

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

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

MEMBERS ABSENT: Mr. Powell, Mr. Sarni, Mrs. Feenstra

ALSO PRESENT: Board Attorney Morgenstern; Board Engineer Rodman

A REGULAR MEETING OF THE Stillwater Township Zoning Board of Adjustment was held on Monday, July 23, 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.

MINUTES

Mr. Daingerfield made a **motion** to approve the minutes of June 25, 2012, seconded by Mr. Lippencott.

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

HEARING

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

As requested by a letter dated July 12, 2012 from William E. Hinkes, Esq. on behalf of Mr. Hollinger, Mr. Daingerfield made a **motion** to carry the application to August 27, 2012, amended application and notice required, seconded by Mr. Lippencott.

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

HEARING

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

As per a letter dated July 23, 2012 from Richard L. Schneider, Esq., Mr. Daingerfield made a **motion** to carry the application to August 27, 2012, no further notice being required, seconded by Mr. Lippencott.

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

OTHER BUSINESS:

William and Beverly Gordon, Block 2201, Lot 16, Cal. No. 568 – Request to amend Condition #2 of the Resolution memorialized on 2/28/11.

James Moore was sworn in. He referenced the Resolution adopted on 2/28/11 and condition #2 requiring drains to be installed emptying into dry wells and he asked the Board to consider eliminating the condition. He stated that due to the old style design of the home there was no intention of installing gutters/drains. He described the drip line gutter on the ground located under the eaves with a two foot overhang. Each door has a 42” overhang. Mr. Moore testified that a stone trench system (French drain) was installed allowing the stormwater to sheet flow into the system and infiltrating the stone into the ground in the yard all leading to daylight. He noted that with the high water table dry wells would not work. Mr. Rodman reviewed the drawings and indicated there were no roof drains depicted, as well as no recommendation for such in his report. He stated the footprint is the same as the original and there is no increase in impervious coverage. He concurred with the removal of condition #2. Mr. Stachura expressed concern with the point of discharge and future erosion of the bank. Following further discussion, the Board determined that Engineer Rodman would inspect the property and determine if any additional requirements would be necessary to address drainage on the property; rip rap or other dissipating device. Mr. Rodman would conduct the inspection and submit a report indicating the results, copied to the Construction Official.

Mr. Lippencott made a **motion** to remove Condition #2 of the Resolution memorialized on 2/28/11, pending the results of the inspection to be conducted by Board Engineer Rodman and written approval to the Construction Official, seconded by Mr. Daingerfield.

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

RESOLUTION

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

The application was denied without prejudice. The Applicant has the right to file a future application, either the same application or a different application should she desire to do so.

Mr. Daingerfield made a **motion** to adopt the Resolution, seconded by Mr. Lippencott.

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

RESOLUTION

Kevin Lee, Block 1501, Lot 14.01, Cal. No. 573 – Pole Barn – Amended Resolution

Mr. Daingerfield made a **motion** to adopt the Resolution, seconded by Mr. Lippencott with the following amendment to #6:

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

HEARING

Robert Goldberg, Block 4005, Lot 7, Cal. No. 579 – Sunroom//Decks

Robert Goldberg, applicant, and Kenneth Fox, Architect were sworn in. Mr. Goldberg testified he has owned the property for 21 years and would like to make changes to make it more livable for his family. He would like to alter the existing steep staircase; install a new entry way in the front of the home to address icing conditions; construct a sunroom on the lakeside of the home; and also cantilever the 2nd floor bedroom without affecting the footprint. The sunroom will be built over an existing deck with no increase to impervious coverage. The following exhibits were marked as follows:

A-1 Colored site plan

A-2 Seven photos with a small site plan

Mr. Fox stated the ordinance setback requirement is 100' from the lake, and he described the following proposed modifications to the home:

- 1) He described the addition referring to A-1, and using S-3 (submitted with application) described the entryway which will be no closer to the street than the existing entry and does not require variance relief.
- 2) Cantilever 2nd floor bedroom – no variance required.
- 3) There is multi-level decking existing on the lakeside of the house that was constructed prior to the applicant purchasing the property. The applicant would like to construct a 7.5 foot sunroom expanding out from the house over an existing deck. The existing planter will be replaced in-kind and two decks will remain. The sunroom will be added to the existing family room to increase the size of the room. A variance will be required for being within 100' of the lake, which is a hardship in this case as the home itself is located less than 100' from the lake. There will be no negative impact to the neighbors or to the lake, no removal of trees, run-off will be directed in two directions into existing flowerbeds, there will be no increase in impervious coverage, and the character of the lake collage will not change.

Mr. Rodman reviewed the following report:

This is an application for a variance for a two-level deck that was previously constructed without permits and for the addition of a new sunroom to be constructed on the deck. The renovations also include an addition to the second-floor bedroom and a front entry addition and the replacement of an existing external stairway one foot further from the house.

The zoning officer has informed me that the bedroom and entry addition as well as the stairs will be not require a variance since Section 240-105 states that no variance is required if the “existing non-conformity is extended but not further encroached upon”.

Since this is a lake-front property, the front yard is defined as the lake-side by Section 240-114L(1).

The following variances are required:

1. The existing decks (lake side) setback. Section 240-104J(1) requires structures to be located 100 feet from the lake. The decks are located 12 feet from the lake. (Type C variance)
2. The sunroom distance from the lake. Section 240-104J(1) requires 100 foot setback. The sunroom is proposed to be located 25.3' from the lake. (Type C variance)
3. The deck in the front yard (lake side). Section 240-114L(2) limits structures in the front yard for lake-front lots to docks, boathouses, barbecues and fences. It does not permit decks. The Board Attorney has advised that this is a type D variance.

This application was deemed complete by Arlene Fisher on July 12, 2012, with the following waiver granted:

1. Location of all buildings on all adjoining properties.

The following additional comments are made at this time:

1. The applicant should provide testimony to demonstrate that relief sought can be granted without substantial detriment to the public good and substantial impairment of the intent and purpose of the zone Plan and Zoning Ordinance.
2. The addition being requested will not significantly increase the impervious surface and therefore will not trigger the Stillwater Stormwater Requirements.
3. There is presently an existing 18" RCP which drains road runoff directly through the middle of this lot.
4. The applicant's narrative attached to the application indicates that the decks have been in existence over 21 years and were built without prior Township Approvals or permits. The Zoning Officer's records also indicate that no permits or approvals have been issued since 1993.

Mr. Fox noted the existing concrete retaining wall located under the deck will be utilized in conjunction with the sunroom addition and new footings would be added for additional support. Mr. Rodman stated a majority of the homes in the area have decks on the lakeside and he noted the Planning Board may want to review the requirements for this area as the lots are very shallow on the lake and almost anything that is done would require variance relief.

Mr. Fox described the new entryway which will be a 4.5' x 4.5' extension to the existing entry and will open up to the interior of the home, a foyer/mudroom type area. Mr. Rodman and Mr. Morgenstern indicated no variance relief would be necessary as there is no further encroachment than the existing home. Mr. Lippencott asked for clarification regarding the concrete wall. Mr. Fox described the location of the wall, stating it would remain and new footings would be created to provide additional support.

At this point, this portion of the meeting was opened to the public at 8:10 p.m.

There being no public testimony, this portion of the meeting was closed at 8:10 p.m.

Mr. Stachura reviewed the three variances as follows:

1. The existing decks (lake side) setback. Section 240-104J(1) requires structures to be located 100 feet from the lake. The decks are located 12 feet from the lake. (Type C variance)
2. The sunroom distance from the lake. Section 240-104J(1) requires 100 foot setback. The sunroom is proposed to be located 25.3' from the lake. (Type C variance)
3. The deck in the front yard (lake side). Section 240-114L(2) limits structures in the front yard for lake-front lots to docks, boathouses, barbecues and fences. It does not permit decks. The Board Attorney has advised that this is a type D variance.

Mr. Morgenstern suggested the following conditions:

- The decks shall be no closer than 12' to the lake.
- The sunroom shall be no closer than 25.3' to the lake.
- The applicant is to provide written certification that the setbacks have been complied with.
- All taxes/fees must be paid.
- No Certificate of Occupancy may be issued until all conditions are met.
- All other required governmental approvals.
- Other standard conditions applying.
- Variance relief will expire within 9 months unless implemented in compliance with the ordinances and regulations.

Mr. Hammond made a **motion** to grant the variance relief, with conditions applying, seconded by Mr. Lippencott.

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

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

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

Mr. Hammond made a **motion** to allow the applicant to waive his right to wait to receive the Resolution, at his request and at his own risk, seconded by Mr. Stachura.

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

BILLS

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

<u>Dolan & Dolan:</u>	General (May/June 2012)	\$378.16
	Meeting (May/June 2012)	\$412.50
	Escrow – Cellco	\$300.00
	Escrow – Hollinger	\$438.00
	Escrow – Howe	\$262.50
	Escrow – Morris	\$225.00
	Escrow – Rae	\$300.00
	Escrow – Tanis	\$337.50
	Litigation – Nextel	\$112.50
<u>Rodman Associates:</u>	General – (June 2012)	\$ 56.50
	Escrow – Cellco	\$452.00
	Escrow – Rae	\$226.00
<u>New Jersey Herald:</u>	Reorganization Notice (1/12)	\$ 26.40

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

Correspondence:

Dated 7/2/12 from R. Morgenstern:, Petition Application for Substantive Certification - SCCH

At this point this portion of the meeting was opened to the public at 8:25 p.m.

Ken Bradley, Swartswood asked if any briefs were filed with regard to the Nextel litigation and if the Board Attorney and Township Attorney are conferring. Mr. Morgenstern indicated the brief is due in early September and any discussion falls under attorney-client privilege.

There being no further members of the public wishing to speak, this portion of the meeting was closed at 8:29 p.m.

Committee Liaison Report: No report.

There being no further business, Mr. Hammond made a **motion** to adjourn the meeting at 8:30 p.m., seconded by Mr. Lippencott. In a voice vote, all were in favor.

Respectfully submitted,

Kathy Wunder, Board Secretary

James Stachura, Vice-Chairman