

SEPTEMBER 9, 2014

**PLANNING/ZONING BOARD MINUTES SEPTEMBER 9, 2014**

Meeting called to order at 7:00 P.M. by Chairman Miller

Secretary Levy read the Opening Statement: “All the notice requirements of the Open Public Meeting Act have been complied with in full”.

**ROLL CALL:**

Present:  
Chairman George Miller  
Mayor Edward G. Campbell  
Councilman Gerald Bonsall  
Mrs. Susan Croll  
Ms. Barbara Gellura  
Ms. LuAnn Watson  
Mrs. Patricia Croghan

Absent:  
Vice Chairman Joseph Hartmann  
Mr. George Miller

Professionals: Engineer - Gregory Fusco  
Planner - Brian Slaugh  
Solicitor - Donald Ryan

**RESOLUTIONS:**

2014PB-9-12                    RESOLUTION OF BOROUGH OF GIBBSBORO PLANNING BOARD DENYING USE VARIANCE TO RNM CONSTRUCTION, LLC AND AGB ENTERPRISES, LLC FOR THE PREMISES 142 S. LAKEVIEW DRIVE, GIBBSBORO, NEW JERSEY

On June 10, 2014, the Borough of Gibbsboro Planning Board held a public hearing at which time the following members were present:

George Miller, Jr., Chairman  
Joseph Hartmann, Vice Chairman  
LuAnn Watson  
Pat Croghan  
Barbara Gellura

The following were also present at the meeting:

Donald S. Ryan, Esquire, Planning Board Attorney  
Anne D. Levy, Planning Board Secretary  
Brian Slaugh, Planning Board Planner  
Greg Fusco, Planning Board Engineer

**SUBJECT**

The Board considered the application of RNM Construction, LLC and AGB Enterprises, LLC, seeking a use variance of the subject premises as a contractor’s office and equipment storage facility in the C-2 Commercial Zone District.

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This application is made pursuant to the Gibbsboro Zoning Code Section 400-119 and the New Jersey Municipal Land Use Law N.J.S.A. 40:55D-70(d).

The applicants were represented by Dominic S. Favieri, Esquire.

The following individuals appeared, were sworn and testified in support of the application:

1. Gilbert Berenato, Co-Owner of the property.
2. Richard Martin, Co-Owner of the property.
3. Charles J. Collins, Jr., Licensed Architect of the State of NJ.

The Planning Board also received sworn testimony from the Planning Board Planner, Brian Slaugh and the Planning Board Engineer, Greg Fusco.  
No one testified during the public portion of the hearing.

The following exhibits were also included as part of the record:

- A-1 Application for Use Variance dated 3/7/14
- A-2 Tax Map
- A-3 Proof of taxes paid
- A-4 Affidavit of Service
- A-5 Notice of Publication
- A-6 Notice of Hearing to property owners
- A-7 Minor Site Plan drawings consisting of seven sheets prepared by Charles J. Collins, Jr., Licensed Architect of the State of NJ dated 3/4/14, revised 3/14/14
- A-8 Review letter of Brian Slaugh, Planning Board Planner dated 5/5/14
- A-9 Review letter of Greg Fusco, Planning Board Engineer dated 5/8/14

#### **FINDINGS OF FACT**

The Planning Board, having determined that the Application, Notice to Property Owners, Notice of Publication and affidavits were in proper form and having examined the Exhibits and considered the testimony, finds as follows:

1. The Planning Board has jurisdiction to decide an application for use variance pursuant to N.J.S.A. 40:55D-70(D)(1) and 40:55D-25(C)(1) the Gibbsboro Land Development Ordinance Section 400-119B.
2. The applicants are RNM Construction, LLC and AGB Enterprises, LLC, who are the owners of the property located at 142 S. Lakeview Drive, Gibbsboro, NJ. The property is also known as Block 18.02, Lot 2.03 on the Gibbsboro Tax Map.
3. On May 13, 2014, the Borough of Gibbsboro Planning Board decided that the activities and use of the property by the applicants were not a permitted use under the Gibbsboro Zoning Ordinance Section 400-119B. The findings and conclusions of the Board are contained in Resolution 2014PB-6-10 which was adopted by the Board on June 3, 2014.
4. The property is located in the C-2 Commercial District, as well as the Historic District.

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5. The property was the subject of a minor site plan approval granted in 1990 by the Gibbsboro Planning Board to James Rooney and Norma Jean Rooney for the use of the premises as an office use with seven sheds for personal storage. The Planning Board finds that based upon the testimony and the exhibits subsequent to 1990, the property owner used the property beyond the uses permitted by the ordinance.

6. The properties which surround the subject premises are to the north a former appliance warehouse, to the south an existing professional office, to the west single family residential uses, to the east and across Haddonfield-Berlin Road residential uses.

7. The subject lot is 30,284 square feet with frontage along Haddonfield-Berlin Road (County Road 561), also known as South Lakeview Drive, of 137.95 feet.

8. There presently exists on the subject lot a two-story stucco and frame office building and seven sheds of varying sizes located along the southerly side yard. The parking area is unpaved.

9. The applicants recently acquired title to the property and have utilized the property as a business office for a general contractor involved in residential and commercial development. The property owner stores construction equipment and materials on the property.

10. The applicants testified that their hours of operation are Monday thru Friday and sometimes Saturday 7am to 6pm. The applicants testified that the construction activities are offsite and that employees (2 or 3 in number) come to the site early in the morning, go to the offsite construction site and return to the subject site at the end of the day exchanging their business vehicles for the personal vehicles.

11. The applicants testified that they would no longer store dump trucks, flatbed trailers, excavators, bobcats, compressors or any other construction equipment. There would be no other storage of materials outside other than storage inside of the seven sheds, which would be construction tools. There would be no deliveries of construction materials to the site. There would be no storage of hazardous materials.

12. The applicant testified that there would be no more than five work vehicles parked at the site which vehicles would be no more than one ton in carrying capacity.

13. Charles J. Collins, Jr., who is the Licensed Architect for the applicants, as well as a Licensed New Jersey Planner, testified that the existing site is a dirt parking lot with a dilapidated fence and no landscaping.

14. The applicants testified that in accordance with the plans submitted, they would make site improvements with respect to the parking, landscaping and other site improvements.

15. The applicant's Planner testified that in his opinion the proposed use of the property was consistent with the Master Plan and would provide a buffer between the residential uses in the rear and the major thoroughfare Route 561 Lakeview Drive.

16. The Planning Board Planner, Brian Slaugh, testified to the contrary, that in his opinion, the subject property would be inconsistent with the Master Plan and Land Use Plan of the Borough of Gibbsboro.

17. Mr. Slaugh in his report dated May 5, 2014, outlined the requirements that the applicant must demonstrate in order for a use variance to be granted the Planning Board must conclude that the subject site is peculiarly suited for the proposed use. He also noted that other uses permitted in the zone are more compliant.

18. The Planning Board adopts the findings of Brian Slaugh as contained in his testimony, as well as his report dated May 5, 2014.

**CONCLUSIONS**

19. The Planning Board in deciding the application for use variance by N.J.S.A. 40:55D-70.D(1) must apply the standard set forth in the statute, as well as the voting provisions of the Municipal Land Use Law applicable to use variance applications N.J.S.A. 40:55D-9(a).

20. In accordance with N.J.S.A. 40:55D-70.D(1), an affirmative vote of five members is required in order to approve a use variance. Failure to receive the required number of votes for approval constitutes a denial of the application in accordance with N.J.S.A. 40:55D-9(a).

21. In the pending case there is a statutory denial of the application.

**RESOLUTION**

On the motion of George Miller, seconded by Joseph Hartmann, the Gibbsboro Planning Board voted to approve the subject use variance application subject to the condition that a site plan be filed within ninety (90) days. The application was denied by reason of the vote of 4-1 and therefore a statutory denial applies. The Planning Board member who voted to deny the motion based the decision upon the conclusions that the applicant had failed to submit sufficient competent testimony of "special reasons" as required by N.J.S.A. 40:55D.70D(1) and the applicants failed to prove that the proposed use was not a substantial impairment to the Zone Plan and Zoning Ordinance of the Borough of Gibbsboro.

**ROLL CALL VOTE**

George Miller, Jr.	Yes
LuAnn Watson	Yes
Pat Croghan	Yes
Joseph Hartmann	Yes
Barbara Gellura	No

Motion to approve Resolution Chairman Miller, Second Mrs. Croghan

Poll Vote:	Chairman Miller	Aye	Mr. Hartmann	Absent
	Mayor Campbell	Abstain	Councilman Bonsall	Abstain
	Ms. Gellura	Aye	Ms. Watson	Aye
	Mrs. Croll	Abstain		
	Mrs. Croghan	Aye	Mr. Miller	Absent

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2014PB-9-13            RESOLUTION OF BOROUGH OF GIBBSBORO PLANNING BOARD  
GRANTING CERTIFICATE OF APPROPRIATENESS TO RICHARD &  
ANNA MAY FICHTER FOR THE INSTALLATION OF A GARAGE FOR  
THE PREMISES 10 S. UNITED STATES AVENUE, GIBBSBORO

On June 10, 2014, the Borough of Gibbsboro Planning Board held a public hearing at which time the following members were present:

George Miller, Jr., Chairman  
Joseph Hartmann, Vice Chairman  
LuAnn Watson  
Pat Croghan  
Edward Campbell, Mayor (recused)  
Gerald Bonsall

The following were also present at the meeting:

Donald S. Ryan, Esquire, Planning Board Attorney  
Anne D. Levy, Planning Board Secretary  
Brian Slaugh, Planning Board Planner  
Greg Fusco, Planning Board Engineer

**SUBJECT**

The Board considered the application of Richard & Anna May Fichter, who are the owners and reside at the premises 10 S. United States Avenue, Gibbsboro, New Jersey. The property is also known as Block 9, Lot 4 on the Gibbsboro Tax Map.

The property is located in the Historic District.

The applicants seek to construct a two-car garage in place of an existing shed. The applicant requires a Certificate of Appropriateness as a condition of this construction in accordance with Section 222-1 et seq of the Gibbsboro Land Development Code and the New Jersey Municipal Land Use Law N.J.S.A. 40:55D-111.

Richard & Anna May Fichter appeared, were sworn and testified in support of the application. No one testified during the public portion of the hearing.

The following exhibits were also included as part of the record:

- A-1 Application for Historic District Certificate of Appropriateness dated May 12, 2014.
- A-2 Survey of the subject premises by John Leon, LS dated 11/16/04 on which there is depicted on the proposed garage and subsequently revised to show a new location of the garage
- A-3 Review letter of Brian Slaugh, Planning Board Planner dated 5/28/14
- A-4 Revised list of materials showing alternative plans for garage
- A-5 Photograph of the subject property

**FINDINGS OF FACT**

The Planning Board having considered the evidence submitted as part of the record, makes the following findings of fact:

1. The Planning Board has jurisdiction to review and decide an application for Historic District Certificate of Appropriateness pursuant to the Municipal Land Use Law N.J.S.A. 40:55D-110 and the Gibbsboro Historic Preservation Ordinance Section 222-1 et seq.
2. The applicants are Richard & Anna May Fichter, who are the owners and reside at the premises 10 S. United States Avenue. The property is also known as Block 9, Lot 4 on the Gibbsboro Tax Map.
3. The property is located in the OR-Office Residential District and the Historic District.
4. As appears from the survey of John Leon dated 11/16/04, the applicants' lot is rectangular having 100 foot frontage on S. United States Avenue and a depth of 116 feet.
5. There is presently constructed on the subject property a 2 ½ story vinyl sided dwelling. There is an existing shed and a carport in the rear yard.
6. The applicants propose to remove the existing shed and to construct a to-car garage in its place. The proposed garage is 24 feet by 24 feet or 576 square feet in area. The construction of the garage does not require any dimensional variances. The garage would be located in the rear of the dwelling as shown on the revised survey submitted to the Board.
7. Based upon the testimony of the applicants and the recommendation of the Planning Board Planner, Brian Slauch, the applicants have agreed to the materials included on "Plan B" as shown the applicants' submission. Specifically, this would include gray vinyl siding to match the house color and GAF Timberline Roof Shingles to match the house as closely as possible. In addition, there will be shutters to match the house shutters.
8. The applicants testified that they intend to keep the carport, but will move it to another location.

**CONCLUSIONS**

9. The Planning Board finds that the revised application submitted and the conditions agreed to by the applicants substantially comply with the criteria of the Historic Preservation Ordinance of the Borough of Gibbsboro and should therefore be approved for the installation of the garage as submitted.

**RESOLUTION**

On the motion of George Miller, seconded by Joseph Hartmann, the Gibbsboro Planning Board voted 5-0 to approve the construction of a two-car garage in accordance with the testimony and revised exhibits submitted by the Board.

**ROLL CALL VOTE**

George Miller, Jr.	Yes
LuAnn Watson	Yes
Pat Croghan	Yes
Joseph Hartmann	Yes
Gerald Bonsall	Yes

Motion to approve Resolution Chairman Miller, Second Councilman Bonsall

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Poll Vote:	Chairman Miller	Aye	Mr. Hartmann	Absent
	Mayor Campbell	Abstain	Councilman Bonsall	Aye
	Ms. Gellura	Abstain	Ms. Watson	Aye
	Mrs. Croll	Abstain		
	Mrs. Croghan	Aye	Mr. Miller	Absent

**CERTIFICATES OF APPROPRIATENESS**

1. CERTIFICATE OF APPROPRIATENESS FOR BLOCK 5, LOT 4.02  
63 KIRKWOOD ROAD

Applicant/Owner: Veronica Mills  
Proposed Work: Extend roof line, decking under roof line, enclose existing porch  
Representative: Applicant

Veronica Mills was sworn in and testified regarding this project.

Planner Brian Slauch requested clarification of the application and asked Mrs. Mills if the back door is being replaced and the front porch. For the rear of the house, the screened in porch will be enclosed and add windows and siding.

A. Motion to declare application complete contingent upon a sketch plat being submitted for possible needed variance Chairman Miller, Second Mayor Campbell

Poll Vote:	Chairman Miller	Aye	Mr. Hartmann	Absent
	Mayor Campbell	Abstain	Councilman Bonsall	Aye
	Ms. Gellura	Aye	Ms. Watson	Aye
	Mrs. Croll	Aye		
	Mrs. Croghan	Aye	Mr. Miller	Absent

**MINUTES:**

Motion to dispense reading and approve Minutes of 6/10/2014 Chairman Miller, Second Councilman Bonsall

Voice Vote:	Chairman Miller	Aye	Mr. Hartmann	Absent
	Mayor Campbell	Abstain	Councilman Bonsall	Aye
	Ms. Gellura	Aye	Ms. Watson	Aye
	Mrs. Croll	Abstain		
	Mrs. Croghan	Aye	Mr. Miller	Absent

**CORRESPONDENCE**

TO: Gina McCarthy, EPA dated 7/28/14  
FROM: Mayor Edward G. Campbell, III

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RE: Diversion of EPA/Sherwin Williams Assets from core super fund sites in Gibbsboro in favor of Kirkwood Lake Dredging  
ACTION: FYI – Mayor Campbell’s letter expressed opposition to the Kirkwood Lake clean up in Voorhees before Gibbsboro’s clean up.

TO: Planning Board dated 6/11/14  
FROM: Borough Council  
RE: Resolution authorizing the Planning Board to Establish an Area in Need of Redevelopment on Route 561  
ACTION: FYI – To be discussed at a later meeting

TO: Planning Board dated 7/31/14  
FROM: Planner Brian Slaugh  
RE: COAH Comments on Proposed Rules  
ACTION: Planner Slaugh commented that the rules are unclear, however, Gibbsboro has not been granted a credit for doing the Regional Contribution Agreement with Woodlynne. COAH received 4000 comments on the proposed rules. They have been ordered by the Supreme Court to adopt new rules by mid-November of 2014. The issue for municipalities is that if the rules are in place then the municipalities have a 6 month deadline to comply.

TO: Dominic S. Favieri, Jr., Esquire dated 8/18/14  
FROM: John P. Jehl, Borough Solicitor  
RE: Zoning Application of RNM Construction  
ACTION: FYI

**OLD BUSINESS:** None

**NEW BUSINESS:** None

**INFORMATIONAL:**

1. Next regular meeting is scheduled for October 14, 2014
2. The New Jersey Planner May/June 2014

**MEETING OPEN TO THE PUBLIC:**

No voice from the public.

**MEETING CLOSED TO THE PUBLIC:**

**MEETING ADJOURNED AT 8:10 PM COUNCILMAN BONSALL, SECOND MRS. CROLL**

Poll Vote:	Chairman Miller	Aye	Mr. Hartmann	Absent
	Mayor Campbell	Aye	Councilman Bonsall	Aye

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Ms. Gellura	Aye	Ms. Watson	Aye
Mrs. Croll	Aye		
Mrs. Croghan	Aye	Mr. Miller	Absent

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Anne D. Levy  
Secretary

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