

**TOWNSHIP OF OCEAN
Zoning Board of Adjustment
Regular Meeting
March 20, 2008**

7:30 P.M.

STATEMENT: Pursuant to the provisions of the New Jersey, Open Public Meetings Act, sending copies of the notice of meeting properly provided adequate notice of the meeting to the Times-Beacon, the Asbury Park Press and the Atlantic City Press. Notice was posted on the bulletin board in the Administration Building.

The regular meeting of the Zoning Board of Adjustment was held on the above date and time. Chairman Dennis Tredy presided and called the meeting to order.

ROLL CALL

Members Present	Nick Bonamassa	Ron Bruno	Edward Covitz
	Anthony Mercuro	John Petrosilli	Joe Lachawiec
	Antonio DeAlmeida	Dennis Tredy	

Members Absent: Stanley Bystrek

Pledge of Allegiance

Administrative

Chairman Tredy introduced the members of the board, attorney, engineer and secretary.

John Petrosilli made a motion to approve the February 21, 2008 meeting minutes seconded by Nick Bonamassa. Roll Call (Ayes) Petrosilli, Bonamassa, Bruno, Covitz, Mercuro, Lachawiec, Tredy

Ronald Bruno made a motion to approve the bills, seconded by Joe Lachawiec. Roll Call (Ayes) Bruno, Lachawiec, Bonamassa, Covitz, Mercuro, Petrosilli, DeAlmeida, Tredy

Chairman Tredy stated if there was anything in correspondence that you want to see go to the office.

BOARD COMMENTS:

Chairman Tredy stated that he was at the class on Saturday and he felt that this was necessary for all members, old and new. He went on to explain some of the things that are taught at these classes. He encouraged all members to attend when they are available. Tony DeAlmedia said that he felt it was very beneficial and would like to take it again when it is available.

Chairman Tredy asked Mr. Rumpf how we should act when we do site inspections. There are things that we should and should not do.

Attorney Rumpf didn't have a handout to give to the board members to use as a guide when they do go out to visit the site. However he spoke to this to try to explain what should happen on a site inspection. It is not the duty of the board to go out, you can rely on the testimony that is presented to the board but many times it would behoove a board member to better understand an application to actually physically go out to the site, announce who you are, show identification that is provided to you and make whatever observations that are to be made. One thing to be cautious of when you go out to a site is of course for your own safety and security, if you are denied access I would suggest that you don't force your way in. You just report back that you were unable to gain access so that arrangements can be made to visit the site. When you are on the site keep in mind that your dialogue with the applicant or whoever may be there at the site should be somewhat constrained. You do not want to get into a situation where you are making any pronouncements as to whether you feel an application is warranted. You want to reserve your judgment and thoughts until we are actually in public session reviewing the application then it is perfectly okay to report on the record what you found.

Mr. Petrosilli asked if they had a right to be on the property especially if someone wasn't there such as vacation homes. Attorney Rumpf said that they had a right to be there and were not trespassing.

Chairman Tredy said he would like to add one thing, occasionally there might be a recess called and at that time you should not talk to the applicant at that time. It is an ongoing hearing and it would not be proper.

Chairman Tredy said that Stan Bystrek is not here tonight; he called and asked to be excused because he said that he had a working relationship with two of the applicants that are on the agenda tonight.

Chairman Tredy said that there are some revisions to some zoning ordinances that were recommended by the Planning Board. We also looked at these and the planning board made recommendations to the Township Committee. The Township Committee did vote on them and they are currently adopted changes.

1. Quonset hut can only remain for 90 days with no more than one 90 day extension.
2. Preliminary site plan applications, originally there (13) copies and that was changed to (20) including (5) sets of preliminary architectural drawings.
3. Final Major site plan applications procedures it was also (13) copies was increased to (20).
4. Zoning Permits procedures had required site plans in triplicate it is now quadruple.

Mr. Mercurio said that there is nothing referring to how old a site plan can be. Chairman Tredy asked Laurie to speak to that.

Laurie Clune stated that she had discussed this with the Administrator. If someone wants to put up a fence you don't want them to have to go out and spend a lot of money for a new survey. So she watches it in the office. If someone is putting up a huge addition and altering the property I would make the agreement with them that the next thing you do on this property we will require a new survey. She sits down with applicants to help them draw to scale and help them clean up the survey she does a site inspection, measures things that are on site, just because it gives us a clearer record in the office. Mr. Mercurio said that some of these site plans are from a previous

owner, maybe the property was just deeded over, and they might not be in the applicant's name. Chairman Tredy said that he had discussed this with Laurie before, he asked Laurie "you make a site inspection on every application is that correct?" She compares their survey to what is actually on the ground. As a courtesy she will help them draw on their survey what is there today. We state on our application that we need an accurate survey not a current one. Mr. Mercurio said that maybe we should state that it be something like 4 years, 2 years old. Laurie said that we don't want to create a hardship. Mr. Mercurio said talk to the Administrator about maybe something's won't need a survey.

Chairman Tredy said there were a couple of other items that the Township Committee approved.

1. They changed a type o on accessory buildings they changed it to read **only one is permitted.**
2. Storage of recreational vehicles and equipment that was made more stringent. Mr. Mercurio stated he had a concern about boats not being anchored down.
3. Construction trailers each one needs a separate permit.
4. Lot Coverage's - "Building Area" means the total of area of outside dimensions on a horizontal plane at **ground level.**

Mr. Lachaweic brought up that he felt that the 12 months and mentioning Memorial Day to Labor Day were excluded. He felt that if they were excluded then the 12 months should start after Labor Day not be continued from before Memorial Day.

Chairman Tredy stated that Convery Investments were to be here this month and they are not on the Agenda.

Attorney Rumpf stated that he was in conversation with their attorney and he advised Mr. Rumpf that they were in the process of preparing the layout requested by the board and were requesting additional time.

Chairman Tredy asked for a motion to carry Convery to the April meeting.

John Petrosilli made a motion to carry Convery to April, seconded by Nick Bonamassa. Roll Call (Ayes) Petrosilli, Bonamassa, Bruno, Covitz, Mercurio, Lachaweic, Tredy.

OLD BUSINESS

Resolution 07-08-BA
Docket 18-07-BA
Christopher Resko
18 Mizzen Way
Block 191, Lot 4.01
Bulk Variance

Edward Covitz, made a motion to approve and seconded by Joseph Lachaweic. Roll Call (Ayes) Covitz, Lachaweic, Bonamassa, Mercurio, Petrosilli, Tredy

Minutes of March 20, 2008

Resolution 08-08-BA
Docket 17-07-BA
Richard and Joyce Orosz
36 Pancoast Road
Block 56.10, Lot 258
Bulk Variance

Edward Covitz made a motion to approve, seconded by Ronald Bruno. Roll Call (Ayes) Covitz, Bruno, Mercurio, Lachaweic, Tredy.

Resolution 09-08-BA
Docket 24-07-BA
Anthony Cahill and Lennar
129 Brigantine Boulevard
Block 57.10 Lot 96
Bulk Variance

Edward Covitz made a motion to approve, seconded by Ron Bruno. Roll Call (Ayes) Covitz, Bruno, Mercurio, Petrosilli, Lachaweic, Tredy

Resolution 10.08.BA
Docket 22.07.BA
Stephen & Janis Yuhas
29 Spring Lake Boulevard
Block 57.11 Lot 38
Bulk Variance

Ron Bruno made a motion to approve, seconded by Edward Covitz. Roll Call (Ayes) Bruno, Covitz, Mercurio, Lachaweic, Tredy.

Resolution 11.08.BA
Docket 21.07. BA
Lawrence & Gladys Crawford
17 Bayview Drive
Block 239 Lot 25
Bulk Variance

John Petrosilli made a motion to approve the resolution of denial, seconded by Anthony Mercurio. Roll Call (Ayes) Petrosilli, Mercurio, Bonamassa, Bruno, Covitz, Lachaweic, Tredy.

NEW BUSINESS

Docket 04.08.BA
Daniel Collamer
24 Bay Parkway
Block 65, Lot 7.01
Interpretation

Attorney Rumpf said there seemed to be some confusion between the applicant and his attorney. The applicant completed the application for an interpretation and his counsel thought that he would be applying not only for an interpretation but for a variance relief. He advised his counsel that there had not been any notification so they could not go for variance relief if they wanted to. His attorney immediately requested that we carry the application to April so that he could meet with his client.

Edward Covitz made a motion to carry, seconded by Joseph Lachaweic. Roll Call (Ayes)
Covitz, Lachaweic, Bonamassa, Bruno, Mercurio, Petrosilli, Tredy.

RECESS

RECOVERED

Docket 03.07.BA
James & Ruby McGeoch
31 Dock Avenue
Block 84, Lot 12.02
Variance Ordinance Interpretation

Attorney Pam Snyder representing the McGeoch's.

Joe Lachaweic stated that he is a customer of Mr. McGeoch, so he stepped down according to the advice of the attorney. Antonio DeAlmeida also stepped down.

Attorney Snyder stated that they were before the board for an interpretation of ordinance. She stated that they were before the board because of a mistake that has turned the McGeoch's world upside down and put them in jeopardy of not being able to fulfill a dream of Mr. McGeoch to have a garage that he could relax in and tinker. The mistake involves a 32 x 60 foot garage. The McGeoch's understanding was that the plans for his garage fully conformed with all of the Township, Zoning and Construction ordinances. At times Mr. McGeoch has gotten a little emotional, a little brash about this because the garage is a long held dream of his. He designed it and built it himself. When he met with the Zoning and Construction Officials about how to go about to create this dream garage and how he should do it so that it conformed with all of the ordinances he was told that in order to do build this garage it would have to be connected to the house with a breezeway. If there was no breezeway he would have to come before the board for a variance. Now Mr. McGeoch has done various improvements to this house as well as to a prior home he owned in Waretown and he has always been in compliance with the ordinances. He basically followed the same pattern that he has done before and he didn't want to get involved with variances he just wanted to build his garage and not bother anybody. He was told to connect it with a breezeway and in good faith he submitted his plans for his garage. After some items were corrected he received the permit to build the garage. At no time were either of the

McGeochs told that he had to change the plans or get variances in order to build the garage. Now the McGeochs began to build the garage and got various approvals along the way. Then one day without warning to the McGeochs on November 3rd, 2004 which is one day after the election a stop work order is posted on his garage. Attorney Snyder said that they are before the board for an interpretation of the ordinance and alternatively for any necessary variances. It is the hope that tonight will be the end of the McGeochs journey.

Chairman Tredy asked Ms. Snyder what she meant about her statement of "right after the election". Ms. Snyder said that it was a coincidence that Mr. McGeoch will talk about that issue as to why and how his work orders were issued. She said that she has full faith in the system and she stated that she certainly hopes that there is no connection between the election and what occurred.

Chairman Tredy said before you proceed with the witnesses he wanted to go over the boards understanding as to why you are here. Besides the interpretation of that portion of the ordinance which deals with accessory structures, it was question of relief from three tool sheds, variance for use of habitable space, for the heights in the second story of the building that is in question and possibly even a "D" variance, although our board attorney indicates that there has been no notification for a D variance so that would be taken off the table. We believe that with the testimony that the sheds fall outside the requirements for a variance and habitable space is not habitable. Attorney Rumpf said for clarification that you are here tonight for the one larger structure the 20 x 60 foot accessory building. It is your position that you are seeking no relief for the structures that are on the property as they predate the applicant's ownerships and were preexisting, non conforming structures. Attorney Snyder said yes based upon some of the research that Mr. McGeoch has done at least one of those structures was in existence as early as 1940 and he believes that all three structures were somewhere between the late 40's and early 50's. We did try to find zoning ordinances that were performing at that time and we were unable to locate the Waretown zoning ordinances going back that far.

Mr. James McGeoch was sworn in. Attorney Snyder asked Mr. McGeoch what the nature of his business was. He stated that he fixed boats and his base of operation is at the Holiday Harbor in Waretown. He usually works on 15 to 30 boats at any given time of the year. He is currently working on and responsible for 150 boats. He is the owner of Jim's Mobile and he has been at the present location for approximately 13 years. He works on the boats at the harbor, behind peoples houses, periodically he works on boats at his house. He has nine present employees which eight are full time and one part time. He said he could not move his base of operation to his home because he doesn't have the equipment needed such as a travelift, or the room. He has been living at his present home address about 10 years. He lived at 28 Chapel Street for about 10 years. He picked the location that he is at now because he thought he could build his garage there.

Attorney Snyder presented Exhibits A-1 which is a copy of the zoning map. Mr. McGeoch showed where his property is located on the map and highlighted it in blue and he mentioned that he is in the Waterfront Development Zone. He stated that the neighborhood is a very quiet neighborhood, with young and old. He loves living there. A-2 is the current survey of his property with everything drawn on it. A-3 is the original survey at time of purchase which shows the house and the three sheds. Mr. McGeoch stated that he had pictures of the property from the 70's which showed it was a marina at that time until the Power Plant bought land along

the creek because of the shipworm problems these pictures were marked as Exhibit A-4. Mr. McGeoch marked which photo was the shed and which photo was the one that was taken approximately 5 years ago showing the other sheds. Attorney Rumpf stated that Ms Snyder said at the beginning that she would present proof that the sheds were on the property before the zoning ordinances were in affect. He asked if she had anything else to present. She said she did not, she thought that the black and white photos were from the 40's and 50's but she was mistaken. Mr. McGeoch said that the sheds were on his property when he purchased it and he had just repaired them to make them look better. He did have one shed that was metal and he took that down and built a shed in its place about 2 foot wider than original.

Attorney Rumpf asked if he could ask Mr. McVicar to speak to the other structures on the property.

Mr. McVicar stated that he wanted to speak to the height of the three structures. Two of the structures were 10 feet where 9 is allowable. Utility shed is 12 feet where 9 feet is allowable. The matter of the number of utility sheds one is permitted and the applicant has three. Chairman Tredy asked if any of those sheds are close to a variance condition on set backs? Mr. McVicar said no they are not.

Attorney Rumpf said essentially we are dealing with three height variances on the structures as well as a variance for having more than one structure where there are three. Mr. McVicar said that is correct. Attorney Rumpf asked if counsel would like to focus on those structures first before they address the garage and issues pertinent to the garage.

Ms. Snyder said that Mr. McGeoch explained and showed on the prior survey that all three sheds were on the property when he purchased it. It is also his understanding that the outhouse has been there since the 40's or 50's. He based that how old the marina was and people that had kept their boat there at that time.

Attorney Rumpf stated to Mr. McGeoch that he admitted to tearing down a shed and building another in its place. Attorney Rumpf asked if that was one of the sheds with the height greater than permitted. Mr. Petrosilli asked if a permit should have been obtained for that. Mr. McVicar said yes. Legally there should have been a permit obtained for that even though there was a concrete foundation. For clarification purposes in regard to that shed you are in fact seeking a variance you are not making the assertion that it is a preexisting structure. Ms Snyder said that is correct. With regards to the other two sheds, Ms Snyder said one outhouse one shed. Mr. Rumpf asked if that was used for storage also. Mr. McGeoch explained what he had stored in all of them. Mr. Rumpf asked Mr. McGeoch which shed he had replaced the siding on. He said it was the far back shed. Would you estimate that you rebuilt more than 50% of that shed? Mr. McGeoch said no. Mr. Rumpf said with regard to that shed how high is it. Mr. McVicar said that it is around 10 feet according to his review letter.

Mr. Rumpf asked if we are at a point where the testimony is basically complete in regards to the three sheds? Ms. Snyder said she would like to call neighbors in reference to sheds.

Charles Boesch was sworn in. Mr. Boesch said that from his house he can't even see the sheds. Mr. Mercurio said that he thought they would have the neighbor to the west testify because that is

where the sheds abut the property line.' Ms. Snyder said that she didn't have any testimony from them because they did not think the sheds were going to be an issue.

Mr. Rumpf asked Mr. Boesch how long he had lived there and he said 20 years. Mr. Rumpf asked Mr. Boesch if he recalled the sheds being there all of that time which he answered yes.

Ms Snyder had Mr. McGeoch come forward again so that they could have his testimony about the garage. Mr. McGeoch stated that when he bought the property he saw a large piece of property that he could envision a pool for his children and a large garage for himself. He purchased the property in 1997 and he waited until 2004 to build the garage because of finances. He came up with the design because his house is an old farmhouse and he wanted it to compliment it. He met with Larry Leonard the building official at the construction office and he told me what would be needed to build the garage. I told him the size of the garage I wanted to build and he said under Waretown law I could not do that because the structure was 50% larger than the primary dwelling. He said the only way I could do that would to have it physically attached to the primary dwelling. I redrew my plans to attach it with a breezeway between the house and garage and that met the requirements. Mr. Leonard told me that attaching the garage with a breezeway would be sufficient. Mr. Leonard is the one who told him the only way it would work is to attach it with a breezeway if I wanted to have a garage that size on my property. Mr. Mercurio said for clarification he said that what was meant was that it had to be attached and one of the methods would be a breezeway. Chairman Tredy said as a matter of clarification a breezeway is not considered attached by our ordinances that may have been his interpretation. Brian Rumpf stated that would you agree with the statement that a breezeway would not be sufficient to attach an accessory structure. Ms Snyder said that is why they are here today to get an interpretation. If the board tells me that a breezeway is not sufficient then we will abide by that and we will seek a variance. Attorney Rumpf said that is in fact the interpretation that you are seeking.

Mr. McGeoch said he had no intention of attaching his garage until he spoke to Mr. Leonard. Basically he drew his new plans, the construction department looked at the plans and that process went on for quite a few weeks because they continually were asking for more information. At the time of this permit Mr. Leonard was the zoning and building person. In the neighborhood there are other garages that I liked the look of and tried to base my garage on. Ms Snyder said that Exhibit A-5 which is the summary packet contained pictures of a garage down the street east of his house. Exhibit A-6 and Exhibit A-7 were plans of garage. Mr. McGeoch explained the plans and described what the building was built of. Exhibit A-8 is a list of items that he had to fix to obtain his building permit which is attached. He mentioned the approvals that he received upon inspections. Even though you received these approvals dated July 7, July 22, and September 29, 2004 but yet you received a stop work order was issued on November 3rd of 2004. He went to the construction office and asked who put this on my garage and I asked him who told you to put that on my building and he said Mr. Van Pelt. At the time of the stop work order issued can you describe the status of the garage project? The garage was up, the windows were in, the sheathing was half, the walls were up, the roof was on, the doors were in and the rough electric and plumbing was in. He did receive permission to Tyvek the garage to protect his investment, that permission was from Steve Yost Attorney.

Mr. McGeoch said that he called Mr. Van Pelt and asked why the stop work order. Mr. Van Pelt said that neighbors were complaining. I said who was complaining and he basically laughed at me and he said you will never find out, hung up the phone and that was it.

Attorney Rumpf said that at this point it seems we are getting into a lot of hearsay testimony and a lot of innuendo that may or may not pertain to this application. What I would suggest with your permission counsel that we ascertain where we are with the application perhaps by first addressing the interpretation issue which as yet is unresolved and then depending upon the result of that interpretation we will know what variances if any are required to deal with.

Attorney Snyder said the plain language of the ordinance does require that the building be attached. The breezeway does attach the main building with the garage.

Attorney Rumpf asked Mr. McVicar from the engineering perspective with regard to the interpretation questions as to whether or not this is part of the principal structure or whether it should be considered an accessory structure.

Mr. McVicar said that his opinion is for an accessory structure to be attached to the principal structure they should share a common wall. He would not consider two separate structures connected by a breezeway to be attached.

Board Comments

Chairman Tredy said he felt the board engineer summed it up. Mr. Tredy's opinion is that a breezeway is not a part of the principal structure so therefore no matter what you attach it to it does not make that additional building part of the principal building.

Mr. Mercurio said speaking of the picture of the Walker Lane house it is very appropriate that you had that picture because I think what we have here is a conflict of our own ordinances or our own interpretations because I built that breezeway for Tim Corliss. The reason I built the breezeway because he was selling the house and the Township told him that if he didn't attach the garage to the house with a breezeway he needed a variance because it was an accessory building more than 50% the size of his house. When Mr. Corliss sold his house before closing the new proposed owner came into our Land Use Board and wanted the board to assure him that it was okay with zoning for his mother to live upstairs. We should do some research on this, we are out of time and we should look into this. Chairman Tredy said that both boards since that time have had discussions about this issue.

Attorney Rumpf said that there are other applicants and the board does want to take some time with this so if Mr. McGeoch and Ms Snyder agree we should carry this to next month.

Edward Covitz made a motion to carry this case to April, seconded by Ron Bruno. Roll Call (Ayes) Covitz, Bruno, Bonamassa, Mercurio, Petrosilli, Tredy.

Docket 19.07:BA
Kevin & Doreen Boullianne
214 Maplewood Road
Block 273 Lot 1.11
Bulk Variance

Kevin and Doreen Boullianne were sworn in. Mrs. Boullianne said that they were before the board because they put a paver driveway and paver patio and covered it. They hired a contractor and he said that he got all of the permits except he was waiting on the last permit for the roof off of the back... He then said he got the permit and he started the work, just by looking at the project you could see he made a lot of mistakes. We received a stop work order. We found out that there were no permits so he lied to us. He did get a permit for reroof and siding, he did not get permits for other work that he did.

Mr. McVicar stated that a variance would be needed for the addition for side yard setback and the patio side yard set back. He asked for the pictures that the applicants provided as Exhibits A-1 thru A-15, they are photos of all the work, patio, driveway and roof.

Chairman Tredy stated that the survey indicates that the deed extends into the water. Mr. McVicar said that he does his calculations from bulkhead.

Mr. McVicar asked if the roof and patio could be built within the side yard setbacks. The applicants said that they followed the roof line of the house. If they had known they needed a variance they would have come before the board before hand. They trusted the contractor to be doing the right thing they thought he knew what the rules were.

The applicants stated that they wanted something permanent for shade and they wanted to improve the look of the house. They feel that what they have constructed is in character of what is in the neighborhood.

BOARD COMMENTS

Hearing none

OPEN TO PUBLIC

Hearing none

PUBLIC PORTION CLOSED

Chairman Tredy asked if they would be in agreement of a Deed Restriction that they or any new owner will not close that off.

Anthony Mercurio made a motion to approve with the Deed Restriction, seconded by Joseph Lachaweic. Roll Call (Ayes) Mercurio, Lachaweic, Bonamassa, Bruno, Covitz, Petrosilli, Tredy

OPEN TO PUBLIC

Robert Lange, 85 Tiller Drive, stated that he is a builder and developer, he owns a business in town and he has lived here for over twenty years. He is a concerned taxpayer, to find out why when you go to the building department and you rely on the word of the building department, construction office, zoning officers what the rules are and you submit a plan it gets approved, you start and then they say you can't do that plan. Today I got a plan for a similar situation on my daughter's house and until tonight I was not aware that a breezeway did not constitute that the house was one unit. Laurie did tell me that you cannot do more than 50% unless it was attached, we did not talk about how it was attached. I have worked in Berkeley, Manchester, Dover and I have done the same units with breezeways to put the house and garage together and that was acceptable practice. So this is the first I have ever heard of such a thing. I think that as a taxpayer I've got to believe that this going to go to court and that is going to cost all of us taxpayers a lot of money. Where the town officials give the man a permit and four years later they tell the man you cannot use it. In the past when you went to the construction office and spoke to Larry Leonard, he told you what you could do, you got your permit, you built it and you got your co.

Attorney Rumpf stated that he felt the board should not be hearing this testimony because it is about a particular case and the applicant's attorney is not present.

Mr. Lange said that not only me but any taxpayer coming into the construction office has to rely on the people giving us the permit.

Ralph Avellino, 10 Central Avenue, you discussed lot coverage again tonight, I have heard that so many times. We have rules and regulations for lot coverage but a lot of lot coverage situations in the township are not correct and apparently they do not want to go in and correct them. Once lot coverage is there it is hard to find coverage but in some circumstances it can be increased by removing some things. It has been brought to the zoning officer that this exists and apparently it falls on deaf ears.

Adjourned at 11:38

*Respectfully Submitted by
Laurie F. Clune*