

Board Chairman John Gangemi called the regular meeting of the Mine Hill Township Planning Board to order at 7:30 pm and led those present in the Pledge of Allegiance.

OPEN PUBLIC MEETINGS NOTICE

Mr. Gangemi announced that adequate notice for this meeting had been given as required by law.

ROLL CALL: Members Present – Mr. Alpaugh; Mr. Frank; Mr. Gallarano; Mr. Gangemi; Mr. Gorman; Mr. Heredia; Mr. Sauchelli
Members Absent – Mr. Morris; Mr. Willis
Alternates Present – none
Also Present – Mr. Haggerty, Board Attorney; Mr. Sterbenz, Engineer; Ms. Macchia, Municipal Clerk/Planning Board Administrative Clerk
Public Present – Approximately 7

APPROVAL OF MINUTES

The minutes of September 9, 2013, and October 16, 2013, were tabled until the next meeting.

CORRESPONDENCE

The ballot received from the NJPO was discussed. It was concluded that the matter did not require attention by the Board at this time.

CONSIDERATION AND APPROVAL OF VOUCHERS

A motion was made by Mr. Alpaugh and seconded by Mr. Frank to approve the vouchers as presented contingent upon sufficient funds available in escrow. Seeing no further discussion, the roll was called and the vouchers were approved by the following vote:

Ayes: Mr. Alpaugh; Mr. Gallarano; Mr. Gorman; Mr. Heredia; Mr. Sauchelli; Mr. Gangemi
Nays: none
Absent: Mr. Morris; Mr. Willis
Abstentions: Mr. Frank

RESOLUTIONS & MOTIONS

Resolution 013-13 Application 001-13 Robin Engle – Approval of Variance

It is noted that Mr. Heredia was not present to vote on the approval of the variance at the September 9, 2013 meeting.

A motion was made by Mr. Alpaugh and seconded by Mr. Frank to approve of the resolution as presented. The roll was called, and the resolution was approved by the following vote:

Ayes: Mr. Alpaugh; Mr. Frank; Mr. Gallarano; Mr. Gorman; Mr. Sauchelli; Mr. Gangemi
Nays: none
Abstentions: none

WHEREAS, Robin Engle (hereinafter known as the “Applicant”) has made application to the Township of Mine Hill Planning Board, (hereinafter known as the “Planning Board”) for a use variance to permit the keeping of chickens on a parcel located in a residential zone, and

WHEREAS, the application was deemed complete at the regular meeting of the Planning Board on August 5, 2013, and

WHEREAS, the hearing of the application commenced on September 9, 2013 at which time the Planning Board rendered its decision, and

MINUTES OF THE MINE HILL PLANNING BOARD
REGULAR MEETING – October 28, 2013

WHEREAS, the Township of Mine Hill adopted an ordinance pursuant to N.J.S.A. 40:55D-25C to allow the Planning Board to exercise all the powers of the former Zoning Board of Adjustment, and

WHEREAS, it being determined that proper notice of the hearing of the application has been provided by the Applicant pursuant to the requirements of the Municipal Land Use Law and the ordinances of Mine Hill, and

WHEREAS, the hearing of the application was conducted before members of the Planning Board eligible to hear the application,

NOW, THEREFORE, BE IT RESOLVED that the Planning Board of the Township of Mine Hill does hereby make the following finding of fact and conclusions of law:

The Applicant is the owner of a parcel improved with a single family home located at 7 Fourth Avenue in the single-family zone. Approximately two years ago, the Applicant began to raise a small flock of chickens, the majority of the eggs being provided to the food pantry at their church and shared with neighbors. The chickens were considered pets and there was never a commercial operation conducted at the site. One of the chickens purchased was a rooster, contrary to the Applicant's request, and the rooster was subsequently removed. There are currently eight chickens housed in a pen which is 12' x 36' and constructed of stand-alone fencing.

The Applicant included in the application packet four photographs showing the area of the chicken coop. There is a tree line along the right of the parcel which provides a buffer from the closest residence. The coop and fence area appear to be in good repair and to be aesthetically pleasing.

The Applicant was issued a complaint through the Zoning Office of the Township of Mine Hill for the keeping of farm animals in a residential zone. The citation is to Ordinance 25-10N. It is believed that the correct citation would be 25-10.13.1.2A which itemizes accessory uses permitted in a single-family zone. Since the keeping of farm animals is not listed as a permitted accessory use, such use would be prohibited.

The Applicant testified that the number of chickens would never exceed eight and that no roosters would be kept on the site, and that all of the chickens would be kept within the fenced enclosure and that they would not be "free range."

The following members of the public provided testimony:

Nialoskika Guglielmone, a member of the Applicant's church, stated that the applicant donates the eggs to the church food pantry and that the keeping of the chickens is not a commercial venture. She stressed the benefit to the community in providing not only the eggs but in providing vegetables. The chicken manure is used to fertilize the garden which is shown in the Applicant's photographs, and produce is donated to the food pantry.

Witness Linda Bindhanner, also a church member, noted that the eggs are donated to the church's food pantry, providing a benefit for church members in need.

An adjoining owner, Phyllis Keown, testified that she is in favor of the approval of the application and that the chickens do not cause any detriment.

Agnes Bagan, a resident, testified that she is in favor of the approval of the application and noted that this is not a commercial operation.

Approval of this application would require a use variance pursuant to N.J.S.A. 40:55D-70D(1). In order to provide the necessary proofs, the Applicant must demonstrate special reasons through the promotion of purposes of the Municipal Land-Use Law set forth in N.J.S.A. 40:55D-70d(1). The Planning Board finds that the approval would help promote purpose a., "to encourage municipal use to guide the appropriate use or development of rural lands in the State, in a manner which will promote the public health, safety, morals and

general welfare” and g., “to provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to the respective environmental requirements in order to meet the needs of all New Jersey citizens.”

The Applicant’s raising of chickens is not a commercial venture. Eggs are donated to the church food pantry and distributed to those in need which does help promote general welfare. The Board is mindful of the limited nature of the operation. If the Applicant had a number of pet dogs at the property, the impact from noise and animal waste would in all likelihood exceed that which could be produced through the keeping of eight chickens in a fenced enclosure. The chickens are considered pet, although the Ordinance treats the chickens as farm animals and therefore keeping them is a prohibited use.

In addition to special reasons, the Applicant must demonstrate that the variance may be granted without substantial detriment to the public good and without substantially impairing the intent or purpose of the Zone Plan and Zoning Ordinance. The Board finds that in view of the limited nature of the operation, there would be no substantial detriment to the public. The chickens will be kept in a fenced enclosure. There is a significant setback from the property lines and a significant setback from any adjoining residence. There is a tree-line buffer along the right (closest) property line and a vacant area with a width of 30’ on this adjacent parcel. The home on the lot is to the rear, located on the far side of the lot, and there is a garage on that lot which provides a buffer.

The Land Use Board therefore finds that there would be no substantial detriment or impairment of the intent and purpose of the Zone Plan and Zoning Ordinance through an approval of this application.

The Planning Board does therefore find that the Applicant has provided proofs to be entitled to a variance to keep a maximum of eight chickens (no roosters) in a fenced enclosure on the Applicant’s parcel with there being no sales of eggs permitted.

This approval is subject to the following terms and conditions:

1. Payment of current fees, taxes and escrows.
2. Approval of any other governmental entity having jurisdiction in this matter.
3. The number of chickens is to be limited to a maximum of eight. There are to be no roosters kept on the property. All chickens are to be kept in the fenced enclosure as depicted in Applicant’s plans and photographs submitted with the application. The fenced enclosure is to be kept in good condition. All waste products are to be composted or disposed from the site.
4. There is to be no sale of eggs and a commercial farm operation is not authorized or approved.

Resolution 014-13 Application 002-12 J&E Auto – Site Plan Deemed Incomplete 9/9/13

It is noted that Mr. Heredia was not present to vote on the completeness of this application at the September 9, 2013 meeting.

A motion was made by Mr. Alpaugh and seconded by Mr. Sauchelli to approve of the resolution as presented. The roll was called, and the resolution was approved by the following vote:

Ayes: Mr. Alpaugh; Mr. Frank; Mr. Gallarano; Mr. Gorman; Mr. Sauchelli; Mr. Gangemi
Nays: none
Abstentions: none

WHEREAS, J & E Auto, LLC (hereinafter known as the ("Applicant")) has made application to the Township of Mine Hill Planning Board, (hereinafter known as the “Planning Board”) for site plan approval together with variances for the operation of a used car business,

WHEREAS, the application was presented for completeness review at the regular meeting of the Planning Board held on September 9, 2013 at which time the Planning Board rendered its decision, and

WHEREAS, the Applicant received a use variance approval from the Mine Hill Township Planning Board on June 19, 2013, memorialized August 5, 2013, authorizing the operation of the used car business subject to site plan approval, and

WHEREAS, the Planning Board and the Township Planning Board on September 9, 2013 reviewed the report dated September 4, 2013 of its engineer and planner, Paul Sterbenz, and determined that the application as presented was not complete based upon the comments set forth therein under section “Comments, Item 1, A-L,” and

WHEREAS, the Applicant and Board determined that the conditions could be satisfied in time for the next regularly scheduled meeting on October 28, 2013 and a completeness review conducted at that time and, if the application be deemed complete, a substantive hearing be conducted,

NOW, THEREFORE, BE IT RESOLVED that the Planning Board of the Township of Mine Hill does hereby deem the application incomplete for the reasons set forth in the report of Paul Sterbenz dated September 4, 2013, a copy of which is annexed hereto. The Applicant may submit the required items and a completeness review may be scheduled for the October 28, 2013 hearing. If the application is found complete, a substantive hearing may take place at that time. The Applicant is authorized to notice a hearing for that date.

COMPLETENESS REVIEWS

Application 002-12 J&E Auto

Mr. Sterbenz reviewed his memo dated October 24, 2013.

Item 2c of Mr. Sterbenz’s memo regarding the location of the water main has yet to be addressed; where water service comes from is part of the checklist. Mr. Sterbenz noted the importance of having this location shown on the plan. Discussion followed regarding whether or not that would be substantive enough to impede completeness at this time. Mr. Sterbenz noted that his technical review will be available prior to the November meeting. Mr. Fox added that he just received Mr. Sterbenz memo and agrees that the Board needs to know where the water line will enter the property.

Mr. Haggerty will research whether or not the applicant is required to apply to DOT for ingress/egress approval before completeness can be granted. Mr. DeAngelis agreed that the answer to this question is important to being prepared for the November meeting.

Mr. Haggerty provided case law where it was held that when the zoning board heard the initial use variance application and only members eligible to hear the use could hear the site plan; Mr. Morris and Mr. Willis will not be able to hear the site plan on this application.

The application will be deemed incomplete pending receipt of the location of water service from the applicant. A motion to do so was made by Mr. Alpaugh and seconded by Mr. Frank. The roll was called, and the motion was carried by the following vote:

Ayes: Mr. Alpaugh; Mr. Frank; Mr. Gallarano; Mr. Gorman; Mr. Heredia; Mr. Sauchelli; Mr. Gangemi

Nays: none

Abstentions: none

Mr. Heredia noted concern over the continuation of operations during the site plan approval process.

Application 002-13 John Curry

The applicant was not present.

Mr. Alpaugh made a motion to deem the application incomplete as the applicant is not present and did not provide the required materials. The motion was seconded by Mr. Frank. A listing of specific deficiencies will be included in a resolution for next meeting.

Ayes: Mr. Alpaugh; Mr. Frank; Mr. Gallarano; Mr. Gorman; Mr. Heredia; Mr. Sauchelli; Mr. Gangemi
Nays: none
Abstentions: none

Application 003-12 Milelli

Mr. Milelli's attorney, via email, requested an extension of the window in which to submit a site plan for review. Discussion followed. Mr. Alpaugh made a motion to grant an extension until the Board's next regular meeting on November 25, 2013. The motion was seconded by Mr. Gorman. The roll was called and the motion carried by the following vote:

Ayes: Mr. Alpaugh; Mr. Gallarano; Mr. Gorman; Mr. Heredia; Mr. Sauchelli; Mr. Gangemi
Nays: none
Abstentions: Mr. Frank

NEW & OLD BUSINESS

Mr. Alpaugh discussed the need for further review of the land use chapter. Following discussion, it was concluded that the board's "homework" would be to read the definitions section and suggest revisions at the next meeting. It was noted that new land use ordinances could no longer be introduced until next calendar year.

OPEN TO THE PUBLIC

None at this time.

CLOSED SESSION

A motion was made by Mr. Alpaugh and seconded by Mr. Frank to enter closed session for the purposes of discussing a potential matter of litigation. The roll was called and the motion was carried by the following vote:

Ayes: Mr. Alpaugh; Mr. Frank; Mr. Gallarano; Mr. Gorman; Mr. Heredia; Mr. Sauchelli; Mr. Gangemi
Nays: none
Abstentions: none

The Planning Board entered Closed Session at 9:10 pm.

Upon motion made and seconded, and a voice vote of all ayes, the Planning Board returned to Open Session at 9:28 pm.

6-2013-10-28

MINUTES OF THE MINE HILL PLANNING BOARD
REGULAR MEETING – October 28, 2013

ADJOURNMENT

There being no further business, a motion was made by Mr. Alpaugh and seconded by Mr. Gorman to adjourn the meeting at 9:29 PM. The motion was approved by a voice vote.

Respectfully Submitted,

Amanda G. Macchia, RMC
Mine Hill Municipal Clerk
Board Administrative Clerk

Approved on this _____ day of _____, 20____

Planning Board Chairman