
CALL TO ORDER:

Mr. O'Leary called the meeting to order at 7:32pm and stated it was open to the public in compliance with Public Law 1975, Chapter 231, sections 4 & 13.

FLAG SALUTE:

ROLL CALL: Members Present: Hughes, O'Connor, Luthman, Randazzo, Corcoran, Hahn, Didyk, Straub, Leuthe, Taylor, O'Leary.

Members Absent: None.

Also Present: Nancy Reading, Esq.
Nevitt Duvencneck, PE

Mr. Taylor took his oath of office to serve on the Board.
Mrs. Straub took her oath of office to serve on the Board.

MINUTES: May 22, 2008, June 19, 2008, June 26, 2008.

A motion to accept the minutes of the regular meeting of May 22, 2008 with the noted corrections was made by Mr. Corcoran. It was seconded by Mrs. Straub and passed with a roll call vote. Ayes: O'Connor, Luthman, Hahn, Corcoran, Didyk, Taylor, Straub, O'Leary.

A motion to accept the minutes of the workshop meeting of June 19, 2008 with the noted corrections was made by Mr. Randazzo. It was seconded by Mr. Hahn and passed with a roll call vote. Ayes: Luthman, Randazzo, Hahn, Leuthe, Straub.

A motion to accept the minutes of the regular meeting of June 26, 2008 with the noted corrections was made by Mrs. Straub. It was seconded by Mr. Corcoran and passed with a roll call vote. Ayes: O'Connor, Randazzo, Corcoran, Hahn, Didyk, Leuthe, Straub, Luthman, Hughes, O'Leary.

HEARINGS:

1.) Everswick, Brian VAR08-3 B:6 L: 10.02

For the record, Mr. O'Leary noted Mr. Everswick had appeared before the Board on September 23, 2008 with counsel and did not reappear and his application was dismissed without prejudice. Mr. Everswick did re-noticed his application.

Mr. Everswick was sworn in by Mrs. Reading.

Mr. Everswick was representing himself. Mr. Everswick wanted to run a home occupation out of a house he owns located on Route 94. He said he wanted to have an antique shop with appointment only hours and estimated no more than one or two customers per day. He said he would have two parking spaces in the front of the house. Mr. Everswick said he will buffer the front yard. He said he is abandoning his prior application which was seeking a retail use. He said he will run an internet based business. He felt this complies as a home business. He said he will also be doing picture framing if it is allowed.

Mr. O'Leary asked about the square footage of the structure. Mr. Everswick said the house is 1094 square feet not including the second floor. He said the second floor can be made into living space because it is insulated and is an additional 480 square feet.

Mr. Everswick said there is a separate free standing garage that is 360 square feet.

Mr. O'Leary read the definition of a home occupation. Mr. Everswick said he would meet the criteria of the definition if the upper lever was counted into the square footage requirement. Mr. Everswick said his daughter will be living there and will be working for the business also.

Mr. Everswick presented a photo of the front porch with a date of 9/2/08 which was marked and entered as exhibit A-1. He presented a photo of the view from the street dated 9/2/08 which was marked and entered as exhibit A-2. He presented a photo of room #1 dated 9/2/08 which was marked as exhibit A-3 and a photo of room #2 dated 9/2/08 which was marked as exhibit A-4. Mr. Everswick explained the photos to the Board.

Mr. Corcoran felt this was a home occupation and should be further handled by the Zoning Officer.

Mr. Duveneck asked about the deliveries to the site. Mr. Everswick said he brings the stuff to the site with his pick up truck and customers would pick up with their own vehicles. Mr. Duveneck felt a larger truck would have to back onto Route 94 because the site is tight.

Mr. O'Leary asked about the employees. Mr. Everswick said his daughter would be working at the site. He said his wife may stop by on occasion.

Mr. Everswick explained the parking to the Board. He presented a rendering of the parking and landscaping which was marked as exhibit A-5.

Mr. Taylor said the plans show a one story dwelling. Mr. Everswick said the second floor is insulated and has electric.

Mr. Luthman said the parking looks like is could accommodate four cars. He felt there would be an issue with the control on the intensity of the use. Mr. Everswick said the business will be controlled by the appointment only hours. Mr. Luthman felt it was a stop by and shop operation and felt there would be a problem with the intensity of the use. .

Mr. Everswick said the garage would be used to repair the antiques and for storage. He said he wanted to put street lights in the front where the parking is. Mr. Luthman said if the garage is being used for the business he was afraid it would become an enforcement problem. Mr. O'Leary said if the garage is used for the business, it will increase the square footage use and then not comply with the ordinance. Mr. Randazzo felt that Mr. Everswick testified how his business will operate and if he does not conduct it in that manner then it will become an enforcement issue. Mr. Corcoran felt the applicant did not need to be in front of the Board for a home occupation since his operation complies with the ordinance.

There was a discussion on whether the applicant needed to be before the Board. There was a lengthy discussion on the use of the garage. Mr. Everswick said he will not use the garage.

Mr. Luthman felt the parking area in the front of the house was put there in anticipation of operating a business. He felt the applicant increased the parking before he came to the Board. Mr. O'Leary said the parking in front of the house is non-compliant. Ms. Didyk said the previous owner had put in the parking area which was gravel. Mr. Everswick said the gravel parking area was there and he just put more gravel over it. He could not keep the weeds out so he obtained a permit to pave the area.

The meeting was opened to the public. With nobody coming forward, the meeting was closed to the public.

A motion that Mr. Everswick's application will meet the definition of a home occupation and if it does not it will be up to the Zoning Officer to enforce the definition was made by Mr. Corcoran. It was seconded by Mr. Hahn and passed with a roll call vote. Ayes: Hughes, Randazzo, Corcoran, Didyk, Straub, Leuthe. Those voting in the negative were Mr. Luthman and Mr. O'Leary. Mr. O'Connor abstained.

2.) Nouvelle Associates SP05-12, MJR05-13 B:9 L: 6,7,17,21.01

Mr. John Philips, Esq. said he was representing the applicant. He stated this matter was previously before the Board in September and a resolution had been prepared. He said they had tried to clarify conditions in the resolutions. Mr. Philips went over the conditions and his proposed clarifications. He went over the H2M report dated 11/28/2006 and enumerated each open item. Mr. Philips asked the Board to allow the Board Engineer time to review the H2M reports and comment on the engineering issues. Mr. Duveneck agreed.

Mr. Philips asked the language on the COAH issue be reworded to say they will comply with whatever COAH fee is in place. He said they will pay the established fee. Mr. Duveneck said no construction can be started without all conditions being satisfied.

There was a discussion about the proposed sidewalks. Mr. Philips said they will put them in but they will become sidewalks to nowhere.

There was a lengthy discussion on item #9 which dealt with the buffering of the residential zone. Mr. Duveneck wanted to know why the plans do not show the agreed conditions. Mr. Philips said the Board denied the application so the plans were not revised. Mr. Philips said they will now be revised. Mr. Duveneck said he would not feel comfortable without having revised plans. Mr. Philips said the only conditions they need to comply with are the governmental requirements however they will do what they agreed to. Mr. Duveneck said everything needs to be on the plans at final. Mr. Luthman felt the Board was drafting the conditions in good faith and they are trying to be as specific as possible. Mr. Hughes felt the plans presented to the Board during the hearing were incomplete. He said the Board needs conditions that are fully understandable. He said the resolution needs to move forward. He felt if the applicant had not pushed for a vote they could have worked out the details on the plan.

Mr. Philips suggested the Board Engineer look at the H2M reports and he will go through the transcripts so the entire Board can look at them and then they can agree on each of the conditions. He said he will have this to the Board within a week. Mr. Philips said he will return next month to finish the resolution. Mr. Philips said the applicant is trying to work with the Board and he hopes the differences from the past can be put behind them. The application was carried to the February meeting with no further notice.

3. Barsumyan MNR08-16 B:14 L:15.07

Applicant asked to be carried.

4.) Peck, Harold MNR09-1, VAR09-2 B:14 L:11.01

Application is still incomplete.

5.) Casagrande MNR09-3, SP09-4, FSP09-5, VAR09-6, VAR09-7 B:15 L:6.01

Application is incomplete. Ms. Reading said she had a call from the applicant's attorney and they are withdrawing their application. Mr. Luthman asked the Zoning Officer to make the applicant aware they are in violation of the residential zone ordinance.

6.) Tower Alpine SP05-14 B:17 L:2.05

Mr. George Sweeney, Esq. said he is representing a company called AES Property Holdings and they have acquired the land once owned by Tower Alpine. He said this was an application for commercial space with COAH units above and his client is still moving forward with that. He said they are asking for an extension because of the economy and because his clients had just acquired the property. He said they were asking for an extension of the preliminary approval granted January 26, 2006. Ms. Reading asked who the principles of AES Holdings are to which Mr. Sweeney said Mr. Peter D'Antonio and Mr. Luciano Bruni.

Mr. Hughes asked what the original approval was for. Mr. Sweeney said it was approved for two commercial buildings each 5 units and each with COAH units on the second floor. Ms. Reading said the approval was for preliminary site plan and if the COAH housing was to be put in, there would need to be a subdivision because of the septic. He said Tower Alpine did not want to build the project if they could not rent it. Mr. Sweeney said the property has no value if it cannot be developed. He said they want to

keep the preliminary in place and his client will come back for Board approval for final site plan.

Mr. Luthman said one of the motivations behind the Board approving this project was the COAH units would be built. Mr. Sweeney said they are asking for the full two year extension. Ms. Reading asked if the tax lien has been paid off. Mr. Sweeney said he did not know.

Mr. Hughes said the applicant was to seek to put in the COAH housing however they never did come back and wanted to know if the new owner had done anything to pursue the affordable housing. Mr. Sweeney said if the square footage goes over 10,000 square feet they will need an elevator. He said his client is working with the architect on this matter. Mr. Sweeney said all they have is preliminary approval and they cannot put a stick in the ground yet, they just want to keep the preliminary approval alive. Mr. Sweeney said if his client wants to pursue this approval they realize they will need to come back with some form of COAH housing.

Mr. O'Leary opened the meeting to the public. With nobody coming forward, the meeting was closed to the public.

A motion to grant a one year extension of preliminary site plan approval with a condition the applicant will pursue the COAH housing was made by Mr. Luthman. Mr. Luthman said a lot can happen in two years so he only wanted to grant a one year extension. It was seconded by Mr. Hahn and passed with a roll call vote. Ayes: Hughes, O'Connor, Luthman, Randazzo, Corcoran, Hahn, Didyk, Straub, O'Leary.

AUDIENCE:

Mr. O'Leary opened the meeting to the public. With nobody from the public coming forward, the meeting was closed to the public.

OLD BUSINESS:

Mr. Luthman had a concern with the codification of the ordinances and he said the new ordinances are not codified. He requested some investigation into this matter be done. Mr. Hughes said the ordinances need to be sent in quarterly and not once a year. He said the Township is being billed for this so they need to investigate this matter.

Mr. Luthman reported Waste Management did remove the trailers from the property as well as adding the slats to the fencing and a weak attempt at landscaping. Mr. Duveneck said he spoke to someone at Waste Management and they said if the Board wanted some issues addressed just give them a list and they will take care of them. The Board felt Waste Management should come before the Board with an application for the paving of their lot.

Mr. O'Leary asked about the Handweg Drive Realty application. There was some discussion on this application. Mr. O'Connor said he will contact the attorney for the applicant and give him 30 days to get the application complete and appear before the Board or he will start issuing summons.

There was a discussion on the most recent version of the zoning map. The Board Secretary said she will get copies out to the Board as soon as they are available.

NEW BUSINESS:

1.) New Sussex County Internet GIS Application Training – 1/28/09

The Board Secretary advised the Board Members of the training that will take place in the municipal building on January 28, 2009.

RESOLUTIONS:

1.) Lafayette Holdings SP08-17, FSP08-18, VAR08-19 B:4 L:1.01

The attorney for the applicant felt they did not need to come back to the Board for paving issues. The Board agreed to carry this to the February meeting.

2.) 94 Associates FNL MJR08-13 B:4 L:3.01, 4.03

A motion to approve the resolution with the noted corrections was made by Mr. Hughes. It was seconded by Mrs. Straub and passed with a roll call vote. Ayes: Hughes, Randazzo, Hahn, Didyk, Straub, O'Connor, Corcoran, O'Leary.

ORDINANCES:

1.) Motor Vehicle Fueling Station

This ordinance will have its second reading at the Township Committee on February 3, 2009.

Zoning Report:

Mr. O'Connor went over his report that he presented to the Board. He said he did visit Jeff Kulsar and found he did not have more cars than he was granted. He has not removed the island and was advised he needed to do so.

Bills List: #1

Mr. Leuthe reported the engineering was over budget by \$1904.38 for 2008 with billings up to October of 2008. He was not sure if any additional bills might come in.

A motion to pay the bills as presented was made by Mr. Randazzo. It was seconded by Mr. Hahn and passed with a roll call vote. Ayes: Hughes, O'Connor, Luthman, Randazzo, Corcoran, Hahn, Didyk, Straub, O'Leary.

EXECUTIVE SESSION: None.

CORRESPONDENCE: None.

ADJOURNMENT:

A motion to adjourn was made by Mr. Hahn. It was seconded by Mr. Randazzo and passed with everyone saying aye.

Respectfully submitted,

Stephanie Pizzulo
Land Use Board Secretary