



# Zoning Board of Adjustment

## MEETING (AGENDA)

Wednesday, June 19, 2013 @ 8:00pm

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- A.) Opening Remarks;
- B.) Pledge of Allegiance;
- C.) Attendance;
- D.) Correspondence: May 30, 2013 - June 19, 2013;
- E.) Approval of Minutes: April 24, 2013 (Special) Meeting;  
May 29, 2013 (Special) Meeting;
- F.) Subcommittee Assignments: June 26, 2013 Work Session;
- G.) Review of Proposed 2011 & 2012 Annual Report to Governing Body & Planning Board;
- H.) Interpretation of Borough Code Chapter 200-9B to Enhance Review Process by Zoning Officer When Considering Applications for 2-Family Use Ratification;
- I.) Open to the Public;
- J.) Caseload: Item #'s 1 - 12 (see below);
- K.) Memorialization of Resolution(s): *Case #Z-2011-16 (170 & 176 Closter Dock Road/Desan Enterprises, Inc.);  
Case #Z-2011-11 (247 West Street/Osso);  
Case #Z-2013-04 (322 Harrington Avenue/Arcella Family Trust);*



## Item #3

*Submissions:* 5/14/13; 5/28/13; 6/11/13  
*Taxes:* 1<sup>st</sup> Quarter (2013)  
*Consecutive Postponements:* 0

*Newspaper:* 6/9/13  
*200' List:* 6/7/13

Case #Z-2013-11  
63 Closter Dock Road  
(Block 805/Lot 49)

Applicant(s): Vincent & Daniela Tubito  
Representation: Rose Tubito, Esq.

The applicants are seeking a Use Variance (building height) for the construction of a new 1-family house at the subject property; the application was received May 14, 2013 and scheduled for the May 29, 2013 (Special) 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 19, 2013 Meeting**.

## Item #4

*Submissions:* 6/13/13  
*Taxes:* 2<sup>nd</sup> Quarter (2013)  
*Consecutive Postponements:* 0

*Newspaper:* n/a  
*200' List:* n/a

Case #Z-2013-12  
93 Venus Drive  
(Block 2010/Lot 3)

Applicant(s): Mark Topalian  
Representation: Jordan Yuelys, Esq.

The applicant is seeking Bulk Variances for the construction of (2) additions, deck, (2) retaining walls, (2) patios (on-grade) and driveway expansion at the subject property; the application was received June 13, 2013 and scheduled for the **June 26, 2013 Work Session**.

## Item #5

*Submissions:* 5/3/13; 6/12/13  
*Taxes:* 1<sup>st</sup> Quarter (2013)  
*Consecutive Postponements:* 0

*Newspaper:* Not Received  
*200' List:* Not Received

Case #Z-2013-08  
437-439 Durie Avenue  
(Block 1003/Lot 18)

Applicant(s): Diamond Engineers & Developers, Inc.  
Representation: David Watkins, Esq.

The applicant is seeking a Use Variance and Site Plan Approval for both the 4-family use conversion of a 2-family house and the 1-family use conversion of a detached garage at the subject property; the application was received May 3, 2013 and scheduled for the May 15, 2013 (Special) 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 17, 2013 Meeting**.

## Item #6

*Submissions:* 5/8/13  
*Taxes:* Not Received  
*Consecutive Postponements:* 0

*Newspaper:* Not Received  
*200' List:* Not Received

Case #Z-2013-10  
626 Closter Dock Road  
(Block 2404/Lot 18)

Applicant(s): Deepak & Meenakshi Khanna  
Representation: Michael Sprague, Esq.

The applicants are seeking a Use Variance (floor area ratio) and Bulk Variances for the as-built construction of an addition, front portico (archway), driveway expansion, and 2 patios (on-grade) at the subject property; the application was received May 8, 2013 and scheduled for the May 29, 2013 (Special) 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 17, 2013 Meeting***.

## Item #7

**Submissions:** 9/30/11; 10/11/11; 10/19/11; 1/9/12; 4/5/12; 5/3/12; **Newspaper:** 10/6/11; 2/2/12; 4/5/12; 10/11/12  
10/12/12; 12/6/12; 5/28/13  
**Taxes:** 1<sup>st</sup> Quarter (2013) **200' List:** 10/3/11; 2/3/12; 4/4/12; 10/10/12  
**Consecutive Postponements:** 1 2/15/13

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

Applicant(s): Desan Enterprises, Inc.  
Representation: Mark Madaio, Esq.

The applicant is seeking Site Plan Approval for the conversion of existing office space to 2 apartments, resulting in a total of 4 within a mixed-use building at the subject property; **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 Meeting; being the Board decided that testimony by both the Zoning Officer and witnesses for the objector should precede presentation of the remanded case, the application was postponed to the November 22, 2011 Meeting, December 19, 2011 Meeting and, again, to the January 18, 2012 Meeting; due to the Board's heavy caseload, the application was postponed to the February 15, 2012 Meeting; the applicant's engineer completed direct, cross- and redirect examinations and the case was adjourned, pending the Board's receipt of requested items, to the March 21, 2012 Meeting; due to a scheduling conflict with the applicant's attorney, the case was postponed to the April 18, 2012 Meeting; the applicant's engineer completed subsequent testimony and the case was adjourned, with no items requested by the Board, to the May 16, 2012 Meeting; due to the Board's heavy caseload, the application was postponed to the June 20, 2012 Meeting; further direct, cross- and redirect examinations of the applicant's engineer were completed as was the direct examination of the objector's engineer, and the case was adjourned, pending the Board's receipt of requested items, to the July 18, 2012 Meeting; due to scheduling conflicts with both the applicant's engineer and an intended witness (previous owner-in-fee of the subject property), the case was postponed to the August 15, 2012 Meeting; further direct, cross- and redirect examinations of the objector's engineer were completed and the case was adjourned, with no items requested by the Board, to the October 24, 2012 (Special) Meeting; further direct, cross- and redirect examinations of the applicant's engineer were completed as was the direct examination of the previous owner-in-fee of the subject property, and the case was adjourned, with no items requested by the Board, to the November 21, 2012 Meeting; cross-examination of the previous owner-in-fee of the subject property was completed as was the direct and cross-examinations of its current principal owner-in-fee, and the case was adjourned, with no items requested by the Board, to the December 19,

2012 Meeting; being the applicant did not furnish items prepared by its engineer to the objector in a timely fashion, the case was postponed to the January 16, 2013 Meeting; due to the Board's heavy caseload, the application was postponed to the January 23, 2013 (Special) Meeting; due to a scheduling conflict with the objector's attorney, the application was postponed to the February 20, 2013 Meeting; being the applicant did not fulfill public *re-noticing* requirements, the case was postponed to the March 20, 2013 Meeting; the application was approved by the Board; **memorialization of Resolution has been delayed as of April 24, 2013 (Special) Meeting due to non-receipt of requested items.**

## Item #8

**Submissions:** 5/18/11; 6/27/11; 7/13/11; 8/3/11; 4/4/13; 6/10/13    **Newspaper:** 10/5/11; 9/14/12; 1/11/13  
**Taxes:** 1<sup>st</sup> Quarter (2013)    **200' List:** 10/7/11; 9/14/12; 1/11/13  
**Consecutive Postponements:** 0

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 Meeting; due to the Board's heavy caseload, the application was postponed to the August 17, 2011 Meeting, September 21, 2011 Meeting, November 22, 2011 Meeting and, again, to the December 19, 2011 Meeting; due to scheduling conflicts with all parties involved in the applicant's presentation, the case was postponed to the January 18, 2012 Meeting; due to the Board's heavy caseload, the application was postponed to the February 15, 2012 Meeting; due to scheduling conflicts with all parties involved in the applicant's presentation, the case was postponed to the March 21, 2012 Meeting and, again, to the April 18, 2012 Meeting; due to the Board's heavy caseload, the application was postponed to the May 16, 2012 Meeting, June 20, 2012 Meeting, July 18, 2012 Meeting and, again, to the August 15, 2012 Meeting; due to scheduling conflicts with all parties involved in the applicant's presentation, the case was postponed to the September 19, 2012 Meeting; being the applicant did not fulfill public noticing requirements, the application was postponed to the September 26, 2012 (Special) Meeting; being the Board could not establish a quorum, the application was rescheduled for the November 28, 2012 (Special) Meeting; due to a scheduling conflict with the applicant's planner, the case was postponed to the December 19, 2012 Meeting; due to the Board's heavy caseload, the application was postponed to the January 23, 2013 (Special) Meeting and, again, to the February 20, 2013 Meeting; due to a scheduling conflict with the applicant's attorney, the case was postponed to the March 27, 2013 (Special) Meeting; the applicant's planner completed initial testimony and the case was adjourned, pending the Board's receipt of requested items, to the April 17, 2013 Meeting; the application was approved by the Board; **awaiting prepared Resolution by Board Attorney to memorialize.**

## Item #9

**Submissions:** 3/15/13; 4/5/13; 4/15/13    **Newspaper:** 4/11/13  
**Taxes:** 1<sup>st</sup> Quarter (2013)    **200' List:** 4/11/13  
**Consecutive Postponements:** 0

Case #Z-2013-04  
322 Harrington Avenue  
(Block 1312/Lot 11)

Applicant(s): Arcella Family Trust  
Representation: Andrew Kohut, Esq.

The applicant is seeking pre-existing/nonconforming status for a 3-family use at the subject property; the application was received March 15, 2013 and scheduled for the March 27, 2013 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 24, 2013 (Special) Meeting; the application was approved by the Board; **awaiting prepared Resolution by Board Attorney to memorialize.**

## Item #10

*Submissions:* 1/16/13; 3/6/13; 4/23/13  
*Taxes:* 1<sup>st</sup> Quarter (2013)  
*Consecutive Postponements:* 0

*Newspaper:* 4/5/13  
*200' List:* 4/5/13

Case #Z-2013-02  
24 Robinhood Avenue  
(Block 702/Lot 6)

Applicant(s): Paul Keller  
Representation: David Watkins, 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 January 16, 2013 and scheduled for the February 27, 2013 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 17, 2013 Meeting; the applicant and both his engineer and planner completed initial testimony and the case was adjourned, pending the presentation of additional items (pre-filing not required), to the April 24, 2013 (Special) Meeting; the application was approved by the Board; **awaiting prepared Resolution by Board Attorney to memorialize.**

## Item #11

*Submissions:* 5/3/13  
*Taxes:* 2<sup>nd</sup> Quarter (2013)  
*Consecutive Postponements:* 0

*Newspaper:* 5/18/13  
*200' List:* 5/17/13

Case #Z-2013-06  
53 Bethany Circle  
(Block 308/Lot 20)

Applicant(s): Christopher & Dawn Constantine  
Representation: Selves

The applicants are seeking a Design Waiver for the installation of a fence (privacy) at the subject property; the application was received May 3, 2013 and scheduled for the May 15, 2013 (Special) 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 29, 2013 (Special) Meeting; the application was approved by the Board; **awaiting prepared Resolution by Board Attorney to memorialize.**

## Item #12

*Submissions:* 5/3/13  
*Taxes:* 2<sup>nd</sup> Quarter (2013)  
*Consecutive Postponements:* 0

*Newspaper:* 5/18/13  
*200' List:* 5/17/13

Case #Z-2013-07  
57 Bethany Circle  
(Block 308/Lot 21)

Applicant(s): Kevin Leyden  
Representation: Self

The applicant is seeking a Design Waiver for the installation of a fence (privacy) at the subject property; the application was received May 3, 2013 and scheduled for the May 15, 2013 (Special) 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 29, 2013 (Special) Meeting; the application was approved by the Board; **awaiting prepared Resolution by Board Attorney to memorialize.**