



# Zoning Board of Adjustment

## HEARING (AGENDA)

Tuesday, November 22, 2011 @ 8:00pm

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- A.) Opening Remarks
- B.) Pledge of Allegiance
- C.) Attendance
- D.) Correspondence:   October 20 - November 18, 2011  
                              November 19 - November 22, 2011
- E.) Approval of Minutes:   October 19, 2011 Hearing
- F.) Subcommittee Assignments:   November 28, 2011 Work Session
- G.) Discussion of Potential (Special) Hearing Date:   *597 Piermont Road*
- H.) Open to the Public
- I.) Caseload:   Item #'s 1 - 13 (see below)
- J.) Memorialization of Resolution(s):   *551 Closter Dock Road*
- K.) Closed Session (Pending Litigation):   *Wiggers v. Zoning Board of Adjustment*
- L.) Adjournment of Hearing

## Item #1

**Submissions:** 12/29/10; 11/9/11; 11/14/11  
**200' List:** Not Received

**Taxes:** 4<sup>th</sup> Quarter (2011)  
**Newspaper:** Not Received

Case #Z-2010-16  
3-5 Harvey Street  
(Block 801/Lot 18)

Applicant(s): Lawrence Berler  
Representation: Michael Goodman, Esq.

The applicant is appealing the determination of the Zoning Officer as to the legality of the continuation of a 2-family use at the subject property; in the alternative, he would seek a Use Variance; the application was received December 29, 2010 and scheduled for the February 23, 2011 Work Session; since neither the applicant nor counsel were in attendance, the Subcommittee rescheduled the case for the April 27, 2011 Work Session, at which time, it was perfected; pending the Board's receipt of requested items and public noticing requirements, the application was scheduled for the June 15, 2011 Hearing; due to the Board's heavy caseload, the application was postponed to the July 20, 2011 Hearing, August 17, 2011 Hearing and, again, to the September 21, 2011 Hearing; due to a scheduling conflict with the applicant's attorney, the case was postponed to the **November 22, 2011 Hearing.**

## Item #2

**Submissions:** 6/26/09; 8/18/09  
**200' List:** 10/5/11

**Taxes:** n/a  
**Newspaper:** 10/6/11

Case #Z-2009-10  
170 & 176 Closter Dock Road  
(Block 1301/Lots 10 & 11)

Applicant(s): DR Schmidt Realty, LLC  
Representation: Elliot Urdang, Esq.

The applicant is appealing the determination of the Zoning Officer, in response to its inquiry, as to the legality of existing use(s) on the subject property; **NOTE #1:** the application stems from prior a Board decision (Case #Z-2008-06) granting Use Variance and Site Plan Approvals for the conversion of existing office space to 2 residential units, resulting in a total of 4 at the subject mixed-use building; **NOTE #2:** due to the nature of the case, perfection by the Subcommittee at a Work Session was not required; **NOTE #3:** given the history surrounding the subject property, the Borough Attorney's presence is required during Board proceedings; the application was received June 26, 2009 and scheduled, pending the Board's receipt of outstanding application items and public noticing requirements, for the August 19, 2009 Hearing; due to scheduling conflicts with both the applicant's attorney and Zoning Officer, the case was postponed to the October 21, 2009 Hearing; due to a scheduling conflict with the Borough Attorney, the application was postponed to the November 16, 2009 Hearing; pending the outcome of ongoing litigation in the Superior Court of New Jersey- Bergen County Law Division regarding the above-mentioned Board decision, the application was postponed indefinitely; as per the Court order, the case was scheduled, pending the Board's receipt of public *re-noticing* requirements, for the October 19, 2011 Hearing; direct, cross- and redirect examinations of the Zoning Officer were completed and the application was adjourned to the **November 22, 2011 Hearing.**

## Item #3

*Submissions:* 10/28/11  
*200' List:* n/a

*Taxes:* Not Certified  
*Newspaper:* n/a

Case #Z-2011-18  
47-49 Fairview Avenue  
(Block 705/Lot 11)

Applicant(s):  
Representation:

Estate of Alexander & Mary Giannotti  
Rose Tubito, Esq.

The applicant is appealing the determination of the Zoning Officer as to the legality of the continuation of both a 2-family use for the main house as well as a 1-family use for a detached garage situated on the subject property; in the alternative, it would seek a Use Variance; the application was received October 28 and scheduled for the **November 28, 2011 Work Session**.

## Item #4

*Submissions:* 9/7/11; 9/21/11; 11/10/11  
*200' List:* Not Received

*Taxes:* Not Certified  
*Newspaper:* Not Received

Case #Z-2011-14  
8 O'Shaughnessy Lane  
(Block 2401/Lot 18)

Applicant(s):  
Representation:

Norman & Mimi Ng  
Andrew Podberezniak, RA

The applicants are seeking Bulk Variance Relief for the construction of 2 additions and the relocation of an existing solarium with respect to their residence as well as an addition to their detached garage; the application was received September 7, 2011 and scheduled for the September 28, 2011 Work Session, at which time, it was perfected; pending the Board's receipt of requested items and public noticing requirements, the application was scheduled for the November 22, 2011 Hearing; due to the Board's heavy caseload, the applicants were granted an appearance at the **November 28, 2011 (Special) Hearing**.

## Item #5

*Submissions:* 9/30/11; 10/11/11; 10/19/11  
*200' List:* 10/3/11

*Taxes:* 3<sup>rd</sup> Quarter (2011)  
*Newspaper:* 10/6/11

Case #Z-2011-16  
170 & 176 Closter Dock Road  
(Block 1301/Lots 10 & 11)

Applicant(s):  
Representation:

Desan Enterprises, Inc.  
Mark Madaio, Esq.

The applicant is seeking Site Plan Approval for the conversion of existing office space to 2 residential units, resulting in a total 4 at the subject mixed-use building; **NOTE #1:** the application stems from an order by the Superior Court of New Jersey- Bergen County Law Division (see Docket #BER-L-6731-09) remanding a prior Board decision (Case #Z-2008-06), which approved the above-mentioned proposal, for further review by the Board; **NOTE #2:** the Court order does not require that a Use Variance, again, be granted as part of the applicant's re-filing; **NOTE #3:** due to the nature of the case, perfection by the Subcommittee at a Work Session was not required; the application was received September 30, 2011 and scheduled, pending the Board's receipt of outstanding application items and public noticing requirements,

for the October 19, 2011 Hearing; being the Board decided testimony by the Zoning Officer, as well as other witnesses to be brought forth by the applicant, should precede the applicant's presentation of its remanded case (based on the fact such attestation would pertain to the validity of existing uses on the subject property which are under scrutiny by a party that is both the appellant in said Court case as well as the applicant listed in "Item #2" on the Board agenda), the application was postponed to the November 22, 2011 Hearing and, again, to the **December 19, 2011 Hearing.**

## Item #6

*Submissions:* 1/13/11; 1/21/11; 2/24/11; 3/29/11  
*200' List:* 8/3/11

*Taxes:* 2<sup>nd</sup> Quarter (2011)  
*Newspaper:* 8/3/11

Case #Z-2011-02  
17 Bogert Street  
(Block 1710/Lot 7)

Applicant(s): Robert & Dolores Witko  
Representation: Richard Abrahamsen, Esq.

The applicants are seeking Bulk Variance Relief for an as-built parking area, which is separate from the driveway and located in the front yard of their residence; **NOTE:** the application stems from action taken by the Code Enforcement Bureau (charged with assuring the Board's Resolutions are adhered to), which ascertained a prior Board decision (Case #Z-1999-25) denying Bulk Variance Relief, for a similar parking area at the subject property, was not complied with; the application was received January 13, 2011 and scheduled for the February 23, 2011 Work Session, at which time, it was perfected; pending the Board's receipt of requested items and public noticing requirements, the application was scheduled for the April 7, 2011 (Special) Hearing; due to a scheduling conflict with the applicants' attorney, the case was postponed to the May 18, 2011 Hearing; due to a scheduling conflict with the applicants, the case was postponed to the June 15, 2011 Hearing; due to the Board's heavy caseload, the application was postponed to the July 20, 2011 Hearing; being the applicants both did not file requested items by the deadline or fulfill public noticing requirements, the application was postponed to the August 17, 2011 Hearing; the applicants and their engineer completed initial testimony and the case was adjourned, pending the Board's receipt of requested items, to the September 21, 2011 Hearing; being the applicants did not file requested items by the deadline, the case was postponed to the November 22, 2011 Hearing and, again, to the **December 19, 2011 Hearing.**

## Item #7

*Submissions:* 10/18/10; 1/13/11  
*200' List:* Not Received

*Taxes:* 4<sup>th</sup> Quarter (2010)  
*Newspaper:* Not Received

Case #Z-2010-15  
24 Naugle Street  
(Block 1302/Lot 4)

Applicant(s): David & Elena Hansen  
Representation: Elliot Urdang, Esq.

The applicants initially sought a Use Variance only for the continuation of an existing contractor's yard operation located in District #3 (Business); the application was received October 18, 2010 and scheduled for the November 22, 2010 Work Session; since neither the applicants nor counsel were in attendance, the Subcommittee rescheduled the case for the January 26, 2011 Work Session; the applicants subsequently filed an addendum seeking Site

Plan Approval, which was received January 13, 2011 and incorporated into the original application scheduled for the January 26, 2011 Work Session, at which time, it was perfected;

pending the Board's receipt of requested items and public noticing requirements, the application was scheduled for the April 20, 2011 Hearing; due to the Board's heavy caseload, the application was postponed to the May 18, 2011 Hearing, June 15, 2011 Hearing, July 20, 2011 Hearing and, again, to the August 17, 2011 Hearing; due to a scheduling conflict with the applicants' attorney, the case was postponed to the September 21, 2011 Hearing; being the applicants both did not file requested items by the deadline or fulfill public noticing requirements, the case was postponed to the November 22, 2011 Hearing and, again, to the **December 19, 2011 Hearing**.

## Item #8

*Submissions:* 3/2/11; 5/10/11  
*200' List:* Not Received

*Taxes:* 1<sup>st</sup> Quarter (2011)  
*Newspaper:* Not Received

Case #Z-2011-08  
343 Closter Dock Road  
(Block 1704/Lot 17)

Applicant(s): John Galdi  
Representation: David Watkins, Esq.

The applicant is seeking a Use Variance for the continuation of a 2-family use at the subject property; the application was received March 2, 2011 and scheduled for the March 23, 2011 Work Session, at which time, it was perfected; pending the Board's receipt of requested items and public noticing requirements, the application was scheduled for the May 18, 2011 Hearing; due to the Board's heavy caseload, the application was postponed to the July 20, 2011 Hearing, August 17, 2011 Hearing, September 21, 2011 Hearing, November 22, 2011 Hearing and, again, to the **December 19, 2011 Hearing**.

## Item #9

*Submissions:* 5/18/11; 6/27/11; 7/13/11; 8/3/11  
*200' List:* 10/7/11

*Taxes:* 2<sup>nd</sup> Quarter (2011)  
*Newspaper:* 10/5/11

Case #Z-2011-11  
247 West Street  
(Block 1301/Lot 22)

Applicant(s): Fiore Osso  
Representation: David Watkins, Esq.

The applicant is seeking a Use Variance for the continuation of a 2-family use at the subject property; the application was received May 18, 2011 and scheduled for the May 25, 2011 Work Session, at which time, it was perfected; pending the Board's receipt of requested items and public noticing requirements, the application was scheduled for the July 20, 2011 Hearing; due to the Board's heavy caseload, the application was postponed to the August 17, 2011 Hearing, September 21, 2011 Hearing, November 22, 2011 Hearing and, again, to the **December 19, Hearing**.

## Item #10

*Submissions:* 6/8/11; 11/8/11  
*200' List:* Not Received

*Taxes:* 2<sup>nd</sup> Quarter (2011)  
*Newspaper:* Not Received

Case #Z-2011-12

Applicant(s): Juanita Guzman

The applicant is seeking Bulk Variance Relief for (2) separate projects: 1.) as-built construction of her new single-family house (**NOTE:** this portion of the application stems from the “Final As-Built Survey” being denied by the Zoning Officer); 2.) proposed in-ground swimming pool (spa and patio inclusive) at her residence; the application was received June 8, 2011 and scheduled for the June 22, 2011 Work Session, at which time, it was perfected; pending the Board’s receipt of requested items and public noticing requirements, the application was scheduled for the July 20, 2011 Hearing; due to a scheduling conflict with the applicant’s engineer, the application was postponed to the September 21, 2011 Hearing; being the applicant both did not file requested items by the deadline or fulfill public noticing requirements, the case was postponed to the November 22, 2011 Hearing; due to the Board’s heavy caseload, the applicant was granted an appearance at the November 28, 2011 (Special) Hearing; being the applicant both did not file requested items by the deadline or fulfill public noticing requirements, the case was postponed to the ***December 19, 2011 Hearing.***

## Item #11

**Submissions:** 9/21/11; 9/28/11  
**200’ List:** Not Received

**Taxes:** 3<sup>rd</sup> Quarter (2011)  
**Newspaper:** Not Received

Case #Z-2011-15  
447 High Street  
(Block 1314/Lot 4)

Applicant(s): Anna Haverilla  
Representation: David Watkins, Esq.

The applicant is appealing the determination of the Zoning Officer as to the legality of the continuation of a 1-family use for a carriage house at the subject property; in the alternative, she would seek a Use Variance; **NOTE:** in 1958, a Use Variance (Case # was not assigned) for the 1-to 2-family use conversion of the main house on-site, was granted; the application was received September 21, 2011 and scheduled for the October 26, 2011 Work Session, at which time, it was perfected; pending the Board’s receipt of requested items and public noticing requirements, the application was scheduled for the ***December 19, 2011 Hearing.***

## Item #12

**Submissions:** 10/7/11; 11/3/11; 11/18/11  
**200’ List:** Not Received

**Taxes:** Not Certified  
**Newspaper:** Not Received

Case #Z-2011-17  
597 Piermont Road  
(Block 1608/Lot 1)

Applicant(s): TD Bank, NA  
Representation: Paul Conciatori, Esq.

The applicant is seeking Use Variance and Site Plan Approvals for the construction of a new commercial/retail bank (detached drive-thru canopy inclusive) at the subject property; the application was received October 7, 2011 and scheduled for the October 26, 2011 Work Session, at which time, it was perfected; pending the Board’s receipt of requested items and public noticing requirements, the Board is considering to grant the applicant an appearance at an ***undetermined (Special) Hearing date.***

# Item #13

**Submissions:** 2/11/11; 7/6/11; 11/17/11  
**200' List:** 7/8/11

**Taxes:** 1<sup>st</sup> Quarter (2011)  
**Newspaper:** 6/22/11

Case #Z-2011-07  
551 Closter Dock Road  
(Block 1709/Lot 12)

Applicant(s): Marc Votto  
Representation: Self

The applicant is seeking Bulk Variance Relief for the as-built construction of his new single-family house; **NOTE:** the application stems from the “Final As-Built Survey” being denied by the Zoning Officer; the application was received February 11, 2011 and scheduled for the February 23, 2011 Work Session, at which time, it was perfected; pending the Board’s receipt of requested items and public noticing requirements, the application was scheduled for the April 7, 2011 (Special) Hearing; being the applicant both did not file requested items by the deadline or fulfill public noticing requirements, the application was postponed to the May 18, 2011 Hearing, June 15, 2011 Hearing and, again, to the July 20, 2011 Hearing; the application was approved by the Board; the Board Attorney prepared a Resolution to be memorialized at the August 17, 2011 Hearing, September 21, 2011 Hearing and, again, at the October 19, 2011 Hearing, but votes were tabled because the applicant did not file requested items by the deadlines; **if requested items are not filed with the Board by the November 22, 2011 Hearing, it will reopen the case for purposes of denying the application unconditionally.**