

**ZONING BOARD OF ADJUSTMENT
MINUTES
NOVEMBER 6, 2006**

Meeting was called to order at 7:15 P.M.

Meeting properly advertised according to the Sunshine Law.

Roll call:

Attending: Mr. Gelley, Mr. Gonzalez, Ms. Goralski, Mr. Naftali, Mr. Berrios,
Mr. Halberstam, Mr. Sernotti
Also present: Glenn Harrison, Attorney
Jim Priolo, Engineer/Planner
Jackie Wahler, Court Stenographer
Fran Siegel, Secretary
Arrived late: Mr. Zaks

Salute to the flag.

Motion to approve minutes from the October 16, 2006 with a waiver to read – Mr. Gonzalez
Second – Mr. Naftali

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Ms. Goralski, Mr. Naftali,
Mr. Berrios, Mr. Halberstam, Mr. Sernotti

APPEAL # 3629 - FIFTH STREET ASSOCIATES

5th Street, Block 117 Lots 9, 10, 11, 12
Interpretation of the zoning map.

This is a continuation from the meeting of October 16th.

Secretary read reports.

From: Jim Priolo, Engineer/Planner -October 13, 2006

Our office is in receipt of an application requesting an interpretation of the zoning map to determine if Block 117, Lots 9-12 are located within the R-M (Multi-Family Residential) Zone or B-2 (Central Business) Zone. We have reviewed the request along with the Lakewood Township Zoning Map, Tax Map Sheet 33 and have determined that the subject property is located within the R-M Zone. The Zoning Map clearly shows the division of the R-M and B-2 Zones through the center of Fifth Street, therefore any lots on the north side of Fifth Street are within the R-M Zone and any lots on the south side of Fifth Street within the B-2 Zone.

From: Ed Mack - Zoning Officer

Further review of the zoning map has determined that this property is in the R-M and the B-2 zone, therefore any applications for approval must be submitted to the Zoning Board of Adjustment.

John Doyle represented applicant.

Mr. Doyle - applicant is asking for an interpretation of the map which is a single physical document. Case law says that you cannot turn to other sources for information, the map is the book. They believe that they are on the B-2 side of the line. If the line is not on 5th Street than the ordinance says boundaries are meant to be on street lines or property lines.

Mr. Mack – the intent was for the line to be on 5th Street.

Mr. Sernotti – zone line is definitely not on 5th Street.

Mr. Doyle - the line has to be on a property line so if the line is not on 5th street than the line is on the lot line.

Mr. Harrison – the issue is now is where is the line?

Mr. Sernotti – we have to look at the map and determine where the line is. It is clearly not on 5th Street. Mr. Mack feels that it goes through the property line.

Mr. Doyle – if the line is not on 5th street than the only remaining alternative is that the line is on the lot line which is consistent with the ordinance.

Mr. Priolo – agree with Mr. Doyle and Mr. Mack. Look at the map and make a decision.

Mr. Mack – where is the line drawn.

Mr. Halberstam – the line is drawn in the middle.

Mr. Mack – you have to go wherever the line is drawn on the map. This is not the first time we have seen this. There are other lots in two zones.

Mr. Doyle – the split zones are often on large lots – this is not. It should be either on the street or the lot line. Look at the language of the ordinance not the intent.

Mr. Mack – you are trying to interpret an error.

Mr. Doyle – law says that you cannot assume it is an error.

Open to Public. Closed to Public.

Motion to determine that the lots are in the B-2 zone – Mr. Gelley

Second - Mr. Naftali

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Ms. Goralski, Mr. Naftali
Mr. Berrios, Mr. Halberstam, Mr. Sernotti

Mr. Sernotti reclused himself from Appeal # 3618 and Appeal # 3619.

APPEAL # 3618 – TUXEDO PROPERTY PARTNERS

Forest Drive, Block 12 Lot 206, R-12 zone, Single family home on an undersized lot.

Secretary read reports.

From: Jim Priolo, Engineer/Planner, May 1, 2006

1. The subject property is located on Forest Drive and is within the R-12 (Single-Family Residential) Zone. The existing lot is vacant. The applicant proposes to construct a new 2-1/2-story single-family dwelling on the existing undersized lot.
2. In accordance with Section 902 E. of the Ordinance, bulk variances will be required for the construction of the proposed single-family addition as follows:

	Required	Proposed
Minimum Lot Area	12,000 s.f.	8,124.7 s.f.
Minimum Lot Width	90 ft.	50 ft.
Minimum Side Setback (One)	10 ft.	8 ft.
Minimum Side Setback (Both)	25 ft.	18 ft.

The applicant must demonstrate to the Board that the requested variances can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and the zoning ordinance.

3. The applicant should provide testimony on the proposed use of the basement level. The drawings indicate a separate outside entrance to the basement level.
4. Any approval should include a condition that all curb and sidewalk shall be replaced as directed by the Township Engineer.
5. It appears the applicant is proposing a septic field for the sanitary system. The applicant should consider connecting into an existing sewer main, if one is present in Forest Drive.
6. Any approval should include a condition that the maximum elevation difference between finished floor and outside grade is 30 inches.

From: Ed Mack, Zoning Officer

I feel a house could be designed that would be more conforming to these narrow sidelines.

Mark Williams represented applicant.

Brian Flannery, sworn.

Mr. Flannery - Lot size is 8,124 square feet where 12,000 is required. Lot width is 50 feet where 90 feet is required. Asking for combined side yard setback variance of 20 feet where 25 feet is required.

Mr. Flannery reviewed Mr. Priolo's report.

Aerial exhibit.

Mr. Flannery – This is an isolated lot, there is no availability to purchase more land. Proposing a 30 feet x 51 feet house. This house is appropriate for the neighborhood. There is very little negative criteria. The positive criteria outweighs the negative criteria. Also proposing to extend the sanitary sewer 500 feet to the site. This is a benefit for the neighbors. The basement will be used for storage. There is no curb and sidewalks on Forest Drive. The township policy is that they require curbs and sidewalks and the applicant will have to do that. All the neighbors are using septic tanks. This property drains away from Forest Drive. They will put in a drywell so the roof runoff goes into the ground rather than the road. They agreed to finished floor to outside grade be 30 inches.

Mr. Halberstam – a condition of approval is that they will have sewer and not a septic tank.

Mr. Flannery – there will be plumbing in the basement but there will be no kitchen.

Open to Public.

Roberta Burcz, attorney representing Linda Kelley, objector.

Ms. Burcz questioned Brian Flannery.

Mr. Flannery – There are 3 vacant and undersized lots on Forest Drive. From the front of the garage to the rear of the house is 60 feet. The first floor living space will be 1,571 square feet, second floor living space will be 1,661 square feet, ½ story is 521 square feet. Plans indicate an unfinished basement. Garage area is about 200 square feet. This street is typical of the older Lakewood with smaller homes and they are being replaced with larger homes.

B-1 sheet 12 of the tax map.

Mr. Flannery – Forest Drive is a 50 foot wide right-of-way and at the bend in the road it is a little wider and then it is a 50 foot right-of-way extending to Shady Lane.

Ms. Burcz – Their position is that the applicant has not satisfied their criteria. Plan to show that the applicant has no hardship. Lot 203, adjacent lot, was for sale and was not purchased by the previous owner. If this application is approved the neighborhood will become dangerous and what is proposed is not in conformity with other homes in the area, it will not improve the aesthetics in the area and that there have been problems with the septics. This application should be denied.

Mr. Harrison – it was his decision to allow Ms. Burcz to continue and it is up to the board to weight the evidence and decide if there is any relevance.

Michael Manno, 52 Forest Drive, sworn. Lot 23. Testified that he knew the woman that lived on Lot 203 and had conversation with her sister who stated that she would sell the house. They were offered \$65,000 and she wouldn't sell. That was not a fair price and he told her to wait.

Mr. Williams objected to hearsay.

Mr. Halberstam – Lot 206 was never attached to Lot 203.

B-2 - deed dated 5/31/02

Mr. Manno – the road is a very narrow and dangerous curve and is only 19 feet wide. The people in the neighborhood have had trouble with their septics. Sewer is not available on Forest Drive. When it rains there is a large amount of pooling on the street. There is only one catch basin and that is near Country Place. There are no sidewalks on Forest Drive. There is a slant on this lot and the water would run into County Place if a house was built.

Mr. Priolo – if approved they would have to have a grading and drainage plan.

Mr. Flannery – there is a 14 foot drop from the front of the lot to the rear. They certainly can build a house on this lot.

B-3 deeds

Linda Kelly, 60 Forest Drive, sworn. Lived there for over 21 years. Homes are small homes on large lots.

B-4 posters with 16 photos

Ms. Kelley – Neighborhood is quiet and wood. There are no 2 ½ story homes in the neighborhood. Described B-4. Pictures of the homes and the square footage of each lot. The proposed home would be totally out of character. It would be the largest home on the smallest lot. There are no homes on Forest Drive that are 2 ½ stories, there are 6 two story homes, everything else is a ranch.

Johni Manno, 52 Forest Drive, sworn. Lot 23. This has been a nice quiet neighborhood and it would change the character of the neighborhood. It is impossible for 2 cars to pass going around the bend. Sometimes have to wait for 15 minutes to pull out of her driveway.

Open to Public.

Koidula Tootsov, 61 Forest Drive, sworn. Original property owner of Forest Drive. Houses should not be built on a 50 foot lot.

Ingred Kangor, 80 Forest Drive, sworn. Own lots 26 & 27. Opposed to the building on an undersized lot. Overdeveloping Forest Drive would have an adverse impact.

Robert Grossman, 285 Miller Road, sworn. Objected to the construction of this large home on an undersized lot.

Closed to Public.

Kenneth Pape, representing Smith Fargo, **Appeal # 3597** requested to table to December 4, 2006.

Motion to table – Mr. Gelley

Second – Mr. Naftali

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Ms. Goralski, Mr. Naftali,
Mr. Berrios, Mr. Halberstam

No further notice and a waiver of time.

Steven Pfeffer, representing Fairmont Investments, **Appeal # 3624**, requested to table until December 4, 2006.

Motion to table – Mr. Gonzalez

Second – Ms. Goralski

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Ms. Goralski, Mr. Naftali,
Mr. Berrios, Mr. Halberstam

No further notice and a waiver of time.

Recess.

Continuing Appeal # 3618, Tuxedo Property

Ms. Burcz – Deeds were submitted into evidence - this was a self created hardship. The house is significantly larger than every house in the neighborhood. Forest Drive is very narrow. Light, air, open space, aesthetics, privacy and all other rights of these residents will be affected by this application.

Mr. Williams – He had no obligation to purchase the adjacent property. This proposal will end the sewer problem.

Mr. Harrison - This board has to decide if it was a self imposed hardship.

Mr. Priolo – slope drop is approximately 15 feet from front to rear. The house proposed could not be constructed on this lot. Would not be able to save any trees. Country Place must be protected also. Would probably need a walk-out basement.

Mr. Flannery agreed to provide a grading plan and drainage plan and replanting buffering along the sides. Agreed to a collection system so that there would be no adverse impact on the downstream property. The plan would have to be revised to have a walk-out basement.

Mr. Naftali – water being brought in is a positive. Questionable to say that it was a self-imposed hardship. Would ask the applicant to buffer properly.

Mr. Gelley – at no given time did anybody own both lots therefore it was not self-imposed, it was always two lots. It could be made a little smaller.

Mr. Flannery – the applicant will be required to put in curb and sidewalks in front of the house. Applicant is willing to make a 28 foot wide house.

Mr. Gonzalez – would not be in favor of this application. This house does not belong in the neighborhood.

Mr. Berrios – this type of home does not fit in this neighborhood. Not in favor of application.

Ms. Goralski - this house is way too large for this lot. House should be scaled down and be made more conforming to the neighborhood.

Mr. Mack – the width is not the problem, the house is just too high.

Mr. Flannery requested that the application be carried and they will revise the architectural plans.

Mr. Priolo recommended that they come back and also bring in the grading plan.

Ms. Burcz asked to be copied on the plans so that she can review them.

Mr. Priolo – The house now is 3,760 square feet.

Motion to table to January 8, 2007 – Mr. Gelley

Second – Mr. Naftali

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Ms. Goralski, Mr. Naftali,
Mr. Berrios, Mr. Halberstam

Mr. Halberstam announced that there will be no further testimony and the application will not be re-opened to the public.

Mr. Flannery - will revise plans for Appeal # 3619.

Motion to table Appeal # 3619, Charles Parnes to January 8th – Mr. Naftali

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Ms. Goralski, Mr. Naftali,
Mr. Berrios, Mr. Halberstam

No further notice and waiver of time.

RESOLUTIONS

Appeal # 3604 – Aryeh Weinstein, 730 River Avenue, Block 423 lot 13, HD-7 zone.
Resolution to approve a use variance to construct an up and down duplex. .

Motion to approve – Mr. Gelley

Second – Mr. Naftali

Roll call vote: affirmative: Mr. Gelley, Ms. Goralski, Mr. Naftali, Mr. Berrios,
Mr. Halberstam

Appeal # 3561A- 319 Sunset, LLC, James Street, Block 345 Lot 9, M-1 zone. Resolution to approve site plan to construct two buildings on site. Use variance was granted previously.

Motion to approve – Mr. Gonzalez

Second – Ms. Goralski

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Ms. Goralski, Mr. Naftali,
Mr. Halberstam

Appeal # 3626 – Best Pressed Cleaners, 2 Northcrest Place, Block 1.13 Lot 64, R-15 zone. Resolution to approve a use variance for a dry cleaning store.

Motion to approve – Mr. Naftali

Second – Ms. Goralski

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Ms. Goralski, Mr. Naftali,
Mr. Halberstam

Appeal # 3467A – Forest Glen, Chestnut Street, Block 1159, Lots 19, 42-44 & 85
Resolution to approve subdivision and site plan.

Motion to approve – Mr. Gonzalez

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Ms. Goralski, Mr. Naftali,
Mr. Halberstam

Appeal # 3579 – Cedarbridge Development Resolution to approve a one year extension to file map.

Motion to approve – Ms. Goralski

Second – Mr. Naftali

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Ms. Goralski, Mr. Naftali,
Mr. Halberstam

MOTION TO PAY BILLS.

All in favor.

MOTION TO ADJOURN.

All in favor.

Meeting adjourned at 10:30 P.M.

Respectfully submitted,
Fran Siegel, Secretary