

BOROUGH OF TUCKERTON LAND USE BOARD
August 15, 2019

In accordance with the provisions of the Open Public Meetings Act, Calvin Morey opened the meeting of the Tuckerton Land Use Board on Thursday, August 15, 2019, at 7:00 p.m. in the Tuckerton Borough Hall.

FLAG SALUTE: Calvin Morey led the flag salute.

SUNSHINE STATEMENT: Carol Sceurman read the provisions of the Open Public Meetings Act.

ROLL CALL:

Members of the Land Use Board in attendance were Mayor Marshall, James McAndrew, Keith Vreeland, Joan Rosenberg, Greg Brojack, Tom Hennaut, Don Rocheskey, Wayne Tonnesen, Calvin Morey; Robert Rue and Peter Gioiello were absent.

MINUTES:

Jim McAndrew made a motion to accept the minutes of the July 18, 2019 meeting as written. Keith Vreeland seconded the motion. On roll call, all voted yes. The motion was carried.

INVOICES

T & M Associates totaling \$917.00

7/3/19	FMK368937	OCEAN Inc, B 49, L 5	308.00
7/3/19	FMK368938	Welsh, B 8, L 11	455.00
8/1/19	FMK370736	Tuckerton Land Use Bd. (Meeting w/Liability Training)	154.00

Woodland, McCoy & Shinn totaling \$900.00

8/7/19	66109	General Board Representative-July	850.00
8/7/19	66110	Welsh, B 8, L 11	50.00

A motion was made by Tom Hennaut and seconded by Keith Vreeland to approve the payment of bills on the availability of funds. On roll call vote, all members agreed. The motion was carried.

NEW BUSINESS

DETACHED GARAGE WITH BULK VARIANCES
NICOLE WELCH / 103 3RD AVENUE
BLOCK 8, LOT 11

Robert Shinn asked the following exhibits be entered into evidence:

- B-1 Engineering letter prepared by Mark Rohmeyer dated June 20, 2019
- A-1 Nicole Welsh's application dated June 4, 2019
- A-2 Application notices which are in order
- A-3 Plan of Survey, Block 8, Lot 11, prepared by Land Line Surveyors (3/24/16), John M. Lis
- A-4 Variance Plan, Block 8, Lot 11, updated and color coded, prepared by the applicant

Charles Cunliffe, filling in for Land Use Engineer, Mark Rohmeyer, was sworn in and recognized as an expert in his field by the Land Use Board. The applicant, Nicole Welch, 103 Third Avenue, Tuckerton, NJ 08087, was also sworn in by Robert Shinn.

Mr. Shinn advised the applicant, since she is not being represented by legal counsel or an engineer, Land Use professionals will be leading her through the issues.

Ms. Welsh addressed the board. She is asking for a hardship variance, as shown on Exhibit A-4, for a 24' by 12' garage on the side of her property to address the following violations:

Accessory side yard setback – 5 feet provided to garage, where 10 feet is required.

Accessory side setback from principle building – 7.4 feet is proposed where 10 feet is required.

Mr. Cunliffe asked if there are any other utilities present besides the gas service that is shown on the survey. Ms. Welsh said the property is serviced by water and sewer, which is the only change from the original rendering. There is no well or septic on the property.

Ms. Welsh testified mature trees (White Oak, Red Oak, and Chestnut Oak), which they do not want to cut down, are creating the hardship and moving the garage to the opposite side of the house would still require variances. The house originally had an attached garage which the previous owners converted into living space, leaving them with no garage.

The use of the garage will not be for vehicles or fuel-driven devices. It will be used for utilitarian house storage such as patio furniture, mountain bikes, camping gear, small work bench, etc. They have a shed in the rear of the property for storage of their lawnmower, leaf blower, etc. Their only parking is on the asphalt driveway and extended gravel area.

Using the pictures she provided, the garage door would be facing the southerly direction. It is an Amish-style, 12' high prefabricated structure which will have a gravel pad. They put in a row of evergreen trees in the rear and side of the property.

Regarding grading, the driveway drains to the street. In the rear there is a small pitch. They would have to level out the pad for the proposed garage. Mr. Cunliffe asked, if the variance was granted as proposed, would they be able to grade the gravel around the garage to a 1 or 2% pitch to the street to avoid draining on the neighbors' property. She agreed.

She was asked to speak to some of the adjoining properties regarding structures and setbacks. Ms. Welsh said the setback from her property line to the house on Lot 9, which faces Route 539, is approximately 100 feet. She spoke to the neighbors at Lot 9 and 10; neither had a problem with the proposed plan.

Mr. Cunliffe asked for information regarding the existing fencing. Ms. Welsh testified the existing 6' wooden stockade fence is hers. The neighbors own the 4' chain link fence and the 6' vinyl fence. They were planning to extend their wooden fence in front of the chain-linked fence to provide screening.

Mr. Cunliffe asked, if the board granted this variance, does she feel they could grant this without any detriment to the neighbors' air, space and light? She said she does, adding it will improve the upkeep and appearance of the property. The garage color will match the house and it will also act as a screening buffer between their property and the neighbor's. They plan on parking two cars in the driveway.

Mr. Cunliffe asked if she thought the granting of the variance would not have an impairment to the Zone Plan or the Master Plan of the Borough of Tuckerton. She said she did not believe it would.

Mr. Cunliffe addressed the board. The main thing to consider is the applicant is trying to preserve the mature trees on her property. The applicant could remove the trees and shift the structure to the north and west to achieve a 10' setback and eliminate the issue with the setback to the principal structure.

Mr. Shinn advised the criteria for granting the variance from our ordinances. The board must agree that granting these variances by deviating from the normal standards are in the best interest of the Borough of Tuckerton. The board must also determine she has established a hardship by not wanting to remove the trees.

The board members suggested several options for placement of the structure that would eliminate the need of one or both of the variances, causing minimal damage to the trees. Mr. Vreeland advised, another option would be to make it attached to the principal structure with a pergola, which would eliminate one variance.

Mr. Vreeland, a professional architect, advised that the building code as well as our zoning ordinance requires more than the 6" gravel bed for structures larger than 100 square feet, despite what the company that sold her the garage told her. He recommends she talk to the Zoning Officer before the garage is delivered.

Mr. Vreeland said the reason for 10' side setbacks from the adjacent structures is the fire code. If their neighbor put up a shed adjacent to this proposed structure 10 feet from the property line, that would leave insufficient space for emergency equipment. It could also create a problem if a neighbor asks for the same variance.

Jim McAndrew, the Code Enforcer, agreed with Mr. Vreeland. Once a structure is over 100 square feet, it becomes an accessory building requiring a different application regarding the building code. Ms. Welsh said they would conform with whatever was required.

Mr. Hennaut said he would rather see the structure attached.

Mr. Cunliffe said since it would not be used as a garage, it could be relocated to the northwest corner of the property, which would eliminate the need of any variances. Ms. Welsh, who is a landscape architect, said esthetically, that would not work with the setup of the landscape. Even though the vehicles will not be parked in the garage, esthetically it looks better with the gravel driveway. It would also be better for resale if the new owner wanted to use it as a garage.

Mr. Cunliffe asked if she would consider removing some trees and sliding the structure north or west to eliminate the need for a variance. She agreed that could be a possibility.

Mr. Cunliffe said the board expressed concern regarding fire issues and is trying to help her out eliminating the need for a variance. There is one clear opportunity to move it to the north west part of the property and still get the same intent out of it. The second option is to shift it three feet back to the north, eliminating the setback to the principal dwelling, and the third option shifting it north and west, by removing four trees, to eliminate both variances.

Mr. Shinn agreed. The question the board needs to consider is granting a variance when the plan could be conforming.

Mr. Vreeland suggested moving the garage forward 6', placing it between two trees, creating a 7' side setback, and a 5' space between the house and the proposed garage. The addition of a pergola would make it an attached structure, eliminating one of the variances. Mr. Morey said that would also give the applicant enough room to put the required foundation under the garage.

Ms. Welsh said she would agree to that plan.

Mr. Shinn said, as per the applicant's earlier testimony, cars, recreational vehicles and other fuel-driven devices would not be stored in the garage. Should the variance be approved, those conditions will be placed in the resolution.

Mr. Tonnesen asked if the building would be supplied with power. Ms. Welsh said they would probably have electricity for lighting. She agreed utilities would be limited to electricity and it would never be converted into living space. Mr. Shinn advised, these conditions will also be placed in the resolution.

Public Portion was opened. There being no comments, Public Portion was closed.

Mr. Vreeland made a motion to grant a variance for 7' side setback where 10' is required, with all the conditions agreed upon. (Attaching the garage to the house via a pergola eliminates the need for a variance for an accessory side setback from principal building). Mr. Hennaut seconded he motion and on roll call vote, all members voted yes with the exception of Wayne Tonnesen who voted no. The motion was carried.

Mr. Shinn advised the applicant he will draw up a resolution which will be forwarded to her. The board will vote on that resolution at their September meeting. The construction process can then begin but advised her to be sure to consult with the borough building officials to find out what kind of foundation is required for the proposed garage.

Mr. Cunliffe added, if the applicant or a future property owner should remove the pergola, they would need to come back to this board for granting a variance for separation between the principal dwelling and the garage and also the side yard setback.

INFORMAL DISCUSSION

Keith Vreeland reported on the Historic Preservation Commission. They received feedback from the state regarding our CLG which includes making slight modifications to our ordinance. They are minor changes that should not affect this board. Hopefully, within the next few months, we will be able to make full application for the CLG.

ADJOURN

There being no further business, a motion was made by Jim McAndrew, seconded by Joan Rosenberg and unanimously agreed to adjourn the meeting.

Respectfully submitted,

Carol Scurman
Land Use Board Secretary