

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

Chairman Giangliulo read the Notices to the Public and stated that there is a change to the agenda: The order of the Ciocco and Cimino applications will be switched.

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

There were no motions for adjournments of cases or other motions.

New Business:

Gabriel Cimino, Block 146, Lot 7, location – 504 Jackson Road, minor site plan and use variance, zoned – NB.

Mr. Cimino stepped down as a Board Member and was sworn in by Solicitor Brennan as the Applicant.

Solicitor swore in Rakesh Darji of Environmental Resolutions as the Applicant's Engineer. Mr. Darji stated that this application is for a conditional use variance to allow Mr. Cimino to convert a portion of his home into a coffee shop. The existing residential use is permitted and the coffee shop use, which would fall under a restaurant use, is a permitted conditional use in the NB zone. However, one of the conditions of the conditional use is that Article VII is complied with. A condition listed in that Article is that there can not be more than one use on a property. Adding the coffee shop will bring this property closer to the intent of the Master Plan for this zone. The residence is not meant to be a rental unit, and it is intended to be an owner occupied business. Mr. Darji noted some other benefits and stated that he as a Professional Planner he does not see any detriment to the Master Plan or the Public Good. The front 400 sf or so is what would be converted into the coffee shop. There is a proposed second phase that includes a 540 sf addition on the side of the building. Mr. Cimino would like to have an area to display his large sports memorabilia collection and he would occasionally sell an item. As part of the first phase the parking lot and the storm drainage improvements. Mr. Darji reviewed the site plan and noted that there are currently two accesses onto Jackson Road with impacted stone. He noted that Melanie Adamson, PE with Remington & Vernick Engineers reviewed the plan and prepared a review letter dated October 18<sup>th</sup>, which they reviewed and then modified the plan and resubmitted the plan. Ms Adamson then prepared a follow-up letter dated October 31<sup>st</sup>, which he feels is a fairly clean letter. He reviewed the letter and noted that there are no easements to submit and there are no wetlands or flood areas within 300', they are requesting waivers for these issues. He noted that they are not proposing any new utility lines; they will be using the existing connections. They will confirm with the Township Engineer that there is no issue with the increase of use and they will have an interior grease trap. The design waiver requests were discussed.

Ms Adamson noted that she would agree that the waivers could be granted.

Mr. Darji discussed the infiltration basin and emergency spillway, noting that they are requesting a waiver. They are requesting a variance for front yard setback because the current building is 21.5' from the ROW; they will not be going any closer to the road.

Cimino - continued

This will not be a fast food restaurant and will not have a drive-thru window. They are in the process of obtaining County approvals and copies will be provided to the Board, they understand that those approvals will be a condition of any approval the Board grants. There will be an exhaust vent in the roof that will meet the Township Ordinances in regards to noise and would not create a nuisance for any future development. Deliveries will be made by vans and small box trucks, that is why they are not prosing a loading zone. Ms Adamson stated that she and Mr. Darji have discussed the remaining comments and they have been addressed or they will be addressed.

Mayor Condo noted that the basin will be on private property and asked if it will be maintained by the property owner.

Mr. Darji stated that the basin will be the responsibility of Mr. Cimino and he will record a stormwater management maintenance plan.

Mr. Richardson asked about the depth of the basin and would it need a fence.

Mr. Darji noted that it will be about 3' and have a mild slope; he does not see a need for a fence.

Chairman Giangiulio suggested that they look into having a concrete handicap ramp instead of a wood ramp because the wood ramps deteriorate after some time.

Mr. Cimino asked if he would have to come back to the Board if he wanted to change the ramp to concrete and was told he would not.

Mr. Darji stated that there is ample room for emergency vehicles to circulate. He also noted that bollards would be added to the trash enclosure.

Open to the Public:

Andy Wade, Jackson Road, Atco noted that this property is a block or two away from him and he is in support of the project.

Closed to the Public.

Mr. Lange motioned to approve the conditional use variance to allow the coffee shop use to be added to the existing residential use, Mr. Rowley seconded, roll call vote:

M. Achey	yes	C. Lange	yes
F. DiRocco	yes	J. Rowley	yes
J. Becker	yes	T. Giangiulio	yes

Motion carried.

Mayor Condo motioned to approve the bulk variances as requested, Mr. Richardson seconded, roll call vote:

R. Condo	yes	B. Richardson	yes
M. Achey	yes	C. Lange	yes
F. DiRocco	yes	J. Rowley	yes
J. Becker	yes	T. Giangiulio	yes

Motion carried.

Mr. Richardson motioned to approve the site plan, Mayor Condo seconded, roll call vote:

R. Condo	yes	B. Richardson	yes
M. Achey	yes	C. Lange	yes
F. DiRocco	yes	J. Rowley	yes
J. Becker	yes	T. Giangiulio	yes

Motion carried.

Chairman Giangiulio thanked Ms Adamson for stepping in as Conflict Engineer; she then departed from the meeting.

Chairman Giangiulio called a five minute recess at 8:15 PM. Meeting was re-opened at 8:20 PM and all of the previously present members stepped back up, including Mr. Cimino.

Old Business:

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

Michael J. Ward, Esq. stated that he is appearing on behalf of the applicant and noted that they did appear on October 4<sup>th</sup> at which time there were a number of issues raised by the Board. They were originally here seeking bulk variances for an extension to a previously approved pole barn. The approval was in 2002 and the CO was issued in April of 2004. The building was to house Mr. Ciocco's classic cars, but there were some issues going back and forth about what the scope of that approval meant. There is an issue as to whether or not the work that he does to his cars is in fact permitted under the previous resolution. If it is the interpretation of the Board that he can do no work, they would like relief of that condition as well as the condition dealing with the use of the attached garage.

Mr. Ciocco would like to fix and maintain his own vehicles and has testified that he does not do any commercial work there. They would also like to address the concerns of the neighbors. Mr. Louis Marchuk, P.E., who prepared the plans, is present if needed.

Solicitor Brennan swore in Jeffrey E. Fazler, P.E., R.A., Herbert C. Leary, Building Official and Expert Fire Cause Investigator, and John Butler, P.P. of Butler Group.

Mr. Leary gave his background and qualifications and was accepted by the Board as an expert. He stated that he did visit the site and made a couple of recommendations, to his understanding Mr. Ciocco has taken corrective action. He noted that exhibit A-3 shows a photo of a 5 gallon metal pail with a self-closing lid and a metal cabinet for flammable and combustible liquids which he recommended. He noted that the gasoline vapors are more of a problem than the gas itself. There are precautions that the property owner should take. The October 14, 2011 memo from Bill Behnke, Fire Marshal, was discussed.

Mr. Lange noted that page 9 & 10 of exhibit P-1 that was submitted at the last hearing shows a kerosene heater with a gas can behind it.

Mr. Leary noted that they were not there when he visited the site.

Mr. DiRocco asked about the percentages of fires that start in a residential garage.

Mr. Leary noted that very few residential fires start in the garage; he feels that housekeeping is key.

Mr. DiRocco noted that he agrees that housekeeping is the main factor and his concern is how that would be enforced.

Mr. Leary noted that the Fire Marshal has no jurisdiction on residential homes, but he feels an arrangement could be made for him to do periodic inspections.

Mr. Becker asked if the lighting was protected.

Mr. Leary noted that the vapor is heavier than the air, but it is a good idea to have plastic covers on the lights. He also recommended no welding in the building and noted that the building could be registered as a licensed life hazard use that would require an inspection at least once a year.

Mr. Ciocco noted that there is no heat in the building; but he does use a kerosene heater if he is out there and it is cold.

Mr. Ward noted that Mr. Ciocco does keep a very nice shop and has over a couple of hundred thousand dollar investment in there and he wants to abide by the safety recommendations.

Ciocco - continued

Chairman Giangiulio read a portion of the December 11, 2001 Planning Board minutes that said the building was only for storage of vehicles, any work would be done at the shop that he owns.

Mr. Ward stated that they are asking for relief from that condition.

Mr. Rowley noted that his concern is that Mr. Ciocco did not comply originally, so why should they think he would comply now.

Mr. Ward stated that outside of a fine, the Township could take the applicant to court and rescind the approval based upon the violation or breach of a condition. He also noted that there is an issue of interpretation as to what conditions were actually violated and feels that reasonable restrictions could be worked out.

Mayor Condo stated that he feels that the conditions of the first approval should be met before the addition can even be considered.

Chairman Giangiulio noted that if this was on a large property he would feel better about letting the vehicles be worked on, but this is a residential neighborhood and the neighbor's pool is very close by.

Mr. Leary noted that from a fire safety view something as simple as cracking open the garage door at the bottom for ventilation would allow the vapors to move outside.

Chairman Giangiulio noted that in his eyes, the minor issues are the concrete floor and the attached garage; the major issues are fire safety, drainage, and the work being done in the garage.

Mr. Fazler gave his qualifications and credentials and was accepted by the Board as an expert witness. Mr. Fazler noted that he was hired to testify as to the noise levels, but because of his experience he would also like to comment on the fire codes. Table 602 of the International Building Code requires a fire separation distance based upon the type of construction of the exterior wall and the property line or adjacent building, there could be a certain requirement for a fire resistant rated construction on that exterior wall. This building is within the requirements. Mr. Fazler noted that Waterford Township does not have a noise ordinance; in fact, very few townships in the state of New Jersey have approved noise ordinances. Noise is actually controlled by the NJDEP.

Mayor Condo noted that we have a noise ordinance that refers to the County of Camden.

Mr. Ward stated that the County would be the enforcing arm of the NJDEP and Mr. Fazler will testify regarding the standards that the County must enforce on behalf of Waterford Township and the other townships in Camden County.

Mr. Fazler discussed his report of October 28, 2011 and how the sound information was gathered. The bottom line is that he is not exceeding the allowable noise level for 7am to 10pm, but he is exceeding it for night time which would be 10pm to 7am.

Solicitor Brennan reminded Mr. Ciocco that he was sworn in at the last meeting, this is a continuation and any testimony given tonight is still under oath.

Mr. Ciocco stated that he does understand that.

Mr. Butler gave his education and experience as a professional planner and was accepted as an expert witness. He noted that he looked at the additional impervious surface and water runoff that was created by the garage and addition. After looking at the percentages, his suggestion would be to put in an underground container system. As far as the 14' rear yard setback, it meets the criteria for a setback which is safety, maintenance, and functionality of aesthetics, but it does encroach into the 30' requirement. He feels it has no negative effect on the neighbors.

Mr. Lange noted that in 2002 he voted no to the application and he feels bad for the neighbors.

Ciocco – continued

Open to the public:

Wendy Kuhn, 521 First St., Atco noted that her concern is fire; next to Mr. Ciocco's garage is a membrane structure and then pine trees with mounds of needles under them. She feels that fire could follow the tree line to both of their houses.

Fred Kuhn, 521 First St., Atco stated that he does not get any common courtesy from his neighbor. He feels that there are more hazardous materials than what is known and he does not feel that it can be policed in the future. He noted that there is water on the street and that an automatic sprinkler system would be best for a building like this. He is asking that the addition not be approved, that the building have a sprinkler system, and he should be held to what he was supposed to do as part of the original zoning variance.

Andy Wade, Jackson Road, Atco stated that he knows both neighbors. He noted that in his experience it is the vapor that ignites, not the gasoline. He feels that a very large percentage of residential garages have multiple cars and do work in their garages with no problems. He feels that everyone can learn from the process. In his experience the firemen take hoses to the back of a property, not the trucks. He feels that reasonable maintenance to the vehicles should be allowed.

Closed to the public.

Mr. Toussaint stated that violations were issued on the addition that was built without permits prior to the last meeting, but no penalty or fines have been collected because they are waiting for the outcome of the variance.

Mr. Darji reviewed the definition of an accessory use and noted that as far as size, this building is not subordinate to the principal building. The garage is 2352 sf without the addition, which about the same as the house.

Mr. Ward stated that the applicant is asking to keep the 16' extension on the garage, he has a need for it, there is no impediment to the zoning, and they would agree to address the impervious. They are asking for variances for the impervious coverage and for the setback, also for the concrete in the front to be allowed. He would also request to be allowed to use the attached garage and not turn it into a family room.

Mr. Toussaint noted that there was nothing in the permit jacket about a cement floor and that impervious coverage is anything under roof, it does not matter if there is a concrete floor or not.

Mr. Lange motioned to go back to the original approval that was made in 2002 and require the applicant to bring it back to what was agreed to at that time, the addition and concrete should be removed, any outside storage should be removed, and that the attached garage should be converted to living space as required which means denying the variance application for impervious coverage and rear yard setback, and denying the waivers on relief of the previous conditions, Mr. Rowley seconded, roll call vote:

R. Condo	yes	G. Cimino	no
B. Richardson	yes	M. Achey	yes
C. Lange	yes	J. Rowley	yes
T. Giangiulio	abstain	J. Becker	yes

Motion carried.

At this time Mr. Ward stated that Mayor Condo and Mr. Richardson could not vote on this application because he feels that there is a D variance required. After some discussion it was decided that there would be a re-vote without Mayor Condo and Mr. Richardson.

G. Cimino	no	M. Achey	yes
C. Lange	yes	J. Rowley	yes
T. Giangiulio	abstain	J. Becker	yes

Motion carried.

Communication: None

Resolutions:

Chandler, Bl 401.13, Lt 17, approval of rear yard setback, Mayor Condo motioned to memorialize and Mr. Lange seconded, roll call vote:

R. Condo	yes	G. Cimino	yes
B. Richardson	yes	M. Achey	yes
C. Lange	yes	J. Rowley	yes
T. Giangiulio	yes	motion carried.	

Kitsios, Bl 34, Lt 6, amendment to site plan approval, Mr. Richardson motioned to memorialize and Mayor Condo seconded, roll call vote:

R. Condo	yes	G. Cimino	yes
B. Richardson	yes	M. Achey	yes
C. Lange	yes	J. Rowley	yes
T. Giangiulio	yes	motion carried.	

Minutes:

Mr. Lange motioned to approve the October 4, 2011 minutes, Mr. Rowley seconded, roll call vote was taken having all members in favor, motion carried.

Reports: None

Open to the Public: No response, closed to the public.

Board Comments and Questions:

Mr. Toussaint asked if a variance denial appeal would go to the Township Committee or to Superior Court.

Solicitor Brennan noted that it would go to Superior Court.

Mr. Toussaint noted that he would issue the penalty and then the applicant would have to meet with him to come up with some kind of a time line to come into compliance.

Motion to adjourn, seconded, meeting adjourned at 10:45 PM.