

**LAWRENCE TOWNSHIP ZONING BOARD
REGULAR MEETING
WEDNESDAY, MARCH 18, 2009, 7:30 P.M.**

Present: Stephen Brame
Michael Ehret (arrived 7:35 p.m.)
Robert Kulak
Leona Maffei
John Gladwell (Alt. #2)
Charles Lavine, Vice Chair
Peter F. Kremer, Chair

Absent: Bruce Kmosko (Alt. #1) (absent/excused)

Also Present: Brenda Kraemer, P.E., Assistant Municipal Engineer
Edwin W. Schmierer, Attorney, Mason, Griffin & Pierson
Brian Slauch, P.E., Planning Consultant, Clarke Caton & Hintz
Charles R. Carmalt, PP/AICP, Special Traffic Consultant
Sara A. Summiel, Recording Secretary

1. Statement of Adequate Notice

Adequate notice of this meeting of the Lawrence Township Zoning Board has been provided by filing the annual meeting schedule with the Municipal Clerk as required by law; by filing the agenda and notice with the Municipal Clerk, posting prominently in the Municipal Building, and mailing to the Trenton Times, the Trentonian and the Lawrence Ledger newspapers on Wednesday, March 11, 2009.

2. Public Participation - None

3. Application No. ZB-10/08 (Bulk Variance), DEVESH VERMA, 19 Canal View Drive, Tax Map Page 52.04, Block 5201.5, Lot 47.

The public hearing was recorded. The Board took jurisdiction.

Devesh Verma, applicant, appeared on his own behalf. Mr. Verma explained his request for the construction of an enclosed 11' x 14' sunroom to the rear of existing dwelling. He described the existing dwelling to be located in the PVD-2 Zone area where the lot size is 6,000 sq. ft. The applicant is proposing a rear yard setback of 14 sq. ft., where 25 sq. ft. is required. The applicant stated that the rear yard has no flat surface and the family is unable to use the yard. The applicant further stated that the proposed sunroom would benefit the family greatly, as well as, guard against mosquitoes and ticks during the summer months. Mr. Slauch questioned the make and height of

**LAWRENCE TOWNSHIP ZONING BOARD
REGULAR MEETING
WEDNESDAY, MARCH 18, 2009, 7:30 P.M.**

Application No. ZB-10/08 - Continued

the proposed sunroom. The applicant's professional stated that the proposed enclosed sunroom is made of structural aluminum, vinyl frame and clear safety glass. The proposed sunroom would be constructed and attached to the first floor elevation of existing dwelling with no access to the basement. The proposed sunroom would be about 8 feet in height with the roof sloping to 7 feet. Also, the proposed sunroom will be constructed with a solid-insulated roof with a few skylight panels, and a solid kick plate for a heat & air conditioning unit. The applicant described the neighboring properties and referred to a previous variance granted at the property of 6 Nash Court for a sunroom. Mrs. Kraemer explained that the granted variance was approved because the property had extra depth and the rear yard setback was already at 35 feet to the principal building. She further explained that the allowed variance of 25 feet was in keeping with the character of the neighborhood. *Mrs. Kraemer addressed her report dated December 4, 2008, and explained that because of the drainage easement there would be no way to mitigate the impact of the addition. There could be no fencing and the existing setback would only allow for an open deck with a 15-foot rear setback, as required by the amended Land Use Ordinance for this development. Following a brief discussion by the Board, it was felt that the positive criteria for the zoning variance was not met, there were no hardships of even a unique shaped lot, the proposed sunroom would not enhance the zoning scheme and the applicant would be requesting a second variance. (See Attachment No. 1 – Reports.)*

Exhibits: None

The following witnesses were placed under oath: **Devesh Verma, Applicant and Tom Vernot, Contractor**

Also placed under oath were the Township Professional, Brenda Kraemer. Mr. Schmierer administered the oath.

Public Comment: None

Mr. Ehret moved and Mrs. Maffei seconded to deny the application, for the reasons stated above by the Township Professional and Board.

AYES: Brame, Ehret, Kulak, Lewis, Maffei, Lavine, Kremer

ABSENT: Kmosko

PRESENT, INELIGIBLE TO VOTE: Gladwell

LAWRENCE TOWNSHIP ZONING BOARD
REGULAR MEETING
WEDNESDAY, MARCH 18, 2009, 7:30 P.M.

4. Application No. ZB-4/07 (Use Variance), BERKS WALK AT LAWRENCE, 180 Franklin Corner Road, Tax Map Page 39, Block 3901, Lot 10.

The public hearing was recorded. The Board took jurisdiction.

Gary Rosensweig, Esq., represented the applicant. Mr. Rosensweig gave an updated overview of the application. He further explained that the applicant has prepared a "Use Testimony Report" (See exhibit A-14) and a "Post-Hearing Statement of Justification for the Variance Requested" (See Exhibit A-15). The applicant's professional continued to give testimony with regard to the proposal of 30 townhouse rental units, as stated at the December 17, 2008, meeting. In addressing the stated concerns of the Board regarding open space and number of affordable housing units at that meeting, the applicant is proposing revisions to reduce the number of townhouse units from 30 to 28 to create more of a setback. The units will consist of 14 one-bed room units, 14 two-bedroom units with one-car garages, and private outdoor living space. The revised application is proposing seven inclusionary units. The applicant is proposing to provide 270 parking spaces, upgrade deficient park area with landscaped island, an 8 foot-wide walk trail and a dog park and connections to surrounding properties. The applicant is proposing to provide upgrade and relocation of transit stop; new landscaping along Franklin Corner Road; buffer along rear property along trail and between units; new refuse compactor/disposal area, as guided by the Township Professionals; internal connecting road to restaurant; upgrade to the interior and exterior of existing apartments. The applicant addressed the positive criteria, as outlined in Exhibit A-14, with regard to the increase in density, adequacy of light, sufficient open air, open space, and the establishment to the well being of persons. In addition to the positive criteria, the applicant cited the special reasons for a more desirable visual environment from the Grubbs case law. With regard to the negative criteria, the applicant did not feel that the proposed application would create a substantial negative impact to the public good or impair the zoning plan. Mr. Slauch referred to his report dated February 2, 2009, and addressed, in length, the variances, the Master Plan purpose for the proposed site and the affordable housing requirements. Mr. Carmalt addressed the parking issues associated with the existing complex and questioned the current uses to the D&R Canal. With regard to the D&R Canal, applicant will work with the Township Professionals. He suggested a design for the access of emergency vehicles and applicant agreed to work with the Township Professionals and Fire Marshall. The Board discussed, in length, the proposed revisions with regard to weighing the positive criteria around the detriments or the negativity that would come from the approval of the application.

**LAWRENCE TOWNSHIP ZONING BOARD
REGULAR MEETING
WEDNESDAY, MARCH 18, 2009, 7:30 P.M.**

Application No. ZB-4/07 - Continued

Also, the Board discussed the increase in density and the Township's goal in creating a neighborhood that provides what the residents need. With regard to the outdoor lighting, the applicant will provide at time of site plan submission. Mr. Brame addressed the applicant's testimony about the proposed open space and increase of density. He proceeded to state that he could not support this application. He did not feel that the positive criteria had been satisfied. Mrs. Maffei agreed.

Further discussion took place by the Board with regard to the impact of the density in approving the proposed townhouses' width of 16 feet or 18 feet and the COAH obligation. The Board questioned whether these two issues could be acted upon at time of the applicant's site plan submission. Mrs. Kraemer stated that the decision should be made at this meeting. Mr. Schmierer agreed. He proceeded to advise the Board that the density and COAH obligation is driven by the reduced number of units, as testified by the applicant, making the COAH numbers less and the nature of the variance for the townhouses' width change. The Board accepted the width of 16 feet. The applicant accepted. (See Attachment No. 2 – Reports.)

Mr. Schmierer advised the Board that Messrs. Ehret, Brame and Gladwell signed an affidavit stating they have listened to the hearings of April 16, 2008, and December 17, 2008, and are eligible to vote.

Exhibits:

- A-14 (Use Variance Testimony Report – by Kendra Lelie, Professional Planner)
- A-15 (Letter from Gary Rosensweig, Esq., dated 1/5/2009 “Post Hearing Statement of Justification” for Variances Requested.)

The following witness remained under oath:

- Kendra Lelie, Professional Planner/AICP & Expert

(Township Professional, Brian Slaugh was placed under oath. Mr. Schmierer administered the oath.)

**LAWRENCE TOWNSHIP ZONING BOARD
REGULAR MEETING
WEDNESDAY, MARCH 18, 2009, 7:30 P.M.**

Application No. ZB-4/07 - Continued

Public Comment:

- **Richard Danek, 180 Franklin Corner Road, was placed under oath. Mr. Danek stated that he has lived in this complex for 10 years and welcomes any upgrades. He stated that parking has always been an issue, but Managers provided permits to control parking. He felt that the dog park was a great idea, if it is constructed properly. He questioned whether all the apartments would be upgraded. He further stated some concerns about the security of the complex with regard to the proposed access and connector road.**
- **Michael Cobb, 136 Copperville Drive, (Home Owners Association), was placed under oath, stated some concerns about the detention basin owned by their Home Owners Association. Mr. Cobb stated that the basin area is, constantly, trashed by the existing complex. Also, he felt that the additional traffic would have a negative impact. He proceeded to address circulation, the density with regard to setback requirements, the need for zoning density changes and the COAH requirements.**

Vote:

Vice Chair Lavine moved and Mrs. Lewis seconded to approve the application, including use and bulk variances and conditions placed on record, subject to all appropriate conditions and the recommendations contained in the Township Professionals' reports.

AYES: Ehret, Kulak, Lewis, Lavine, Kremer

NAYES: Brame, Maffei

ABSENT: Kmosko

PRESENT, INELIGIBLE TO VOTE: Gladwell

**LAWRENCE TOWNSHIP ZONING BOARD
REGULAR MEETING
WEDNESDAY, MARCH 18, 2009, 7:30 P.M.**

5. Old Business/New Business/Correspondence

None

6. Adjournment

There being no further business to come before the Board, the meeting was adjourned at 11:31 p.m.

Digital audio file of this meeting is available upon request.

Respectfully submitted,


Sara A. Summiel
Recording Secretary

MINUTES APPROVED: June 17, 2009