

The regular meeting of the Waterford Township Planning Board was called to order by the Chairman, Thomas Giangliulio, followed by the salute to the flag.

Chairman Giangliulio read the Notices to the Public.

Roll call was taken and the following members were present: Mayor Ralph Condo, Gabe Cimino, Bill Richardson, Michael Achey, Carl Lange, John Rowley, Louis Severino, and Tom Giangliulio, absent were: Fran DiRocco, Mark Shendock, and Jon Becker. Also present were: Edward Brennan, Substitute Board Solicitor, Rakesh Darji, Board Engineer, and Ed Toussaint, Zoning Official.

Old Business:

Louis Kitsios (Sally Starrs), Block 34, Lot 6, location – 439 Jackson Road, amendment to approved site plan, zoned – NB.

Brian Peterman, PE with Peterman \* Maxcy Associates and Louis Kitsios were sworn in by the Solicitor.

Mr. Peterman stated that the applicant is requesting, per the August 18, 2011 letter, a change to the site plan approval so that tying into the sanitary sewer system can be deferred for six months and the restaurant can utilize the existing septic system during that time.

Mr. Darji noted that the size of the restaurant is the same as before so the loading of the septic system would not be any larger than it was before. He has no problem with the applicant temporarily tying back into the septic system and recommended that the Board approve the change.

Mayor Condo motioned to approve the amendment to the site plan approval allowing the applicant to use the existing septic system for a period of six months commencing from the date of the temporary C.O., at that time he must tie into the sanitary sewer system and abandon the use of the septic system, Mr. Richardson seconded, roll call vote:

|               |     |                |     |
|---------------|-----|----------------|-----|
| R. Condo      | yes | G. Cimino      | yes |
| B. Richardson | yes | M. Achey       | yes |
| C. Lange      | yes | J. Rowley      | yes |
| L. Severino   | yes | T. Giangliulio | yes |

Motion carried.

Joseph Ciocco, Block 120, Lot 4.07, location – 525 First St., variances for size of garage, rear yard setback, and impervious coverage, zoned – R1.

Michael Ward, Esq. stated that he will be representing Mr. Ciocco tonight.

Joseph Ciocco, applicant, and John Tomaski, witness, were sworn in by the Solicitor.

Mr. Ward stated that Mr. Ciocco received a variance to build a garage in February of 2002 to house his collection antique and collector cars. In recent years, Mr. Ciocco built a lean-to on the back of the garage and then closed it in, so they are hear asking to keep the extension. In addition they are requesting relief from a condition that was set in 2002. The applicant was required to discontinue the use of the attached garage, and he now wants to use it as a garage because he no longer needs it as a family recreation room. They would also like the some clarification and/or relief on the concrete under the front overhang so that it could remain. The impervious coverage requirement also needs a variance. They have submitted 3 drawings prepared by Louis Marchuk who is a New Jersey Professional Engineer. The drawings depict three stages of the structure. The first drawing shows the property prior to the construction of the garage in 2002. The second drawing shows the

Ciocco - continued

approved garage in around 2003 to 2005. The third drawing shows what the property looks like now. The driveway was not put in at the suggestion of the previous Zoning Officer, Ms Fonte, which affects the impervious coverage percentage. He noted that Mr. Tomaski could testify that the impervious coverage will be slightly reduced from what was approved in 2002. He then introduced Exhibits A-1 and A-2, two photo boards.

Mr. Tomaski stated that he took the pictures in the last couple of days and that they accurately depict the condition of the property at that time.

Mr. Ciocco described the 16 photos on Exhibit A-1, noting that they show his property, including the garage, berm, and tree line. He was going to put up a temporary hoop enclosure to store more cars but thought a lean-to would be safer. He closed in the lean-to in the last six months or so, but there is still a dirt floor. He noted that the photos in Exhibit A-2 were similar. The middle/top photo shows the concrete slab under the overhang in the front of the garage. His understanding was that the concrete was allowed as part of the 2002 approval. Mr. Toussaint does not believe it was part of the approval, so he is asking to be allowed to keep that concrete slab at this time. The property behind him is an open field.

Mr. Tomaski gave the Solicitor a copy of an outline from Mr. Marchuk that breaks down the information on the three drawings that were submitted. He noted that he was the developer for these properties and sold the lots to both Mr. Ciocco and Mr. & Mrs. Kuhn. He stated that this is a very flat area with very little slope and is very permeable. He and Mr. Marchuk walked Mr. Ciocco's property and did not see any problem with water runoff in the back of this building.

Mr. Ciocco stated that he would like to reuse the attached garage because he no longer has all four sons living at home and doesn't need the added family room. After the approval he did install carpet, a TV, couches, and a ping-pong table and they used it that way for a long time.

Mr. Ward reviewed the five conditions of approval in which Mr. Ciocco agreed to in 2002. Mr. Ciocco stated that he is willing to abide to all five conditions. He did submit a grading plan and received a CO from the Construction Office, but did not submit an as-built survey until this one that was prepared by Mr. Marchuk. Because he received the CO he did not think it was needed.

Mr. Darji noted that his deduction of the impervious coverage percentages from the numbers we have are that prior to the first variance application the applicant had about 22% impervious coverage, the approval allowed for 27.5% coverage (which differs from Mr. Marchuk's calculations because you don't count the stone driveway or the overhang), and he agrees with the 32% on the third drawing that shows what is currently on the property. This makes it about 4.5% over the prior approval.

Mr. Ward stated that the reasons for the variances are the same as they were at the time of the first approval, which is Mr. Ciocco's unique hobby of collecting cars. The hardship is that he needs a safe place to store them. The use of the pole barn is not inconsistent with others in the area. There would be no detriment to the neighbors because the garage is virtually invisible to the neighbors because of the trees and growth. He feels that it is not a detriment to the zone because it is consistent with the uses in the R1 zone.

Mr. Darji noted that the Board is also looking at a rear yard setback variance, which was not required for the previous application.

Mr. Toussaint noted that there were issues on the prior approval (Resolution #02-04). Item #6 of the resolution requires that the attached garage be made into a game room or the

Ciocco - continued

detached garage would have to be 748 sf smaller. This has not been done instead; the applicant has added an addition and made the detached garage even bigger. He noted that the as-built survey has not been submitted to him. The overhang in the front of the garage was not considered in the impervious coverage calculations at the time of the prior approvals and he feels that the concrete under it would have to be removed. He noted that the previous testimony stated that the garage was to store vehicles so that they would not be parked outside; he has seen vehicles and/or parts stored under the overhang in front of the garage and behind it.

Mayor Condo asked if Mr. Tomaski is an expert witness.

Mr. Ward noted that he is not, but he is here as someone that has knowledge of and is familiar with the property and the condition of the soils. He noted that if the Board feels that it is inappropriate to allow the applicant to use the attached garage for vehicles because it still takes the interpretation that the square footage is required for the 2002 approval of the detached garage, they would like relief from that condition.

Mayor Condo noted that the Board makes decisions with the information that is given to them and they try to help the applicant and at the same time protect the township residents. He is concerned that when people make agreements or promises and then they are ignored, it becomes a detriment to our town.

Mr. Ciocco noted that the concrete pad under the overhang was approved by the Construction Official along with the CO for the garage in 2003. He truly did not know it was allowed. The Construction Official also saw that the attached garage had the carpeting in it.

Mr. Darji noted that the applicant should give testimony as to the need and reasons for the increase in size of the garage. He noted that 865 sf is the maximum allowed for a detached garage, presently with the overhang and addition the garage is over 3200 sf.

Mr. Ciocco stated that he does work on cars for a living; his shop is located next to the Walmart. But collecting cars is not just his hobby, it is his passion and he has been collecting them for years. He had some sitting outside and some under covers but he had problems with mice getting to them and pine needles getting to them. At this time he has 12 cars and 2 motorcycles in the detached garage. They are all collectable cars and he does go to shows with various ones. He does not foresee any future expansion and plans to stay in Waterford Township. He did testify at the last hearing that he would keep the vehicles inside, but there were some outside. He does tinker on the cars, but he does not do any commercial work in the garage.

Mr. Ward stated that the applicant is requesting similar relief to what was approved in 2002. He feels that the standard for exceptional circumstances has been met because this is a unique hobby with unique circumstances. With respect to the hardship, the applicant has elected to go with the addition rather than the hoop house which would not be in keeping with the spirit of the intent of the 2002 resolution. He noted that the applicant keeps a very nice manicured yard.

Chairman Giangiulio noted that he is also a car collector and can't understand why Mr. Ciocco would agree to not work on his cars.

Mr. Ciocco noted that he agreed to it because he wanted the garage.

Mr. Toussaint noted that changing the attached garage to a family room was not requested by the previous Zoning Officer, testimony from those hearings show that the applicant wanted the added living space.

Mr. Ciocco noted that the statement was correct; he did need it at the time. He also noted that the vehicles he does not use do not have gas in them, per the previous requirement.

Ciocco – continued

Mr. Ward stated that the only condition of the Resolution that was not met was the As-Built Survey, in which a proposed grading plan was submitted and accepted at the time. He feels that Mr. Ciocco did not know any better and that the CO was issued.

Chairman Giangiulio noted that it was not the only issue; he did not convert the attached garage, poured the concrete slab under the overhang, and built the illegal 16' x 56' addition.

Mr. Ward noted that he did convert the garage for about 7 years and there is nothing in the resolution about the concrete slab. He feels that the addition does warrant relief through a variance. He also noted that the resolution only speaks about restricting commercial usage and repairs.

Mr. Lange asked about access to the garage for safety equipment.

Mr. Ciocco noted that he did not install the driveway because Ms Fonte, the Zoning Official at the time, said that he did not need to put it in because it would create too much impervious coverage.

Chairman Giangiulio noted that being impervious depends on the type of stone or gravel used.

Mr. Ciocco noted that he started the lean-to about 2 years ago and closed it in this summer. Mayor Condo noted that in his opinion it is not the individual issues; his concern is that items that were agreed to were changed or not done and that an addition of this size was built without permits.

Mr. Darji submitted exhibit E-1, a set of two Google aerial photos dated 4/11/2010 of the subject property. He stated that the scope and scale of the garage does not fit in with the neighborhood, but it does to be in keeping with the aesthetics.

Mr. Achey noted that the addition is 896 sf and the largest garage you can build without a variance is 865 sf. The addition alone is bigger than what is allowed.

Mr. Toussaint noted that in order for the attached garage to be legally converted to living space it would have needed heat and the garage door would have to have been removed. There were never permits for this work and the door is still there. The resolution stated that if this was not done, the detached garage would have had to be built 750 sf smaller. It was not done and now the applicant is asking to make it bigger.

Mr. Ciocco stated that he felt he met the condition because he made it a family room by putting in carpet, couches, TV, and Ping Pong, there was electric already; his children used it for 7 or 8 years, especially in the summer. He would like that condition relieved because his children are grown and he no longer needs that room for them, but he does need it to be an attached garage again because he does have more vehicles now.

Mr. Ward noted that the applicant is not trying to undo what was done, he is responding to changing circumstances in his life over time.

Open to the Public:

Bonnie Kashulinvs, 2230 Genessee Ave., Atco, stated that she owns the field that abuts Mr. Ciocco's property. She has been a neighbor for 20 years and there has been no negative impact to her property from Mr. Ciocco's buildings. There were no water runoff problems, even after all the heavy storms we have had.

Fred Kuhn, 521 First St., Atco, stated that he lives directly north of Mr. Ciocco's property and asked to give handouts to everyone.

Solicitor Brennan swore in Mr. Kuhn and marked the handout as exhibit P-1.

Mr. Kuhn stated that the reason for his testimony today is just as a witness to the property because he is a neighbor; he is not an Engineer or Planner. He is a Building Code Official

Ciocco - continued

for a third party company in Pennsylvania. He has testified before Zoning Boards in Pennsylvania, but not in New Jersey. He reviewed his September 6, 2011 letter noting that the previous conditions were not met, the building is not used as proposed, and he does not feel that another variance should be granted because this application does not meet the definition of a hardship. Mr. Kuhn noted that he took pictures number 1, 2, 3, 4, 5, 14, & 17 in the packet within the last couple of months. The remainder of the pictures were provided through Mr. Ciocco's son's Face-Book.

Solicitor Brennan noted that per the minutes from 2002 it appears that Mr. Kuhn was present for those hearings.

Mr. Kuhn noted that he was at those hearings and understood that the garage was for storage only. He has objections to the addition on the garage and concerns about the use of the property. He noted that it is his understanding that the addition would require a non-combustible floor for the storage of vehicles.

Mr. Toussaint stated that he is correct; storage of vehicles does need a non-combustible floor.

Mr. Ward asked if Mr. Kuhn did not like Mr. Ciocco.

Mr. Kuhn noted that he did not because he threatens him.

Mr. Ward stated that there is no proof of any commercial repair work.

Mr. Kuhn testified that he could hear the racing of the engines, the chisels and impact guns and such. He wants the noise to stop by removing the building because Mr. Ciocco has not complied with most things.

Mr. Ward asked Mr. Kuhn what his expertise with respect to stormwater management was, because of his statement in this letter he submitted. Does he know when a stormwater management system is required?

Mr. Kuhn noted that he is not an Engineer and does not know when a system is required, but feels that Mr. Ciocco has gone well over the impervious surface for this location.

Solicitor Brennan asked Mr. Ciocco to identify the Face-Book photos 6 through 10.

Mr. Ciocco stated that the pictures were taken of his property and identified some of the collectable cars. He does have a lift in the garage and he does tinker on the cars, but there is no big heavy stuff going on there and he would like to be able to continue to do that.

Wendy Kuhn, 521 First Street, Atco stated that her main concern is an explosion; she didn't realize that there was so much gas and flammable items in the garage. When they came to the previous 2002 hearings they understood that there was no work going to be done in the garage, it would only be for the parked vehicles, there would be no gas in them, and no hazardous chemicals in the shop. By the pictures you can see that he has flammables in the shop. She noted that they have been having problems since Mr. Ciocco threatened her over 17 years ago.

Closed to the public.

Mr. Lange noted his concern about having flammables and a heater in the garage and no sprinkler system.

Mr. Ciocco stated only he and his son have worked in the garage and they have never done any commercial work. He owns a commercial mechanic shop and does not need to bring any work home.

Mr. Ward suggested that the noise issue could possibly be limited by defined hours of operation and insulating the building.

Chairman Giangulio noted that the Board must consider the applicant's wants and needs, but they must also consider the surrounding property owners positions. At this time he would deny the applicant's right to continue what he is doing because of what he hears

Ciocco - continued

and sees tonight. He would like hear what Mr. Ciocco is going to do to curtail the noise, contain the flammables, and address the violations. He suggested having this application tabled for 30 days so that Mr. Ciocco can consult with a Professional Engineer and/or Architect and come back to the Board with a plan.

Mayor Condo noted that there was a plan in 2002 and it was not adhered to and how do the previous violations get addressed. He feels that if an extension is granted he wants to see Mr. Ciocco work with the Zoning Officer starting tomorrow on correcting the violations.

Mr. Toussaint noted that there is a violation on the addition to the garage and if the Board continues this hearing the penalty will continue to compound at about \$2,000 a week.

Mr. Ward noted that he is aware and that they will work together. He formally requested that they be granted a postponement and that they would waive any obligation regarding the time of decision.

Solicitor Brennan stated that there would not have to be any additional noticing.

Mr. Richardson motioned to continue this hearing to the November 1, 2011 Planning Board Meeting, seconded by Mr. Rowley, roll call vote:

|               |     |               |     |
|---------------|-----|---------------|-----|
| R. Condo      | yes | G. Cimino     | yes |
| B. Richardson | yes | M. Achey      | yes |
| C. Lange      | yes | J. Rowley     | yes |
| L. Severino   | yes | T. Giangiulio | yes |

Motion carried.

Mr. Ward will hold exhibits A-1 and A-2.

Chairman Giangiulio informed Mr. & Mrs. Kuhn that they should make note that the meeting is continued to November 1<sup>st</sup> because there will be no further notice.

New Business:

William Chandler, Block 401.13, Lot 17, location – 2247 Leon Ct., variance for rear yard setback, zoned – R4.

Solicitor Brennan swore in William Chandler, 2247 Leon Court.

Mr. Chandler noted that he is asking for a rear yard setback variance for his deck. He did already build the deck. He had a contractor doing other jobs around his house, in which he did get permits, but the contractor built the deck before he could finish the permit process.

Mr. Toussaint noted that a permit was applied for and the applicant was notified that a variance would be needed, but the applicant never followed through on it. When he found the open permit he checked and the deck had already been built. April of 2010 was when the zoning permit was denied because it needed the variance.

Mayor Condo explained why permits are required.

Mr. Chandler apologized and explained that he did know that a permit was needed, he did get permits for his fence and pool, but with this project the carriage got put before the horse.

Mr. Toussaint noted that the side yard setbacks are alright, townhouses have a party-wall. Open to the public – no response, closed to the public.

Mr. Cimino motioned to approve the rear yard setback variance to allow the deck steps to be 6' from the rear property line, Mr. Rowley seconded, roll call vote:

|               |         |               |     |
|---------------|---------|---------------|-----|
| R. Condo      | abstain | G. Cimino     | yes |
| B. Richardson | abstain | M. Achey      | no  |
| C. Lange      | yes     | J. Rowley     | yes |
| L. Severino   | yes     | T. Giangiulio | no  |

Motion carried.

Communications:

Pinelands Memo for Public Hearing on Shamong Twp. Ord. #2011-8.  
NJ Planner Newsletter for August.

Resolutions:

Dashmesh Corp., Bl 1603, Lts 1&2, approval of sign variances, Mr. Richardson motioned to memorialize, Mr. Severino seconded, roll call vote:

|               |     |               |                 |
|---------------|-----|---------------|-----------------|
| G. Cimino     | yes | B. Richardson | yes             |
| M. Achey      | yes | C. Lange      | yes             |
| J. Rowley     | yes | L. Severino   | yes             |
| T. Giangiulio | yes |               | motion carried. |

Minutes:

Mr. Lange motioned to approve the minutes for September 20, 2011, Mr. Achey seconded, all members were in favor with the exception of Mayor Condo who abstained, motion carried.

Open to the Public:

Kristen Steck, 686 Raritan Ave., Atco asked about the status of the Master Plan changes and when they will be implemented. They are waiting for the changes so that they can subdivide their ground.

Chairman Giangiulio noted that we will get the information from ARH and suggested that they get in touch with Board Recording Secretary.

Board comments and questions:

Mr. Lange asked if the Board Members could get a copy of the 2002 minutes prior to the next Ciocco hearing so that they can be familiar with the conditions.

Chairman Giangiulio asked Mr. Toussaint to get copies of his paperwork to the Board Recording Secretary to be distributed.

Mayor Condo noted that the Court Room is going to have some construction done and there may be a need to have a meeting in a different location. The Board will be notified once everything is worked out.

Motion to adjourn, seconded, meeting adjourned at 10:25 PM.