

VOORHEES TOWNSHIP ZONING BOARD OF ADJUSTMENT MINUTES JUNE 11, 2015

The Vice Chairman called the meeting to order and stated it was being held in compliance with the "Open Public Meetings Act" and has been duly noticed and published by law"

ROLL CALL

PRESENT: Mr. Weil, Mr. Cohen, Mr. Leoncio, Mr. Daddario, Mr. Quraishi, Mrs. Sytnik, Mr. Cupersmith, Mr. Stuart Platt, Esq (Gala Application), Cherlynn Walters, Esq –Platt and Riso, Doug Rohymeyer –board engineer from CME

ABSENT: Mr. Senges and Mr. Willard

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APPROVAL OF MINUTES:

May 14, 2015: Motion to approve the minutes by Mr. Cohen; Seconded by Mr. Weil; Abstentions: Mr. Cupersmith and Mr. Daddario. The remaining voice vote was in favor

ANNUAL REPORT -2014: A motion to approve by Mr. Cohen; Seconded by Mr. Quraishi; the remaining voice vote was in favor.

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APPROVAL OF RESOLUTIONS:

BHATT: A motion was made by Mr. Weil; Seconded by Mr. Cohen; Abstention: Mr. Cupersmith and Mr. Daddario; the remaining voice vote was in favor.

PARKER: A motion was made by Mr. Cohen; Seconded by Mr. Leoncio; Abstention: Mr. Cupersmith, Mr. Daddario and Mrs. Sytnik; the remaining voice vote was in favor

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CORRESPONDENCE: NONE

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OLD BUSINESS:

GALA

Block 213.071, lot 23

9 BURNHAM DRIVE

This application is continued from the hearing of May 14, 2015. Mr. Stuart Platt –the board solicitor handled this case this evening from Platt and Riso. Mr. Daddario did not participate in this application.

Mrs. Gala was present this evening. Her son was present as well. He stated that he has power of attorney and wanted to testify in place of his father. His father had surgery on his throat. The board solicitor stated that the power of attorney does not come into play for the testimony in place of Mr. Gala. The son was asked if he was an attorney and he stated, not yet. Mr. Platt explained that the power of attorney you do and cannot use here. He disagreed; Mr. Platt told him he could speak at the public portion.

Mr. Platt asked Mrs. Gala if they came to some agreement. She stated that they had a 2 hour meeting and Mr. Senges was the mediator, which they felt that was a conflict of interest due to the fact that he is the Chairman on the zoning board. The board solicitor stated that he recused himself and was not active on this case and was able to handle what he was handling with his job in his capacity. Mrs. Gala felt that there was no mutual respect; and she cannot be doing anything for them-the buyer she was referring to.

Mr. Platt stated that there was then no resolution. Mrs. Gala went to all her neighbors and they are present this evening in support for their application-she went and spoke with them all. They have lived there for 35 years and have been good neighbors and the patio was never an issue. Mrs. Gala stated

that she has seen other patios like theirs to a lot of other people and she is asking for the granting of the variance.

OPENED TO THE PUBLIC:

Rishi Gala (son)

1308 White Horse Road

He was sworn in for the application. He stated that he was the one that executed the contract to sell the house to the buyer. He stated that the patio was done over 10 years ago. He stated that none of his neighbors have ever had an issue. He felt that the variance should be granted due to the fact that the patio has not created water or soil erosion-it improves the property. He stated that the way the grading of the property –the way was contoured-it protects the soil from erosion. He understands the patio is 5 ft from the side yard. He stated that he felt he wasn't sure and everyone else was on the same page as far as the fact that no one is clear of what the buyer wants. He would like the board to grant or not grant the variance-it is simple. Mr. Platt asked if he grew up in this house and wanted to know when this patio was put in. He stated that patio was done in thinking no permit was needed back in 2004 or 2005. Mr. Gala wanted to put on record that he felt Mr. Senges was totally inappropriate-he felt that Mr. Senges was letting their buyer know that they may have a further financial obligation/liability to the buyers. Mr. Platt stated that by him bringing this up –he is creating an issue that it is not an issue. The board solicitor stated that he was not in the wrong; he recused himself from this case. Mr. Platt stated that he is not hear to defend himself-it is irrelevant to this issue. Mr. Gala stated he still wants this on record and recorded.

Mr and Mrs. Berman (new buyer of 9 Burnham Drive)

She stated that they were informed of this issue at the 11<sup>th</sup> hour of before closing. They came to find out-it was discovered upon c/o inspection. They have documentation and research that they obtained with different dates and information to be submitted into evidence. She submitted exhibits that Mr. Platt marked in for the record:

First page is the zoning permit –patio and then a subsequent permit for the fountain. June 30, 2014-one page-Mr. Platt stated to show it to the applicant-P1

Application for the fountain dated 7/2/2014-that was in the center of the patio-that was one page-P2

Survey with the fountain –P3

Zoning permit denial –one page dated 7/3/2014 –P4

Letter dated July 8, 2014-the letter sent to the Gala's stating their denial-P5

Mr. Weil asked when the settlement happened-April 15, 2015

Conformance inspection report dated 3/24/15 indicating that the patio was still there and they failed inspection P6

Mr. Cupersmith asked when she got all of her exhibits in her possession-Mrs. Berman contacted the office and filled out a form to obtain

Temporary c/o that they signed upon closing-dated April 15, 2015-P7

Survey that she has –which she felt was a more accurate depiction of the patio-dated March 24, 2015-P8

She had copies for the board.

Mrs. Berman made a timeline to illustrate the order for the board. The seller submitted a permit for the patio and then the fountain –the 3<sup>rd</sup> exhibit is a survey that does not patio-did not show the issues with the access to the patio. There was a denial (p4). The July 8<sup>th</sup> which was the notice to them indicated that they were denied for non-compliance and the notice stated that they were to amend the application or meet the ordinance of the setback requirements and resubmit or apply for a variance. Mr. Weil asked when she first looked at the house-in the winter-January or February in 2015. Mrs. Berman stated that the disclosure statement that they received dated January 18<sup>th</sup>. The important piece that she had that she highlighted for everyone is a handwritten note that says 8/22/14-informed Wendy he removed. In obtaining all the documents-there was a conversation between Wendy Flite and

the previous owner –she was told it was removed-which in fact it has not been. The next item she pointed out was dated March 24, 2015 (p6) had failed and said patio still there and that was what put this all in motion. Mrs. Berman stated that on March 30<sup>th</sup> –that is the application of the actual variance that was submitted to the board. Mrs. Berman stated that all of this happened in the summer prior to them entering into any arrangement. She stated that when they signed the c/o they felt that they were backed into a corner, their other house had already closed 2 wks. prior. An escrow check was submitted in order to hold until all of this is resolved. Mrs. Berman stated that they had a meeting on May 25<sup>th</sup> in the evening. Mr. Platt just wanted to know if the parties were not able to come into an resolution-Mrs. Berman stated that it is partially true-she stated that when all said and done, after much discussion-Rishi asked if they wanted the patio removed? They all agreed and they said please remove it and he said that he was going to be the one to remove it. The Berman’s said that was not acceptable, they wanted a licensed contractor with insurance, etc. and then this is where the meeting ended. He indicated that he would rather tie up the money with lawyers then to allow us to have. Mr. Platt stated that there is no agreement. Mr. Platt stated that he will instruct the board that all the transactional issues that you claim-they are all irrelevant to the board. Mr. Platt stated that from the zoning board standpoint-have the applicant’s met their burden of proof to establish by hardship, C2 variance –which they should get the approval for 15 ft. Mr. Platt stated that he is not going to get the board into a dispute.

Mr. Platt asked her if she was against having the patio to remain-the variance. and she stated that she was opposed. Mrs. Berman stated that she wanted the repairs made-Mr. Platt stated that is not going to happen.

Mrs. Berman wanted to let everyone know she does not have any malice. Mr. Platt stated that there is no malice, it’s a land use standpoint. Mr. Cupersmith asked if they did their due diligence-no research prior to 3 days prior-on your own. Mr. Cupersmith stated what about a home inspection. The home inspector stated that he does not get involved –it is not in the house-he is about the home itself.

Mr. Gala did not know he needed a permit for the paver patio. Inspector who looked at the patio said it was a landscaping feature –no need to worry. They had a lamppost and a fountain-it was connected to the gfi in the basement-they had it all removed.

Mr. Weill asked when he put the house on the market-right after thanksgiving in the year 2014. He listed with a realtor-he asked him to make sure he has all the permits in place. They were the first people that put in an offer and no one else put the interest of purchasing their home, other than Mr and Mrs. Berman.

Rishi called Mrs. Berman –to let her know before the inspector came around –he pointed out to her that this may come up and be an issue-to be removed or handled that they did not have an issue. He stated that it is about the variance if it is okay with the board it will remain, if not approved, they will remove it.

#### CLOSED TO THE PUBLIC

The Vice Chairman brought it back to the board for a motion. A motion was made by Mr. Weil to approve the as built patio as is; Seconded by Mr. Quarishi.

#### ROLL CALL VOTE:

AYES: Mr. Leoncio, Mr. Quarishi, Mrs. Sytnik and Mr. Cupersmith

NAYS: Mr. Cohen (felt no proof), Mr. Weil (uneasy about the application)

The vote was 4 in favor and 2 against; the application is approved.

#### KHMER BUDDIST TEMPLE

1234 Haddonfield-Berlin Road

BLOCK 262 LOT 6

The application is for Preliminary and Final Site Plan for the temple. Cherylynn Walters had all the professionals come up to be sworn in for testimony. Peter Nong-project manager, Henry Haley, P.E. Consulting Engineers, Jim Vena, Schropshire-the traffic engineer, Brad Barker, AIA, Architect and James Miller, the planner.

The applicant's attorney present was Robert Baranowski, from Hyland and Levin in Marlton. He stated that the use was approved in October of 2014 with a concept plan. They are before the board this evening with their site plan for Preliminary and Final.

He stated that he would have Peter Nong speak and give information on the temple itself. Mr. Nong stated that they estimate to have about 300 worshippers. There would be 10-20 visits a day to the site during weekdays and 50 visits on the weekends. There is no registry at their temple, like some churches so they are estimating about 200 people total. Mr. Nong is a mechanical engineer by trade. He stated that there are 8 monks but only 3 that are associated and living in the house in the front of the temple. The monks use the temple 2-3 hours a night for prayer and the 2nd floor is where you would worship. The monks have to have their meals always prior to noon time; there is no noise. Worshippers visit the monks and bring them food before noon. The ceremony building will be used for major holidays with tables and food; the people gather to eat.

The architect, Brad Barker testified and described the gates of entrances. The designs on the gates have an enormous significance and there would be one for the entrance, one for the pedestrian walkway and one for the exit. The building material will be of stucco, clay tiles and concrete. The monks build the statues and decorative items on the walls themselves. He submitted an exhibit A-4 and A-5 which are the pictures of the two gates to be used along the front wall. Brad stated that both gates will be 19 ft tall and 16 ft wide and the overall gate structure will not exceed 35 ft tall. He stated that gate A would be constructed at the loop road driveway entrance and exit and Gate B would be in the center access that would put you near the meditative gardens and at the existing driveway to the monk's house. The wall will be a block wall that will be 6 ft tall and 8 inches in width. The busiest days of the year for them (3 high holy days) would be New Years in April, Ancestors day in October (normally) it goes by the lunar calendar and Kathina which is in October/November and is determined by the lunar calendar.

They asked what happens on the holy days. There is the time for prayer, blessings and the social and there could be up to 300 people; Mr. Nong stated that once the temple is built, they can't expand-so they need enough space now; the temple is based on the architectural lines and sculptures. There are no weddings held there or funerals. Mr. Weil stated that the temple is new and so beautiful-will it draw people to go there rather than say where they attend now. Mr. Nong stated that you stay where you live and belong initially. The temple is two floors. The first floor would fit 146 and upstairs would be approximately 60.

James Vena, P.E. the applicant's traffic engineer from Shropshire testified regarding the traffic. He reviewed his report with the board and assumed 20 trips in and 20 trips out during the peak hours and assumed the peak times for this site were the same as the peak times for Haddonfield/Berlin Road. He stated that there are no set worship times with this Temple and he considered the worst case scenario in order to be on the conservative side. The southern egress drive from the site would be a LOS A. Mr. Vena also stated that he spoke with Camden County Planning Board and has indicated that they think the use is relatively low impact and they will not be requiring additional right of way dedications, a traffic light or a left hand turn lane. He stated that the ingress and egress driveways will operate at an acceptable LOS and as a result will be a minimal level of impact on traffic. Mr. Vena felt there would not be an issue with Lippard Avenue.

Mr. Miller the applicant's planner stated that this application satisfied the C1 hardship-it would be difficult to relocate the parsonage; it is a pre-existing non-conforming. There is a balance and meets the C2 criteria. The bulk relief is appropriate for this use to allow the building to be used for a residence for monks. The purpose of the MLUL is to advance public welfare. It is a religious use; it is a design itself; it provides adequate open space, desirable environment and aesthetically pleasing. It is a better zoning alternative. They are asking for a wall which is a critical component of the Cambodian Buddhist religion-there is a symbolic and design significance. There cannot be a temple without the wall and wall has to be straight. The location of the residence has to be within close proximity to the street forced the wall location to be 35 ft from the right of way. The variances he felt promoted purpose of the MLUL in the religious use and the designs and site improvements promote the public morals and general welfare. The applicant is going to provide extensive landscaping on site with the meditative gardens; there will be a 35 ft wide perimeter tree buffer. The flagpoles have a significant impact for their temple and there is no external impact.

The board went over the Voorhees Environmental Advisory Board memo and there was a suggestion by them to research and make sure there was no pesticides, etc. on the property. There was concern to about disturbance and airborne contaminants and particles who it can potentially impact the people

who working on site and the neighbors downwind/downstream. Also concern of maybe leaching into the soil, maybe impacting the ground water. Cherylynn stated that if there was an existing well –we could sample the water there-test the water and see what that shows-she stated that there is no well so this is off the table. She stated that she knows the Environmental board is an advisory board-we have our engineer stating that there is aerial photography that shows a farm. The applicant is stating that he respects the aerial photography but you can't exactly determine whether or not there was an actual farm or whether it was a planting that lead to the forest that is there now. If the board wants this requirement and the samples come back positive for contamination-what is the next step? She felt that Mr. Rohymeyer stated may be a site safety plan. The applicant's attorney stated that the memo was beyond sampling-it was beyond heavy metals, pesticides, lead and arsenic. Mr. Baranowski stated that the sampling, you don't even know what the protocol would be? What levels? There is no ordinance? Cherylynn asked Doug. Doug stated that you can't skip level 1 and go to level 2. The applicant agreed not to export top soil-it relates back to the issue if there is any arsenic or anything-you don't take the top soil off site-they want the soil to stay on site. There are ways of keeping there-there is a wide open area. The amt of trees –the pollutants you are speaking of –they are contained within the soil-if there is on the top 12 inches of soil (Henry Haley was shredding light on this topic). They do not leach into the ground. The standards are very particular-if you are doing sampling for 15 acres-you are talking about 5-6 samples –throughout the whole area-it is a hit or miss potential; it's not an exact science. If you do have something significant –you would have to remove all the trees to take care of it. Cherylynn went over the onsite septic system-possibility of soil contamination-this would be Camden County Board of Health-if VEC really wanted more information-there may be something on file with that department. The attorney stated that he practiced land use and environmental –it is his preference-there are so many cans of worms that open up-where you are selling a property. This community is so strapped to keep this project on track financially and do this for speculative reason-he doesn't see that something would come up. Cherylynn stated the aerial photography-comes down to if the zoning board feels there is a basis for this or not. Mr. Barowsnowski wanted to look for his photos-if you look at the photos and you go back to the 30's –every single property may have been a farm at some point-either everyone does it or not. He understands the board's concern. Mr. Rohymeyer read into the record his firm's review for the Environmental Board.

BREAK FOR 10-15 MINUTES

They wanted to figure out where to and how far you go with testing. Mr. Baronowski stated that they are going to get another 100 trees onto the site-they will put them everywhere they can find-does not allow for offsite planting contribution as well. Cherylynn read into the record the compensatory trees and the definition-they want to commit and will work out with the board engineer-Doug from CME.

Cherylynn wanted the material for the cupola itself –do you know what that is going to be –same as the building. Mr. Baranowski stated that the if there was any orchard use at this property and if any pesticides applied –it would have been directed towards the front of the property-if there were any spots that needed to be addressed the area would have to be cleared in order to blend the soil. The attorney stated that they will do a safety plan and submit it to the board engineer for his review.

OPENED TO THE PUBLIC; SEEING NONE THE PUBLIC PORTION WAS CLOSED

A motion was made to approve the temple by Mr. Weil; Seconded by Mr. Daddario

ROLL CALL VOTE:

AYES: Mr. Cupersmith, Mr. Cohen, Mr. Weil, Mrs. Sytnik, Mr. Daddario, Mr. Quraishi and Mr. Leoncio

NAYES: None

With the following conditions:

Variance to permit a front yard setback to the wall of 35 ft where 100 ft is required

Variance to permit a buffer to adjacent home and or zone for the location of the wall which is located 35 ft where 50 ft is required

Variance to permit the front yard setback for the existing home (Monks home)of 36.4 ft to the right of way and 29.4 ft to the roadway easement where a minimum of 100 ft is required

Variance to permit 4 flagpoles where one is only permitted

The one way drive aisle shall be 18 ft wide –the distance at the access gates shall be 16 ft wide

Comply with the board’s engineer letter-CME of May 28<sup>th</sup> and June 2, 2015.

Will comply with Churchill Associates (sewer engineer) review letter dated June 8, 2015.

The applicant to be permitted to have 3 vehicular access drives on a public street where 2 are permitted

There shall be no loading area-they have garbage like you would have at your home

The applicant shall provide curbing at the parking areas –there will not be a curbing along the driveways

The applicant agreed that there will be no living spaces or sleeping quarters in the garage area.

The applicant agreed to comply with the compensatory plants requirements by replanting 381 trees on site. If they cannot respond to this condition, the applicant agreed to work with the township engineer to replant off site up to the total number of trees.

The applicant has submitted paperwork regarding the improvements to the adjoin paper street (Lippard Avenue)-they have asked Township Committee for relief/waiver to improve this street.

The applicant agreed to give Doug Rohymeyer a copy of the final Camden County Board of Health approval/sign off when the existing onsite septic system is closed off.

They agreed not to export any of the topsoil from the site.

The will comply the conditions the Voorhees Fire District dated June 2, 2015.

The applicant agreed to conduct soil testings for pesticides, Arsenic and lead that came from a conversation of a memo produced by the Voorhees environmental board’s review. The board engineer stated that there was an aerial photo and seemed to be an orchard and felt it would be to the best interest to the applicant; if there was left any contamination on site.

The board solicitor stated that the motion carries 7-0 and the application is approved. The board solicitor went over the resolution and when it will be done and the 45 day rule.

The applicant and staff thanked the board for the approval; very excited to start their temple.

The meeting was adjourned,

Respectfully submitted,

Valerie S. Marchitto, Board Secretary