



# Zoning Board of Adjustment

## MEETING (AGENDA)

Wednesday, March 20, 2013 @ 8:00pm

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- A.) Opening Remarks;
- B.) Pledge of Allegiance;
- C.) Oaths of Office
  - 1.) *Joan Marks* (Elevated to Alternate #2- Replacing Evan Elias)  
\*2-Year Term Expires: December 31, 2013\*;
  - 2.) *John Galluccio, Esq.* (Elevated to Alternate #3- Replacing Joan Marks)  
\*2-Year Term Expires: December 31, 2014\*;
  - 3.) *Phillip Kwon, Esq.* (Appointed to Alternate #4- Replacing John Galluccio, Esq.)  
\*2-Year Term Expires: December 31, 2013\*;
- D.) Attendance;
- E.) Correspondence: February 21, 2013 - March 20, 2013;
- F.) Approval of Minutes: February 20, 2013 Meeting;  
February 27, 2013 (Special) Meeting;
- G.) Subcommittee Assignments: March 27, 2013 Work Session;
- H.) Discussion on Requesting Appearances by and/or Evidence from Certain Borough Officials on Case-by-Case Basis;

- I.) Open to the Public;
- J.) Caseload: Item #'s 1 - 12 (see below);
- K.) Memorialization of Resolution(s): *Case #Z-2012-12 (388 Anderson Avenue/Erbeli);  
Case #Z-2012-11 (120 High Street/Carpentieri);  
Case #Z-2013-01 (551 Closter Dock Road/Votto);  
Case #Z-2012-07 (441 High Street/de la Bastida);*
- L.) Closed Session: *Wiggers v. Zoning Board of Adjustment;*
- M.) Miscellaneous;
- N.) Adjournment of Meeting;

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<b>Item #1</b>	<i>Submissions:</i> 1/31/13; 3/8/13 <i>Taxes:</i> 1 <sup>st</sup> Quarter (2013) <i>Consecutive Postponements:</i> 0	<i>Newspaper:</i> 3/6/13 <i>200' List:</i> 3/7/13
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Case #Z-2013-03 175 Herbert Avenue (Block 1501/Lot 15)	Applicant(s): Representation:	Anthony & Linda De Falco Selves
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The applicants are seeking Bulk Variance Relief for the reconstruction of a storm-damaged detached garage at the subject property; the application was received January 31, 2013 and scheduled for the February 20, 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 **March 20, 2013 Meeting**.

<b>Item #2</b>	<i>Submissions:</i> 9/30/11; 10/11/11; 10/19/11; 1/9/12; 4/5/12; 5/3/12; 10/12/12; 12/6/12 <i>Taxes:</i> 1 <sup>st</sup> Quarter (2013) <i>Consecutive Postponements:</i> 1	<i>Newspaper:</i> 10/6/11; 2/2/12; 4/5/12; 10/11/12 2/15/13 <i>200' List:</i> 10/3/11; 2/3/12; 4/4/12; 10/10/12 2/15/13
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Case #Z-2011-16 170 & 176 Closter Dock Road (Block 1301/Lots 10 & 11)	Applicant(s): Representation:	Desan Enterprises, Inc. Mark Madaio, Esq.
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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 (see "Item #3" on the Board agenda) 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**.

## Item #3

*Submissions:* 6/26/09; 8/18/09; 10/19/11

*Taxes:* n/a

*Consecutive Postponements:* 1

*Newspaper:* 10/6/11; 4/2/12; 10/9/12; 3/1/13

*200' List:* 10/5/11; 4/2/12; 10/10/12; 3/1/13

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) at 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 apartments, 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 Meeting; due to scheduling conflicts with both the applicant's

attorney and Zoning Officer, the case was postponed to the October 21, 2009 Meeting; due to a scheduling conflict with the Borough Attorney, the application was postponed to the November 16, 2009 Meeting; 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 Meeting; direct, cross- and redirect examinations of the Zoning Officer were completed and the application was adjourned to the November 22, 2011 Meeting; due to the applicant's attorney being ill, the case was postponed to the December 19, 2011 Meeting; due to a scheduling conflict with the applicant's attorney, 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 a scheduling conflict with the applicant, the case was postponed to the March 21, 2012 Meeting; due to a scheduling conflict with opposing counsel, the case was postponed to the April 18, 2012 Meeting; due to the Board's heavy caseload, the application was postponed to the May 16, 2012 Meeting; due to a scheduling conflict with the Zoning Officer, the case was postponed to the June 20, 2012 Meeting; due to the Board's heavy caseload, the application was postponed to the July 18, 2012 Meeting; due to scheduling conflicts pertaining to "Item #2" on the Board agenda, the case was postponed the August 15, 2012 Meeting and, again, to the October 24, 2012 (Special) Meeting; due to the Board's heavy caseload, the application was postponed to the November 21, 2012 Meeting; as a means of consolidation, attorneys for both the applicant and that of "Item #2" on the Board agenda agreed, in principal, to complete presentation of their respective applications as if 1, and, therefore, the case was adjourned, with no items requested by the Board, to the December 19, 2012 Meeting; being the applicant was not furnished items prepared by the engineer of the applicant relating to "Item #2" on the Board agenda 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 applicant's attorney, the case 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**.

## Item #4

*Submissions:* 3/15/13  
*Taxes:* Not Received  
*Consecutive Postponements:* 0

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

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

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

The applicant is appealing the determination of the Zoning Officer as to the legality of the continuation of a 3-family use at the subject property; the application was received March 15, 2013 and scheduled for the **March 27, 2013 Work Session**.

## Item #5

*Submissions:* 5/18/11; 6/27/11; 7/13/11; 8/3/11  
*Taxes:* 1<sup>st</sup> Quarter (2013)  
*Consecutive Postponements:* 1

*Newspaper:* 10/5/11; 9/14/12; 1/11/13  
*200' List:* 10/7/11; 9/14/12; 1/11/13

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.**

<b>Item #6</b>	<i>Submissions:</i> 1/16/13; 3/6/13	<i>Newspaper:</i> Not Received
	<i>Taxes:</i> 4 <sup>th</sup> Quarter (2012)	<i>200' List:</i> Not Received
	<i>Consecutive Postponements:</i> 0	

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.**

<b>Item #7</b>	<i>Submissions:</i> 10/17/12; 10/26/12; 11/16/12; 12/6/12; 1/4/13 1/11/13	<i>Newspaper:</i> 12/3/12
	<i>Taxes:</i> 3 <sup>rd</sup> Quarter (2012)	<i>200' List:</i> 12/3/12
	<i>Consecutive Postponements:</i> 0	

Case #Z-2012-12  
388 Anderson Avenue  
(Block 2304/Lot 29)

Applicant(s): Selaudin & Arjent Erbeli  
Representation: Elliot Urdang, Esq.

The applicants are seeking Bulk Variance Relief for the construction of a new single-family house at the subject property; the application was received October 17, 2012 and scheduled for the October 31,

2012 (Special) Work Session, at which time, it was deemed incomplete; pending the Board's receipt of requested items, the application was rescheduled for the November 21, 2012 (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 December 19, 2012 Meeting; the applicants' engineer and architect completed their initial testimony and the case was adjourned, pending the Board's receipt of requested items, to the January 16, 2013 Meeting; the application was approved by the Board; **memorialization of Resolution has been delayed as of February 20, 2013 Meeting due to non-receipt of requested items.**

## Item #8

**Submissions:** 10/11/12; 1/4/13  
**Taxes:** 4<sup>th</sup> Quarter (2012)  
**Consecutive Postponements:** 0

**Newspaper:** 1/1/13  
**200' List:** 12/27/12

Case #Z-2012-11  
 120 High Street  
 (Block 510/Lot 6)

Applicant(s): Audrey Carpentieri  
 Representation: Ronald Groseibl, 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, she would seek a Use Variance; the application was received October 11, 2012 and scheduled for the October 24, 2012 Work Session; due to the necessity for further administrative review, the application was rescheduled for the October 31, 2012 (Special) Work Session and, again, for the November 28, 2012 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 January 16, 2013 Meeting; the applicant completed initial testimony and, to allow for both the Board Attorney and applicant's attorney to discuss the merits of the application as it relates to estoppel, the case was adjourned to the January 30, 2013 (Special) Meeting; the application was approved by the Board; **memorialization of Resolution has been delayed as of February 20, 2013 Meeting due to non-receipt of requested items.**

## Item #9

**Submissions:** 1/2/13; 1/24/13; 2/8/13  
**Taxes:** 1<sup>st</sup> Quarter (2013)  
**Consecutive Postponements:** 0

**Newspaper:** 2/5/13  
**200' List:** 1/30/13

Case #Z-2013-01  
 551 Closter Dock Road  
 (Block 1709/Lot 12)

Applicant(s): Marc Votto  
 Representation: Self

The applicant is seeking Bulk Variance Relief for the construction of a deck at the subject property; the application was received January 2, 2013 and scheduled for the January 23, 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 February 20, 2013 Meeting; the application was approved by the Board; **awaiting prepared Resolution by Board Attorney to memorialize.**

## Item #10

*Submissions:* 5/30/12; 2/14/13; 2/19/13; 3/13/13  
*Taxes:* 1<sup>st</sup> Quarter (2013)  
*Consecutive Postponements:* 0

*Newspaper:* 2/14/13  
*200' List:* 2/15/13

Case #Z-2012-07  
441 High Street  
(Block 1314/Lot 5)

Applicant(s):  
Representation:

Jeanne de la Bastida c/o Thomas Donahue  
Joseph Colella, 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 30, 2012 and scheduled for the July 25, 2012 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 September 19, 2012 Meeting; being the applicant did not file requested items by the deadline and had yet to retain a planner, the application was postponed to the November 21, 2012 Meeting; due to the Board's heavy caseload, the application was postponed to the December 19, 2012 Meeting, January 16, 2013 Meeting and, again, to the February 27, 2013 (Special) Meeting; the application was approved by the Board; **awaiting prepared Resolution by Board Attorney to memorialize.**

## Item #11

*Submissions:* 1/4/12; 2/21/12; 10/19/12  
*Taxes:* 1<sup>st</sup> Quarter (2013)  
*Consecutive Postponements:* 3

*Newspaper:* 5/11/12; 10/19/12  
*200' List:* 5/14/12; 10/16/12

Case #Z-2012-01  
318 Harrington Avenue  
(Block 1312/Lot 10)

Applicant(s):  
Representation:

Aurora Baquiran  
David Watkins, Esq.

The applicant is appealing the determination of the Zoning Officer as to the legality of the continuation of the following uses for the 3 detached buildings at the subject property: 1.) 3-family use (front building on-site); 2.) 2-family use (middle building on-site); 3.) 1-family use (rear building on-site); in the alternative, she would seek a Use Variance; the application was received January 4, 2012 and scheduled for the January 25, 2012 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 March 21, 2012 Meeting; being the applicant did not fulfill public noticing requirements, the case was postponed to the April 18, 2012 Meeting; due to the Board's heavy caseload, the application was postponed to the May 16, 2012 Meeting; due to the Board's heavy caseload, the applicant was granted an appearance at the May 30, 2012 (Special) Meeting; due to a scheduling conflict with the applicant's attorney, she was granted an appearance at the June 27, 2012 (Special) Meeting; the applicant's engineer completed initial testimony and the case was adjourned, pending the Board's receipt of requested items, to the July 25, 2012 (Special) Meeting; due to a scheduling conflict with the applicant's planner, she was granted an appearance, pending the Board's receipt of requested items, at the August 22, 2012 (Special) Meeting; being the applicant did not file requested items by the deadline, the case was postponed to the September 26, 2012 (Special) Meeting and, again, to the October 31, 2012 (Special) Meeting; due to Hurricane Sandy and its aftermath, the application was rescheduled for 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

February 27, 2013 (Special) Meeting; due to a scheduling conflict with the applicant's planner, the case was postponed to the March 27, 2013 (Special) Meeting; being the applicant did not fulfill public re-noticing requirements, ***the Board shall consider dismissal without prejudice for failure to prosecute.***

## Item #12

**Submissions:** 9/21/11; 9/28/11  
**Taxes:** 3<sup>rd</sup> Quarter (2011)  
**Consecutive Postponements:** 3

**Newspaper:** Not Received  
**200' List:** 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 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; due to the Board's heavy caseload, the application was postponed to 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 30, 2013 (Special) Meeting; due to a scheduling conflict with the applicant's planner, the case was postponed to the February 27, 2013 (Special) Meeting and, again, to the March 27, 2013 (Special) Meeting; being the applicant both did not file requested items nor fulfill public noticing requirements, ***the Board shall consider dismissal without prejudice for failure to prosecute.***