

June 12, 2008

The monthly meeting of the Greenwich Township Board of Adjustment was held on the above date and was called to order by Ray Buckwalter, Chairman, at 7:30 P.M. in the Municipal Building. The meeting opened with the Pledge of Allegiance.

Pursuant to the Open Public Meetings Act, Chapter 231, PL, 1975, adequate notice of this meeting has been given in accordance with the Open Public Meetings Act by:

1. Mailing a notice of scheduled meetings of the Greenwich Township Board of Adjustment to the Express-Times and Star-Ledger.
2. Posting a notice thereof on the Township bulletin board.
3. Filing a copy thereof with the Township Clerk.

Board members present: Dawn Marie Kondas, Joe Schiller, Robert Vetrecin, Bruce Williams, Ray Buckwalter, Dan Detore, Angelo Faillace. Also present were Michael Finelli, Engineer and Jonathan Drill, Esq. Absent was Bill Savino. Steve Babula was not present for roll call.

Robert Vetrecin made a motion, seconded by Joe Schiller, to adopt the minutes of the May 8, 2008 meeting. The vote is as follows:

IN FAVOR: Kondas, Buckwalter, Schiller, Vetrecin, Williams, Faillace,
Detore.
OPPOSED: None.
ABSTAINED: None.

Motion carried.

Steve Babula was not present for the adoption of the minutes.

Resolution. Resolution No. 2008-07, Denial of Completeness Waivers, Planned Equity, LLC, Block 26, Lot 2, was reviewed as to its' form and accuracy. Upon review, Dawn Marie Kondas made a motion, seconded by Joseph Schiller, to adopt the Resolution as prepared. The vote is as follows:

IN FAVOR: Kondas, Schiller, Vetrecin, Buckwalter, Detore.
OPPOSED: None.
ABSTAINED: None.

Motion carried.

Bruce Williams has recused himself from the Planned Equity application because of his pending election to the township committee and Ray Buckwalter has recused himself from the Fuhrmann Use Variance application because his family are customers of the Fuhrmann business. In July, there will not be a chair or vice-chair so a pro tem chairperson is needed. Bruce Williams made a motion, seconded by Ray Buckwalter, to nominate Bill Savino as pro tem number 1 for the July meeting. Dawn Marie Kondas made a motion, seconded by Robert Vetrecin, to nominate Joe Schiller as pro tem number 2 for the July meeting. The vote is as follows:

IN FAVOR: Babula, Kondas, Schiller, Vetrecin, Williams, Buckwalter,
Detore, Faillace.
OPPOSED: None.
ABSTAINED: None.

Motion carried.

Mininni escrow letter. A letter, dated June 2, 2008, was received from Alan Lowcher, Esq., Mr. Mininni's attorney, stating that he is questioning the bills sent in by the township's professionals. A request for payment was sent to Attorney Lowcher because the escrow account had gone into a deficiency and that prompted the June 2, 2008 response letter. The bills in question were bills received from Jonathan E. Drill, Esq., Clarke Caton Hintz, Banisch Associates and Finelli Engineering. Attorney Lowcher stated that Mr. Banisch's time was wasted because the board cancelled the meeting at which Mr. Mininni's application should have been heard. Thereafter, the Board hired a new planner. Mr. Mininni questions the time of Clarke and Caton because there is insufficient detail to determine what the new Board planner reviewed.

Attorney Drill stated that the Municipal Land Use Law specifically states that if the board does get a professional to replace another professional, the applicant shouldn't get billed twice. Attorney Drill feels that Attorney Lowcher's point is valid. The MLUL has a procedure where you challenge a professional's bill and has to be filed within a certain number of days and also, the MLUL requires that, at the same time, you file the dispute with the CFO and township committee and township clerk. Attorney Drill stated that, upon review of the law, the board should pay for the second planner's time. The applicant should file the appeal because once they file the appeal with the CFO, then the township committee would appoint someone to remediate the dispute.

Ray Buckwalter stated that it was no fault of the applicant that the board changed professionals and Mr. Banisch's report became immaterial as a result of that change. Technically, Attorney Drill stated that the Board of Adjustment has no jurisdiction over this matter. It is clear to Attorney Drill that the township should be paying for that planner's bill.

Attorney Drill further stated that Attorney Lowcher is requesting more detailed information about the current board professional planner's services. Attorney Lowcher questions the time of Clarke, Caton & Hintz because there is insufficient detail to determine what the new board planner reviewed. Attorney Lowcher also questioned travel charges by Attorney Drill and Clarke, Caton & Hintz.

Ray Buckwalter and Attorney Drill stated that the secretary should write a letter informing Attorney Lowcher that the Board of Adjustment doesn't have jurisdiction to act on Mr. Mininni's complaints. MULU stated that if the applicant disputes charges, the applicant shall notify the governing body with copies to the CFO, the approving authority and the professional.

Case No. 3-08, Lawrence & Cheryl Fuhrmann Use Variance, Block 40, Lot 1.01, Completeness Determination. Representing the applicant was Michael Selvaggi, Esq. The application before the Board is for a Use Variance to construct a 6,000 square foot Martial Arts school, parking lot and storm water management facilities. This use is not permitted in the RCD Zone. The property is located at the intersection of State Route 173 and Voorhees Road.

Ray Buckwalter recused himself from the Fuhrmann application.

Mr. Finelli prepared a report, dated June 6, 2008, and was reviewed by Attorney Selvaggi and the board. The applicant has requested a waiver, checklist item 2k, from the requirement that a surveyor or the owner provide an affidavit stating that all information on the plans is correct. Mr. Finelli recommends that this requirement be waived for completeness purposes for the Use Variance component of the application only.

Item 11, a narrative statement was submitted June 11, 2008. Item 12 of the checklist, photos of the property from different locations showing the area of hardship, is not applicable.

Robert Vetrecin made a motion, seconded by Steve Babula, to grant waivers from checklist item 2K and Item 12. The vote is as follows:

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IN FAVOR: Babula, Kondas, Schiller, Vetrecin, Williams, Detore, Faillace.
OPPOSED: None.
ABSTAINED: None.

Motion carried.

Steve Babula made a motion, seconded by Robert Vetrecin, to deem complete, Case No. 3-08, Fuhrmann Use Variance, Block 40, Lot 1.01. The vote is as follows:

IN FAVOR: Babula, Kondas, Schiller, Vetrecin, Williams, Detore, Faillace.
OPPOSED: None.
ABSTAINED: None.

Motion carried.

Bruce Williams informed the applicant that he will not be present at the July meeting. Bruce requested that all members be present at the July meeting. At least six (6) members will be present. Bruce informed Attorney Selvaggi that if he feels uncomfortable with proceeding with a "D" Variance with less than seven (7) members, the board could schedule a hearing for August. Attorney Selvaggi stated that the applicants are contract purchasers who have been given an abbreviated time period to obtain the requisite land use approvals. The flexibility is not there for the applicant to wait to long.

Robert Vetrecin made a motion, seconded by Joe Schiller, to schedule a public hearing for July 10, 2008. Attorney Selvaggi will re-notice for the hearing. The vote is as follows:

IN FAVOR: Babula, Kondas, Schiller, Vetrecin, Williams, Detore, Faillace.
OPPOSED: None.
ABSTAINED: None.

Motion carried.

Bruce Williams informed the applicant's attorney to be prepared to address the COAH issue.

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Robert Vetrecin made a motion, seconded by Steve Babula, to adjourn. Motion carried.
Meeting adjourned at 8:00 p.m.

Elva N. Pomroy
Board of Adjustment Secretary

Bruce Williams
Vice-Chairperson