

**MANALAPAN ZONING BOARD OF ADJUSTMENT
MINUTES OF THE REGULAR MEETING
Thursday, May 16, 2019
TOWNSHIP OF MANALAPAN – Courtroom
Manalapan, NJ 07726**

The meeting was called to order with the reading of the Open Public Meetings by Chairman Stephen Leviton at 7:30 PM followed by the salute to the flag.

Roll Call: Janice Moench

In attendance at the meeting: Terry Rosenthal, Larry Cooper, Mary Anne Byan, David Schertz, Robert Gregowicz, Stephen Leviton

Absent from the meeting: Mollie Kamen, Eliot Lilien, Eric Nelson, Adam Weiss

Also present: John Miller, Esq., Zoning Board Attorney
Brian Boccanfuso, Board Engineer
Janice Moench, Recording Secretary

MINUTES:

A Motion was made by Mr. Cooper, Seconded by Mr. Schertz to approve the Minutes of **May 2, 2019** as written.

Yes: Rosenthal, Cooper, Leviton, Byan, Schertz, Gregowicz
No: None
Abstain: None
Absent: Kamen, Lilien, Weiss, Nelson
Not Eligible: None

RESOLUTIONS:

A Motion was made by Mr. Rosenthal, Seconded by Mr. Schertz to approve the Resolution of memorialization of approval for **Application ZBE1735, Katherine C. Smith & Katherine K. Smith, Co-Trustees of the Katherine C. Smith Revocable Trust**

Yes: Rosenthal, Leviton, Byan, Schertz
No: None
Abstain: None
Absent: Kamen, Weiss, Lilien, Nelson
Not Eligible: Cooper, Gregowicz

A Motion was made by Mr. Cooper, Seconded by Ms. Byan to approve the Resolution of memorialization of approval for **Application ZBE1910, Davit Sargsyan & Anna Altunyan**

Yes: Rosenthal, Cooper, Leviton, Byan,
No: None
Abstain: None
Absent: Kamen, Weiss, Lilien, Nelson
Not Eligible: Schertz, Gregowicz

A Motion was made by Mr. Cooper, Seconded by Mr. Rosenthal to approve the Resolution of memorialization of approval for **Application ZBE1914 Joseph and Christine DeAngelis**

Yes: Rosenthal, Cooper, Leviton, Byan
No: None
Abstain: None
Absent: Kamen, Weiss, Lilien, Nelson
Not Eligible: Schertz, Gregowicz

A Motion was made by Mr. Cooper, Seconded by Mr. Rosenthal to approve the Resolution of memorialization of approval for **Application ZBE1839 The Golden Years Care**

Yes: Rosenthal, Cooper, Leviton
No: None
Abstain: None
Absent: Kamen, Weiss, Lilien, Nelson
Not Eligible: Byan, Schertz, Gregowicz

PUBLIC HEARINGS:

Application No. ZBE1ZBE0632EX

Applicant: Crown Car Wash
Proposal: Extension of Time
Request: Extension of Time
Location: 395 Hwy 9
Block/Lot: 10.02/2.05
Zone: C3

Peter Licata, Esq. of Sonnenblick, Parker and Selvers, PC was present on behalf of the applicant, Crown Car Wash. The applicant was before the Board requesting an additional one-year extension of time. The applicant has continued, the process of working with the New Jersey Department of Transportation ("NJDOT") for approvals that the Zoning Board has granted. The application with the DOT is pending however it is taking an extreme amount of time. Mr. Ploskonka, Engineer was also present for questions.

Mr. Boccanfuso noted the cover letter, dated April 24, 2019 from Mr. Ploskonka. In the cover letter Mr. Ploskonka referenced an amended application. Mr. Boccanfuso asked if the application that previously came before the Board would be changed.

Mr. Ploskonka, Professional Engineer and Planner of Concept Engineering was sworn in by Mr. Miller and the Board accepted his credentials. Mr. Ploskonka explained the last plan that was approved by the Zoning Board was an amended plan. Therefore, the same amended plan, for driveway access on Highway Nine, is before the DOT.

There were no further questions from the Board members.

Mr. Miller explained last year the applicant came before the Board for a one-year Extension of Time under section 62 of the Municipal Land Use Law. The Board granted the extension to April 21, 2019. Under the statute the extension, that the applicant is now applying for, will be for a maximum of one year. The one year will revert back to April 21, 2019. If the Board should approve the extension, the extension would run through April 21, 2020.

Mr. Licata understood the extension of time and agreed with Mr. Miller.

Mr. Schertz asked what would happen after April 21, 2020. Mr. Miller explained statutorily that would be all the extension time the Board would be able to grant.

Chair Leviton opened the meeting to the public for comment or questions regarding this application. Seeing there were none, Chair Leviton closed public.

A Motion of Approval for Application ZBE0632EX was made by Mr. Schertz and Seconded by Mr. Cooper.

Yes: Rosenthal, Cooper, Leviton, Byan, Schertz, Gregowicz
No: None
Abstain: None
Absent: Kamen, Weiss, Lilien, Nelson
Not Eligible: None

Chair Leviton and Mr. Licata announced the J & J Commercial & Industrial Property application on the agenda will be carried. Mr. Miller advised the Board the Affidavit of Service with supporting documents submitted by the applicant were satisfactory. The Board has jurisdiction to hear the case, however the case is being carried to June 6, 2019 with no further notice to the public.

Application No. ZBE1808

Applicant: David's Lawn & Landscape Design
Proposal: Allow Landscape & Design Business
Request: Use variance
Location: 146 Daum Rd.
Block/Lot: 70/25.06
Zone: RAG4

Robert Munoz, Esq. of Davidson, Eastman, Munoz, Lederman and Paone, PA was present on behalf of the applicant. Mr. Munoz explained the last meeting on March 21, 2019 the Board and professionals requested a traffic report that included traffic counts. The traffic report has since been completed and submitted to the Board. The Board Professionals have reviewed the report.

Ms. Allison Coffin, Professional Planner was sworn in by Mr. Miller and the Board accepted her credentials. Ms. Coffin explained to the Board she visited the site, reviewed the zoning ordinance and the master plan. Ms. Coffin read the reports from the professionals as well as the traffic study. This is a use variance to legitimize a commercial nursery and landscaping business existing on the site behind a single family home where it is not permitted. In Ms. Coffin's opinion special reasons do exist to grant the use variance. The site is particularly suited to the use. The use had existed on the site for approximately 10 years. The property is located in an area of the township where there are other agricultural uses. The nursery operation is similar in character to types of uses permitted in the zone. The planting materials are brought to the site and maintained on the site until they are taken to the client of the landscaping business. This is not a commercial nursery that is open to the public for direct retail sales. Only clients of the landscaping company may come occasionally to the site. The lot has sufficient size and depth to allow for the use. There is no substantial detriment to surrounding area that would result from this use variance. The use is located in a quiet corner of the township where the nearby land uses are commercial farming operations. The location is in the rear of the property that can be fully screened from the roadway and residents. Traffic on the site is limited to the morning and evening trips by the employees. The traffic report confirmed the use does not create a detriment to the traffic system in the area. The approval of the application would not impair the intent and purpose of the master plan.

Mr. Munoz asked Ms. Coffin to provide testimony on the bulk variance. Ms. Coffin explained there is an existing front yard setback for the home that is not altered by the application.

Mr. Munoz had no further questions.

Ms. Beahm testified she has reviewed the traffic report submitted to the Board. Ms. Beahm agrees with Ms. Coffin's testimony and takes no exception with the findings.

Mr. Boccanfuso explained he reviewed the traffic study prepared by Dynamic Traffic and he takes no exception to the conclusions drawn. Mr. Boccanfuso advised the Board the traffic study showed approximately 100 total am peak hour trips and 100 total pm peak hour trips across the site frontage. This is approximately three trips every two minutes. This is low volume by traffic engineer standards. Traffic report also analyzed the existing operations at the site to determine how many trips were from the use. The traffic engineer found the site driveway operated at a site level of service "A". Mr. Boccanfuso testified the site would not have a substantial impact on the roadway.

Chair Leviton asked the Board members if they had questions for the applicant. Mr. Cooper referenced a letter from the Health Department dated February 27, 2019 regarding the septic system. Mr. Cooper asked if the septic system was adequate. Mr. Munoz explained the septic system is existing and the applicant has been living on the site for a long time. Mr. Cooper asked if the septic system was adequate for the amount of people on the site. Mr. Munoz explained the application was bifurcated for use only and the applicant will address the Health letter at time of Site Plan.

Mr. Miller explained addressing the Health letter at time of site plan was appropriate.

Mr. Cooper asked about the signage on the site. Mr. Munoz explained the signage would be addressed at site plan. Mr. Cooper asked for testimony regarding visitation times to the site. Mr. Munoz explained Mr. VanWart had testified regarding to this at the last meeting. Mr. VanWart, who was still under oath explained he has business hours from 9:00 am to 5:00 pm. The customers that come to the site are scheduled by Mr. VanWart.

Chair Leviton opened the meeting to the public for comment or questions regarding this application. Seeing there were none, Chair Leviton closed public.

Mr. Miller advised the Board this is a bifurcated use application and there are no conditions at this point. Mr. Miller reminded the Board the vote on this application would be on the use only. The applicant will have to come back to the Board for site plan approval.

A Motion of Approval for Application ZBE1808 was made by Mr. Gregowicz, and Seconded by Mr. Cooper:

Yes: Rosenthal, Cooper, Leviton, Byan, Schertz, Gregowicz
No: None
Abstain: None
Absent: Kamen, Weiss, Lilien, Nelson
Not Eligible: None

Mr. Munoz explained the building on the site was built several years ago and had inspections completed. Mr. Munoz would like to allow Mr. VanWart to his office from his kitchen into the new building on site. Mr. Miller explained the Board would have no issue with this.

Mr. Boccanfuso and Ms. Beahm exited the meeting at 7:50 pm.

Application No. ZBE1911

Applicant: Rakesh & Divya Menon
Proposal: Proposed Fence in setback
Request: Bulk variance
Location: 2 Beechwood Drive
Block/Lot: 7808/8
Zone: RR

Before the application began Chair Leviton explained the next applicant Dr. Divya Menon's nephew and Chair Leviton's Daughter went to the same small school. Dr. Menon is also Chair Leviton's Cardiologist. Prior to the meeting Chair Leviton spoke to the Board Attorney, Mr. Miller regarding this matter and Mr. Miller advised Chair Leviton did not need to recuse himself from the application.

Divya Menon of 2 Beechwood Drive, was sworn in by Mr. Miller. Ms. Menon explained she is requesting permission to put a fence on the property. Ms. Menon has resided in Manalapan for sixteen years. Ms. Menon and her family just recently moved into a new home in Manalapan around the corner. The home is located on a corner lot fronting both Lamb Lane and Beechwood Drive. Mr. Menon explained what she considers her backyard, by township standards, is a front yard because it fronts Lamb Lane. With increased traffic on Route 33, Sportika and Marion Manor there have been many people walking down the sidewalk and wandering over to her property. Ms. Menon has two children and a dog. If Ms. Menon were to adhere to the permitted setbacks to install the fence she would lose a large portion of her backyard. There is currently a mature tree line currently in place.

The Board confirmed Ms. Menon has two front yards essentially.

Mr. Rosenthal asked how high the proposed fence would be. Ms. Menon testified she would like to erect a six-foot-high fence. Being there is a slope to the property a three-foot-high fence wouldn't be able to contain the dog or allow for privacy.

Ms. Menon explained her property in further detail to the Board.

Chair Leviton explained the fence would require a 40-foot encroachment where 90 feet is required.

Ms. Byan confirmed with the rear of the yard, along Lambs Lane is where the property slopes down. Ms. Menon agreed.

Mr. Schertz asked what the fence would be made out of. Ms. Menon explained she would like a solid vinyl fence.

Ms. Menon confirmed the posts between the panels are to be made of vinyl (same as the fence) six feet in height with no lighting. Mr. Miller explained how a brick post would meet the definition of an ornamental structure under the ordinance that would require an additional variance.

Mr. Cooper inquired about the Health review. The applicant confirmed the septic was fixed and the follow up report was filed. Mr. Miller confirmed the follow-up report from Health was received.

Chair Leviton opened the meeting to the public for comment or questions regarding this application. Seeing there were none, Chair Leviton closed public.

A Motion of Approval for Application ZBE1911 was made by Mr. Rosenthal, and Seconded by Ms. Byan:

Yes: Rosenthal, Leviton, Byan, Schertz, Gregowicz
No: Cooper
Abstain: None
Absent: Kamen, Weiss, Lilien, Nelson
Not Eligible: None

Mr. Miller addressed the Board regarding a training session for the Board members. The original training session that was to be run by Mr. Miller and Mr. Cucchiaro was scheduled for January 3, 2019 however, Mr. Cucchiaro was unavailable at that time. Mr. Miller and Mr. Cucchiaro do not have availability on Thursdays. Mr. Miller asked the Board to consider conducting the training session on a Monday evening. This would be a special meeting. This would require The Board to follow the guidelines of noticing for a Special Meeting in order to comply with the Open Public Meetings Act. This training session special meeting would be open to the public. Mr. Miller explained he would discuss some possible dates with Mr. Cucchiaro and report back to the Board.

Ms. Moench asked the Board members if they knew of any future meeting dates they would not be in attendance for. Ms. Byan confirmed she would not be present for the August 1, 2019 meeting.

ADJOURNMENT:

A Motion was offered by Mr. Cooper and agreed by all to adjourn the meeting at 8:05 pm

Respectfully Submitted,

Janice Moench
Recording Secretary

RECORDED COMPACT DISCS OF THE ZONING BOARD OF ADJUSTMENT ARE AVAILABLE FOR REVIEW, IN THE PLANNING/ZONING BOARD OFFICE BY APPOINTMENT.