



**BOROUGH OF WIND GAP**  
**ZONING DEPARTMENT**  
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## ZONING HEARING BOARD

**IN ATTENDANCE:**

Members: Sam Nittle, Mark Sharp, Deborah Roseberry  
Professionals: John Molnar, Solicitor  
Jodi Phillips, Zoning Officer

**Frank and Pearl Casio**  
**Case No. 6-2006**

At 7:30 p.m. Mark Sharp calls the Zoning Hearing Board meeting of October 4, 2006, to order.

Mr. Sharp states that we have one hearing tonight, case number 6-2006 for Frank and Pearl Casio requesting a Special Exception Use. Mr. Molnar asks anyone who will be speaking in regards to this case to stand and be sworn in. Mr. and Mrs. Casio are sworn in by the stenographer. No other parties are present.

Jodi Phillips submits Zoning Officer exhibit one, the legal notice that was posted and published, the application from Mrs. Casio requesting a Special Exception Use section 307.C, a list of residents within 200 feet of said property and four pages of Northampton County tax records.

Mr. Molnar asks Mr. Casio if he has reviewed section 407.G.2 of the Zoning Ordinance. Mr. Casio states that he is not familiar with that section. Mr. Molnar reads section 407.G.2, 'A nonconforming use may be changed to another nonconforming use only if permitted as a Special Exception by the Zoning Hearing Board after the following conditions are met: a. The applicant shall show that the nonconforming use cannot reasonably be changed to a conforming use; b. The applicant shall show that the proposed change will be equally or less objectionable in external effects than the existing nonconforming use with regard to: 1. Traffic generation and congestion (including truck,

passenger car, bicycle and pedestrian traffic); 2. Noise, smoke, dust, fumes, vapors, gases, heat, odor, glare or vibration; 3. Storage and waste disposal; 4. Appearance.' In addition, according to section 313.B.1, 'Before a zoning permit is granted for any use listed as a special exception use in this Ordinance, a Site Plan shall be reviewed by the Planning Commission and approved by the Zoning Hearing Board. The procedure is provided because of the considerable impact that these uses tend to have on a community.' Mr. Molnar states that the Zoning Hearing Board will need the information in these sections presented in order to render a decision. Mr. Casio asks exactly what is needed to continue. Mr. Molnar states that he will write down the specific sections of the Zoning Ordinance's procedures to follow. Mr. Casio asks how he can get a Zoning Ordinance. Ms. Phillips states that they are available to purchase from the Borough Office for twenty dollars (\$20.00). Ms. Roseberry states that she would rather not make a decision tonight and instead have a continuance because they would have to reject the request based on the fact that they do not have a plan. Mr. Molnar states that if a continuance is requested it does not have to be reposted or re-advertised as long as the next Zoning Hearing Board date is agreed upon and stated tonight. Ms. Roseberry tells Mr. Casio to make sure everything that is going to be sold or changed is listed on the site plan. If he will be using the garage currently behind the store for any reason for the new store, make note of it on the plan also. Mr. Casio states that he will mostly be selling mattresses but would like to keep the lottery for his loyal customers. He is also planning on upgrading the building to look more attractive. The truck traffic will also be much less since there will be fewer deliveries for a mattress store then the deli. Mr. Molnar tells Mr. Casio that the Board would need a request for a continuance and a waiver of the Municipalities Planning Code requirement in regards to the time period for scheduling a hearing. Mr. Casio makes the request for a continuance and time period waiver. Ms. Roseberry makes a motion to accept the request. Mr. Sharp seconds the motion. All are in favor.

Mr. Molnar states that there may be an additional fee for the continuance. He states the next meeting for the continuance will be held on Wednesday, December 13, 2006 at 7:30 pm in Council Chambers. Ms. Roseberry motions to accept the rescheduled meeting date. Mr. Sharp seconds the motion. All are in favor. Mr. Molnar states all parties present have received notice for the next meeting date.

Mr. Sharp asks if there is any further business to discuss. Sam Nittle states that nothing was accomplished at tonight's meeting since Mr. and Mrs. Casio have to go before the Planning Commission first. He states that it is not the applicants' fault for not following the proper procedure but it makes the Borough look bad because it is now holding up the Casio's time for completing this project. He would like to avoid this situation in the future by possibly having the Borough advise the applicants of the filing procedure. Mr. Molnar states that unfortunately, it is the applicant's responsibility to find out what the requirements are for filing an application. Ms. Roseberry states that the Board is not allowed to advise the residents on how they go about filing an application because then we run the risk of becoming the co-designer on the project or their representative, neither of which are permitted and local government really does leave it up to the applicant. The Zoning Ordinance is available to them and they have to educate themselves. Ms.

Roseberry suggests making information packets that can be given to the residents by using excerpts from the Zoning Ordinance. Mr. Nittle states that the packets would be a good idea for the residents because for some people it is hard to interpret what parts of the Zoning Ordinance requirements are to be followed. Mr. Molnar states that the Board has to be careful of what advice is given to the applicant because they are really the 'judges' but he does agree that someone in the Borough Office can set up an information packet. He states that it is fine for the Board to make suggestions to the Borough Office. Ms. Roseberry reiterates that the resident is ultimately the person responsible to obtain the Zoning Ordinance and follow the procedure. Mr. Nittle states that he will check with Planning and Council for any recommendations.

Mr. Sharp motions to adjourn the meeting. Ms. Roseberry seconds the motion. All are in favor.

Meeting adjourns at 8:10 pm.

  
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Jodi Phillips  
Zoning Officer