



**Heather Butler**  
PLANNING / ZONING BOARD  
ADMINISTRATOR

TOWNSHIP OF GALLOWAY  
**DEPARTMENT OF COMMUNITY DEVELOPMENT**  
PLANNING BOARD      ZONING BOARD OF ADJUSTMENT

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**MINUTES**  
**ZONING BOARD**  
**September 10, 2015**

The Meeting was called to order at 6:34 by Vice Chairman McColgan.

**Present** Bob Birch, Richard Clute, Chris Coleman, Anthony DiPietro, Jerry Hauslet,  
Paul McColgan, Tom Sidrane & Ed Sperling

**Absent** Robert Mayer

**Approval of Bill List:**      September 2015                      **(Approved)**

**Approval of Minutes:**      July 9, 2015                                      **(Approved)**

**Approval of Decision & Resolutions:**    # 9-15 – Archana Dasondi

**The following professionals were sworn in**

Tiffany CuvIELLO – Township Planner

Bob Smith - ZBA Engineer

**New Appeals:**

**#11-15 Michael Scioli Jr.**

301 Huntington Ct.

B. 945 L. 11

Zoning District: RC

Requested: Appeal of Zoning Officer's Decision with alternative Use Variance

The applicant is represented by Mr. Thomas H. Darcy, Esq.

Mr. Rosenberger swore in Mr. Scioli, the applicant; and James Chadwick licensed engineer and architect.

Mr. Darcy gave a summary of the application explaining the applicant is seeking an interpretation from the board that will allow the applicant to continue and complete construction of a dwelling that is under construction now and received an approved set of architectural drawing and approved building permit. Mr. Scioli bought this property in 2015. It is a preexisting non conforming lot that is undersized with 2 single family dwellings on the property. The dwellings date back to the 1940's. The dwellings have non conforming setbacks. Mr. Darcy stated that when the applicant applied to the construction office he added a tiny bump out to square the house out. The zoning officer did not require a use variance for that due to the fact that it was a miniscule addition. The scope of the permit was to take the 2<sup>nd</sup> story and take off the side walls and roof off. The building was block construction. He would then put new walls and roof on 2<sup>nd</sup> floor all the while maintaining the 2<sup>nd</sup> floor decking and floor joist. The floor was never proposed to be taken off. The first floor was to only be rehabbed. When the applicant started work he found the walls on the first floor were in very poor condition. The applicant's architect stated that the existing walls would not work. Mr. Scioli spoke with the building inspector and was informed revised plans were needed and the permit updated. Mr. Scioli did as instructed and the architectural drawings were approved and updated the permit. The applicant then began work and took the block walls out. Mr. Scioli put up temporary walls up to keep the 2<sup>nd</sup> floor up. The building inspector did his inspection and passed it so the applicant was able to frame out the home. Richard Roesch, the plumbing inspector went out for his inspection and two days later gave a Stop Work Order because in his opinion as the Zoning Official that when the walls came down that the demo of the building exceeded the 50% that is in our ordinance. Mr. Darcy stated that if the applicant would have known he needed ZBA approval he would have come in for it. Mr. Darcy is asking for a favorable interpretation which says that construction can proceed in accordance with the plans that the Township approved and the revised building permit that the Township issued. Mr. Darcy stated that the provision in the Township ordinance is a murky area of the law.

Mr. Scioli confirmed the time line of events that Mr. Darcy stated. Mr. Scioli stated he was stunned to see the stop work order.

Mr. Chadwick was accepted as an expert and proceeded to give testimony of the condition of the house once the damage was seen and stated what was required to fix the problem. Exhibit 5 of the application was referred to during this time. Exhibit A-1 Construction plans for proposed addition/renovation dated 7-16-14 by James Chadwick were then discussed. Mr. Chadwick stated that there were 4 walls at all times on the building original floor joist and decking for the 2<sup>nd</sup> floor which exceeds the 50% required by ordinance.

Ms. CuvIELLO did state she had done a report dated September 3, 2015 for this application. Ms. CuvIELLO stated that the Township Zoning office has a rule of thumb and this project did not fall within this. There was some oversight because the building permit was already issued. Ms. CuvIELLO stated the ordinance refers to structures that are more than 50% damaged not destroyed. Mr. Rosenberger stated that the Boards decision in this case will not affect any future cases. Ms. CuvIELLO referred to pictures that were taken by her at the time the Stop Work Order was issued (Exhibit TC 1-4).

Mr. Smith had no comments for this application.

#### Public Question or Comments

None.

#### Board Questions

Board member Sidrane questions asked about the survey showing 3 dwellings.

*Mr. Darcy stated that the 3<sup>rd</sup> dwelling is a pole barn not a dwelling.*

Board member Clute questioned Tiffany about the communication within the Zoning/Construction Office.

*Ms. CuvIELLO stated that she did not ask the Construction Official or the Building Inspector to attend the meeting. Everyone that came into the office inquiring about the property was told that you could not demolish the building and that it was a non conforming use. In terms of miscommunication, it happens, that is why there are so many other cases about it. Ms. CuvIELLO*

*explained that the Townships rule of thumb is that you have to have the walls remain. The pictures show there was not 50% left up. There is a lot of grey areas.*

Board member Coleman asked Mr. Scioli asked how long he has been in business.

*30 years.*

Board member DiPietro asked if it was a slab or crawl.

*Slab.*

Mr. DiPietro asked if the applicant had replaced one wall at a time would we be having the meeting.

*No. It's our practice to do it that way.*

Board member Hauslet asked about the time line of the repairs.

Board member Sperling asked what will happen with the other two building on the property.

*The other house has a wide open floor plan and he has applied to the building department for some renovations nothing like this house. The pole barn is in good shape and only needs some cosmetic work.*

Vice Chairman McColgan asked about the percentage of damage.

*Mr. Rosenberger stated the use of mathematics is irreverent. The focus is whether the building is partially damaged or destroyed. You should not think in terms of fixed numbers.*

#### Findings and Facts

Board member Birch stated that his feeling is it should go on and be completed and does not understand why he received the stop work order.

Board member Clute stated he feels the applicant followed the proper chain of command and there is a lot of grey area and hopefully he will be able to finish the project.

Board member Coleman stated he had driven by the site and the applicant tried to do everything on the up and up if this were to be denied it would create a nightmare.

Board member DiPietro stated he had driven by the property and it looks like he is improving the property.

Board member Sidrane stated he feels that this should be approved.

Board member Sperling stated the applicant tried to follow the rules the best he could and that he should proceed.

Board member Hauslet stated he agrees that the builder did everything he should do.

Vice Chairman McColgan stated that this is a difficult situation.

A motion that supports that Ordinance 233-5.B is interpreted consistent with NJSA40:55D-68 such that this structure suffered partial damage and destruction was made by DiPietro and seconded by Clute.

All in favor: Clute, Coleman, DiPietro, Hauslet, McColgan, Sidrane and Sperling.

Opposed: None

Meeting adjourned 7:54 PM.