

**Borough of Westville**  
**Land Use Board**  
**Regular Scheduled Meeting**  
**Monday, October 1, 2007~ 7:30 p.m.**

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Meeting called to Order by Chairman Michael Sautter at 7:30 p.m.

Chairman Sautter advised that notice of this meeting had been advertised in accordance with the "Open Public Meetings Act."

The meeting was opened with the customary salute and pledge of allegiance to the flag.

The roll was called with the following present: Michael Sautter, Vincent DiCicco, Michael Carotenuto, Dawn Leamy, John Louis, Solicitor Gary Thompson, Michael Galbraith, Fritz Sims, William Bittner (7:40) Charles Murtaugh (Alt. #1) William C. Packer, III (Alternate #2) and Engineer James Spratt. Russell Welsh was absent

A motion to approve the minutes of August 6, 2007 was made by Charles Murtaugh and seconded by Michael Carotenuto Voice Vote was taken with meeting minutes approved unanimously, as written.

New BUSINESS: Application for a Use Variance for Andrew Clayton, Block 95 Lot 1 & 2, 18 Harvard Avenue. Mayor Galbraith was asked to step down, as it was a Zoning Application. Solicitor Thompson advised the application was complete and the Board had jurisdiction to proceed.

Mark B Shoemaker, Esq. representing the applicant and Andrew Clayton were sworn in. The applicant had received a warning from Code Enforcement Officer Bruce Wasson concerning the vehicles being parked at the property. Photographs missing from the package were marked as exhibit "A - 1" - Flat Trailer / Box Trailer and "A - 2" - Product brochure, Tractor Unit. There was testimony that neither the box trailer nor the garage are used to store equipment or material. The Attorney went over the Engineer's report concerning the curb cut, the parking of vehicles in the enclosed yard, noise and traffic. Michael Sautter asked if there were any questions from the Board. Fritz Sims questioned Mr. Clayton about additional equipment. Mr. Clayton stated that his goal is to get a commercial piece of property for the business, but if he were to purchase additional equipment he would not park it at the property without advance Board approval. William Bittner asked how many employees Mr. Clayton had and if there was material stored at the property. Mr. Clayton stated that he was a one-man operation and there is nothing stored in the garage. John Louis questioned how long Mr. Clayton lived at the property and what made the trouble start. Mr. Clayton explained that his wife was having a baby in July and he hadn't had the chance to park the truck in the back yard. Dawn Leamy wanted to know if anyone else on Harvard Avenue has been cited for the same issue. Mr. Clayton stated not to his knowledge. John Louis asked if there was another way to resolve this issue without changing the property. Solicitor Gary Thompson stated that the variance would stay with land.

Michael Sautter opened the meeting to the public. All were sworn in with comments from Connie Friedel, 30 Lehigh Avenue wanting to know if we have an inspector in town that would go around and check things like boats and trailers in the street. Gary Thompson stated the he wanted to confine the comments to the hearing before this Board this evening. The Board only has

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jurisdiction to hear this application. William Bittner responded that there are things being done about other problems in the area and he is available if anyone had questions. Mrs. Friedel did ask if the variance would change the property from residential to commercial. Solicitor Thompson advised that it would not, it would permit use of the property not only for a single-family dwelling but also for storage of the items of equipment. It runs with the land. Robert Dybus, 39 Lehigh Avenue commented on Mr. Clayton. He has used Mr. Clayton in a professional manner and appreciated him helping him on a weekend. Josephine Stansbury, 31 Lehigh Avenue stated that Mr. Clayton said he does not have employees. There are 5 – 6 cars parked on the side of the property some within 10 feet of the stop sign. People are coming in and out. The view is blocked and on three different occasions she almost had accident. The gate on the side is constantly open. The other issue is safety there are children playing in the street and she is woken up with the noise. Anne Gryco, 1106 State Road disagrees with Mr. Clayton. Between 6:00 – 7:00 a.m. there are 5 or 6 guys that show up and park their cars on State Road. On trash day she has seen broken sinks, tubs and hot water tanks that are put out for trash. She has seen him unload things from the trailer that he said he doesn't store. Ernest Phillips, 29 Harvard has a question on the wording of "any other variance". Solicitor Thompson explained that terminology is used in most variances. Mr. Phillips stated that Andrew is a nice person, but this decision would set a precedence of having commercial vehicles parked in residential area. Emily Stansbury, 31 Lehigh, would like respect for each other in the community and try to get along. She states that in the morning there are employees who park and sit in their cars. Ms. Stansbury does not like the idea of strange men in the neighborhood. There is a safety concern where the cars are parked and trying to get out onto Harvard Avenue. It is a business there. Jose Andujar stated that there is no noise from Mr. Clayton's property. Lisa Commack of 1102 State Road stated that although Andy has been there to fix things at their property, there have been strange men at the property, always noise on Saturday morning, and tons of trash. If he could keep everything in the yard it would be better but the gate is always open. She is also worried about the steps going up to nowhere, its very scary. Mrs. Commack is concerned about the property value going down. James Totani, brother in law, 144 Locust Avenue lives 4 blocks away. They have a large family, if there is a birthday or something going on we park on the street. He suggested putting yellow lines on the corner if parking is a problem at the stop sign. Mr. Totani stated that he doesn't have any employees working for him. There are family members that go over and help. There are other people in town that park equipment on streets. Peter Larkin, 35 Lehigh stated that the property is a nice wide property. There is no parking on Mr. Clayton's side of Harvard and concerning the equipment there isn't that much room to be on that side of the property. The double gates are hardly ever closed. His concern is safety; you cannot see to get out on Harvard. Michael Sautter asked if there were any other comments or questions to be made and seeing none, closed this public portion to the public.

Attorney for Andrew Clayton requested Mr. Clayton respond to the comments made to the Board. Mr. Clayton stated that he has been working on the property since purchasing it. He also stated that he has a large family and they all come over to help. He owns one (1) van and it would be hard to see around the vehicle at the stop sign where his driveway is. Concerning the gate, it is routinely open and he would agree to keep it closed except while accessing equipment.

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William Bittner wanted to clarify the employee situation. Mr. Clayton stated that he does not have employees. Dawn Leamy asked how many passengers could fit in the van. Mr. Clayton said that it is a two (2)-seat vehicle. John Louis stated that he believes it is a parking issue. Fritz Sims asked if there were a garage on the property large enough to hold the equipment, would we have this application? William Bittner explained there was more of a concern that a business was being conducted in a residential zone. Mr. Clayton's application was asking to store equipment on his property, not to conduct a business. Mr. Shoemaker stated that he spoke with Bruce Wasson in response to a letter received. They had come to an agreement that if the box trailer was parked in the driveway and the tractor would be parked in the yard he would not issue a violation. Mr. Wasson was not in attendance.

Engineer James Spratt was sworn in and addressed issues. There were additional comments from the Board, Mr. Shoemaker and Mr. Clayton. Mr. Clayton did request that William Bittner step down because of past dealings with him. Gary Thompson asked if William Bittner could fairly and impartially decide the application based on prior dealings he had with the applicant. William Bittner did not believe he could unbiasesly render a decision. He will excuse himself. Charles Murtaugh became a voting member at this time.

Summation by attorney's followed.

Motion to grant use variance, with stipulations was made by Vince DiCiccio and seconded by John Louis.

Motion approved by roll call vote with five (5) to approve, Carotenuto, DiCiccio, Leamy, Louis and Sautter, and 2 nays, Sims and Murtaugh. (William Bittner abstained and Michael Galbraith stepped down)

Motion to appoint Terri Eckel, as land Use Board Secretary, effective October 2, 2007 was made by John Louis and seconded by Fritz Sims. Motion approved by voice vote.

**COMMUNICATIONS:**

None

**PUBLIC COMMENT:** No comments

Comment from Board Member William Packer concerning the vote on the variance.

**ADJOURNMENT:**

A motion to adjourn the meeting was made by William Bittner and seconded by Fritz Sims. Meeting adjourned at 9:08 p.m.

Respectfully Submitted,

Therse Eckel  
Secretary