

Meeting was opened by **Ron Palmieri**, Chairman.

Mr. Palmieri read a statement of compliance with the New Jersey Open Public Meetings Law as follows:

This is a regular meeting of the Zoning Board of Adjustment of the Borough of Tinton Falls and is being held in compliance with the New Jersey Open Public Meetings Law. Adequate notice of this meeting has been given by posting on the bulletin board of the Municipal Building and by publishing in the Asbury Park Press and The Coaster.

Mr. Palmieri then led the meeting in a salute to the flag.

ROLL CALL

Present: Messrs. Palmieri, Slazyk, LaValle, Diamond, and Moafi

Absent: Messrs. Lomangino & Battista

Also present: Mr. Hirsch, Board Attorney
Mr. Gotfredsen, Board Secretary

Mr. Palmieri then read a statement of procedural guidelines.

QUICK CHEK CORPORATION	BA 2007 – 06
5119 ASBURY AVENUE	BLOCK 124 LOT 18
USE & BULK VARIANCES AND SITE PLAN APPROVAL	
CARRIED FROM JULY 19, 2007	
CARRIED TO OCTOBER 4, 2007	

4075 HIGHWAY 33 ASSOCIATES, LLC	BA 2007 – 18
4075 HIGHWAY 33	BLOCK 147 LOTS 2, 3.02 & 13
SIGN VARIANCE	

Mr. Hirsch advised he had reviewed the proof of service and affidavit of publication and found them to be acceptable as to form.

A motion to accept service in the 4075 Highway Associates matter was offered by Mr. Diamond and seconded by Mr. Moafi. A voice vote in favor was unanimous.

Mr. Hirsch advised that at a technical review committee meeting held September 5th the applicant advised that the wrong site plan was submitted with the original sign variance application. The applicant introduced the correct site plan at the TRC meeting and Peter Falvo, the applicant's attorney, agreed that the hearing be carried to the September 20th meeting since there was not sufficient time for the Board or its professionals to review the proper site plan.

The Board agreed to carry the 4075 Highway 33 Associates hearing until the September 20, 2007 meeting. An objector in the audience, John Golden, was advised of same by Mr. Hirsch when he approached the microphone to speak.

Board member Ronnie Battista arrived at the meeting at this time.

ROBERT & DEBER CONFESSORE 119 SWIMMING RIVER ROAD LOT COVERAGE & SECOND CURB CUT FOR CIRCULAR DRIVEWAY	BA 2007 – 17 BLOCK 61.06 LOT 102
--	-------------------------------------

Both **Robert & Deber Confessore**, the applicants, came forward.

Mr. Hirsch advised he had reviewed the affidavit of publication and proof of service and found them to be in order as to form.

A motion to accept service in the Confessore matter was offered by Mr. LaValle and seconded by Mr. Slayzk. A voice vote in favor was unanimous.

Mr. Hirsch sworn in both applicants.

Mr. Confessore advised they needed a variance for lot coverage and a second curb cut. The road they live on, Swimming River Road, is a County Road. The proposal is to install a circular driveway in lieu of the existing driveway. The dwelling is new construction, a renovation of the former dwelling. The driveway is on a curve and very difficult to exit. The family has 5 drivers and 5 vehicles in the driveway. There is no way to negotiate the driveway and impossible to make a K-turn. My youngest child, 17 years old, refuses to exit the driveway and wants one of the other drivers to pull out before she will get behind the wheel. The lot coverage problem came about because we want to install the circular driveway.

Mr. Hirsch asked do you have a garage.

Mr. Confessore replied we do have a garage, a side-entry garage. We can't use the garage because with 5 cars, one can't back out of the garage.

Mrs. Confessore reminded the Board that there's no parking on the street. With school busses now and the projected Home Depot traffic coming, there going to be increasing volumes of traffic on Swimming River Road. Also Brookdale just started back for the fall semester. Even taking the dogs for a walk, it's scary with the trucks whizzing by. When company comes, they have to park across the street on the Colts Neck side and then try to negotiate traffic as they walk across.

Mr. Confessore said the line of sight coming out his driveway is 75 feet at most and cars come around the bend at 40 miles an hour. That's the posted speed limit. They often travel much faster.

Mr. Palmieri asked how long have you been living in this house.

Mr. Confessore replied since February.

Mr. Palmieri asked when I'm looking at your house from Swimming River Road, to the left of you, is Lot 101. Is the house on that property pretty much the same distance as your house is from Swimming River Road.

Mr. Confessore replied yes, the setback is about the same.

Mr. Palmieri asked do they have a circular driveway.

Mr. Confessore replied no, they don't but the one to the right does.

Mr. Palmieri asked do your driveways share the same common property line.

Mr. Confessore answered no, their driveway is on the other side of their home. They have been able to install some sort of a tail in their driveway that allows them to negotiate. We cannot do that based on the side setback consideration.

Mr. Palmieri asked going in the other direction, Lot 103, would that house pretty much be the same front setback.

Mr. Confessore replied I would assume it is.

Mr. Palmieri asked is their driveway also...

Mr. Confessore interrupted saying the same location but they have a circular driveway. They're on the other side of the bend. They have a much better line of sight. They can see all the way down Swimming River Road from where they are.

Mr. Palmieri said you have that little bit of portion in the front of the house. Is that for a K-turn.

Mr. Confessore answered it's not big enough. I don't know whether to blame the architect or the builder. It's just not big enough. Typically there's cars parked in that location.

Mr. Palmieri asked how do you put the cars in the driveway currently if you have 5 cars in the driveway and say you have to leave first in the morning. How do you make it work.

Mr. Confessore replied it is a negotiation nightmare. There are 2 cars in the tail, in the area that you're looking at. There are 2 cars all the way forward and there are no cars in the garage because you'd never be able to get out of the garage if there were cars in the driveway. And then there's a 5th car that is somewhere behind those cars that are pulled

all the way forward. At night it's really important that we try to negotiate who's got to park where so we can get out in the morning...and I'm usually the first one to leave. I'm out of the driveway at 5:30 in the morning. It's not big deal for me. I get out. There's no cars. It's everybody else that I worry about.

Mr. Palmieri said I know you said you just moved to the house in February after renovating it. Wasn't this a concern when you were buying the house.

Mr. Confessore replied it was absolutely a concern. The fact of the matter was at the time we had the same lot area coverage and issues. We were so far behind schedule in terms of getting this house started. We were months behind schedule in terms of permitting. I don't know where the responsibility lie...if it was with the builder or whomever. The fact is we were so far behind schedule, I needed to get started. We had already sold our home. We were living in a rental and we needed to get started. We were supposed to start in March. We didn't break ground until July of 2006. So to try to start an application at that point in time, to do what we're trying to do here today, would have pushed that back who knows how much further and we were just concerned that we would have never been able to...and to be perfectly frank, the thought was maybe we can make it work. Maybe we can make it work. We didn't know until we got there and tried to live there and saw how bad it was coming around that bend.

Mr. Palmieri asked is Swimming River Road a County road.

Mr. Confessore replied it's a County road.

Mr. Palmieri asked do you have to get permission from the County to put in another driveway.

Mr. Confessore replied well, that's part of this variance but I was told that we did not need to make application directly to the County. I think Lori Paone was involved.

Mr. Hirsch stated well, it's a County road. I think we'd have to defer to the County. If the County doesn't care, that's fine but...

Mr. Confessore said well, I wish somebody would have told us that...because we specifically asked that question and...

Mr. Hirsch stated well, you would still have to make application to this Board.

Mr. Confessore said I understand but we would still have to make application to the County and that's just going to defer this even more.

Mr. Palmieri stated because no matter which way the Board decided to go, I guess if you went to the County level and they said "nah, we don't want more driveways cut..."

Mr. Moafi said you have to get a curb cut permit to do your driveway because it's a County road.

Mr. Confessore stated I am not disagreeing with that. All I'm suggesting is that I was told that we were fine coming here before this Board with respect to that curb cut and would not need to go any further than this Board...that you guys could make the decision to allow that to happen based on the situation...and that came from Lori.

Mr. Hirsch said whatever, whether the County has to issue a permit or a letter of no interest, that they don't care but it's their road. It's not a local road. The County has to have notice, at least, of it and if they indicate, assuming that this Board acts favorably...if this Board doesn't act favorably, it's a moot issue with the County...but if the Board acts favorably, then you're going to have to, at the very least, get a letter that the County has no interest or whatever permit you might need from the County.

Mr. Palmieri stated alright. You had already indicated that there was one house on Swimming River Road, that's near your house, that already has a circular driveway. Are there any other houses within a 5 house...

Mr. Confessore said there are several houses with circular driveways. Yeah. And again, if you could see the location, you would understand that our spot...there is a blind corner there. Any of the other houses, circular driveways notwithstanding, have a much clearer line of sight on Swimming River Road. We do not. Literally, it's 50 feet. That's all we've got and people coming around that bend at 40 miles an hour. At night, you see them because they have their headlights on but any other time during day, you cannot see them around that bend. You know, there's a telephone pole there. There's a tree there and I'm not talking about trees that we're landscaping. I'm talking about old trees that are right there in the line of sight along with the telephone pole...

Mr. Palmieri asked would you cut down any large trees to put this driveway in.

Mr. Confessore replied no, there would be no other trees that need to be taken down to put this driveway in. We could make the cut on the other side of the tree on the front property line.

Mr. Palmieri advised hold on a second, I have a feeling we're looking something up.

Mr. Hirsch reviewed the Ordinance 40-41 G and read the provision "There's a maximum of one driveway for a single family lot unless the lot is greater than 150 feet in width." And this is not. And then you're allowed two driveways so I guess they would consider this two driveways.

Mr. Confessore asked is this considered two driveways.

Mr. Palmieri replied the idea is when you have two cuts, it's considered a second driveway.

Mr. Hirsch said so it's that variance because this is 125 feet, not 150 feet wide, or they could do two, subject to whatever the County might do. And then, of course, you have the impervious coverage variance because of the additional blacktop.

Mr. Palmieri asked Sayed, how long do you think it would take.

Mr. Moafi replied I think if you applied to the County, it's probably going to take about 3 to 4 weeks.

Mr. Confessore stated my concern, of course, we have no choice. We could have done that 3 or 4 weeks ago if we had known that when we filed this application. We were told we did not need to do that so we did not proceed. I understand that there's nothing this Board can do about it if that's what the County requires. But being 3 to 4 weeks, by the time we're able to get contractors situated and online, I am concerned...

Mr. Palmieri said not to interrupt you but the County would not consider it unless the town has already approved what's going to occur on the property. So if you put the application in, they would say "we can't do anything until you come back with the zoning saying "yes, you met the town's requirements for the zoning in the area." Then, like Mr. Hirsch had said, they're just going to say "no comment. Go ahead and do what you're going to do" or "we're going to come out and inspect it." So, it wouldn't have changed your timeframe of what you have to do.

Mr. Confessore said okay. My primary concern is the timing of being able to lay blacktop. You know, you can't do it in the winter and if we don't get something done...

Mr. Moafi asked can you do it without two curb cuts.

Mr. Confessore repeated can I do it strictly without two curb cuts. I don't think there's enough room in front of the house to be able to do that. You'd have a loop.

Mr. Palmieri said there's not enough room to do a circular.

Mr. Confessore asked to make a big loop in the driveway and come out the same curb cut.

Mr. Slazyk said the only thing you can do is use fresh concrete so it's not blacktop. I mean you're going to have to work around it. That's not really our control.

Mr. Confessore stated that's really not your concern. I understand that.

Mr. Palmieri asked are there any questions from the Board members.

Mr. Slazyk said pavers.

Mr. Confessore stated pavers in lieu of blacktop for the time being, you mean. I could use crushed stone too for the time being.

Mr. Hirsch said well there may be criteria in the Ordinance for the construction of a driveway.

Mr. Palmieri stated I'm going to make the announcement that there's nobody in the audience this evening so there's no reason to open it up to the public. We just have the applicants in front of us.

Mr. Moafi asked again did you try to do it without two driveway. Did you try to do the circle without two driveway and do it inside...

Mr. Confessore replied I think there's two issues. One is I think that turnaround, the loop, that you would create would be a very tight radius. I drive a truck, not that that matters, but it would be a very tight radius. I might be hard to negotiate, a very tight turn, The other concern is that...it's an aesthetic concern. Whatever we do...we spent a lot of money on that house and I don't want to compromise everything that we've tried to do by having the whole front. I didn't even want to do the circular if we could help it...but we really have no choice. My wife will tell you that I was really against it from the beginning...but we really have no choice. I mean my children have demanded it so I don't want to do something that's going to compromise the aesthetic quality of the house.

Mr. Palmieri stated at this time I'm going to close the public portion and what that means is if there's anything you would like to add...because once we close the public portion the Board will either discuss it or just go ahead and make a motion on your application. I don't know if there's anything else you needed to add that you haven't said already.

Ms. Confessore said you know we're just trying to do a safety issue for our family and especially for our elderly part, our parents, for crossing the street and pulling out. My mother has not visited me because she says I can't get out of your driveway. I think the thing is with Home Depot probably coming in...we all know the different traffic, the garbage trucks, the busses, Brookdale...it's a busy road. It really is. Did we make the right decision to build. I'm hoping we did. We trying to just keep our family safe. That's basically what we're doing. We can't fight Home Depot. There's going to be more things up in the future, I'm sure. We're just trying to make it safe for our family to live on the street. Thank you.

A motion to close the public portion in the Confessore matter was offered by Mr. LaValle and seconded by Mr. Slazyk. A voice vote in favor was unanimous.

A motion to approve the variances for the Confessore application was offered by Mr. Slazyk and seconded by Mr. Diamond.

ROLL CALL

Yes: Messrs. Slazyk, Diamond, Palmieri, LaValle, Moafi & Battista

No: None

Abstain: None

A motion to adopt by title the resolution denying a use variance for T&T Realty (Red Bank Veterinary Hospital) was offered by Mr. LaValle and seconded by Mr. Slazyk. Mr. Battista was ineligible to vote. A voice vote in favor was unanimous.

A discussion followed based on the fact that the Chairman and the Vice Chairman would not be able to attend the next meeting, September 20th. Several large applications, Borough Property, LLC, and 3230 Shafto Road Associates, are both use variances and as such require five affirmative votes. As the Chairman and Vice Chairman would not be present and Mr. Lomangino recused himself at the first hearing for Borough Properties, there would only be a quorum, 4 members, present. The Board Secretary was instructed to contact Peter Falvo, the attorney for both applications, to advise him of such. The third application, also represented by Mr. Falvo, could go forward with 4 members present since it only involved bulk variances.

A motion to adjourn was offered by Mr. Slazyk and seconded unanimously.

Respectfully submitted,

Doug Gotfredsen
Board Secretary