

**MONTGOMERY TOWNSHIP ZONING BOARD  
MONTGOMERY TOWNSHIP, SOMERSET COUNTY, NEW JERSEY  
REGULAR MEETING  
MARCH 24, 2015**

**MINUTES**

Vice Chairman Waitach called the meeting to order at 7:35 p.m. and read the opening statement which affirmed that adequate notice of the meeting had been posted and sent to the officially designated newspapers.

**BOARD MEMBERS PRESENT:** Vice Chairman Waitach; Mr. DeRochi; Mr. Fedun; Mr. O'Brien; Mr. Thompson; Ms. Covello, Alternate #1; Mr. Kristjanson, Alternate #2

**ALSO PRESENT:** Mr. Drollas, Jr., Board Attorney; Mr. Sullivan, Board Planner; Mr. Cline, Board Engineer; Mr. Palmer, Zoning Officer

**I. SALUTE TO THE FLAG**

**II. RESOLUTION**

**Case BA-02-12**

Block 24001 Lot 29.11

Extension of Bulk Variance Approval

**Applicant: Lori and Gerard Hogan, III**

Mr. Palmer noted that there has been a change to remove the reference to a gazebo.

Motion to memorialize the resolution as amended was made by Mr. Thompson, which was seconded by Mr. DeRochi. This was carried on the following roll call vote:

Ayes: DeRochi, Fedun, O'Brien, Thompson and Waitach

Nays: None

**III. SUBMISSION WAIVERS**

**Case BA-07-13**

Block 28005 Lot 64

Submission Waivers Associated with A Use Variance, Bulk Variance and Preliminary and Final Major Site Plan

Expiration Date – 120 Days From Submission Waiver Approval

Affidavit of Notification and Publication Not Required

**Applicant: Montgomery 206 Realty**

Mr. Fedun stepped down.

Jeff Lehrer, Esquire and Paul Ferriero, PE represented the applicant. The applicant is before the Board for submission waivers and will re-notice for a hearing to be held on May 26, 2015. There were additional variances noted in the Planner's report that were not included in the notice.

Mr. Ferriero was sworn in.

The applicant is requesting a partial submission waiver from Checklist Item #64 from providing a signed and sealed survey, a partial waiver from Checklist Item #23 for the location of natural features within two hundred feet (200') of the subject property, a partial waiver from Checklist #25 for the delineation of ponds, marshes, wetlands, wetland transition areas, hydric soils and lands subject to flooding within two hundred feet (200') of the subject property, a partial waiver from Checklist #26 for existing watercourses within two hundred feet (200') of the subject property, a partial waiver from Checklist #34 for dimension of existing structures and their front, rear and side yard setbacks within two hundred feet (200') of the subject property, a partial waiver from Checklist #35 for the location and size of existing structures such as water and sewer mains, valves, hydrants, utility structures, gas transmission lines and high tension power lines within two hundred feet (200') of the subject property and Checklist #44 for cross-sections and horizontal and vertical alignments of the centerline of all existing streets abutting the tract. No streets are being proposed and the project proposes no changes or alterations to the existing street, curbing and drainage structures abutting the tract.

Mr. Ferriero testified that for a number of the waivers, the information has been submitted on the tract and directly adjacent to the tract but not to the extent of two hundred feet (200').

Mr. Cline recommends the submission waiver of the information within two hundred feet (200') of the subject tract. With regard to the submission waiver regarding stormwater, Mr. Cline explained that the applicant is subject to water quality requirements because the application includes a d-variance and a lot coverage variance. For the purpose of completeness Mr. Cline does not object to granting a submission requirement for the water quality portion of the stormwater design and associated maintenance manuals but they will be required to be submitted as a condition of any approval.

Mr. Lehrer said that with respect to Item #48 regarding stormwater, the applicant agrees with Mr. Cline. All the other information has been provided on the plans.

Vice Chairman Voitach opened the meeting to the public. There being no public comment, a motion to close the public hearing was made by Mr. DeRochi, seconded by Mr. Thompson and carried unanimously.

A motion to approve the submission waivers was made by Mr. DeRochi and seconded by Ms. Covello. This was carried on the following roll call vote:

Ayes: DeRochi, O'Brien, Thompson, Voitach, Covello and Kristjanson

Nays: None

Mr. Fedun returned to the dais.

#### **IV. APPLICATION**

**Case BA-01-15**

**Applicant: Michael Foxx**

Block 30003 Lot 70

Use Variance (FAR)

Expiration Date – 120 Days From Submission Waiver Approval

Affidavit of Notification and Publication Required

William Commer, the applicant's architect and Michael Foxx were sworn in.

Mr. Commer testified that a modest addition to the existing dwelling is proposed. The proposed addition is two story which will add a single car garage and one story to expand the kitchen. The one hardship is that the house has an existing garage that is constructed wide enough for two (2) cars but the house sits a little over two feet (2') above grade so there are three (3) steps into the garage which narrows the width of the garage to just over seventeen feet (17'). This makes it impossible to park two (2) cars wide. They propose to add the single car garage to the right.

Mr. Commer showed a rendering of the existing house and the proposed addition. The existing driveway will access both garages and will not have to be changed at all.

Mr. Commer noted they are seeking a use variance to exceed the permitted Floor Area Ratio (FAR).

Mr. Drollas noted that there is no issue with permitted use. There is a deviation in the maximum permitted FAR which is a d variance but it is not a use variance. It is characterized as a use variance on the application form, it was picked up as a use variance in the discussion in the Planner's letter. This may be one of those scenarios where technically it is to be treated as a use variance but in all other respects it is a bulk variance.

Mr. Sullivan agreed it is a bulk variance and the criterion for such a deviation is analogous to what is the harm and can the site accommodate the extent of deviation. There is no issue from a use standpoint.

Mr. DeRochi said the justification for the granting of the variance for the new garage is the steps stick into the 2-car garage. He wondered why the steps weren't recessed into the mud room.

Mr. Commer replied that there really is not enough room. Mr. DeRochi noted that the mud room is shown to be reconstructed completely.

Mr. DeRochi asked if the neighbors have any concerns. Mr. Commer testified that the neighbor supports the plan favorably.

Mr. Foxx noted that there is also laundry room in the mud room so it is a very tight space. They have been working on this design for about 9 months and he wants to make sure it looks like it was constructed this way right from the beginning and that it was setback. The existing landscaping buffers the view from street.

Mr. Cline said this application is also subject to stormwater quality because of the “d” variance. Due to the fact that they are not exceeding permitted lot coverage he does not object to granting a waiver from the stormwater controls. He has spoken to Mr. Commer’s office about routing the roof leaders so that they don’t end up flooding the patio. From an engineering standpoint this is an innocuous application.

Mr. Commer noted that the leaders are put right into the storm drain in the back of the property and that is what they propose to do with the addition.

Vice Chairman Voitach opened the meeting to the public. There being no public comment a motion to close the public hearing was made by Mr. Thompson, seconded by Mr. Kristjanson and carried unanimously.

A motion to approve the application was made by Mr. Fedun which was seconded by Ms. Covello. This was carried on the following roll call vote:

Ayes: DeRochi, Fedun, O’Brien, Thompson, Voitach, Covello and Kristjanson

Nays: None

## **V. APPOINTMENT OF PROFESSIONAL**

### **Appointment of Professional Services under the “Local Unit Pay-to-Play Law”**

Vice Chairman Voitach explained that the Board has been looking for an expert consultant to assist with certain matters related to Radio Frequencies and potential applications in that area. Interviews have been conducted and the recommendation is to appoint Dr. Eisenstein.

Chairman Voitach read the resolution to appointment RF Engineer, Bruce A. Eisenstein, Ph.D.

A motion to appoint Dr. Eisenstein was made by Mr. Thompson, which was seconded by Mr. O’Brien. This was carried on the following roll call vote:

Ayes: DeRochi, Fedun, Post, O’Brien, Thompson, Voitach, Covello and Kristjanson

Nays: None

## **IV. MINUTES**

### **February 17, 2015 – Regular Meeting**

The minutes were revised to delete the reference to the gazebo in the extension request for Mr. and Mrs. Hogan.

A motion to approve the minutes as corrected was made by Mr. DeRochi, which was seconded by Mr. Thompson. This was carried on the following roll call vote:

Ayes: Voitach, DeRochi, Fedun, O’Brien and Thompson

Nays: None

There being no further business to come before the Board, the meeting was adjourned at 8:07 p.m.