Borough of Watchung
Board of Adjustment Meeting
February 6th, 2014

Minutes

Chairman Cronheim called the meeting to order at 7:32 p.m. Salute to the flag. The Chair called for a roll call. Present at the call of the roll were: Fechtner (A) Hunsinger (X) Dallas (X) Brown (A) Kita (X) Panzarella (A) Bell (X) Clemens (X) Cronheim (X) Stires (X) McDonald(X)

Chairman Cronheim indicated there was a quorum to conduct business. The Chair stated that this meeting was being held in compliance with N.J.S.A. 10:4-6 of the open public meetings law and proper notification of this meeting has been made.

Chairman Cronheim announced that there is a possibility of the Board of Adjustment moving their meeting dates to the second Thursday of the month, due to the fact that the Mayor and Council meetings might be changed to include the first Thursday of each month.

Chairman Cronheim stated that the following applications and appeal will be carried to the meeting of March 6th, 2014, or the meeting of March 13th, 2014, if the Council changes their meeting dates:
BA11-15 Badin, 65 Glen Eagles Drive, Block 401 Lot 2
BA13-12 Bisignano, 20 Jared Court, Block 6802 Lots 17 & 19.01
BA10-12 Sun, 12 Kappelmann, Block 403 Lot 11.01
Appeal: BA15-12 Edman regarding 861 Johnston Drive, which is currently before the Superior Court, and currently this Board does not have jurisdiction over this matter
Chairman Cronheim stated that the Board is still waiting on engineering in the Badin application.

Chairman Cronheim called continued application :
BA13-08 Silagi
121 Valley Road
Block 4301 Lot 34 - Any and all variances needed to erect a shed with a side yard setback of 4 ½ feet, where 10 feet is required.

Mr. McDonald explained that the Silagis were first before the Board on 12/19/13, where Mr. and Mrs. Thomas and Rona Silagi were sworn in and gave testimony, Mrs. Patricia Price objected and there was some rebuttal. Mr. McDonald said that photographic exhibits were previously submitted and the Board was up to Exhibit A-16. He stated that the photographs were of the Silagi and Price properties and property boundaries. He explained that this application was left when Chairman Cronheim asked that the Board to continue this application until Borough Assistant Engineer Arlene McCoy looks at it and makes a report for the January meeting. The January meeting did not hear this application due to the lack of staff. Mr. McDonald said that a report was received from Arlene McCoy two days ago and with that we are here at this meeting to continue this application.

Mr. Cronheim read the report from Mrs. McCoy into the record (attached). Chairman Cronheim said that Mr. Silagi had an issue with the last meeting's minutes that were published on line before the Board had a chance to see the minutes. John Silagi and Rona Silagi came to the microphone. They were previously sworn in. Mrs. Silagi said that on page two of the December 19th, 2013 minutes, paragraph 7 should read; *Mr. Silagi at this time presented more pictures and a survey of the neighbor's property to show that he felt it* ***did not*** *directly affect them.*

Mr. John Silagi referred to three pictures previously submitted by the objectors marked O-1, O-2 and O-3. O-1 being the shed without a tarp. O-2 was of the shed with a tarp and O-3 depicts a fence and the

tarp. Mr. Silagi presented new pictures marked exhibit A-16 showing a yellow house with stacked logs. Mr. Silagi said that it showed wood piles with vegetation. Exhibit A-17 dated 2012 05-08 showed vegetation between where the shed is going and the Price's property, and Exhibit A-18 dated 11-17-2013 taken in November. The next was Exhibit A-19 dated 12-22-2013 showing the shed. Exhibit A-20, was a aerial photograph from Mapquest showing vegetation, and Exhibit A-21 was an aerial photograph from Bing Maps also showing vegetation. Mr. Silagi said that the Prices have erected a wood pile between the properties that is approximately 6' tall, which basically blocks direct view of the shed. Mr. McDonald asked how high the proposed shed will be. Mr. Silagi responded that the proposed height is 14', but that is subject to change if need be. Mr. Silagi said that he could make the overhang and the height of the new shed a little less if necessary. Mr. McDonald said that the testimony at the last meeting was that the old shed was 8' x 16' x 10' high. The new shed proposed is 12' x 22' x 14' high. Mr. McDonald said that the new shed is 3 ½' closer to the property line, where 10' is required. Proposed is 4 ½' from the property line. Mr. Silagi said that when he spoke to the Engineer, she said that the prior shed should have taken up the whole slab so that water didn't run through it. Mr. Silagi didn't have anything further.

Mr. TK Shamy came to the microphone to ask questions of Mr. Silagi. Mr. Shamy, of the law firm Shamy and Shamy in New Brunswick NJ, represented the objectors, Mr. and Mrs. Price. Mr. Shamy asked Mr. Silagi why he is seeking this variance. Mr. Silagi responded that he is seeking this variance for the new shed due to the ice storm, the hurricane and age. Mr. Shamy asked if as a result of damage, was the shed more than 50% damaged. Mr. Silagi said no. Mr. Shamy asked Mr. Silagi if he ripped down the shed before he made an application for this variance. Mr. Silagi said that parts of the shed were no longer structurally sound, and he made the application first. Mr. Shamy asked if the old shed is still on the site. Mr. Silagi responded that the skeleton of the old shed is still there. Mr. Shamy showed Mr. Silagi Exhibit O-2 and asked him what that showed. Mr. Silagi said it showed a northern view of the shed that was being worked on. Mr. Shamy asked if that was new timber in the photo. Mr. Silagi said yes. Mr. Shamy asked if there was any old timber depicted in O-2. Mr. Silagi said no. Mr. Shamy asked Mr. Silagi if he took down the entire shed to reconstruct. Mr. Silagi said that he took the shed down to the slab. Mr. Shamy asked Mr. Silagi if he had to add any new slab to the existing slab for the construction of the larger shed. Mr. Silagi said no. Mr. Shamy asked Mr. Silagi if he understood the requirements of this variance. Mr. Silagi said he is not an expert, but is trying to fulfill the requirements as requested.

Mr. Shamy asked Mr. Silagi if he knew how far the distance was from the lot line behind the shed, to the opposite lot line of the property. Mr. Silagi said he did not. Mr. Shamy showed Mr. Silagi a copy of a survey of the Silagi property. He asked approximately how many feet it was from the opposite property line. Mr. Silagi said the survey showed the lot width was 100'. The survey did not show a date, which appeared to be cut off. Mr. Silagi said that he thinks the date of the survey was 9/5/95. Mr. Shamy asked Mr. Silagi if there was anything preventing him from moving the shed over away from the property line. Mr. Silagi said that he assumes that there was a variance for the shed when it was built, and it was the most practical for the property. Mr. Silagi was asked when the house was built. He said he believed it was built in 1938. Mr. McDonald said that Mrs. McCoy's letter stated that the shed was not shown on the property survey of May 27th, 1980. Mr. Silagi said that he assumed that the shed was constructed somewhere between 1980 and 1985. Mr. Shamy asked Mr. Silagi regarding the photographs showing the structures on the Price's property, if those structures had existed as long as Mr. Silagi had been living there. Mr. Silagi said yes. Mr. Shamy asked Mr. Silagi if he lived there when previous owners, the Kempsons, lived in what is now the Price's house, and if those same structures had been there during his time living next to the Kempsons. Mr. Silagi said yes to both. Mr. Silagi said that he thinks the Board should grant the variance since when he purchased this home there was a shed there and it was part of the aesthetics of the property. Mr. Shamy had no further questions.

Mr. McDonald asked Mr. Silagi if he had anything further he wanted to present. Mr. Silagi said that the only reason for the increase in the size of the shed is the size of the slab to be covered, and the only reason for the height of the shed increasing is because of the pitch of the new roof. He said that if it was absolutely necessary, he would put the shed back to the original size.

Chairman Cronheim opened up to questions from the Board. Jim Clemens asked for a definition of a building. Mr. Bennett explained that an overhang of up to two feet is not considered a part of the setback, provided it doesn't contain any habitable space. Mr. Bennett said there is no issue in the application with impervious coverage, corroborated with Arlene McCoy's report. There is also no drainage issue since the size of the slab has not changed. There is also no explanation for the drainage easement on the tax maps that anyone is aware of. Mr. Bennett said that building height doesn't discriminate between principal and accessory structure. Mr. Silagi was asked if he had any more witnesses. Mrs. Chris Blackadar of 54 Evergreen Lane came to the microphone. She said that she is good friends with the Silagis and good friends with the Prices, and they both keep their yards nicely maintained and she feels it's a shame that both neighbors can't come to a compromise. Mr. Shamy said he had no more witnesses to call.

Mr. Shamy stated that Mr. Silagi had a shed on his property and decided to rip it down and rebuild it. He was reminded that he needed permits. He then went to the Zoning Officer, who denied the structure because he is too close to the property line, and was referred to the Zoning Board. Mr. Shamy referred to the ordinance that addresses the issue that a structure that is not more than 50% damaged cannot be rebuilt if it is pre-existing non-conforming. He said that the proposed shed is almost twice the size of the original. He said that he doesn't think Mr. Silagi should be allowed to build this shed because he extinguished his pre-existing non-conforming status when he took down the old shed. He went on further to say that he is too close to the lot line. He said that Mr. Silagi could move this shed 6' over. Mr. Shamy said he didn't feel that any criterion has been met by Mr. Silagi in this application. Mr. Shamy read sections from 40:55D 70 referring to criteria for a C1 variance and said Mr. Silagi has not met any of it. Mr. Shamy said that everyone has to operate within the parameters of the law and respectfully submitted that this application has to be denied.

Chairman Cronheim said that he listened to the testimony, and that with respect to both sides no one here is a planner, but that it is left to this Board, to determine whether this is a self-created hardship, whether there are unique conditions, whether this is a narrow lot or has an unusual topographic issue, and that this Board can decide either way. Mr. Shamy agreed.

Chairman Cronheim asked Mr. Bennett the following: If there is no indication on the 1980 survey showing the location of this foundation, and between 1980 and 1995 the shed ordinance was enacted, is there a possibility that this shed was built pursuant to an approval by this Board or the Planning Board, because it would have required a variance at that time. Mr. Bennett said that it was possible. Chairman Cronheim said that since no one has looked for it, the Board may be spinning their wheels entirely, since variances run with the land. He said that before he takes any action he would like to research a possible prior approval. Chairman Cronheim asked that this application be continued so that research can be done as to whether a prior variance has been granted for this shed. Chairman Cronheim said that the outcome of this research could affect the board members' decision on this application. Mrs. Blackadar came to the microphone of 54 Evergreen Lane. She said that they bought their property in 1983 and the shed was there when they purchased their property.

Chairman Cronheim closed the public portion of this application and said that research will be done, and they will let everyone know what the outcome of that research was before the meeting. The application was continued until the meeting of March 6th, 2014, or March 13th, 2014, depending on the decision of Mayor and Council. Mr. Bennett said that this lot was in the R-R zone which was smaller than the required 60,000 square feet. Mr. Silagi said that he invited the board members to come over and view the property to see why it wasn't practical to move the shed over. Chairman Cronheim said he appreciated that invitation. The application was carried until the March meeting.

Chairman Cronheim announced a request from the Board of Education asking that a temporary sign be erected on the lawn of Borough Hall indicating Kindergarten registration for the month of February. This

request has been approved by Borough Administrator Tom Atkins. It is the same sign that was approved last year. Chairman Cronheim moved that the Board approve the banner. The motion was seconded by Mr. Hunsinger, and approved unanimously by voice vote.

Chairman Cronheim made a motion to approve the minutes of December 19th with the change made by Mrs. Silagi previously mentioned to paragraph 7. Mr. Bell seconded the motion and by unanimous voice vote the minutes of December 19th, 2013, were approved as amended.

Mr. McDonald announced resolution BA14-R1. The Borough of Watchung owns contiguous properties on Somerset Street housing the Public Works department and the Police Station/Court and this resolution was to approve a support building for the Public Works Department being erected, granting variance relief for the front yard property setback. Mr. McDonald said that this resolution memorializes that. Mr. Hunsinger made a motion to approve, seconded by Mr. Bell. Hearing no more discussion, the Chair asked for a call of the roll which was as follows:
Hunsinger (yes) Dallas (yes) Kita (yes) Bell (yes) Clemens (yes)
Cronheim (yes)
The motion carried.

Chairman Cronheim asked for a motion to approve the invoice submitted by Board Engineer Dave Stires. The motion was approved unanimously by voice vote.

Hearing no more discussion, the Chair asked for a motion to adjourn. Motion to adjourn was made by Mr. Dallas, seconded by Mr. Hunsinger and by voice vote the meeting was adjourned, until the next meeting of March 6th, 2014, or March 13th, 2014, pending the change in meeting date by the Borough's Mayor and Council.

Respectfully Submitted,

Carolyn Taylor

Carolyn Taylor
Board of Adjustment Clerk