

**ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
DECEMBER 17, 2015 AT 8:00 P.M.**

Mr. Florek 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 have 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. I further order that this public announcement be placed in the minutes of this meeting”.

Salute the Flag

Roll Call:

PRESENT: Florek, Farrell, Burry, Bennett and Sullivan

ABSENT: Karch, Sobieski, Yodakis and Burke

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

Approval of Minutes:

Motion to Approve the November 19, 2015 Meeting Minutes:

OFFER: Burry

SECOND: Sullivan

AFFIRMATIVE: Burry, Bennett and Sullivan

NEGATIVE: None

RESOLUTIONS:

None

ADMINISTRATIVE ITEMS:

Review 2016 meeting dates and adopt January 2016 meeting date.

The Board reviewed the proposed meeting dates and time for 2016 Zoning Board meetings. The Board voted all in favor that January 21, 2016 will be their Reorganization and Regular meeting.

Appoint Nominating Committee

Mr. Florek asked Mr. Bennett and Mr. Burry to serve as the Nominating Committee for 2016 appointments.

APPLICATIONS: New Business

ZB948 – Kubeck – Block 50, Lot 2.02 – 108 Hockhockson Road

Application to construct a one-story addition to a single family dwelling in the AG Zone. Variances are required to permit a front setback of 238' where 315' is required and 238' currently exists and a side setback of 106' where 155' is required and 156'.

Mr. Steib, Esq. announced that when reviewing service for this application one of the notices was not sent to the address provided by the Tax Assessor. The applicant will renotify the one property owner and the application will be carried to the January 21, 2016 meeting with no further notice.

ZB949 – GK Distilling, Inc. – Block 4, Lot 1 & 2 – 3 & 7 Bray Street

Request for Completeness Checklist Waiver to allow the application to be deemed complete without submission of proof that taxes are paid to date. Application to establish a Craft Distillery in the A-1 Zone. A Use Variance is required as well as Preliminary and Final Major Site Plan Approval with Variances and Design Standard Waivers. The application has bifurcated the request and is applying for only the Use Variance at this time.

The Planning Office received an email from the applicant's attorney requesting this application be carried to the January meeting. Mr. Steib, Esq. stated he reviewed service and it was in order, this application is carried to the January 21, 2016 meeting with no further notice.

APPLICATIONS: Old Business

ZB946 – Deputy Ventures – Block 14, Lot 6 – 260 Heyers Mill Road

Application to demolish the existing dwelling and construct a new single family dwelling in the A-1 Zone. Variances are required to issue a Building Permit on a lot without frontage on an improved street, a side setback of 30' where 50' is required, a lot area of 22,261 s.f. where 88,000 s.f. is required, a lot frontage of 0' where 300' is required, a lot width of 132' where 300' is required and a lot depth of 168' where 200' is required.

Seven new items were marked as exhibits – revised Zoning Review, revised variance plan, revised floor plan, Health Officer's comments, copy of letter that was sent to adjacent property owners, color rendering of the variance plan and board mounted copy of the architectural plans.

Kevin Asadi, Esq. represented the applicant and reminded the Board this is the third hearing for this application. The applicant has taken to heart all comments from the Board and amended their plans to eliminate all variances except for the side setback and variances that are due to the lot being landlocked.

A.J. Garito, Engineer – sworn. Mr. Garito showed the most recent plans where the four bedroom house was reduced in size to 1,466 s.f. which equates to 6.59% and the side setback was increased to 30' where 50' is required.

Open to the public. Mr. Giunco, Esq. stated he represented an objector. He did not have any questions at this time however he had a Planner he would like to testify.

Mr. Asadi asked for Tim Anfuso, Township Planner to be sworn. Mr. Asadi inquired about the current tax assessment for this property. Mr. Anfuso stated the land assessment for 2016 was \$198,050 and the total assessment was \$315,000. Open to the public. Mr. Giunco inquired whether Mr. Anfuso physically measured the property? No. Is he an appraiser? No, he was just reading from the published Tax List.

Mr. Giunco asked for Mr. Janiw to testify. Andrew Janiw, Planner – sworn. Mr. Janiw explained there is a methodology that must be followed for undersized lots that in part require the applicant to attempt to buy adjacent property if there is a hardship to help bring the property more into conformity. His interpretation was that an appraisal should be done to find the fair market value of the property. The neighbor he is representing, Mr. Meicke, is very interested in purchasing the property and intends to negotiate in good faith. He also stated the Board should see a detail of the actual home being built not a representation of what may be built. Open to the public. Mr. Asadi stated there is an Appellate Division court case stating that a developed undersized property owner did not have to offer or ask to purchase an adjoining property. Mr. Asadi inquired if Mr. Meicke purchased his clients property would Mr. Meicke's property be conforming? Mr. Janiw did not know. What harm would the Board do by approving the application? Mr. Janiw was of the opinion that proper procedure was not followed.

Mr. Meicke, Jr., 264 Heyers Mill Road – sworn. Mr. Meicke said he was interested in purchasing the applicants property and would like to have further discussions with the applicant. Open to the public. Mr. Asadi asked if he made an offer to purchase the property? Yes. Did he obtain an appraisal? No he is in the banking business and looked at the comps in the area. When the bank owned the property previously he also tried to purchase the property and wrote a letter asking to have first refusal when they were ready to sell the property. Mr. Asadi asked Mr. Meicke if he purchased the property did he intend to merge the two properties to make one lot more conforming? Mr. Meicke answered no.

Mr. Giunco asked the Board to require the applicant and his neighbor to complete fair and good faith negotiations. In their opinion they did not feel a negative criteria was adequately discussed to support the variances being sought.

Mr. Asadi stated the applicant has a predeveloped lot that is not required by law to offer sale or to purchase an adjoining lot to construct a new house. The applicant has significantly improved the setbacks for the home as well as aesthetically make the lot more appealing by adding a new septic, screening, etc. There are no detriments or impairments to the zone that were raised by either the objecting Planner or neighboring property owner.

Mr. Steib explained to the Board that they must first decide if they are inclined to approved the application. If the answer is no they are done, if the answer is yes then the Board must decide if they want to impose a condition whereby the applicant must negotiate with the adjoining property owner.

The Board felt the applicant did what they asked by reducing the size of the home to a conforming size, switching the footprint so the garage was on the opposite side to reduce lot coverage with the driveway and adding screening. The Board had concerns that the architectural plans could increase the bedrooms however the bedrooms would be restricted by the size of the septic. The Board conditioned their approval that they must build the house that was proposed, any change and they would have to come back to the Board for re-approval.

Motion to Approve the Application:

OFFER: Farrell

SECOND: Bennett

AFFIRMATIVE: Florek, Farrell and Bennett

NEGATIVE: Burry and Sullivan

Since the variance was approved the Board next had to decide if they wanted to place a condition on the approval regarding the two parties to attempt to negotiation a sale. The Board felt the applicant made an attempt to purchase/sell the property to the adjoining property owner. For whatever reason a deal was not made and the Board did not feel it was something that they should get involved in.

Motion that Conditional Approval is Not Required:

OFFER: Sullivan

SECOND: Farrell

AFFIRMATIVE: Florek, Farrell, Bennett and Sullivan

NEGATIVE: Burry

DISCUSSION ITEMS:

None

EXECUTIVE SESSION

None

MOTION TO ADJOURN

A motion was made by Mr. Burry at 10:05 p.m. to adjourn the meeting, seconded by Mr. Bennett and unanimously carried.

I hereby certify that the above is a true and exact copy of the Meeting minutes for the meeting conducted on December 17, 2015 adopted by the Board of Adjustment of the Township of Colts Neck at its meeting held on January 21, 2016.

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