

June 21, 2012

A regular meeting of the Allendale Planning Board was held in the Municipal Building on June 21, 2012. The meeting was called to order at 8:01 PM by Mr. Quinn, 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. Quinn, Mr. Strauch, Mr. Sirico, Ms. Sheehan, Mr. Zambrotta, Mr. Sasso, and Mr. Scherb. Mr. Walters arrived at 8:04 PM.

Absent: Mr. Barra and Mr. Fliegel

On a motion from Mr. Sasso, seconded by Mr. Sirico, the minutes from May 17, 2012 were approved. Abstentions were from Mr. Scherb, Mr. Zambrotta, and Mr. Strauch as they were not present at that meeting.

Mr. Quinn 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." He continued to say that Mr. Snieckus the Borough Planner will describe what the change means so the Board will understand whether or not to support the change. Mr. Quinn asked Mr. Dunn if the purpose was to recommend to the Borough Council that a change be made to the ordinance. Mr. Dunn responded that he thought it came from the Mayor and Council and turned to Mr. Strauch for some background information as to why this was being done as Mr. Strauch is on the Land Use Committee. Mr. Strauch explained that this dates back to when he was Chairman of the Zoning Board of Adjustment fifteen years ago and that the Council did pass it to the Planning Board for review. Mr. Dunn stated that there should be a Resolution from the Council. Mr. Strauch said it was on the Borough Council agenda of the last meeting, but he did not have a copy of it. Mr. Dunn suggested continuing with the review noting that the Planning Board may have to wait for a formal referral from the Council on any action taken. There was some discussion as to whether Mr. Bole who is the Borough Attorney was able to review the document. Mr. Strauch said that the point of the document was to allow people who had pre-existing conditions and are doing minor changes to their properties without increasing their violations to move forward with their applications without going to the Zoning Board. Mr. Walters asked if there was a history of incidents that caused this change to come before the Zoning Board. Mr. Strauch said when he was on the Zoning Board it was a bit of an issue. He provided some examples of homes with non-conforming lots and said that the Zoning Board saw all of the applications because they didn't want people to circumvent the rules. He spoke about the side-yard setback ordinance that was drafted years ago and that the Board never got back to the pre-existing non-conforming issues. Mr. Quinn responded that they didn't want the situation to get out of control where people don't have to go to the Boards anymore because the so-called minor changes that the homeowners will want in the future will not really be minor. He suggested that Mr. Snieckus start to read through and explain the ordinance.

Mr. Snieckus said the current ordinance had an Item A and an Item B. He was focusing on Item A section 270-37 of the Borough Code that said in any application where an addition is proposed to a non-conforming structure the zoning official should refer the matter to the Zoning Board of Adjustment. Mr. Snieckus said that it is very straightforward that all matters have to go the Zoning Board. He gave the example that if a property has a front-yard or side-yard setback which doesn't conform and the property owner is putting an addition on the opposite side of the building that complies with the building code and doesn't require any variances that property owner still has to go to the Zoning Board to get it reviewed because of the non-conforming setbacks. This could be considered onerous to a property owner. Mr. Snieckus said that the language needs to be changed and read what the Council had proposed which stated any non-conforming residential structure may be altered or enlarged without Zoning Board of Adjustment approval provided that such alteration or enlargement does not create any new or additional encroachment as defined by this Zoning Code. Mr. Snieckus explained that he had this happen with another town he has worked with in the past and suggested some alternative language to what the Council suggested. Mr. Walters was worried that if they adopted the ordinance people would bypass both Boards. Mr. Strauch clarified that it wouldn't affect the Planning Board but would affect the Zoning Board. Mr. Strauch added that the Zoning Official would have the right to approve the plans without sending them to the Zoning Board if no variances were needed.

Mr. Snieckus was concerned about the B-variance for a pre-existing non-conforming structure as it pertained to the Municipal Land Use Law. He gave an example of a restaurant in a residential zone that wanted an addition that was conforming but that the use wasn't conforming so that the restaurant would have to go to the Zoning Board by law. He didn't want anything in the regulations to weaken the law. Mr. Snieckus added the words provided the use of same is permitted in the district so that the ordinance is clear. If a residential house is in a nonresidential zone and the owners put on an addition they need to go to the Zoning Board of Adjustment by law. Mr. Strauch added because the property is in a different zone and Mr. Snieckus agreed. Mr. Snieckus also took out the wording does not create any new or additional encroachment and instead used the words complies with all applicable development regulations. Mr. Snieckus stated that although they were talking about encroachment in the document he wanted to make sure that it included all applicable development regulations like building coverage. This makes it clear for everyone. Mr. Strauch said they might have been trying to oversimplify it and thanked Mr. Snieckus for his help. Mr. Strauch decided that they should try to pass upcoming documents by Mr. Snieckus for his input before going to the Planning Board.

Mr. Walters asked if something in regards to the lot size should be included but Mr. Snieckus felt that it was too arbitrary and there could be legal issues due to favoring a larger or smaller lot size and that it was better for the ordinance to be the same for everyone. Mr. Snieckus also mentioned that there is a Section B in the Borough Code already which covers that issue as it reads when an addition that is otherwise conforming is proposed to a conforming structure in a non-conforming lot the Zoning Official may issue a building permit without referral to the

Zoning Board. Mr. Quinn asked when this was added and Mr. Snieckus replied that it was in 2002. Mr. Quinn explained that he had an addition put on his home before 2002 and he had to get a variance. He did not have to hire counsel as he did it himself. Mr. Walters wanted to know if the Zoning Board felt that there were so many of these applications that it was becoming a waste of their time. Mr. Strauch responded that the Zoning Board feels that some of these things should not be coming to them. He also remarked that although Mr. Quinn was not intimidated by the process that most people are and they typically hire an architect to do the work. Mr. Strauch tries to do his own work but he realizes that some people don't understand the basics and feel that this is not what they are capable of doing. That is when an architect is hired which can cost a homeowner a few thousand dollars. The Zoning Board then feels that it isn't fair to some of the Allendale residents. Mr. Strauch felt that the language needs to be strong so that applications can withstand initial review. Mr. Snieckus remarked that when the building boom was happening these types of applications clogged the agenda. He continued to say that in some communities the rehabilitation of homes which makes houses more valuable is done without being inundated by this process.

Mr. Quinn questioned whether the word residential was sufficient as that implies only homes but the ordinance does not say anything about accessory buildings. Mr. Quinn wanted to know if the language was tight enough. Mr. Snieckus asked Mr. Strauch for his opinion on accessory buildings. Mr. Strauch said that it didn't matter whether it was an accessory building or primary structure. Mr. Snieckus answered that he could change the language to read any non-conforming principal residential structure so that an accessory structure doesn't become an exception under the code. Mr. Strauch disagreed saying that he felt accessory buildings should be included. Mr. Snieckus said that it would read principal residential and accessory structure. Mr. Walters asked what accessory structure was defined as and Mr. Snieckus answered a separate garage, pool house, or shed. Mr. Strauch said that the height of accessory buildings will be discussed in months or years to come. Mr. Quinn noted that it was not the nature of the Planning Board to make it easy on people to work around the rules. Mr. Strauch felt that the height and size of accessory structures is part of a loophole that needs to be closed in the future. Mr. Walters believed that people have taken advantage of the architectural laws. Mr. Walters asked if that could be added to this ordinance but Mr. Quinn and Mr. Snieckus declared that it would be under a separate ordinance.

Mr. Zambrotta wanted to know if there was agreement on the final wording. Mr. Snieckus reread the new wording which included any non-conforming principal or accessory structure. Mr. Dunn remarked that the language gives the Zoning Board some latitude. Mr. Walters asked if this gave the Code Official more power. Mr. Strauch said that you have to trust your Zoning Official. Mr. Snieckus added that zoning permits act as a filter for numbers and calculations of setbacks. Mr. Sasso asked if residents within two hundred feet of these plans would still receive notifications and Mr. Snieckus told him no. If there is no application to the Zoning Board notifications will not be sent to those residents within two hundred feet. Mr. Quinn asked Mr.

Dunn if he had any comments. Mr. Dunn was a bit concerned that the permit would be the only filter. He felt it left a lot to the Zoning Official and asked if there was a plan for the Official to follow objectively. He stated leaving subjective determinations to the Zoning Official was not the best way to proceed. Mr. Snieckus explained more about the way a permit acts as a filter and Mr. Quinn asked Mr. Strauch how it was done in Allendale. Mr. Strauch answered that Mr. Wittekind the Zoning Official compares the application to the Zoning Code and enforces the code as it is currently written. If the property owner is even one inch over what the Code states he sends the owner to the Zoning Board. Mr. Wittekind tries to help the residents by telling them what to add to the drawings. Mr. Wittekind meets with the Land Use Committee regularly. Mr. Quinn asked if the Board was ready to vote even though there was no referral or formal resolution from the Town Council. Mr. Quinn added that Mr. Dunn had made a resolution for the Planning Board that changes could be made to if needed. Mr. Dunn read the Resolution Recommending Adoption of Amendment to Zoning Ordinance Chapter 270 Entitled Ordinance 12-09 "Zoning." Changes were made to reflect the language that the Planning Board had decided would be stronger to use in the ordinance. The recommendation says that any non-conforming residential principal or accessory 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 complies with all applicable development regulations as defined by the Zoning Code.

Mr. Sirico said he didn't want the homeowners burdened but didn't want to dilute what the Boards are doing. He was also concerned about how much the Board was putting on the Code Official. Mr. Strauch said applications will still go through the initial criteria as they always have in the past but the difference will be that some will not go to the Zoning Board. The only problem would be if the Code official missed something. He suggested that the Zoning Board Chairman or one of the other members will have to check to make sure there are no zoning violations in applications as Mr. Quinn looks over the use variances as a check and balance system for the Planning Board. In this way if there is a human error on the Code Official's part there is a system in place to make sure that nothing falls through the cracks. Mr. Sirico asked for further clarification and Mr. Strauch said that every application is sent to Ms. Gwen Gordon, Mr. John Wittekind, the members of the Land Use Committee, and Ms. Stephanie Tengi who is the Zoning Board Chairman. Mr. Quinn wanted to make sure it was supported by the Zoning Board and the answer was yes. On a motion from Mr. Zambrotta, seconded by Mr. Walters, the Resolution Recommending Adoption of Amendment to Zoning Ordinance Chapter 270 Entitled Ordinance 12-09 "Zoning" was approved by the Board.

Mr. Quinn told the Board that he received a list of delinquent escrow accounts including Calm Development and the Sebastian property which have been on the list for a long time. He also received a letter from Rockland Electric discouraging the Board from allowing homeowners to build on right-of-ways.

Mr. Quinn also stated that the Town Journal had printed an article on a field lighting plan at Northern Highlands Regional High School passed by the Board of Education. There was some discussion about the article as a few members asked Mr. Dunn what the guidelines were for serving as part of the Board versus recusing themselves. Mr. Dunn gave a few examples as to why members would recuse themselves and told the members that there would be more discussions about the subject when or if the application comes before the board. If members had any questions about their personal situations they should give him a call to discuss their concerns. If the Planning Board doesn't have a quorum because of recusals members will be pulled from other Boards like Zoning. If this should happen in the future the Board has to give the Allendale Town Council ample notice that a few more members are needed due to recusals for this particular application. Mr. Dunn reminded Board members that if they live within 200 feet of Northern Highlands they will be automatically off the Board for this particular application review. Mr. Walters stated that he will be off because of living in the two hundred foot range and due to personal reasons. Mr. Dunn continued to urge members to think about the situation and call him with any concerns.

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

Respectfully submitted,

Diane Knispel