signed Site Authorization Form, explaining that he authorized access to the property.

HEARING

Rae, Block 1401, Lot 25, Cal. No. 577 – Use Variance/Minor Site Plan (Riding Arena)

A letter was received from Janet Rae dated June 25, 2012 withdrawing the application. Mr. Lippencott made a **motion** to deny the application without prejudice, seconded by Mr. Szabo. The memorializing Resolution will be considered at the July 23, 2012 meeting.

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

RESOLUTION

Morris, Block 416, Lot 26, Cal. No. 574 – Deck in the front yard (lakeside)

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

CONDITIONS OF APPROVAL

The deck shall be no closer to the lake than 18 feet.

The deck shall be no closer than 20 feet to the northwest sideline of the lot.

The deck shall be no closer than 28 feet to the northeast sideline of the lot.

The deck shall be constructed in the location shown on the survey referred to above.

The Applicant shall install a railing on the deck if required by the Building Department.

No permanent Certificate of Occupancy shall be issued until all the conditions of this Resolution have been met.

All taxes and fees shall be paid to Stillwater Township.

Applicant shall obtain all required governmental permits for the deck.

Applicant shall comply with all laws, rules and regulations in the construction of the patio and in the implementation of these variances.

The variances expire within nine (9) months from the date of this Resolution unless implemented pursuant to the Ordinances of Stillwater Township.

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

RESOLUTION

Howe, Block 2601, Lot 3, Cal. No. 576 – Shed in the front yard

Mr. Lippencott made a **motion** to adopt the Resolution, with the following conditions applying, seconded by Mr. Daingerfield:

CONDITIONS OF APPROVAL

The shed shall be located exactly as shown on the map submitted by the Applicant.

The shed shall be no closer than 25 feet to the road right-of-way of Old School House Road.

The shed shall contain a maximum of 168 square feet.

The shed shall not be used for human habitation.

No one shall live in the shed. No toilet shall be installed in the shed which is connected to the septic system on the lot.

If Old School House Road is damaged during the construction of the shed on Applicant’s lot, Applicant shall repair the same to the satisfaction of the Construction Official of Stillwater Township and Zoning Board Engineer on 72 hours’ notice from the Township Construction Official or else the building permit and/or the Certificate of Occupancy may be revoked, withheld or suspended.

The within variance expires within nine (9) months from the date of this Resolution unless implemented pursuant to the ordinances of Stillwater Township.

Applicant shall comply with all other laws, rules and regulations in implementing the variances.

No permanent Certificate of Occupancy shall be issued until all conditions of the Resolution have been met.

All taxes and fees shall be paid to the Township of Stillwater.

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

BILLS

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

<u>Rodman Associates:</u>	General	\$ 30.00
	Escrow – Hollinger	\$452.00
Dolan & Dolan:	Escrow – Manser	\$225.00

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

Correspondence:

Budget Report through June 11, 2012

Rec'vd from Mr. Morgenstern, dated 6/18/12, re: Tanis Agreement

At this point, this portion of the meeting was opened to the public at 8:24 p.m.

There being no public wishing to speak, this portion of the meeting was closed at 8:24 p.m.

There being no further business, Mrs. Feenstra made a **motion** to adjourn the meeting at 8:25 p.m., seconded by Mr. Lippencott. In a voice vote, all were in favor.

Respectfully submitted,

Kathy Wunder, Board Secretary

James Stachura, Vice-Chairman