

March 25, 2015

A regular meeting of the Allendale Board of Adjustment was held in the Municipal Building on March 25, 2015. The meeting was called to order at 8:10PM by Ms. Tenghi who announced that the requirements of the Open Public Meetings Act were met by the required posting and notice to publications.

The following Board members answered to roll call: Mr. Jones, Ms. Chamberlain, Ms. Tenghi, Mr. Manning, and Ms. Weidner. Mr. Redling was absent. Ms. Hart arrived at 8:12PM.

On a motion from Mr. Jones, seconded by Mr. Manning, the minutes from February 25, 2015 were approved.

Ms. Tenghi said that item five on the agenda which was for the proposed use variance for Ed Saxton from Doggy Day Care located at 260 West Crescent Avenue, Block 1005, Lot 1 was being carried to next month's meeting due to the fact that one Board member was noticed about the application and another was not present at the meeting that evening. The application was carried so that the applicant could present in front of a full Board. There will be no requirement to re-advertise for next month's meeting.

Ms. Tenghi said that item six on the agenda was what the Board was going to discuss next. It was a clarification on the language from the May 28, 2014 Resolution for Go Ahead and Jump 2, LLC located at 80 Commerce Drive, Block 601, Lot 2. Mr. Nestor asked the Board to read the drafted letter he wrote about clarifying the language about food on the premises. He added that the County Department of Community Affairs was asking for the clarification. Ms. Tenghi said she remembered that the owner of Go Ahead and Jump said that they were going to serve beverages and some pre-packaged snacks which would be brought into the establishment, but they would not cook on the premises. Mr. Jones asked if the word offer was causing the confusion and Ms. Chamberlain agreed. Mr. Nestor noted that the sentence was confusing to the County so he was drafting the letter for clarification. Ms. Chamberlain and Mr. Jones asked about pizza being brought into the establishment, but Mr. Nestor replied the County was more concerned with the company cooking on the premises than something being brought in to be eaten.

On a motion from Ms. Tenghi, seconded by Ms. Weidner, the drafted letter for Go Ahead and Jump LLC 2 to be sent to the County Department of Community Affairs was approved. Mr. Jones voted no.

The first variance application to be heard was for Lisa Sim from 24 Montrose Terrace, Block 407, Lot 5. Lisa Sim and Gary Irwin were both sworn in to testify. Mr. Irwin is the Architect and Planner and his business is located at 11 Ferncliff Road in Morris Plains. Mr. Irwin has a degree in architecture from the New Jersey Institute of Technology and has been licensed in New Jersey since 1989. He is also licensed in New York, Maryland, Texas, and Utah. He is a

licensed land planner in New Jersey and has presented in front of twenty or thirty Boards in the past. He has never appeared before the Allendale Board of Adjustment.

Mr. Irwin said there was a survey in the packet which Mr. Nestor marked as A-1 March 25, 2015; a setback packet which was marked as A-2 March 25, 2015; and photos which were marked as A-3 March 25, 2015. The survey showed the proposed addition and the issues which include side yard and front yard encroachments. The second sheet showed the area maps and the basic floor plan. The third sheet showed the first and second floors existing and proposed. The fourth sheet had the elevations. The setback study showed what the setback should be based on the requirements in the Ordinance. The first application that has already been turned in to Kevin Burnett, the Code Official, deemed that the thirty-five foot setback was acceptable due to the setback study. Mr. Irwin said that he thought it should be 33.31 feet. The photos are of the existing house which is currently under construction.

Mr. Irwin explained that the house is already under construction which he referred to as phase one. Phase two is what they are proposing to the Board as phase one was conforming but phase two is not conforming. Phase two is an increase in the building area which triggers the side yard setback. It would be an excess of 1.59 feet. There was no way to avoid that as it is the existing structure that is over that much so there is no adjustment they could have made to the proposal. The lot is large and the proposal is small in what the property can handle. Because of the way the house sits on the property there is one very large side yard and one very small side yard. If the house was built more to the right they would not be before the Board. He suggested the Board look at the Zoning Table located on the first page as the impervious coverage is currently at 34.09% and after the work is done they would still have 14.46% left. When it comes to the floor area ratio they are permitted to have 21.79% and will be at 12.67%. The house is not way oversized for the property. The piece added for phase two will be in the back of the property and will be only one story that will not be visible to anyone except the neighbor to the right who is 112 feet away. There will be no adverse impact to the Zoning Ordinance.

Mr. Nestor asked if the house was in compliance without that one story addition and Mr. Irwin said yes. Mr. Nestor asked if they considered reducing the addition but Mr. Irwin said it was so small that they would only be able to add seventy square feet to be in compliance and no plan would work to fit the kitchen and family room in back of the house. Mr. Manning asked about the entryway and if it was impacting the front yard setback and Mr. Irwin agreed. Mr. Irwin said he felt from the setback study that the house was really 33.31 feet then the front stoop is a .21 and the side yard is 1.59.

Ms. Weidner asked why the construction was done in two phases and the addition was not part of the first phase. Mr. Irwin said there actually was an addition to phase one as a kitchen, deck, and master suite were added. Phase two would be the family room that would be built in the corner of the house. They could have come before the Board three months ago but they were eager to get started. There were cost impacts and his client chose to take the risks of not getting this

approved and live with that decision if they didn't approve it. Mr. Irwin felt that the addition was de minimis.

Mr. Jones said he was struggling with this part of the application because had they come to the Board in phase one there could have been ways to cut back on the second floor to reduce the overage on that side particularly. Then the applicant would not need to be in front of the Board for a variance. Mr. Irwin disagreed with that statement as it would have lost sixty square feet to the house and the house would still be nonconforming. Mr. Jones wanted to know what the overage was for the addition that put them in the side yard and Mr. Irwin said about 225 square feet. Ms. Hart asked about the gross building area before or after phase one or phase two. Mr. Irwin said that the floor area ratio was 2103 square feet to 3289 square feet which brings us from 8.08% to the 12.67%. Mr. Irwin added that they would have to reduce the project from 147 square feet to conform. He thought the number was higher than that originally. The phase two addition is 350 square feet. So if they were trying to conform to the Code they would only be able to add on a fourteen foot square family room. If they added steps on a separate floor they could have picked up 60 square feet and still have the nonconformity. Mr. Jones commented that if they went into the project knowing that they were not going to conform that there are ways to minimize the impact on that side yard and asking for a variance. He noted the pitch of the roof is already built but could have been done differently and given less of an impact on that side yard. He said that it is almost the perfect double A zone property as it is a perfect square lot with the correct width and lot area. Mr. Irwin understood what Mr. Jones was saying but stated that it was not that significant of a reduction and reducing the roof pitch would significantly compromise the architecture. Shallow roofs are a thing of the past and roofs today are steeper due to the updated look.

Mr. Nestor asked about the setback study and who performed it and Mr. Irwin said GB Engineering. Mr. Nestor asked if it was 500 feet to the street and Mr. Irwin said that would be to Franklin Turnpike. Mr. Irwin said that this study was done for Mr. Burnett as there was some confusion about the front yard setback originally for the first application. The front yard setback is needed because of the front stoop. Ms. Hart said the Board usually reviews the setbacks not the Code Official. Ms. Chamberlain said it was not the applicant's issue. She said as a recap their original application didn't have the front stoop or the family room but Mr. Irwin interrupted and said it did have all of that but they were told they would have many variances. So he asked what they could do to get started in the fall and if they eliminated the family room because it would increase the side yard to 21.6 feet and eliminate the stoop then they could start the application in the fall like they wanted. Ms. Chamberlain said the family room and front stoop generated all of this and Mr. Irwin agreed. Ms. Chamberlain said Allendale has a new Code Official and the Board is getting acquainted with the way he works. Ms. Chamberlain said this was a creative way to work around the Ordinance and Mr. Manning agreed. Ms. Chamberlain suggested to the Board that they have a chat with the Code Official about two part applications. Ms. Tengi agreed and added that she understood that an applicant might want to start an addition

early due to rates. She appreciated Mr. Jones' comments about how if the whole application was presented in totality we could have fine tweaked it a bit to lessen the nonconformity. Whether it would have been practical she didn't know. Mr. Irwin added that there would have been a delay to go before the Board too. Mr. Manning said everything has been built but was told that the family room was not built and that as of today everything is conforming. Ms. Tengi stated that she didn't think this was to be deceptive. Ms. Hart said they just didn't want to start a trend. Ms. Sim responded that because of the personal situation she was in she wanted to get started on the project. Ms. Weidner said with the depth of their lot they could have put on a much larger addition but Mr. Irwin said not with the side-yard setback. However, they could have torn the house down and put up a larger one.

Ms. Tengi said she thought the hardship was the location of the initial structure because it is skewed on the left side. Mr. Manning said it is 1.59 on the one side and the front yard should be 33.31 feet with proposing as 33.1 inches. Mr. Irwin said if 33.31 feet is accepted as the setback we could take three inches off the roof projection and conform with the front yard. Ms. Tengi opened the meeting to the public, but since no one approached, she closed the meeting to the public and brought the meeting back to the Board. Ms. Hart asked if there were any steps by the front door and the answer was no.

Ms. Chamberlain said that although she had some feelings about the process she felt the applicant did what they could with the placement of the house on the existing property. It is skewed to the one side and the applicant doesn't have a choice in continuing the addition. It is a deminimis addition and will not be a detriment to the public. There is space between the neighboring homes. It will allow the applicant to utilize the property. Ms. Chamberlain said she accepted the setback as 33.31 feet on the survey study as presented. Mr. Nestor said then they would be conforming on the front yard setback and Mr. Irwin added if they took off three inches on the roof projection which they would do if the application was accepted. Mr. Manning said they are just looking at the 1.59 feet on the side and Mr. Irwin agreed. Ms. Tengi said that she didn't feel the applicant was trying to deceive the Board in anyway as it seemed to be more about personal needs at the time. Mr. Jones felt the front yard setback was reasonable and so was the 1.59 feet of relief. He was concerned that other options were not looked at or explored. Mr. Jones wanted to caution the Board when it comes to having multiphase applications from the same applicant or applications that are already started as it removes the opportunity for the Board to grant variances with minimal impact to other nearby property owners. Mr. Jones continued with we do not have the ability to offer suggestions to modify the applications.

On a motion from Ms. Chamberlain, seconded by Ms. Tengi, the Sim variance application was approved.

The next application was for a sign variance for Susan Welsch from Allendale Veterinary located at 120 West Allendale Avenue, Block 902, Lot 3. Ms. Welsch and Mr. James Collishaw were sworn in to testify. Mr. Collishaw was from Dean Custom Awnings located at 529 Route 303 in

Orangeburg, New York. Mr. Nestor said when the application originally was sent in it was for a use variance. He felt it was not for a use variance and the applicant did not have to do the burden of proof with five votes but needed a majority ruling of four out of six. Mr. Nestor said the Ordinance prohibits backlighting of any awning. Mr. Collishaw said that he felt business owners had the right to keep their entrances and exits lit after sunset. He also said that there are other businesses which have the backlit signage and gave a copy of photos to all Board members. Those examples were put together by Dr. Welsch after work one day. Mr. Nestor marked the photos as A-1 March 25, 2015. Mr. Manning asked how long ago the Ordinance was put into place and whether these signs were in place before or after. Ms. Tenghi stated that the Certified Public Accountants place was new. Ms. Tenghi said she assumed that because the veterinarians had late hours this signage with lighting may be a benefit to the community.

Mr. Nestor asked if they gave any thought to just lighting the place rather than using a backlit awning and why regular lighting would not work. Mr. Collishaw said that an awning can provide lighting that is directed out on the signage and lighting that is directed downwards. It is the best option in order to light the space adequately. The closest point that the projection is to the roadway is forty two and half feet and the other side is eighty feet. This is not neon, it doesn't move, and it won't be directly in your face as you drive by the business. It will improve the aesthetics of the building, light the entrances and exits of the building, and provide lighting to the name of the business so people can find it easier. Dr Welsch has had negative feedback from customers about being able to find the business. The back of the building is where the parking lot is located, where the awning will be, and it is the side that faces Myrtle. Ms. Tenghi said it is sandwiched between the dry cleaner and Pastafino. Mr. Jones said there is a residential section across the street.

Ms. Hart asked about whether the letters glow or is it just a bright light throughout the whole thing. Mr. Collishaw said it is a process called eradication which is when a chemical is applied to the fabric where the color is removed and that is where the white comes from. The back of the fabric is white and so all you are doing is removing the color on the fabric and allowing the light to shine through. It will not be a significant impact on the community. Ms. Hart asked if the glowing is near the door or through the whole forty feet of the awning. Mr. Collishaw said they could do it either way but there are three doorways on back of the building and they could direct three lights just over the doorways. All of his projects are reviewed by an engineer and meet the state requirements regarding wind speed calculations, snow load calculations, and attachment detail. Ms. Hart asked if the three doors were lit right now and Ms. Welsch said they are lit but they are not sufficient. Ms. Hart asked if only one door could be lit rather than all three but Ms. Welsch said all of the doors are used. Mr. Manning asked what the normal operating hours are and she said 8AM to 6:30PM and later if there are emergencies. Mr. Manning asked how long would the light stay on at night. Ms. Welsch said that was yet to be determined and Mr. Collishaw said that they usually put a timer on the interior switch. It can be changed during the winter months so when it is darker earlier the awning would be lit up until at least thirty minutes

after you leave the building. Mr. Manning said he was concerned because there is residential housing across the street. Ms. Tengi asked if they could do a time restriction to eight or nine o'clock in the evening. Ms. Welsch said she sometimes there at night doing surgery. Mr. Manning asked if she is there at ten o'clock at night and she said sometimes. Mr. Manning said he was trying to make this work for everyone. Mr. Jones said he saw a single story structure with no roof and when Allendale Avenue went straight across the railroad tracks it was probably the front of the building. The front of the building is now the back of the building. He saw this application improving the aesthetics of the building and improving the lighting. He was concerned because it was almost fifty feet long and wanted to know if there were ways to reduce the lighting. Mr. Manning said it would have to have time restrictions for him to approve this application and Ms. Tengi said nine o'clock seemed good to her. Ms. Welsch said she wants it to be subtle and professional looking and so the light focuses downwards so they can see that there is a building there. She added that she also wants to make the building safer to get in and out of when it is dark. Mr. Manning said it is not about the lighting as much as it is about the time parameters.

Mr. Jones asked more about the type of lighting used and Mr. Collishaw said that he uses eight foot fluorescent fixtures that runs on 120. On this particular project he would use five double bulbs at forty watts per bulb fixtures. Ms. Weidner asked where they were mounted and he said right behind where the signage is there is a bar in back of the awning and the fixtures are attached to that piece. Mr. Nestor marked the picture as A-2 March 25, 2015. He asked if the awning go up and over to prevent the lighting from going straight up behind the Allendale sign. Mr. Collishaw said the back of the awning would have fabric and will be totally enclosed. The bottom will have a bottom cover which is made of mesh material and it is a 60% blockage and 40% light passage. Lighting will go down through the mesh and out for the signage. Ms. Hart asked if there was additional lighting by the doors. Mr. Collishaw said that he would like to have lighting span the entire width of the awning. If he can only light the doors within the awnings that is what he will do. He felt the lighting was poor. Mr. Manning suggested that he bring photos with him to future meetings as visually it would be better to see what is being described. Ms. Tengi said she was impressed with all the information he was giving the Board. Ms. Chamberlain said she thought this would improve the parking lot. There was some discussion on the other awnings that were being used in town and whether the Code Official knew about them. Ms. Hart wasn't sure why they needed to light the whole building and suggested putting in a few light fixtures but Ms. Welsch said that people tell her that they didn't know that her business was there. Lights on the building would be directed out to the street but a light in the awning will be directed downwards. Mr. Jones said there is one residential home across the street. Ms. Hart said they all have lights on their homes and they don't impact their neighbors. The lighting will be somewhat directed across the street because the letters glow and they are all forty watt bulbs. The lighting will be for the whole awning if allowed. Mr. Manning asked if she owned the building and she said yes. Ms. Chamberlain said eleven o'clock would be her suggestion as she lives across the street from Brookside School and the main lights don't go out until midnight

although other lights are on all night. She felt eleven was a good time. Mr. Jones agreed with the time as he said he would not go much later than that as things slow down in Allendale around 11PM. Ms. Tengli opened the meeting to the public, but since no one approached, she closed the meeting to the public and brought it back to the Board. Mr. Jones asked what variance this would be and it would go under 270.33C-7 which prohibits backlit awnings.

Mr. Jones said that the applicant wants a variance for the C-1 Zone and that under 270.33C-7 she needs a variance for the backlit awning. This will produce a safer area as it will enhance the building aesthetics and provide a better lighting source. He added that there will be an 11PM lighting restriction and five eight foot double bulb fluorescent fixtures inside the awning.

On a motion from Mr. Jones, seconded by Ms. Chamberlain, the application for a sign variance for Susan Welsch was approved. Ms. Hart voted no for the sign variance.

On a motion from Ms. Tengli, seconded by Mr. Jones, the meeting was adjourned at 9:35PM.

Respectfully submitted,

Diane Knispel