

**A REGULAR MEETING OF THE PLANNING BOARD OF THE TOWNSHIP OF SANDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY WAS HELD ON MONDAY, MARCH 2<sup>ND</sup>, 2015 AT THE MUNICIPAL BUILDING BEGINNING AT 7:00 P.M.**

Mr. Utter called the meeting to order. This meeting has been advertised in accordance with the Open Public Meetings Act by advertising notice of the meeting in the N. J. Herald and posting copy of the notice in the Sandyston Township Municipal Building.

**Roll Call:**

Messrs. Harper, Huber, Green, MacDonald, Cunico, Milligan, Powers, Smith and Chairman Utter.

Absent: Sinha, Pinzone, MacDonald

**ALSO PRESENT:** Glen Gavan, Board Attorney

The Oath of Office was administered to Mr. Milligan Class IV Member by the Board Secretary.

Mrs. Brothman was welcomed as new Board Secretary.

**MINUTES:**

A MOTION was made by Mr. Cunico, seconded by Mr. Green to approve the minutes of the meeting held on January 5<sup>th</sup>, 2015. Upon roll call the following votes were cast: AYES: All in favor. NAYS: None. ABSTAIN: Milligan. Motion carried.

**VOUCHER REPORT:**

A MOTION was made by Mr. Cunico, seconded by Mr. Powers to approve the March 2<sup>nd</sup>, 2015 voucher report. Upon roll call the following votes were cast: AYES: Harper, Huber, Cunico, Green, Milligan, Powers, Smith and Utter. NAYS: None. Motion carried.

**Glenn T. Gavan, Esq. LLC**

General:

Invoice #3021 – General Matters & Annual Report \$330.00

Escrow:

Invoice #2054 – Farrell Matter \$512.00

**New Jersey Herald**

Invoice# 7143174 – Planning Board Annual Notice \$30.90

**H. E. Pellow & Associates, Inc.**

Escrow:

Invoice # 60089 – Shi Site Plan \$31.25

Invoice # 60091 – Merryman & Farrell Matter \$156.00

Invoice # 60092 – Leppert Matter \$156.00

General:

Invoice # 60090 – Planning Board Business \$62.50

**CORRESPONDENCE:** The following correspondence was reviewed by the Board and placed on file where applicable.

Letter from Sussex County Dept. of Engineering & Planning Re: Special Meeting – Highlands Regional Master Plan Review

Letter from Sussex County Dept. of Engineering & Planning Re: Agricultural Subdivision for Thaddeus J. Spinks, Block 2602 Lot 5

Letter from Sussex County Soil Conservation District to Benjamin Call Re: Soil Erosion and Sediment Control Plan #SA067 – Call- Single Family Home on Cemetery Road (CR 675), 1.3 acres of disturbance, Block 805 Lot 14.03

Letter from PS&S re: Multi Permit Applications with NJDEP for Vegetative & Utility Infrastructure Maintenance

Letter from Civil Dynamics re: Application to NJDEP from Central New Jersey Council, Boy Scouts of America, Lake Ashroe Dam, Block 1301 Lot 7

\*\*\* Mr. MacDonald entered into the meeting 7:09 p.m. \*\*

**FORMAL APPLICATION:**

**LEPPERT APPLICATION # 05-2014 – BLOCK 1103 LOT 17 – “C” VARIANCE**

**Project Name: Garage / Apartment**

\*\*\*Mr. MacDonald and Mr. Harper recused themselves from the discussion

William and Mary Ellen Leppert , 47 Route 645, Sandyston, NJ were reminded that as this is a continuing application they were still under oath prior to making any testimony for this meeting and they have met the requirements of notice. Mr. & Mrs. Leppert are appearing before the Board seeking a detached mother / daughter living space.

Mr. Leppert explained that aesthetically they couldn't get anything they really liked by attaching the living space for his mother-in-law to the house. He had considered having an apartment over the garage but the steps would be an issue so they are trying to get everything on one level. He reported that he has checked with the County as far as the septic and their engineer and found that can tie this build into their existing septic as long as they enlarge their field and have a pump system which is over 100 feet into that. The County will allow two septics on the property; this requiring a small septic bed about 16x32 is the smallest they have for a two bedroom. Mr. Leppert felt it would be cheaper for them to add the second septic rather than alter the existing one. Septic tests have not yet been done as the applicant wanted to get the Boards approval first.

Mr. Huber asked about the Well water and Mr. Leppert confirmed it is in the front. It will be upgraded in the house and with a sub panel. It will not have its own service.

Mr. Utter read and reviewed the Township Engineer notes with the applicant.

After brief consideration, it was determined that this application does not fall within the guidelines of an elder cottage.

Mr. Leppert confirmed for the board that the existing home is in a stone shelter and does have a driven well. He continued to confirm that he would have a heating unit on the outside of the building. Mr. Huber asked if it would be electric heat and air conditioning. Mr. Leppert confirmed that it would be. The unit and water tank / water heater would reside in the back right corner of the garage in a small utility closet.

Mr. Utter asked if the applicant was aware that Sandyston Township has never approved an apartment under a "D" variance in its zoning history and has in fact even been declined this type of request before; Mr. Utter added that this would be the proper way to go about it. Mr. Leppert stated that he knows the history of the Township and understands what it strives to keep.

The Board Attorney, Mr. Gavan, explained that under a "D" variance the board has review certain criteria both positive and negative and asked the applicant to please explain why they felt that this board should grant this relief.

Mr. Leppert agreed that this is a unique a situation. They feel that this is the right way to not only enhance his mother-in-laws living conditions but also his property and they Township. They take great pride in the 30 years they have lived in the Township not only in their property but the community as well.

Mr. Gavan asked how big the property is. Mr. Leppert testified that is it 2.65 acres  
Mr. Gavan: How far is the new construction from the side property line? Mr. Leppert replied, "Just over 92 feet."

Mr. Gavan: Is there a neighbor? Mr. Leppert, "Yes. Several acres away."

Mr. Gavan respectfully approached the matter of when their family member would no longer be residing in that apartment and this posing the possibility that either the applicant or the person who owns this property after them could possibly rent, which the Township tries to avoid based on the ordinances. Mr. Gavan asked the applicant if they have thought that far. Mr. Leppert stated that they have thought that far and have no intentions of renting it. He continued to say that if another family member or one of their children need a place than that would be a place for them, but they have no intention of renting it as they take too much pride in their property.

Mr. Gavan reminded the applicant and board that when it comes to these types of applications it is not the current applicant that is necessarily the concern. It's that this approval stays with the property long after the current owner. Mr. Leppert stated that he understood and was unaware of any remedies to that which are available to alleviate that concern and suggested a deed restriction that it may not be income producing. Mr. Gavan stated that if it comes to that point in the hearing that may be considered. Mr. Leppert stated that he was willing to do that as they would not want anything they are doing to hurt the Township.

Mr. Leppert was asked if he considered subdividing and creating a separate block. He stated that he hasn't really looked into it but if he did the line would be too close to his house. Mr. Gavan added that it would technically cause off-street frontage and a well issue as they want to stay on a single well and down the road subsequent home owner may try to sell that piece off.

There was a brief discussion regarding language that could be put in a variance to limit the income producing prospect on this apartment. The Board Attorney advised that with consent

anything can be written in, but it only holds up as much as the Township is able to investigate it and enforce it. The one thing that the Board would want to do is make sure that the language is such that subsequent buyer, whether its 20 or 50 years from now, is not misled.

Mr. Gavan asked if the applicant has considered moving this proposed building closer to the home with an attachment of a screened in porch or creating an addition because that would avoid some of the issue the applicant is having. Mr. Leppert said they have considered it but the problem is that they couldn't find a design they were really happy with and also, with all due respect, that they wanted more independence for themselves and for his mother-in-law. He added that it could still be used for another relative or should his children need it in an emergency situation.

Mr. Gavan, stating that he was brainstorming this situation, asked if the applicant would be willing to agree to a condition that once his mother-in-law is no longer using the living space, to then remove the kitchen area, leaving the bedroom and rest of the build so then it would be a workshop/office. This means it wouldn't and couldn't call it an apartment as the kitchen would be gone. This would appease the town as down the road they wouldn't have tenants or another two-family. The applicant would prefer to keep it intact.

The Board continued to try to discuss potential modifications to this plan to conform with the impact of the application to make it a mother-daughter construction. None of the changes were accepted by the applicant.

The matter was opened to the public.

Mr. Glen Hull spoke before the Board and asked about the availability and possibility of an elder cottage in this case.

Mr. Hixon Spangenburg spoke before the Board and expressed his opinion that the consideration that was before the Board should be required to be regulated and applied to conform exactly to the criteria of a mother-daughter.

The matter was closed to the public.

The Board Attorney advised the Board to bifurcate the vote meaning that the vote would be split as since any approval would require significant conditions. The first vote would be to grant the use variance as designed. If the applicant could gain five affirmative votes then a second vote would be had to determine the conditions of that approval. The Board Chairman agreed that bifurcation of the vote would be acceptable.

A MOTION was made by Mr. Cunico, seconded by Mr. Green to approve the Use Variance to permit the secondary residence adjacent to the primary as designed and submitted. Upon roll call the following votes were cast: AYES: Huber, Green, Milligan, and Smith. NAYS: Cunico, Powers and Utter. The Motion to approve the variance application was denied as it did not obtain 5 affirmative votes as required for this type of relief.

---

\*\*\*Mr. MacDonald and Mr. Harper entered back into the meeting discussion.

**GIACCIO APPLICATION # 01-2015 – BLOCK 1812 LOT 27 – “C” VARIANCE**

**Project Name: Alteration & Addition**

Mr. John Giaccio and his architect, Ann Sears, appeared before the Board and were sworn and testified. Mr. Giaccio affirmed he is the applicant residing at 201 Richard St., Cranford NJ and Ms. Sears that she is a licensed architect in the State of New Jersey.

Ms. Sears explained that the applicant is seeking to replace an existing porch/deck with an enclosed single story residential addition to increase the indoor living area by 197 square feet. She further testified that the new addition will be no larger than the current deck structure. Lot size, side yard and front setbacks do conform to the schedule of limitations. The addition proposed is on the lakeside, not roadside. Exhibit 1 - photograph of the current deck was entered into record and placed on file.

The Board asked about the use of the porch space under the deck and Mr. Giaccio testified that the space would remain open and used as a sitting area.

The matter was open to the public.

Mr. Francis Barron who lives next door stated that his water well is down by the lake and asked if this would cause any issues.

It was explained that as there are no alterations to the septic systems and the applicant is not expanding the system there is warrant to provide provision to protect that well system.

The matter was closed to the public with no further comment.

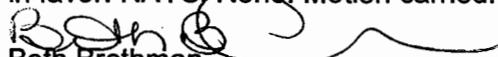
A MOTION was made by Mr. Cunico, seconded by Mr. Milligan to approve a Resolution for the request for “C” Variance by the applicant. Upon roll call the following votes were cast: AYES: Harper, Huber, MacDonald, Cunico, Green, Milligan, Powers, Smith, Utter. NAYS: None. Motion carried.

**RESOLUTIONS:** None.

**OTHER BUSINESS:** No further business.

**AUDIENCE PARTICIPATION:** None.

**A MOTION** was made by Mr. Cunico, seconded by Mr. Powers to adjourn the meeting. AYES: All in favor. NAYS: None. Motion carried.

  
Beth Brothman  
Board Secretary