MANSFIELD TOWNSHIP ZONING BOARD REGULAR MEETING Monday, August 1, 2016

The regular meeting of the Mansfield Township Zoning Board was held on the above shown date with the following in attendance: Chairman William Tahirak, Robert Harrison, Ralph Wainwright, Marion Hay, John Beckes, Robert Gawron, Mark Clark, Jay Feldman, Attorney Tom Coleman, and Secretary Ashley Jolly. Jim Soden was absent.

The meeting was called to order by **Chairman Tahirak** followed by the flag salute and the following opening statement.

The Notice requirements provided for in the Open Public meetings Act have been satisfied. Notice of this meeting was properly given in the annual notice which was adopted by the Mansfield Township Zoning Board on January 5, 2016. Said Resolution was published in the Burlington County Times, e-mailed to the Burlington County Times and Trenton Times, filed with the Clerk of the Township of Mansfield, posted on the official bulletin board at the Municipal Complex, filed with the members of this body, and mailed to each person who has requested copies of the regular meeting schedule and who has prepaid any charge fixed for such service. All the mailing, positing and filing having been accomplished on January 8, 2016.

Extension of Approval:

Attorney Coleman said the approval for this were back in 2013. Under the Municipal Land Use Law the applicant got a two year window of approval. The permit extension act told those approvals they had until June 30, 2016. Under municipal land use law they are aloud three separate one year extensions. He said he recommends the board considers a one year extension of approval and have the applicant come back next year if they believe they need a further extension for the second and/or third year.

A motion to extend the existing approvals for one year to June 30, 2017 was offered by **Mr. Wainwright** and was seconded by **Mr. Beckes**. Motion carried on a roll call vote recorded as follows:

AYE: Wainwright, Beckes, Clark, Harrison, Gawron, Hay, Tahirak

NAY: None ABSTAIN: None ABSENT: Soden

Memorialize Resolution 2016-1-4:

ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF MANSFIELD RESOLUTION NO. 2016 –1-4 CONCERNING THE APPLICATION OF FRANK J. MELICHAREK VARIANCE APPROVAL

WHEREAS, Frank J. Melicharek has applied to the Zoning Board of Adjustment of the Township of Mansfield for variance approval for property located at 825 Mansfield Road West, known as Block 51.01, Lot 3.06, on the Official Tax Map of the Township of Mansfield, for the purpose of constructing a 26 foot by 30 foot detached garage; and

WHEREAS, in May, 2015, the Board granted a variance to the Applicant to permit the aggregate size of an existing attached garage and the proposed detached garage to exceed the 1,000 square foot limit in the R-1 Zoning District; and

WHEREAS, during the construction of the detached garage, the Applicant realized that the detached garage was being constructed with less than the 20 foot side yard setback as shown on the plan submitted with the Applicant's 2015 Variance Application and less than the 10 foot setback required by the Township's Zoning Ordinance; and

WHEREAS, the Applicant has now submitted an Application requesting a side yard setback variance pursuant to *N.J.S.A.* 40:55D-70(c) for the partially constructed detached garage; and

WHEREAS, the Application was deemed complete by the Zoning Board on December 7, 2015; and

WHEREAS, the Applicant presented evidence to the Zoning Board of Adjustment through testimony, plans and other evidence; and

WHEREAS, Public Hearings to consider the Application for a Side Yard Setback Variance were held by the Zoning Board on December 7, 2015 and January 5, 2016, after appropriate public and personal notice was provided to all property owners within 200 feet of the Property and published in the Official Newspaper of the Township, as required by the land development regulations of the Township of Mansfield and the Statutes of the State of New Jersey; and

WHEREAS, the Zoning Board of Adjustment after carefully considering the evidence presented by the Applicant in support of his application for variance approval, and after the meetings were opened to the public for their questions, comments and input, has made the following findings of fact:

- 1. The Applicant is the owner of Block 51.01, Lot 3.06, a 0.95 acre lot located at 825 Mansfield Road West in the Residential 1 (R-1) Zoning District of the Township (the "Property"). The Property is improved with a single family detached residential dwelling with attached garage. A partially constructed detached garage is also located on the Property.
- 2. The Applicant previously received variance approval from the Zoning Board to permit the aggregate size of the attached and detached garages to exceed the 1,000 square foot limit for garages in the R-1 Zoning Districts for lots the size of the Property.
- 3. During construction of the detached garage, it was discovered that the detached garage neither complied with the 20 yard side yard setback as shown on the plan submitted with the 2015 variance application nor with the 10 yard side yard setback for accessory structures required in the R-1 Zoning District.
- 4. The Applicant has submitted an application for a variance from the ordinance requirement pertaining to side yard setback for accessory structures in the R-1 Zoning District.
 - 5. The taxes on the subject property are current.
 - 6. The Applicant has paid and/or posted all required fees and agreed to keep his review escrow current.
- 7. Proper notice of the application for variance approval has been given, as based upon the certified list of property owners provided to the Applicant by the Township Tax Assessor.
 - 8. The Applicant testified as follows at the December 7, 2015 Public Hearing:
 - a. He is the owner of the Property;
 - b. The detached garage has been partially constructed;
 - The recent construction work in front of the Property related to the turnpike widening resulted in the
 front survey marker being buried and unable to be found by the contractor constructing the garage;
 - d. Adjacent Lot 3 is a preserved farm and it was when the owner of Lot 3 installed a fence along the property line common to Lot 3 and the Property, that it was discovered that the side yard setback for the detached garage was less than the 20 feet shown on the previously submitted plans and less than the 10 feet required for accessory structures;
 - e. The fence on Lot 3 was installed after construction had begun on the detached garage;
 - f. Believes that the setback to the Lot 3 property line is around 6 feet but is not certain;

- g. Agrees to a continuation of the Public Hearing until the January 5, 2016 meeting in order to secure a current survey confirming the side yard setback for the partially constructed detached garage.
- 9. Prior to the January 5, 2016 Hearing, the Applicant submitted a current survey of the Property, prepared by Midpoint Survey, LLC, confirming that the side yard setback for the partially built garage is 7 feet.
 - The December 7, 2015 and January 5, 2016 Hearings were opened to the Public without comment.
- 12. The Applicant is requesting variance approval to allow him to keep the partially constructed detached garage on the Property, where located, without need to have same torn down and reconstructed.
- 13. Without variance approval, the Applicant would be unable to keep the garage where located, which is otherwise in conformance with the Land Use Ordinance of the Township of Mansfield and the previously granted aggregate garage size variance.

AND WHEREAS, based upon the above factual findings, the Zoning Board of Adjustment has come to the following conclusions:

- 1. This application relates to a specific piece of property and the purposes of the zoning laws of the State of New Jersey and the Township of Mansfield would be advanced by the deviation from the ordinance requirement as specified herein for the side yard setback for the detached garage in the R-1 Zoning District, as requested by the Applicant.
- 2. The benefits of the deviation from the ordinance requirement specified herein would substantially outweigh any detriment to the public good by this deviation from such requirement, as variance approval would allow for the development of the Property as proposed by the Applicant, and otherwise promote the safety, health and general welfare of the Community, and enhance the aesthetics of the neighborhood.
- 3. Relief as requested by the Applicant can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance of the Township of Mansfield.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Township of Mansfield, on the 5th day of January, 2016, that this Board hereby grants to the Applicant a variance to permit a side yard setback of 7 feet for the 26 foot by 30 foot detached garage, in accordance with the Application, plans, survey and testimony submitted by the Applicant and subject to the following conditions:

- 1. Subject to the Applicant continuing to comply with Resolution No. 2015-05-01, and all conditions contained therein.
- 2. Subject to no storage permitted in the side yard area between the detached garage and the fence located along the property line common to Lot 3 and the Property.
- 3. Subject to the comments of the Board Engineer as contained in the December 2, 2015 review letter of Stout & Caldwell Engineers, LLC by Mark E. Malinowski, PE, except as may be modified herein.
- 4. Subject to the testimony provided by the Applicant at the December 7, 2015 and January 5, 2016 Public Hearings.

A motion to approve the memorialization of the above resolution was offered by **Mr. Harrison** and was seconded by **Mr. Wainwright**. Motion carried on a roll call vote recorded as follows:

AYE: Wainwright, Beckes, Clark, Harrison, Gawron, Hay, Tahirak

NAY: None ABSTAIN: None ABSENT: Soden

Approval of Minutes:

January 5, 2016 - A motion to approve the minutes was offered by Mr. Wainwright and was seconded by Mr. Harrison. Motion carried on a roll call vote recorded as follows:

AYE: Wainwright, Beckes, Clark, Harrison, Gawron, Hay, Tahirak

NAY: None ABSTAIN: None

ABSENT: Soden

Public Comment:

There was none.

Board Comments:

Chairman Tahirak discussed the River Route Steering Committee.

Motion for Adjournment:

A motion to adjourn was offered by **Mr. Beckes** and was seconded by **Mr. Wainwright**. All ayes. Motion carried.

Respectfully Submitted:

Date Approved:

9-6-16

Ashley Jolly, Land Use Coordinator