

August 16, 2012

A regular meeting of the Allendale Planning Board was held in the Municipal Building on August 16, 2012. The meeting was called to order at 8:10 PM by Mr. Sirico, Vice-Chairman, who announced that the requirements of the Open Public Meetings Act were met by the required posting and notice to publications.

The following members answered to roll call: Mr. Sirico, Mr. Barra, Mr. Strauch, Mr. Fliegel, Ms. Sheehan, Mr. Sasso, and Mr. Scherb.

Absent: Mr. Quinn, Mr. Walters, and Mr. Zambrotta

On a motion from Mr. Sasso, seconded by Mr. Strauch, the minutes from the June 21, 2012 meeting were approved. Abstentions were from Mr. Scherb and Mr. Fliegel as they were not present at that meeting. There were no Planning Board meetings in the month of July.

Mr. Sirico stated that on the agenda for that evening was the review and recommendation of Ordinance 12-09 which is an ordinance to amend Chapter 270 of the Code of the Borough of Allendale entitled "Zoning." Mr. Sirico asked Mr. Dunn if he had any comments. Mr. Dunn said that it had been referred back to the Planning Board by the Mayor and Council as the Council had modified the ordinance. Mr. Dunn said that Mr. Snieckus would explain what the changes meant. Mr. Sirico stated that he assumed most of the Planning Board knew about the ordinance already and that Mr. Snieckus should just focus on the additions from the Council.

Mr. Snieckus read through the recommended text from the Town Council which stated that any non-conforming principal or accessory residential structure may be altered or enlarged without Zoning Board of Adjustment approval provided the use of same is permitted in the district and provided that such alteration or enlargement does not create any new or additional encroachment, complies with all applicable development regulations as defined by this Zoning Code and shall not be larger than 200 square feet of total floor area. Mr. Snieckus reminded the Board that they had already revised the text at a previous meeting. The Town Council made some changes which is why the Board was reviewing the text again. The Council placed the words does not create any new or additional encroachment back in the text as at the last meeting the Planning Board took it out as they felt it was redundant. Mr. Snieckus felt the Town Council placed those words back in the recommended text to make sure that the document was clear. Mr. Snieckus continued that the Council added new language at the end of the document stating that it shall not be larger than 200 square feet of total floor area. This adds a specific threshold so that the addition is not a substantial addition to the house. A 10 by 20 feet addition would be a small room added to a house. Mr. Snieckus turned it back to the Board for discussion.

Mr. Sirico asked if the members had any questions or comments. Mr. Strauch mentioned that the Zoning Board had requested some type of threshold so people wouldn't find holes in the code or ways to work around the ordinance. Mr. Barra and Mr. Strauch discussed how originally the

Zoning Board wanted the document to read one hundred square feet but compromised with 150 square feet. The Town Council decided that 200 square feet seemed more reasonable. The Zoning Board was not in agreement with the 200 square feet as they felt it was too large. Mr. Snieckus added that a 10 by 15 foot room would be a very small addition whereas a 10 by 20 foot room is more of a reasonable sized room.

Mr. Sirico said he thought 200 square feet was too big. He was also concerned with someone potentially building the small 10 by 20 feet addition to follow the code and then coming back again and again to add 10 by 20 feet additions to the house so that original 10 by 20 feet room would then be a lot larger. Mr. Strauch felt this would trigger a response from the Code Official. Mr. Sirico agreed that eventually the person would be caught but suggested that this was one way to work around the Code. Mr. Fliegel stated this would be a ridiculous way to put a large addition on the home and didn't think people would do it that way. Mr. Sirico agreed with Mr. Fliegel but wanted to know if some type of protection should be placed in the Code. Mr. Strauch reminded the Board that the purpose was to make the code more conforming to the New Jersey State Code. He spoke about the other protections that are in the Town Code already and that this was really for the people who are having minor work being done.

Mr. Barra explained that the original intent of the ordinance seemed to have gotten lost in all the discussions that had taken place. He asked Mr. Snieckus what would happen if there was a homeowner who wanted to put a thousand foot addition on his home and was in compliance with the Town Code. Mr. Snieckus said that the homeowner would have to go for zoning and building permits through the Zoning Officer in town and that the Zoning Officer would make that type of decision for someone building within the Code. Mr. Barra felt the 150-200 square foot issue was not particularly relevant in relation to the purpose of the ordinance. He gave an example of someone who might want to put a 100 square foot or even 1000 square foot addition on their home that was completely within the Code but who had a side-yard setback non-conformity. That homeowner's application would go to the Zoning Board because of the existing side-yard setback non-conformity which has nothing to do with the new addition. Mr. Barra stated that it then becomes a burden on the homeowner to take this to the Zoning Board for an existing non-conformity when the addition the homeowner is proposing is within the Code. This type of addition can just be approved by the Zoning Official which is how the whole process of redefining the language in the text was started. Mr. Barra continued with the 200 foot piece of text came into being because the Zoning Board, Zoning Official, Land Use Committee, and Planner wanted to put a limit down to give everyone a guideline. Mr. Barra added that the Zoning Board may be worried about the square footage but if the application doesn't violate the existing Code then it is not going before the Zoning Board anyway. Mr. Barra concluded that people seem to have lost sight of what we all originally wanted to accomplish.

Mr. Snieckus said municipalities have this type of relief to allow people who may be in the situation of having something non-conforming to build on to the house in a conforming manner.

Otherwise they may have to go to a board which would be unfair. If they were to extend upon any setbacks they would have to come to public meeting where neighbors would be notified.

Mr. Fliegel asked Mr. Snieckus if the reason the text was being sent to the Planning Board for review was because of the added section of 200 square feet. Mr. Snieckus agreed. Mr. Fliegel said it made sense to him that if someone wanted to put on a small room and there weren't any other issues with zoning for the addition to be approved by the Zoning Official. Mr. Fliegel asked if putting a basement on added to the square footage of a home and Mr. Snieckus answered that it typically does. Mr. Snieckus added that permits would be needed to finish a basement if the owner chose to build a basement and finish it at a later date. Mr. Fliegel also asked about plumbing in garages and pool houses and was it part of the Code. Mr. Snieckus didn't know the parts of the Code about accessory structures offhand as he didn't have that part of the Code with him that night but he could look into it later for him. Mr. Fliegel commented that some people have come before the Board with apartments over their garages and have stated that it was that way when they bought the house. What concerned Mr. Fliegel is that the owners are saying that they use it as a heated storage space but sometimes this space has rough plumbing. Mr. Snieckus replied that it would be up to the Zoning Officer to ask the owners about the usage or to enforce the code.

Mr. Barra mentioned that there would be a problem getting a CCO for a home if there is an apartment that is illegal. He also felt that what Mr. Fliegel was raising was not what the ordinance was about. Mr. Barra stated that there was an issue with accessory buildings and cabanas in the town that needs to be addressed at some point in the future. He continued saying that all this started when homeowners went to the construction code office because they wanted to put a small porch on the front of their house which conformed to the Town Code. But they would have a non-conforming side-yard setback which has nothing to do with the modest little porch on the front of the house and they had to go to the Zoning Board. The homeowners complained that one thing had nothing to do with the other and that they had to hire an architect to create plans. The goal was to reach an accommodation for those residents with modest additions who had existing non-conforming uses without it being too much of a hassle on the residents. That is why they decided on the 200 feet, but Mr. Snieckus added that 200 square feet is part of the International Building Code which allows this as a threshold. He also explained that another town he works with has never had a problem with adding this type of exemption.

Mr. Sirico asked for any other comments. Mr. Fliegel asked if he could vote on the resolution as he wasn't at the last meeting and Mr. Dunn replied that he could as the text to the ordinance was new. Mr. Dunn read the resolution and a copy is on file at the Borough Hall.

On a motion from Mr. Strauch, seconded by Ms. Sheehan, the ordinance to amend Chapter 270 of the Code of the Borough of Allendale entitled "Zoning" was approved.

Mr. Sirico mentioned that there were some e-mails from Mr. Yakimik regarding Allendale Shopping Plaza improvements. Mr. Sirico asked Mr. Barra for some guidance on what was to be done. Mr. Barra stated that there are some issues with landscaping that the shopping plaza needs to finish as the deadline for these improvements is approaching. If the owners want their bond returned to them they need to get this done by the deadline. Mr. Sirico commented that some of the roses are blocking the view of the traffic. Mr. Sasso added that it is hazardous for drivers who are making a left-hand turn from DeMercurio Drive onto West Allendale Avenue because the roses block the view and the cars have to pull out further to be able to see if they can turn or not. Mr. Barra said that Mr. Wittekind is looking to address that property maintenance issue.

There was also some discussion again on the pending field light application from the Northern Highlands Board of Education. The members discussed whether they thought they would be able to participate on the Planning Board for that application or not as many have conflicts of interest. If too many members cannot participate, Mr. Barra will have to look into asking members for help from the Zoning Board. Mr. Barra needs time to make sure he has enough participants for a quorum so he wanted to know how the Planning Board members felt about potentially participating in the future proceedings. Mr. Dunn told the Board that five members were needed for a quorum. Mr. Strauch, Mr. Zambrotta, and Mr. Sirico all have children who attend Northern Highlands and would probably recuse themselves from the future proceedings. Mr. Walters has stated he will need to recuse himself for personal reasons. Mr. Fliegel is a member of the Allendale Board of Education and wasn't sure if he should recuse himself or not. Mr. Scherb is not sure whether as Police Chief he should be involved either. The four members who do not seem to have a conflict are Mr. Quinn, Mr. Barra, Ms. Sheehan, and Mr. Sasso. Mr. Dunn is not sure whether he will participate as legal counsel for the Planning Board should an application come before them. A member from his law firm may take his place. Mr. Barra said he will try to get a minimum of two members from the Board of Adjustment to participate if needed.

On a motion from Mr. Strauch, seconded by Ms. Sheehan, the meeting was adjourned at 9:10PM.

Respectfully submitted,

Diane Knispel