

**BOROUGH OF MOUNT ARLINGTON
LAND USE BOARD MEETING MINUTES
September 23, 2009
6:30 PM**

Meeting called to order at 6:32 p.m. "Pledge of Allegiance" recited.

Roll Call. Present: Windish, Loughridge, Simard, Fostle, Levitt, Stanzilis, Sendler and Galate. Absent: Foley, Wilson, Hughes, van den Hende and Ondish.

Approval of meeting minutes from June 24, 2009. Motion by Levitt, second by Loughridge. Yes: Windish, Loughridge, Simard, Fostle, Levitt, Sendler and Galate. Abstain: Stanzilis.

Approval of vouchers. Motion by Fostle, second by Sendler. Yes: Windish, Loughridge, Simard, Fostle, Levitt, Stanzilis, Sendler and Galate. Levitt abstains from invoice #12316. Motion approved.

6:35 – van den Hende joins meeting

Review of Ordinance #22-09 Amending Chapter 17.24-8 Entitled Signs of the Code of the Borough of Mt. Arlington.

Comment of the content of ordinance amendment should be voiced at the Borough Council meeting.

Motion to approve amendment stated above conforms with the Borough's Master Plan by Windish, second by Simard. Yes: Windish, Loughridge, Simard, Fostle, Stanzilis, Sendler. Abstain: van den Hende, Galate. No: Levitt. Motion approved.

Appeal of Zoning Official Determination – 6 Windemere Avenue, Block 26, Lot 2. Appeal to continue the use of three (3) sheds on property.

6:48 – Galate recuses herself

Omar Seiam and Monica Gil to represent 98 Glenwood Realty, Inc., owner of 6 Windemere Avenue.

Additional photos provided as exhibits and viewed by Board.

Seiam provided zoning permit issued in 2006 by the Borough's prior Zoning Officer for the third shed. Survey prepared in 2005 shows two (2) existing sheds.

Seiam, Gil and Joseph Weaver, Borough Zoning Officer, are sworn in.

Weaver – Prior Zoning Officer should have denied zoning application since the property already contained two accessory structures totaling 1/3 the first floor square footage of the residence, which was allowable by ordinance.

Selvaggi – If a municipal official takes action in error the Municipality is not bound by that determination. However, the resident may file an estoppel argument to claim that they exercised due diligence to follow local regulations.

Weaver – Prior arrangement was made with an individual to move two sheds to the adjacent property and relocate the third to the rear of the property.

Seiam – States that the dwelling is very small (956 square feet) as is the lot (7,000 square feet) therefore they require the sheds for storage.

Levitt – Is anything existing in Al Thompson’s old files?

Weaver – No information was located.

Van den Hende – Why were the sheds not relocated as agreed upon?

Seiam – Him nor Ms. Gil made the agreement and were not aware of such.

Stanzilis – Can the sheds be moved next door?

Seiam – After the addition on the dwelling next door is complete there will be even less yard space at that location.

Seiam – Individual who made agreement to move sheds was not an officer of the corporation and not at liberty to make decisions on their behalf.

Selvaggi – Two sheds and pool shown on survey pre-date the existing ordinance and are grandfathered in.

Van den Hende- Have you received any complaints from neighbors?

Stanzilis – Complaint by neighbor alerted Mr. Weaver to investigate the property.

Sendler – Does any municipal official have the authority to issue permits that do not follow the Borough’s ordinance?

Selvaggi – No.

Van den Hende – Locations of sheds seems to be different than the two sheds shown on the 2005 survey.

Levitt – Is there an impervious coverage violation?

Weaver – Has not investigated this item.

Levitt – Can one shed be removed to restore the site to the condition of the 2005 survey?

Seiam – Sheds are too small, storage space is needed.

Package prepared by Weaver marked as exhibit W-1.

Selvaggi – Can wood located in one of the sheds be stored outside?

Weaver – As long as it is in rear or side yard, yes.

Sendler – Items stored in sheds are not possessions of the resident of the dwelling.

Van den Hende – Would it be a financial hardship to utilize off-site storage?

Seiam – Yes.

Stanzilis – When/why were the 2 sheds relocated?

Seiam – At the direction of the previous zoning officer at the time of the permit issuance of the third shed.

Selvaggi – Financial hardship should not be a consideration of the Board. Will the applicant consider revising his application to also request bulk variance relief?

Seiam – He will consider it.

7:45 – Open to public

Nita Galate, 216 Howard Boulevard. An ordinance is in place for situations such as this. Applicant should compare the cost of applying for the variance and removing the sheds.

7:49 – Closed to public

Loughridge – Is anything on file permitting the construction of the first two sheds?

Stanzilis – No

Selvaggi – Mr. Weaver will not take any zoning enforcement action while the application is pending.

Motion to carry testimony to a future meeting date to allow owner to prepare variance application or continue with appeal. Motion by Levitt, second by van den Hende. All in favor. Motion approved.

Motion to adjourn by Sendler. All in favor.

Meeting adjourned at 7:59 p.m.

Reyna M. Burger – Board Clerk/Secretary