

**STILLWATER TOWNSHIP
ZONING BOARD OF ADJUSTMENT
January 25, 2016**

A **REORGANIZATION AND REGULAR MEETING** of the Stillwater Township Zoning Board of Adjustment was held on Monday, January 25, 2016, at 7:30 p.m. at the Municipal Building in Middleville, New Jersey. The meeting was called to order by Eric Powell in accordance with the Open Public Meetings Act. The flag was saluted and roll call taken:

MEMBERS PRESENT: Mr. Lippencott, Mr. Stachura, Mr. Sarni, Mrs. Draghi, Mr. Wykoff, and Mr. Powell

REORGANIZATION

Election of Chairperson:

Mrs. Draghi made the motion to nominate Mr. Powell as Chairperson for 2016. Motion seconded by Mr. Stachura. With there being no further nominations, the nominations were closed and a roll call was taken: Mr. Lippencott-Yes, Mr. Stachura-Yes, Mr. Sarni-Yes, Mrs. Draghi-Yes, Mr. Wykoff-Yes, and Mr. Powell-Yes

Election of Vice-Chairperson

Mr. Sarni made the motion to nominate Mr. Stachura as Vice-Chairperson for 2016. Motion seconded by Mrs. Draghi. With there being no further nominations, the nominations were closed and a roll call was taken: Mr. Lippencott-Yes, Mr. Stachura-Yes, Mr. Sarni-Yes, Mrs. Draghi-Yes, Mr. Wykoff-Yes, and Mr. Powell-Yes

Appointment of Board Secretary

Mrs. Draghi made the motion to appoint Alfia Schemm as the Board Secretary for 2016. Motion seconded by Mr. Stachura. Discussion on the motion: Chairman Powell added that the salary should be at the same rate as prior Board Secretary Kathy Wunder. Roll call vote: Mr. Lippencott-Yes, Mr. Stachura-Yes, Mr. Sarni-Yes, Mrs. Draghi-Yes, Mr. Wykoff-Yes, and Mr. Powell-Yes

Appointment of Board Attorney

A motion was made by Mr. Stachura to appoint Robert Morgenstern, Esq. of Dolan & Dolan for the calendar year 2016 at a rate of \$164.00 per hour; and \$300.00 per meeting up until 10:30 p.m., \$164.00 per hour after 10:30 p.m., as per the contract, seconded by Mr. Lippencott 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 2016 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. Wykoff-Yes, and Mr. Powell-Yes

Appointment of Board Engineer

A motion was made by Mr. Sarni to appoint Ted Rodman of Rodman Associates for the calendar year 2016 at a rate of \$118.00 per hour on an as needed basis, as per 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 2016 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. Wykoff-Yes, and 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 2016, seconded by Mr. Stachura. Roll call vote: Mr. Lippencott-Yes, Mr. Stachura-Yes, Mr. Sarni-Yes, Mrs. Draghi-Yes, Mr. Wykoff-Yes, and Mr. Powell-Yes

Meeting Dates

Mr. Stachura made the motion to approve the following meeting dates for 2016, seconded by Mr. Lippencott, and read into the record by Chairman Powell.

January 25, 2016 (Reorganization/Regular) July 25, 2016
February 22, 2016 August 22, 2016
March 28, 2016 September 26, 2016
April 25, 2016 October 24, 2016
May 23, 2016 November 28, 2016
June 27, 2016 December 26, 2016
January 23, 2017 (Reorganization/Regular)

Roll call vote: Mr. Lippencott-Yes, Mr. Stachura-Yes, Mr. Sarni-Yes, Mrs. Draghi-Yes, Mr. Wykoff-Yes, and Mr. Powell-Yes

Annual Summary Report for 2015

The following Annual Summary Report was drafted by Board Attorney Morgenstern and distributed to the Board:

Michael Passafaro, Block 801, Lot 8-The Applicant applied for variances to construct an addition to an existing single family residential dwelling in the R-7.5 Residential Zone District on Mount Benevolence Road. Applicant had applied for a front yard setback variance and a side yard setback variance under N.J.S.A. 40:55D-70 (c)(1). However, Applicant withdrew the application before a final decision of the Board could be rendered on the variances. The Board adopted a Resolution of Denial of the Application since the Application was withdrawn on March 23, 2015.

Edward and Susan Durkos, Block 3601, Lot 11.17- Applicant owned an existing cabin fronting on Swartswood Lake. The lot and block of the cabin is Block 3601, Lot 11.17. However, the existing

cabin is located on a lot owned by the Swartswood Lake Cove Association LLC fronting on Route 619 with a designation of Block 3601, Lot 11 on the Stillwater Township Tax Map. There were currently seven (7) cabins existing on Lot 11. The lots are located in the CR Commercial Recreation Zone District. Cabins are no longer permitted uses in the Zone District. They are pre-existing non-conforming uses. However, Applicant’s cabin is old and deteriorating. Applicant applied for required variances to demolish the existing cabin and build a new cabin of approximately the same size. Applicant applied for variances under N.J.S.A. 40:55D-70(d) and 40:55D-70 (c)(1): (1)A Use Variance., (2) A Variance from the requirement that no lot shall have erected upon it more than one principal residential building or use, (3) A variance from the requirement that the cabin be set back a minimum of 100 feet from Swartswood Lake and (4) a variance from the requirement related to the construction of buildings in a hydrologically sensitive area. The variances were granted by Resolution dated May 18, 2015.

Joseph and Judy Symons, Block 1601, Lot 6.03-Applicant applied for required variances to construct and addition to the front of an existing single family residential dwelling in the R-7.5 Residential Zone District on Old Foundry Road. Applicant applied for variances from the minimum front yard setback requirement and the minimum lot width requirement in the R-7.5 Residential Zone District under N.J.S.A. 40:55D-70 (c)(1). The variances were granted by Resolution dated June 22, 2015

Thomas and Christine Rivara, Block 801, Lot 10-Applicant applied to construct an addition to the rear of an existing dwelling in the form of a deck with a roof and railings on a lot located on Mount Benevolence Road in the R-7.5 Residential Zone District. Applicant applied for variances from the rear yard setback requirement and from the minimum lot area requirement of the Zoning Ordinance under the provisions of N.J.S.A. 40:55D-70 (c)(1).The Applicant owns the subject lot which contains 36,817 square feet or .845 acres. However, the Applicant’s father owns a farm which surrounds the subject lot. The Board granted the variances by Resolution Memorialized August 24, 2015.

Richard Gerber, Block 2401, Lot 44.02-Applicant received a use variance for the operation of a landscaping business in the R-7.5 Residential Zone District on a lot fronting on Old Foundry Road on November 24, 2014. Applicant applied for an amendment of the Resolution to amend a condition of the prior Resolution relating to wetlands. The Board granted the Application for an Amendment of the condition on May 18, 2015.

Rita Patrick, Block 703, Lot 1.03- Applicant had obtained an approval for variances from this Board by Resolution dated October 27, 2014 for the construction of a garage. The variances were for the matter as follows: (1) Variance for the maximum size of an accessory structure and (2) a Height Variance. Applicant applied for an amended approval for variances for the maximum size of an accessory structure and a height variance for the garage. The property fronts on Hampton Road, a Township Road and is located in the R-7.5 Residential Zone District. The amended Application related to an Amendment of a Condition of the prior approval mandating the minimum setback from Hampton Road. The Board granted the Amended Application by Resolution adopted March 23, 2015.

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

Based on the applications decided by the Stillwater Township Zoning Board of Adjustment in 2015 the Board makes the following observations and recommendations:

1. There was only one application for the construction of a new dwelling and that was for the replacement of a dilapidated existing cabin at Swartswood Lake.
2. There were three (3) applications for the construction of additions on residential dwellings.
3. There were no applications for the construction of commercial buildings.
4. There were no applications to construct additions on existing commercial buildings.
5. 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 did adopt an Ordinance regulating solar facilities for residential lots. The Township has not yet approved an Ordinance regulating commercial solar facilities.

6. 2015 was a very slow year for the Zoning Board. The economy both locally, statewide and nationally was somewhat slow in 2015. 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 2016.

Mr. Lippencott made the motion to adopt the Annual Summary Report for 2015 as written. Motion seconded by Mr. Stachura. Discussion on the motion: Mrs. Draghi questioned the statement being made in the Report in regards to the determination of the future expectations for 2016. She stated that the Board cannot predict what may happen this year and she also stated that the hearing for Gerber Landscaping did have a commercial component to it. Roll call vote: Mr. Lippencott-Yes, Mr. Stachura-Yes, Mr. Sarni-Yes, Mrs. Draghi-Yes, Mr. Wykoff-Yes, and Mr. Powell-Yes

MINUTES

Mrs. Draghi made the motion to approve the minutes of November 23, 2015, seconded by Mr. Sarni. Roll call vote: Mr. Lippencott-Yes, Mr. Stachura-Yes, Mr. Sarni-Yes, Mrs. Draghi-Yes, Mr. Wykoff-Yes, and Mr. Powell-Yes

BILLS

Mrs. Draghi made the motion to pay the following bills, seconded by Mr. Stachura:

Dolan & Dolan:	Escrow – Martin	\$ 80.50
Escrow Refunds:	Rivara	\$213.65
	Symons	\$ 84.62
NJPO	Annual Dues	\$185.00

Roll call vote: Mr. Lippencott-Yes, Mr. Stachura-Yes, Mr. Sarni-Yes, Mrs. Draghi-Yes, Mr. Wykoff-Yes, and Mr. Powell-Yes

CORRESPONDENCE:

NJPO Planner – September/October 2015; November/December 2015

Reappointment Memo – Lee Hammond

Resolution 2016-024: Mayor’s Acceptance of Resignation of Kathryn Wunder

Resolution 2016-001: Township Committee Meeting Dates

Resolution 2016-011: Township Holiday Schedule

Resolution 2016-013: Township Appointments to Boards and Commissions

Resolution 2016-002: Designation of Township Official Newspapers

Chairman Powell noted the request from Mr. Hammond to not be reappointed to the Board. He stated that this is a great loss to the Board as Mr. Hammond was a fine member. He stated that he hopes that other Township Residents will step in to fill the vacancies on the Board.

OTHER BUSINESS:

Mr. Wykoff questioned his term of office. Chairman Powell reviewed all the Board Member's terms of office and it was noted that Mr. Wykoff's term expires at the end of 2016.

Chairman Powell then stated that there is a meeting scheduled, at 6:00 pm., on February 2nd, with the Township Committee, Planning Board, and the Zoning Board of Adjustment, to discuss merging the Planning Board and Zoning Board of Adjustment, into a Land Use Board. Chairman Powell suggested that Board Members attend the meeting if they can. The Board discussed the configuration of the Boards and what may have triggered the discussion to begin with and if there is an underlying reason. There was a concern about losing the historical connectivity if the Zoning Board was dissolved. The Board discussed the financial aspect and the pros and cons of a Land Use Board. Board Secretary Schemm was asked to provide her feedback and she commented on her experiences with her Land Use Boards. The Board discussed the lack of communication between the Committee and the Board on the subject. Chairman Powell asked that the Board Members attend to participate and hear the discussion.

OPEN TO THE PUBLIC:

The meeting was opened to the public at 8:16 p.m. With there being no public, the meeting was closed to the public at 8:16 p.m.

COMMITTEE LIAISON REPORT:

Committeeman Gross stated he is opposed to a Land Use Board and that he is very pleased with the Zoning Board of Adjustment and their decision making.

ADJOURNMENT:

With there being no further business, a motion was made and seconded to adjourn the meeting at 8:20 p.m. In a voice vote, all were in favor.

Respectfully submitted,

Alfia Schemm, Board Secretary
3/23/16

Eric Powell, Chairman