

**ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
June 16, 2011 AT 8:00 P.M.**

Mr. Hesslein called the meeting to order by reading the following statement: “As Presiding Officer of the Colts Neck Zoning Board, I hereby declare that the notice requirements of the law has been satisfied by prominently posting a notice of this meeting on the Township Bulletin Board, and that there has been transmitted by regular mail a copy of said Notice to the Asbury Park Press, and that a copy is on file in the office of the Township Clerk.”

Roll Call

PRESENT: Hesslein, Bennett, Karch, Sobieski, Wagar, Yodakis, and Lewis

ABSENT: Burry and Farrell

ALSO PRESENT: Timothy Anfuso, P.P., Mike Steib, Esq., and Ruth Leininger

Approval of Minutes:

Motion to Approve the May 19, 2011 Meeting Minutes:

OFFER: Karch

SECOND: Wagar

AFFIRMATIVE: Hesslein, Bennett, Karch, Sobieski, Wagar, Yodakis, and Lewis

NEGATIVE: None

RESOLUTIONS:

ZB869 – Gliozzo – Block 7.17, Lot 8 – 46 Mulberry Lane

Memorialization of Resolution granting approval to construct a front porch on an existing dwelling in the A-1 Zone. Variances are required to permit a front yard setback of 74.2’ where 75’ is required and building coverage of 7.29% and 6.6% is the maximum permitted.

Motion to Memorialize the Resolution:

OFFER: Wagar

SECOND: Karch

AFFIRMATIVE: Hesslein, Karch, Wagar and Lewis

NEGATIVE: None

ADMINISTRATIVE:

None

APPLICATIONS: Old Business:

ZB868 – Prager – Block 40, Lot 1.03 – 3 Steeplechase Court

Application to construct a covered deck attached to an existing dwelling in the A-1 Zone. Variances are required to permit a rear setback of 50' where 54' is required and a total building coverage of 6.5% where 6% is the maximum permitted.

Sal Alfieri, Esq. represented the applicant. Four new items were marked as exhibits – two zoning reviews, architectural drawings and a set of two photos and one rendering.

Anthony Conduras, Architect – sworn. Mr. Conduras reminded the Board this is a covered patio on the rear of the house that they were concerned could easily be closed in. He has clipped the corner and brought the rear in almost five feet to reduce the setback variance. The arches have been made wider to open the space more. There is currently sidewalk and patio covering most of the area where the deck will be built. There will not be any HVAC only the outdoor fireplace. The exterior will be consistent with the house. Open to the public with no comments.

The Board appreciated the applicant revising the plans and they thought they did a very nice job. Their approval was based on no HVAC being installed and stipulating the room can not be enclosed.

Motion to Approve the Application:

OFFER: Lewis

SECOND: Karch

AFFIRMATIVE: Hesslein, Bennett, Karch, Sobieski, Wagar, Yodakis and Lewis

NEGATIVE: None

ZB835 – Verizon Wireless – Block 43, Lot 1 – 59 Five Point Road

Remand hearing for reconsideration of a Minor Site Plan and Use Variance to install a wireless communication antennas on a new 130' monopole in the AG Zone.

Lynn Dunn, Esq. represented the applicant. Mr. Steib, Esq. explained to the Board this application is a limited remand. The Board denied this application last year and the applicant has appealed the decision. One of the reasons the Board denied the application was because they did not pursue placing the tower on the property adjacent to the site where it would be permitted. The applicant has since approached the Town, who owns the property, but they are not interested. The judge wants the Board to reconsider the application and revote knowing the adjacent property is not available, does that fact change your vote. There will be no new testimony.

Board members voiced that the availability of the Township property was only one of several reasons why they denied the application. They did not think the applicant showed sufficient need due to volume of dropped calls or gap in service to substantiate a use variance.

Motion to Approve the Application:

OFFER: Wagar

SECOND: Yodakis

AFFIRMATIVE: None

NEGATIVE: Hesslein, Bennett, Karch, Wagar, Yodakis and Lewis

ZB864 – Trump National – Block 46, Lot 1.52 – 1 Trump National Boulevard

Application for Minor Site Plan and Use Variance approval to construct a helistop in the AG Zone.

Mr. Bennett and Sobieski both recused themselves from this application. Sal Alfieri, Esq. represented the applicant. For identification purposes two letters were marked as exhibits – letter from Colts Neck Business Association and a letter from CSAB.

Mr. Ritter, Planner – sworn. Mr. Ritter wanted to make note of exhibit A23, a letter from the Chief of Police showing the merits of having a location that could accept a helicopter. Open to the public. Elaine Mann asked if there was an accident on Route 34 or somewhere else in town is it feasible to take person all the way to Trump National? Mr. Ritter stated he was not qualified to answer that question. Monroe Riner asked if the Police Chief was present? No, the letter is treated as hearsay. Vince Domidion questioned if helistops were becoming common with upscale golf courses would it still be an accessory use? Yes. Could all the various accessory uses make the actual playing of golf accessory? The helistop is a limited use, its purpose is convenience only. Susan Wilcox wanted it clarified who the helistop is for. It is solely for Mr. Trump, his family and guests. Patricia Scavelli asked isn't there supposed to be an overwhelming need to grant a use variance? You test whether the benefit outweighs the negative and the Board will make the final decision if they feel there is a substantial benefit.

A.J. Garito, Engineer – sworn. Mr. Garito explained the original approval for the golf course showed conservations easements that the previous owner violated by constructing within many of the easements. When Mr. Trump purchased the property there was an application to the Planning Board (PB680) that attempted to identify and mitigate these violations. Some instances things were permitted to remain but new areas were placed in a conservation easement, the area by the proposed helistop is one of those areas. These new areas are not environmentally sensitive they were arbitrarily picked to remediate other areas. The DEP has not given their final approval yet so Mr. Garito felt he would first try to modify the Planning Board application by moving the conservation line so that it is outside the safety area. If that was not approved they could plant low lying plantings. Open to the public. Fulton Wilcox asked if it was difficult to move the helistop location out of the easement? It can be moved but they preferred to keep it there because that is the site the DOT provided. Vince Domidion asked why 25' of the easement is currently being mowed? He did not know, they were just continuing to maintain what was previously maintained. So they are just continuing the violation? Yes.

Raymond Simms, Aeronautical Consultant – sworn. The Board asked how high vegetation could be before it was dangerous. Mr. Simms stated it also depended on the type of vegetation, anything woody would be a problem, grasses would be ok up to approximately four feet in height. Ideally there would be nothing. If the helistop were elevated 3' – 4' it would help.

Ed Russo, Consultant – sworn. Mr. Russo stated there is an airport 1 ½ miles from the Bedminster Golf Club however Mr. Trump uses the heliport on site for security and convenience. The majority of members of the Colts Neck golf club live local and would not want or need to use the helistop. Mr. Russo stated he felt the helistop would be approved at some level. He felt the town should be involved and offered to meet with a committee so they could agree on restrictions to be placed on an approval that the DOT can enforce. Mr. Steib, Esq. stated the DOT is the ultimate decision maker however a requirement for approval is approval from the local agency which is the town. Case law shows the DOT considering the town decision and giving it whatever weight they feel is warranted.

Mr. Simms offered a letter that he received from the Bureau Chief from the DOT stating that license can have restrictions. The Board discussed whether they would want Mr. McDonough to come to the next meeting so they could get clarification but Mr. Simms stated he just found out that he retired on June 1, 2011. Since Mr. McDonough retired the Board did not see the need to speak to a someone recently taking the new position.

Mr. Anfuso asked the hours that employees are present at the clubhouse, is anyone there 24 hours? John Roberts, General Manager – sworn. In the summer employees arrive at 4 a.m. and usually leave at 1 a.m. There is not anyone on premises 24 hours a day, however if this application is approved they would have someone available to use the helistop for emergencies 24 hours a day.

Open to the public. Ken Rogers, Beaver Dam Road - Have you overruled an ordinance on your way to establish a heliport? No. Elaine Mann, Route 34 asked if Mr. Trump was aware of all restrictions when he purchased this property? Yes. If he wants to be a good neighbor shouldn't he uphold our ordinances? We feel it is diminimis. What is the purpose of the helistop? For his own security and convenience. Paulette Albert, Comstock asked if Mr. Trump wants to be such a good neighbor why were 100's of trees planted to block our view of the golf course that we paid a premium to have? Monroe Reiner, Hockhockson Road asked aside from you stating emergency helistop access, what benefit or reward on the residents getting from the helistop? We certainly improved property values everywhere we go. Elaine Mann, Route 34 stated in prior testimony Mr. Trump's helicopter in New York is not land on his building he has to go down to the river, what is his objection to getting a helicopter at Allaire Airport and not disturbing our residents? We do not think we will be disturbing the neighbors the location is perfect for a helistop. Vince Domidion, Revolutionary Road asked if DOT was aware of the conservation easement when they picked the location? No.

Open to the public for comment. Ron Bohm, Westbury Place – sworn. Mr. Bohm stated he would like to withdraw his objection if a restriction can be enforced. Vince Domidion, Revolutionary Road – sworn. Mr. Domidion read a prepared statement which included an excerpt from Section 102-46.3 stating “private helistops, whether for personal or commercial use, are prohibited as a principal, accessory or conditional use in all zones within the Township”. No harm would result to the applicant if the variance is not granted, it is solely for the personal use of one person or members of his immediate family. The sound of a helicopter is unique and disruptive. As the acoustic expert of the applicant admitted, whether something is a noise is determined by the ear of the beholder. Lastly the safety zone for the helistop is located in a conservation, open space, drainage and utility right-of-way easement. A safety zone area of 125' x 125' could have vegetation but it could not be allowed to grow higher than the surface of the landing pad. A conservation easement shall not be mowed or disturbed, this would create a safety issue. This application must be denied. Patricia Smillie, Lockwood Drive – sworn. Ms. Smillie admitted two exhibits that were pictures taken from her balcony, her home is the closest residence to the proposed helistop. Ms. Smillie stated she agreed with Mr. Domidion's statement. Mr. Trump had a meeting with the members of the golf course when he purchased the golf club and told them he purchased a golf course not a housing development. He should not be allowed to violate the quality of life for the surrounding neighbors. Ken Rogers, Beaver Dam Road – sworn. The ordinance prohibiting helistops was put into place in 2004. Prior to the ordinance being adopted there was a petition signed by about 400 people. Trump National only pays 2% of property taxes and the decision should be counterbalanced by the community who do not want helicopters. The community should be ahead of personal needs.

The Board stated they learned a lot but did not find any positive justification to go against the ordinance. The Trump organization is a good neighbor and we are glad they are here but they did not

feel there was any testimony that there was any benefit to any residents. The Master Plan states to preserve open space and this is not consistent.

Motion to Approve the Application:

OFFER: Yodakis

SECOND: Karch

AFFIRMATIVE: None

NEGATIVE: Hesslein, Karch, Wagar, Yodakis and Lewis

APPLICATIONS: New Business

ZB865 – Dr. Iorio – Block 8, Lot 5 – 200 Route 34

Application for Preliminary and Final Major Site Plan and Use Variance approval to construct a vestibule as well as expand the parking lot in the A-1 Zone.

The applicant requested this application be carried to the July meeting. Mr. Steib noted the applicant sent certified letters to all property owners, however he notified the utility companies via regular mail. Property owners will not receive a new notice but the utility companies will be noticed via certified mail of the new date. This application is carried to the July 21, 2011 meeting with no further notice.

DISCUSSION ITEMS:

None

EXECUTIVE SESSION

None

MOTION TO ADJOURN

A motion was made by Mr. Wagar at 10:45 p.m. to adjourn the meeting, seconded by Mr. Karch and unanimously carried.

I hereby certify that the above is a true and exact copy of the Meeting minutes for the meeting conducted on June 16, 2011 adopted by the Board of Adjustment of the Township of Colts Neck at its meeting held on July 21, 2011.

Ruth Leininger, Assistant Secretary
Board of Adjustment of the
Township of Colts Neck