

TOWNSHIP OF PLUMSTED
LAND USE BOARD
MEETING MINUTES

AUGUST 1, 2023

An advertised Public Meeting of the Plumsted Township Land Use Board was called to order by Vice Chairman John Neyenhouse in the Plumsted Township Public Meeting Room, 121 Evergreen Road, New Egypt, New Jersey at 7:32 p.m. The meeting was held in-person at the Plumsted Township Municipal Hall. Following an opening statement regarding the "Open Public Meeting Act" pursuant to the Laws of 1975, the Pledge of Allegiance was recited.

Vice Chairman Neyenhouse requested a roll call. Those present included Cynthia MacReynolds, Secretary to the LUB; Patrick Varga, Esq, DMM Law Firm and the following Members as per the roll call:

ROLL CALL

PRESENT: Mr. Bill Fox, Mr. Jim Garrigan, Mr. James Hagelstein, Mr. Bernard Haney, Mr. John O'Callaghan, Robert O'Neill, Mr. Dustin Horowitz, Mr. John O'Callaghan, Vice Chairman John Neyenhouse.

EXCUSED: Mayor Robert Bowen, Committeeman Michael Hammerstone, Wendy Galloway, Chairman Douglas Hallock.

MINUTES TO BE CONSIDERED

There were no minutes to approve.

RESOLUTIONS TO APPROVE

There were no resolutions for the Board to memorialize.

OLD BUSINESS

There was no old business.

NEW BUSINESS

- a. Jeryl Lyn Smith, 27 Oakford Ave., New Egypt, NJ 08533, Block 29/Lot 17: Court Order OCN-L-120-23: Appeal the Township's Failure to Fine or Remediate a Code Violation at 25 Oakford Ave., Block 19/Lot 6.**

Sheila Hatami from the Law Office of Sheila Hatami, LLC addressed the board on behalf of her client, Jeryl Lyn Smith.

Ms. Hatami claims that her client is appealing the town's failure to find or require remediation for a newly constructed driveway at 25 Oakford Ave. She claims that the driveway was constructed within 20" of Ms. Smith's home. Ms. Hatami said that this is a violation of the Township Ordinance No. 15-5.10 (a7) which requires newly constructed driveways to be set back 10' from the property line. She said that the residents of 25

Oakford Ave. did not seek a variance or appear before the board for a certificate of noncompliance.

Ms. Hatami presented the board with a copy of the Township Ordinance. She presented the board with the court order as Exhibit 1a and the Ordinance as Exhibit a2.

Ms. Hatami presented her first witness, Jeryl Lynn Smith. Ms. Smith was sworn in by the Board Counsel.

Ms. Smith testified that she has lived in her home for 18 years. She testified that the driveway at 25 Oakford Ave, was a single car driveway with a single car apron and there was 10' of grass between her home and their driveway. She presented the Board with 2 pictures that reflect the state of the property. The pictures are Exhibit A3.

Ms. Smith testified that one of the pictures was taken by Google Earth in 2014. The picture reflects a single car driveway with single car apron and is approximately 10' of grass in between the properties. The picture is of 25 Oakford Ave.

Exhibit A-4 is a picture of a bounce house next to Ms. Smith's property. It shows the grass between her home and the driveway. The bounce house is located at 25 Oakford Ave. The picture was taken on November 2021.

Ms. Smith testified that the next picture is of a cat showing that there is grass. It was taken on May 4, 2022.

Ms. Smith said that Exhibit A-5 is a picture of her house. She testified that the company that encapsulated her crawlspace took the picture. The picture reflects that there is grass next to her house. The picture was taken on July, 2019.

Exhibit A-6 is a picture of 27 Oakford Ave. Ms. Smith testified that it is the appraisal picture reflecting that there was grass next to her home.

Exhibit A-7 is a picture of 25 Oakford Ave. when it was on the MLS for sale. The picture was taken in 2021 and it shows grass next to their single car driveway.

Exhibit A-8 is a copy of the survey for her neighbors at 27 Oakford Ave.

Ms. Smith was asked to describe why she is in front of the Board and she said that she would like her neighbor's driveway to be set back 10' as the code states. She testified that when it rains, the water doesn't drain in the gravel alongside her neighbor's driveway that it pulls up next to her foundation.

Ms. Smith testified that she cannot use the windows on the side that is facing the driveway. She also claims that she can smell the fumes from the cars inside her house.

Exhibit A-9 is a picture of her neighbor's driveway at 25 Oakford Ave. when it was initially dug out by the pavers on September 29, 2022. She identified another picture of the driveway after it was extended. She testified that the driveway is a double car driveway with a single car apron.

Exhibit A-10 is a picture of the gravel that is approximately 2.5" on her property.

The Board discussed the distance between the house and the driveway as it existed. The survey is blurry and the distance is assumed to be 9'

Ms. Smith testified that the township took measurements and that the asphalt measured approximately 20.5-21", and she testified that the water pulls up to her foundation.

Exhibit A-11 is a video of the rainfall and Ms. Smith testified that it is pulling up in the gravel and that it's not draining in the gravel and that it is flowing towards her house on her foundation.

Ms. Smith continued to answer questions from the board regarding the pictures and the measurements of the driveway and the distance between her property and her neighbor's.

Ms. Hatami had 2 witnesses for her case.

Debra Paone of 31 Oakford Ave., New Egypt, NJ testified on behalf of Ms. Smith. She was sworn in by Counsel.

Ms. Paone testified that she has live at 31 Oakford Ave. for 23 years. She said that she is familiar with the properties at 27 & 25 Oakford Ave. She was asked to testify as to the what the properties looked like before and after the construction of the driveway.

Ms. Paone described the properties and testified that there was grass between 25 & 27 Oakford Ave.

Wendy Pfeifer of 205 Pemberton-Browns Mills Rd., Browns Mills NJ testified on behalf of Ms. Smith. She was sworn in by Counsel.

Ms. Pfeifer was asked to testify what the 25 & 27 Oakford Ave. looked like before and after the driveway was constructed. Ms. Pfeifer testified that there was grass between the 2 properties.

No other witnesses. The Board opened the floor for Public Comment.

Michael Alana of 25 Oakford Ave., New Egypt, NJ addressed the Board. He was sworn in by counsel. Mr. Alana was advised that this is his opportunity to address the Board and to ask the applicant questions.

Mr. Alana testified that when he hired the company that installed the driveway, he presented it to the Zoning Officer, Dena Kaiser. He said that the driveway was expanded appx. 9'.

Mr. Alana testified that the skirt of the driveway did not change. He said that he would like a concrete decision and would like to see an end and resolution to this issue.

Mr. Alana said that if this needs to be remediated and if they need to hire an asphalt company to fix the dirt back, he feels that he is not financially responsible for the remediation because he came to the township prior to the installation.

Mr. Alana testified that it was approved subsequently multiple times by different county officials. He advised the board that the top of the driveway and gravel is pitched.

No other comments from Mr. Alana.

The Board closed the public comment portion of the application.

Mr. Hagelstein made a motion that the applicant has not demonstrated that the construction of the driveway is in fact in intensification of the nonconforming condition, thus upholding the Zoning Officer's decision and was seconded by Mr. Haney.

ROLL CALL

AYES: Mr. Garrigan, Mr. Hagelstein, Mr. Haney, Mr. O'Neill

NAYS: Mr. Fox, Vice Chairman Neyenhouse, Mr. O'Callaghan

ABSTAIN: None

DISQUALIFY: None

ABSENT: Mayor Bowen, Committeeman Hammerstone, Mrs. Galloway and Chairman Hallock

Zoning Officer's decision is upheld.

- b. Digital Media Properties, 64 Main St., New Egypt, NJ 08533, Block 30/Lot 7.

The applicant is requesting that their application be carried. They did not notice on time for the meeting. Will be carried with notice.

- c. Stockton Land Co., LLC, Tower Rd., Cream Ridge, NJ 08514. Block 61/Lot 23.

The applicant is requesting that their application be carried due to a family emergency.

Motion to carry the application with notice was made by Mr. O'Callaghan and was seconded by Mr. Hagelstein.

ROLL CALL

AYES: Mr. Fox, Mr. Garrigan, Mr. Hagelstein, Mr. Haney, Mr. O'Callaghan, Mr. O'Neill, Vice Chairman Neyenhouse

NAYS: None

ABSTAIN: None

DISQUALIFY: None

ABSENT: Mayor Bowen, Committeeman Hammerstone, Mrs. Galloway and Chairman Hallock

- d. 74-78 Maple Ave., LLC, c/o Nicholas Antonelli & Jordan Epstein, 74-78 Maple Ave., New Egypt, NJ 08533.

Applicant is requesting to carry due to amending the application. Will be required to re-notice.

Motion to carry the application with notice was made by Mr. Haney and was seconded by Mr. O'Callaghan.

ROLL CALL

AYES: Mr. Fox, Mr. Garrigan, Mr. Haney, Mr. O'Callaghan, Mr. O'Neill, Vice Chairman Neyenhouse

NAYS: None

ABSTAIN: Mr. Hagelstein

DISQUALIFY: None

ABSENT: Mayor Bowen, Committeeman Hammerstone, Mrs. Galloway and Chairman Hallock

MATTERS FROM THE PUBLIC

There were no comments from the public.

MATTERS FROM THE BOARD

Mr. Fox readdressed the priorities for the use of the sewer line and to reach out to the Township Committee. He asked if there was a letter sent to the Township Committee.

Mr. Neyenhouse said that there was a discussion regarding the involvement of the PMUA with respect to properties within the sewer service line. It was decided by the township committee that all of the applications will be submitted to the PMUA and if the property is not within the sewer service area, they can submit a Letter of No Interest to the board.

The PMUA is listed as a checklist item for applications that are submitted to the Board. It is the hope that the PMUA review the applications prior to the applicant's hearing and in the case that it has not, it can be listed a condition of approval on the resolution.

There were no other matters from the Board.

ADJOURNMENT

There being no further business, a general motion to adjourn the meeting was made. All present were in favor and the meeting was adjourned at 9:13 pm.

Respectfully submitted,

Cynthia N. MacReynolds, Secretary