

**Borough of Peapack & Gladstone
Land Use Board**

July 20, 2016

Opening Statement: Adequate notice of this meeting of the Land Use Board of the Borough of Peapack & Gladstone was given to the Courier News on January 7, 2016 and was posted at the Municipal Complex, 1 School Street, Peapack; The Peapack Post Office, 155 Main Street, Peapack; and the Gladstone Post Office, 266 Main Street, Gladstone, New Jersey on January 13, 2016. – read by Chairman

Salute to the Flag

Roll Call:

Present:

Greg Yannaccone, Chairman
Mayor William Muller
Stephen Neville, Vice-Chairman
Joan Dill, Class IV
Kingsley Hill
Mark Corigliano, Councilman
David DiSabato
Chris Downing
Susan Rubright
Judy Silacci, Alternate # 1
Peter Sorge, Alternate # 2
James Heck, Alternate # 3
Lisa Saunders, Alternate # 4

Also Present:

Roger Thomas, Esq. Board attorney
William Ryden, Borough Engineer
John Szabo, Borough Planner

Absent:

None

James and Amy Stull – Bulk Variance – Block 9, Lot 5, – 5 South Street – Application No. 2016003
Construction of an Accessory Garage Requesting Front Yard Variance, Building Coverage Variance & Height Variance. The application was received 5/5/16 and deemed complete 6/29/16. The time for action by the Board is October 27, 2016.

Stephen Neville advised the board that he had met the Stulls socially but felt that he could hear the application; Joan Dill advised that her son lives two houses down but feels that she can hear the application; Peter Sorge also advised that he knows the Stulls but feels he can hear the case. The Board attorney Roger Thomas felt there was no conflict with any of the three members.

Michael Zpdepski, architect was present representing the applicants. Mr. Zpdepski was sworn in by the Board attorney and accepted as an expert witness. Mr. Zpdepski explained the reasons that the owners have for proposing to demolish the garage that is presently non-conforming and then construct a new garage which will be located closer to the road. Mr. Zpdepski advised that the zoning schedule on the plan is incorrect and will be fixed. There is no need for a variance for the principal building coverage. 12% is allowed and 11.8% is proposed. The accessory building coverage is correct. The existing garage is too narrow and does not meet the code which includes the roof rafters. The building is 100 years old. The proposed garage will be 960 s.f. He described the configuration of the property; the right side angles in as

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the lot goes back to the rear. Trying to locate a place for the garage is difficult; moving it back gets it closer to the house which is not allowed.

The following exhibits were entered into evidence: **A-2 rendered sheet 2 of 3** and **A-3 - sheet 3** shows the proposed garage which is deeper than a normal garage. The proposed height is 20' rather than 15' which is permitted. He explained that moving the garage toward the rear would create an extremely long driveway which would increase the lot coverage. The plan submitted is the best alternative location. The cars that are currently parked on the outside would if approved, be parked in the garage. The board questioned the witness. He volunteered that no mechanical equipment would be located at the side of the garage closest to the property line and that a side yard setback variance would not be obtrusive to the neighbors. There will only be power going to the structure. The garage is slightly forward of the house. The height of the house is 30' currently. The Mayor Muller questioned the 20' height of the garage next to the 30' house. They advised that they will do something nice architecturally to the garage doors which face the street. Board member Rubright questioned the distance from garage – 27'. 21' is needed in order for two cars to stack. The architect does not want the house to be in line with the garage. He explained the new residential site code.

Public Portion – The board entertained comments and questions. Diane Becker - 9 Pleasant Hill - She advised that she has no problems with location but does have a problem with the vegetative waste being piled on her property by the owners. Chairman Yannaccone suggested that the rear property line be delineated by placing a silt fence on the line; this would prevent the dumping of the waste onto her property.

There being no further comments or questions from the public, the public portion was closed.

John Szabo, Planner advised that he has no comments on the application.

Joan Dill moved to approve the variance application with the condition of putting up the silt fence and authorizing the Board attorney to draft a resolution of approval; Kinsley Hill seconded the motion which was passed by the following roll call vote:

AYES: Mueller; Dill; Hill; Yannaccone; Neville; Rubright; Corigliano; Downing; DiSabato

NAYS: None

Bolio & Bolio – Certification Request – Block 28, Lot 15, 82

Main Street – Application No. 2016005. Request Board Certification as Pre-Existing Non-Conforming Use. Application received – 6/8/16, deemed complete on 6/30/16. The Board attorney will determine the time for action to be taken.

Mr. Thomas advised the board that the property owner list prepared by Peapack was incorrect and that Christopher Downing is not within 200' of the property. He also advised that this is not a 'd' variance and all of the members have the right to vote.

Lawrence Fox, Esq. was present and spoke to the board about the request for certification. It is a requirement of the purchaser that he has the use he assumes he is buying. Mr. Fox had a Title search done which was entered into evidence as **Exhibit A-1**. The search shows the first purchase by the family starting in 1926. Block 28, Lot 15 consisting of 1.35 acres and contains 5 different structures. Entered into evidence as **Exhibit A -2** was a Survey showing the 5 structures. The structures are of varying ages. Mr. Fox advised that he intends to introduce witnesses to verify the structures on the property. Mr. Fox explained that Ellen Bolio, widow of Michael Bolio moved there when married in 1952. #74 Main Street was built in 1957. Records were provided by the Borough of Peapack. All construction pre-existed prior to 1932. It was stipulated that the Bolios do own other properties.

Michael Peterson of 9301 Fairmount Way, Pa. was introduced as Mr. Fox's first witness. He was sworn in and testified to the following information. He met his wife Carol Bolio, daughter of the Bolio's in 1952; when married they moved to 2 Highland Ave. which was built in 1939 (formerly 82 Main Street). # 94 Main Street according to the 1950 records is a two family house which contains 2 apartments which were occupied by a doctor and a dentist each having their own living quarters and offices. Currently it is two

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living units; the professional offices are gone – all living quarters. # 76 Main Street is an unoccupied single family structure. In 2004 renovations were started and still not finished; no c. of o has been issued and the 2006 building permit has expired. They are not trying to re-occupy it.

They do own contiguous property but is not subject to the application before the board tonight.

78 Main Street – single family built in 1900.

80-82 Main Street is a 4 unit building built in 1939; it contains 2 shops down stairs and 2 apartments upstairs. In 1956 the shops closed. There are no records or permits on this.

The Board questioned how long the parking area has existed and how many parking spaces are on the property now. Peter Sorge asked about records on the number of units in the structures. Mr. Peterson advised that he only has knowledge going back to 1954 when Mrs. Bolio married Mr. Bolio. Greg Yannaccone explained that a certificate of occupancy is not required in Peapack. Mr. Peterson advised that there are 9 rental units on the entire property. The law only requires the registration of a structure with 3 or more rental units in it. Mark Corigliano questioned the number of registered units. Mr. Fox advised that the entire lot is in the Village Neighborhood Zone. The board questioned where the zone line goes thru this property. This question needs to be answered.

Public Portion-

Denise O’Callaghan residing at 4 Highland Ave. asked if there is a limit on the # of persons who can live in the apartments and volunteered that the parking lot was expanded by one of the tenants within the last 20 years.

Susan Rubright objected to the testimony of the witness. Mr. Thomas advised that the proof is the responsibility of the applicant. Mr. Fox advised that there is information but he was unable to copy it. There may be additional information that needs to be obtained. Mr. Fox clarified that the information is not available. Board member Rubright advised that there should be photographs available. She has seen photos when it was a commercial building. John Szabo offered information that is available by Sanborn Maps in which they identify buildings and properties. Mr. Fox has not checked with the County or looked into census data. Kinsley Hill asked when Zoning was created. Mr. Fox stated that the first zoning ordinance was 1932. Mr. Thomas advised that the definition of a unit and is beyond their responsibilities as a land use board. This may be a health code. An area with a separate kitchen is a living unit.

Mr. Fox asked for additional time to gather information after the testimony of Ella Bolio. Mr. Thomas swore in Ella Bolio who resides at 34 Parker Road, Chester NJ. She testified that she married her husband Michael, son of Angelo and Jenny Bolio, in 1953. They resided at 74 Main Street which was built in 1953; all the other buildings were in existence at that time. She does not know the age of the other structures. All existed in 1952 and were old structures.

Public Portion

Since no one from the public wished to question the witness, the public portion was closed.

Mr. Thomas advised Mr. Fox and the Board that the application for certification is not deemed complete and that the next meeting to hear the application is on August 3, 2016. Mr. Fox will contact the Secretary Ruth Spae when a future date is needed. Mr. Thomas then suggested to the board that the public portion be opened for comments.

Public Portion was opened for comments.

Diane VanDoren residing at 9 Highland Ave. expressed her concerns about the parking on Highland Ave and advised that she has many times been required to stop in the road when tenants backed out of the property onto Highland Ave. Her other concern was the maintenance of the property and that she has in the past sent a certified letter to the Bolio family about the maintenance. A response has never been received. She has also spoken to the Mayor and Council about the condition of the property. Mr. Fox commented that they are unable to maintain the property and that is why it is for sale and is presently under contract.

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Michael Ryan living in Morristown introduced himself as a son-in-law married to the other sister. They are trying to help the family. He has been a family member since 1977; he is not aware that the parking area has been expanded.

The public portion was closed since there were no other questions or comments.

Mr. Fox was advised to submit copies of title insurance and all documents for all of the members.

This hearing was carried to August 3rd.

Sutte – Use Variance Block 11, Lot 2, 8 Jackson Avenue Application No. 2016008

Seeking a use variance to convert a single family into a two family. R11 Zone

Application received – 6/27/16, deemed complete 6/30/16 Time for action by board – 120 days (10/28/16)

*Mayor Mueller and Councilman Corigliano left the meeting.

Stephen Neville advised that he knows the applicant but feels that he can hear the application without prejudice.

Kingsley Hill advised that he is familiar with the purchaser Mr. Joyce and has dealt with him in another matter. Lisa Saunders also knows the applicants. Mr. Thomas does not feel that there is a conflict with either Mr. Neville or Mr. Hill or Ms. Saunders.

Matt and Eliza Sutte were both sworn in.

Mr. Sutte provided packages to all the members of his testimony as **Exhibit A-1**.

He explained that they purchased a home at 8 Jackson Ave. 2008 when they moved there from Vermont. At that time the house was a two family home. Liza had lived next to the house as a child. They purchased the two family home in 2013 and made it into a single family house. The house still has two front and two rear doors. They have spoken with their neighbors who have no issue with the home being returned to its original status as a duplex. They contacted Michael Joyce who will renovate it back to a duplex. It is a mixed use area and they feel that the house fits in the neighborhood as a duplex. They had a letter but Mr. Thomas explained that a letter without the person who wrote it cannot be entered into evidence.

The Board questioned the witnesses. They asked if they had gone to the Borough to find out if they can do this. There was discussion about recreating a non conforming structure once it has been abandoned or removed. Mr. Thomas explained that once the non-conforming use is abandoned it is gone. The records in his package were obtained thru Michelle Hill, his realtor. The board asked if the information is accurate. The board went over the information submitted and tried to explain the proofs necessary to Mr. Sutte. The applicant suggested that it could provide housing for lower income persons. They rented one of the units for two years before purchasing it and turning it into a single family home. Stephen Neville questioned John Szabo about the age and use of the homes in the area. He will map them for the board but that in itself is not sufficient to grant a use variance. Proofs have to be submitted. John Szabo talked about the need for housing for various ages of persons and not just on income/economics; it is called “Aging in place.”

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Some of the board members concurred with the appearance of the home looking like a two family. House built in 1800 and the house next door also built in the 1800's. The Board would like to see where the other houses are on a map.

Public – Michelle Hill introduced herself as a Realtor for Turpin Realty and who lives in Gladstone. She has provided data on the surrounding area. It clearly looks like a 2 family home.

Andy Katchen – 47 Highland Ave. Mr. Katchen advised that he supports the application. It is common sense to allow it.

Brian Quinn 39 Mendham Road, Gladstone – neighbor of the Sutte's. He favors the conversion to a duplex.

Michael Joyce – lives in Bedminster and is under contract to purchase the home; he will put two fire walls in and put the kitchens back. He advised that he owns and rents out 289 Main Street to an older couple who will eventually move to Florida. The house will remain the same as it looks. The # of bedrooms will remain the same consisting of 2 bedrooms on each side. The footprint of the house cannot be expanded without coming back to this board. If the variance were granted any change would require approval from this board. There a flood plain on this property. It was 8-A & 8-B.

Paul Hubner of 22 Willow spoke to the subject and advised that he currently lives in a two family home and the town came to him and asked them to turn it into a single family house. He supports the variance.

Mr. Thomas reviewed the criteria needed to be submitted that would enable the board to make a decision. Must meet the standard to be well suited; the positive criteria had been stated by the planner. It is possible to grant, if sufficient testimony is provided as in subsection e. and g. of the Land Use Law. It is the board's decision.

Greg Yannaccone cautioned the applicant on the risk he is taking with only seven members who can vote: Yannaccone; Neville; Rubright; Dill; Hill; Downing and DiSabato. Five affirmative votes are needed to approve a use variance.

Each of the board members voiced their opinions and discussed the application. No precedent is being set; each variance stands alone according to Mr. Thomas. The planner John Szabo concurred.

A motion was made and seconded to approve the variance request to allow the property in question to be a two family residence with 2 – 2 bedroom units and the resolution to be recorded at the county clerk's office and to provide proof of recording to the board.

The motion was approved by the following roll call vote:

AYES: Yannaccone; Neville; Rubright; Dill; Hill; Downing and DiSabato

NAYS: None

Adjourned - A motion to adjourn the meeting was made and seconded at 9:50

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Sarah Jane Noll
Assistant to Ruth Spae