

**BOROUGH OF SPRING LAKE HEIGHTS  
BOARD OF ADJUSTMENT MINUTES    APRIL 28, 2016**

The meeting was called to order with a salute to the flag and a moment of silence by Chairman Pearsall at 7:30p.m

**Roll Call:**

Brian Brendle – present  
Raymond Miller - absent  
Owen Quinn- present  
John Tangeman - present  
Steven Weiss - present  
Andrew Zelenak - present  
Chairman Dennis Pearsall - present

Alternate #1 – Thomas Martin - present  
Alternate #2 – Susan Lalji - present

**Meeting Notice:** This meeting is called pursuant to the provisions of the open public meeting law. Notice of this meeting was included in a list of meetings sent to the Coast Star and Asbury Park Press, posted on the bulletin board in the municipal building and on the borough web-site.

**Approval of Minutes:**        March 24, 2016 Meeting

Motion was made by Mr. Martin to approve the minutes of March 24, 2016; seconded by Mr. Brendle.  
Roll call taken:

AYES:            Mr. Brendle, Mr. Quinn, Mr. Tangeman, Mr. Zelenak, Mr. Martin, Ms. Lalji and  
                         Chairman Pearsall  
NAYS:            None  
ABSTAIN:        Mr. Weiss

**Correspondence:**                None

**Old Business:**                    Resolution 2016—09  
                         Appeal of Zoning Official Decision  
                         2307 Railroad Avenue  
                         Block 60 Lot 4 & 5

Attorney Kitrick stated that he had received a phone call from the counsel of the applicant: Monmouth Montessori. He advised Mr. Kitrick that they would not be coming for a use variance due to property tax issues on the property.

In order to come to the board for a variance, taxes must be current.

Motion was made by Mr. Brendle to approve Resolution 2016-09 and seconded by Mr. Martin, roll call as follows:

AYES: Mr. Brendle, Mr. Tangeman, Mr. Zelenak, Mr. Martin, Ms. Lalji

NAYS: None

ABSTAIN: Mr. Weiss

Mr. Quinn and Chairman Pearsall were not eligible to vote, having voted in favor of applicant at hearing.

**New Business:** Richard Phipps - Application# Z2016-04  
Variance for Height & Size of Accessory Building  
Block 30 Lot 12  
816 Ocean Road

Mr. Lobosco, Richard Phipps, Charles Gilligan and Aaron McLaughlin were sworn in by Attorney Kitrick.

Keith Henderson, Attorney for applicant asked Mr. Phipps if he was the homeowner, he stated yes that he purchased the property in November 2014. He secured TFM Builders to do the construction. Mr. Henderson asked how far along the construction is; Mr. Phipps replied that it is essentially complete other than with a little more work to be done to the structure in question. Mr. Phipps replied yes although there was still some work being done to the structure in question. He stated that the structure would be used for storage of bikes, yard furniture, and garden equipment and outside kitchen equipment. Mr. Henderson asked what the cost of the building was; Mr. Phipps replied it was approximately \$30, 000.

Mr. Weiss asked about what appears to be cable and sub panel, Mr. Phipps replied that lights would be needed for dusk time; it's also for wireless internet and gas for the generator and fire pit. Mr. Tangeman asked how many cars would be parked, Mr. Phipps replied none.

Mr. Brendle asked if this was a part of the original plan application, Mr. Henderson replied yes, he added that it was completely done before we learned there was a problem.

Chairman Pearsall asked if there is a sewer line, Mr. Phipps answered no. Chairman also asked if guests would be staying in the structure, Mr. Phipps replied no. Mr. Phipps added that the structure was built to be weather tight with the outdoor furniture going to be stored over the winter. Chairman Pearsall asked if you were aware that this was too big, Mr. Phipps replied no. His concern was that he wanted it to look like his home so that it wouldn't be an eye sore. Chairman Pearsall also inquired if there was driveway access to the structure, Mr. Phipps replied no. Chairman asked Mr. Phipps did he feel calling it a garage is proper? Mr. Phipps replied yes.

Mr. Henderson introduced, Aaron McLaughlin, the builder of the project. Mr. Henderson asked Mr. McLaughlin if he made the applications for zoning and construction, Mr. McLaughlin replied yes. Mr. Henderson asked if there were any issues when he applied for zoning, with Joe May, Zoning Official for the Borough, Mr. McLaughlin replied no.

Attorney Henderson asked Mr. McLaughlin to review the architectural plans, pages A-1 through A-7, zoning permits and construction permits and a letter from Mr. May addressing the garage and its size; all were marked as follows:

1. Architectural Plans, marked as A-1.

2. Zoning permits and construction permit, marked as A-2.
3. Correspondence from Zoning Officer Joseph May, marked as A-3.

Mr. Henderson read Mr. May's letter into the record.

Mr. McLaughlin confirmed they were correct documents. Mr. McLaughlin added that construction permits are not issued unless there is a zoning permit. Attorney Henderson asked Mr. McLaughlin when he learned that there was a problem, he replied when he received Mr. May's letter. Mr. Henderson read the letter which stated that the garage exceeded the allowable height and square footage. Mr. McLaughlin stated that the accessory building was already up.

Mr. Brendle asked Mr. McLaughlin when he submitted the zoning application did it include a proposed survey or plan indicating the buildings, Mr. McLaughlin replied yes.

Mr. Tangeman stated that the plan calls this a garage with an overhanging garage door; looking from the front the door appears to be a sliding door. Mr. McLaughlin stated that Mr. Phipps was concerned about moisture; he added that the garage door would only have weather stripping; the slider would provide it to be more air tight. Mr. Zelenak asked if it's permissible to make a change and then get a permit update, Mr. McLaughlin stated yes.

Mr. Tangeman stated that wasn't shown that way on the plan, Mr. McLaughlin said that it just requires a permit update.

Mr. Weiss asked if anyone had informed them that it was an oversized shed. Mr. Henderson replied that it was applied for as a garage and approved, and it wasn't until Mr. May's letter were they informed and that it was 100% built.

Mr. Henderson pointed out that the applicant would revert to a garage door if the board wanted.

Mr. LoBosco pointed out that the slider makes it look less than a garage.

Mr. Brendle stated that the zoning permits presented refer to a different address, Mr. Henderson pointed out that the zoning permit must have referenced the wrong address.

Mr. Brendle asked once construction started and inspections are done, were there any questions raised at this time, Mr. McLaughlin stated no.

Mr. Henderson asked Mr. McLaughlin if the current state is that a Certificate of Occupancy cannot be issued, Mr. McLaughlin replied that is correct. He added that Mr. Phipps is anxious to get in.

Mr. Quinn asked if the size of the slider is the same as a garage door, Mr. McLaughlin stated it's smaller. Mr. McLaughlin stated that in his opinion it's a garage. Mr. Tangeman offered that most garages are used for cars.

Ms. Lalji asked Attorney Kitrick for interpretation of the ordinance, is an attached garage considered a garage. Mr. Kitrick deferred to the engineer. Mr. LoBosco replied that you are allowed one garage that is not attached to the house.

Mr. Henderson introduced, Charles Gilligan, as licensed engineer. He stated that the Borough's ordinance allows for one garage and a shed. He added that a garage attached is not an accessory structure. He added the applicant received the proper zoning permit. Mr. Henderson asked how one would correct this situation, Mr. Gilligan replied that it would have to come down and the applicant would have to rebuild. Mr. Henderson asked if the applicant and builder followed the proper steps, Mr. Gilligan replied yes. Mr. Gilligan added that in his opinion, aesthetically, this is a positive over a metal type shed, it was built to compliment the principal structure and feels there is not a negative impact. Mr. Henderson offered that the applicant would change out the slider to a garage door if that would satisfy the board.

Mr. Brendle stated that the plans show installation of a drywell, he asked if it had been installed, Mr. McLaughlin replied yes.

Mr. Tangeman asked if there was a current aerial photo as per Mr. Lobosco's letter, Mr. Henderson replied no, that he wasn't aware it was requested. Chairman Pearsall asked who the letter was sent to, Mr. Phipps stated that it was mailed to him but he was in Florida and he had only just gotten it.

Chairman Pearsall asked Mr. Gilligan how this issue was raised; Mr. Henderson stated that when Mr. May's letter was the first inclination, it was unknown how it came to light.

The meeting was open to the public, none presented.

Motion was made by Mr. Martin and seconded by Mr. Brendle, roll call taken, all ayes.

Mr. Tangeman stated that inside the structure in the ceiling there's some kind of duct work; Mr. McLaughlin replied that it's for installation of lights.

Attorney Henderson reviewed; the applicant relied on the permit process, he didn't learn about the issue until the building was completed and at this point it would be expensive to change, he added that Mr. Phipps cannot get a certificate of occupancy until the matter is resolved. He stated that the applicant is qualified for a C-2 variance. He added, in this case he feels that the Borough is estopped from denying the applicant the accessory structure.

Motion was made by Mr. Tangeman to approve the application with the stipulation that no one will live in the building and that it is referred to as a garage; seconded by Mr. Brendle. Roll call taken:

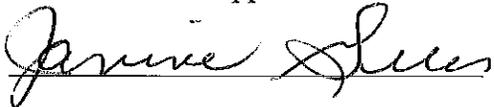
AYES: Mr. Brendle, Mr. Quinn, Mr. Tangeman, Mr. Weiss, Mr. Zelenak, Mr. Martin & Chairman Pearsall

NAYS: None

ABSTAIN: None

Adjournment: On a motion by Mr. Brendle and seconded by Mr. Zelenak, the meeting was adjourned without objection at 8:38 p.m.

Submitted And Approved:



Date:

