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***Borough of Closter***  
*Zoning Board of Adjustment*  
*295 Closter Dock Road*  
*Closter, NJ 07624*

# **ZONING BOARD OF ADJUSTMENT**

## **Regular Monthly Hearing** *(Minutes)*

*May 20, 2009*

Prepared by:

**Paul Demarest**  
*Coordinator*

Chairman Knee called the Regular Monthly Hearing of the Zoning Board of Adjustment of the Borough of Closter, New Jersey being held Wednesday, May 20, 2009 in the Council Chambers of the Borough Hall to order at 8:06pm. He stated the meeting was being held in compliance with the provisions set forth in the Open Public Meetings Act of the State of New Jersey and had been advertised in the newspaper according to law. Chairman Knee advised that the Board adheres to an 11:00pm adjournment and no new matters would be considered after such time.

Chairman Knee invited all present in reciting the Pledge of Allegiance.



The following Board members and professionals were present at the meeting:

- Robert Knee- Chairman
- Lorin Sonenshine, RA/PP- Vice Chairman
- Joseph Bianco, RA/PP
- Theodore West, DDS
- Mitchell Monaco
- Jennifer Rothschild, Esq.- Alternate #1
- Francis Noh- Alternate #2
- Steven Iafrate- Alternate #3
- Mark Crisafulli- Alternate #4
- Thomas Hennessey- Council Liaison
- Leonard Sinowitz- Zoning Officer
- Michael Kates, Esq.- Board Attorney
- John Pacholek, PE- Board Engineer
- Paul Demarest- Board Coordinator

The following Board members and professionals were absent from the meeting:

- Steven Freesman, Esq.- Secretary
- Denise Mattes, CLA



Prior to the meeting, the Board received copies of the mail correspondence received by the Land Use Office on its behalf. Chairman Knee read said mailings into the record.



A motion was made by Mr. Bianco and seconded by Vice Chairman Sonenshine, to approve the minutes of the February 18, 2009 Hearing. All members present voted in favor. A motion was made by Mr. Bianco and seconded by Mr. Monaco, to approve the minutes of the March 9, 2009 (Special) Hearing. All members present voted in favor. A motion was made by Mr. Bianco and seconded by Mr. Monaco, to approve the minutes of the March 18, 2009 Hearing. All members present voted in favor. A motion was made by Mr. Bianco and seconded by Mr. Crisafulli, to approve the minutes of the April 15, 2009 Hearing. All members present voted in favor.



Chairman Knee requested 3 volunteers from the Board to serve on the Subcommittee for the next Work Session to be held on Wednesday, May 27, 2009. The following were assigned: Vice Chairman Sonenshine, Mr. Iafrate and Mr. Noh.



Chairman Knee opened the meeting to the public for anyone wishing to comment on matters not related to a case on the evening's agenda. No one wished to be heard.



**Item #1**

Case #Z-2008-27  
23 Storig Avenue  
(Block 803/Lot 18)

Applicant: Orlando Tobia  
Representation: Judith Reilly, Esq.

*Vice Chairman Sonenshine and Dr. West recused themselves from this case.*

The applicant is seeking Use Variance Relief (no construction being proposed) for the continuation of a 2-family use at the subject property.

Judith Reilly, Esq., 302 Scharer Avenue, Northvale, New Jersey, recapped her client's case which was adjourned at the April 15, 2009 Hearing. She stated the Interpretation and Use Variance requests had been addressed at the prior appearance. She reiterated that the ordinance in question, Chapter 200-9B, propelled Mr. Tobia's reasoning for an Interpretation. Ms. Reilly said there was a problem with both the way said ordinance is drafted as well as the means by which a property owner is supposed to respond to it; she emphasized that, in terms of the Use Variance, the only item with which the subject property is deficient, is lot size. Mr. Kates explained that since the consistent reasoning for the subject property's non-conformity has been the lot size, be it pre-1940, 1946 (the year of conversion) or present day, there has always been non-compliance, no matter how one interprets the property. Ms. Reilly stated she understood Mr. Kates' response to her Interpretation request along with his questioning of her argument; however, she said she only makes such a request because of the subject property's entire history. If, she said, such an "out-in-the-open" use was not permitted at the time, why then was the Tobia family taxed as a 2-family dwelling for all these years. She said her client has, thus, been put in an unfair situation. Mr. Kates stated that a Bergen County Superior Court decision has cautioned the Board not to get into the unfairness of taxing as a 2-family because it is an estoppel issue that can only be brought up in a court of law. He further stated that it is a judicial concept that does not play into the "black and white" analysis of the facts. Ms. Reilly said it appeared the Borough condoned the 2-family status when approving construction permits and subsequent certificates for the extensive renovations done in 1965. Mr. Kates responded that such an issue could possibly be an enforcement concern. He continued with saying said Bergen County Superior Court decision deemed that special reasons is not the "be-all end-all" of site suitability and that more is necessary to support a special reasons argument. He further stated that "use" and "consistency over decades" are fine, but that more is necessary to argue. According to his records, Mr. Kates stated that those items were the sole ones testified to by the applicant's planner, in terms of a special reasons argument, along with shortage of

housing (not to be offered as a COAH unit), light and open space and desirable visual environment. Ms. Reilly confirmed that his recollection was correct.

**Outcome**

A motion was made by Mr. Bianco and seconded by Mr. Crisafulli, that the Interpretation of the Board be that the subject property needs a Use Variance. Mr. Bianco felt the Borough Code was clear that if a property does not comply, then a Use Variance is required. He said there was no “wobble room” and that this property’s missing link was its lot size. All members present voted in favor of upholding the Zoning Officer’s decision to deny the 2-family use and require a Use Variance (6-0). A motion was made by Mr. Bianco and seconded by Mr. Monaco, to grant a Use Variance. Mr. Bianco dictated the following reasons for his motion: 1) the subject property is located in District #2; 2) it was built prior to 1940; 3) other than a slight deficiency with the lot size, all bulk zoning requirements are met; 4) it meets HUD requirements for home density and occupant load; 5) there is adequate on-site parking; 6) landscaping and curb appeal is met; 7) it has a pleasant architectural scheme. He continued by saying that all building and fire codes must be adhered to via the Building Department. Mr. Bianco questioned whether or not the home could be deed-restricted in terms of future expansion or demolition. Mr. Kates said if the home were demolished, it could not be re-built unless it conformed; if expanded, he felt that it could not be deed-restricted if it met all building codes, thus, such could be done only on a zoning basis. Mr. Crisafulli asked if the structure currently met all building and fire codes. Mr. Sinowitz stated the Residential Certificate of Continued Occupancy (RCCO), issued temporarily for a period of 1 year, confirmed building and fire code compliance; however, he informed that the RCCO expired on March 31, 2009. Mr. Bianco asked if the applicant would consent to COAH restrictions. Ms. Reilly said they had given some thought to such a possibility, but said there were to 2 existing leases. Mr. Bianco asked if one of the dwelling units could be made available for COAH restrictions and stated as such in a Resolution. Mr. Kates informed that there was a lot more involved with COAH designation such as the deed restriction requiring a 30-year requirement to be attached to it along with it needing to be part of the Borough’s Phase 3 COAH submission by being specifically identified as such. Mr. Kates said that Mr. Bianco’s previously-mentioned reasons for his motion deal strictly with the negative criteria of the application; in terms of special reasons, he felt the applicant needed more for a “D” Variance on the affirmative side; he thought a COAH submission would do just that. Mr. Bianco withdrew the COAH portion of his motion. The Board approved the application (6-0): YES-  
Knee/Bianco/Monaco/Noh/Iafrate/Crisafulli.



**Item #2**

Case #Z-2008-24  
185 Closter Dock Road  
(Block 1302/Lot 28)

Applicant: George Futterknecht  
Representation: Jennifer Knarich, Esq.

*Chairman Knee recused himself from this case.  
Vice Chairman Sonenshine chaired this portion of the hearing only.*

The applicant is seeking Use Variance and Site Plan Approvals to continue conducting a commercial enterprise (landscaping business/storage) on a property also used as a residence and located in District #3.

Jennifer Knarich, Esq., Price, Meese, Shulman & D'Arminio, 50 Tice Boulevard, Woodcliff Lake, New Jersey, said her client's application was adjourned at the February 18, 2009 Hearing. The application was amended to include Site Plan Review and was "re-perfected" as such. Ms. Knarich said she had received, just prior to the start of the evening, Mr. Pacholek's report critiquing the revised site plan submitted as per the Subcommittee's request.

William Vogt, PE, L2A Land Design, LLC, 12 Engle Street, Englewood, New Jersey, continued testimony as Witness #1. Ms. Knarich said an amended booklet, separate from the initial one supplied for Use Variance Approval, had been submitted to the Board for Site Plan Review, which contained a revised site plan dated May 8, 2009 (Exhibit J in booklet). Mr. Vogt reviewed the previously-discussed items in regards to the site plan. He said the existing sheds and overhangs would be removed and the crushed stone driveway would be cleaned up as indicated in the demolition and site plans. Exhibit #P-2, a colorized version of Page C-02 dated May 20, 2009, was presented. The witness said 2 accessory sheds would be constructed and the crushed stone driveway would be replaced with a new 4" crushed bluestone version. He said the vehicle storage area used by the owner for business purposes was shown on the revised site plan. Mr. Vogt stated the new driveway would be pulled back 5' from the side and rear property lines. He continued saying the new sheds are to be 76' back from the front yard line, thus allowing them to be 3' off the side yard line. He said the 5 existing residential on-site parking spaces would remain as is. The witness said the grading plan would continue unchanged with the flow going from the high side in front to the lower side in the rear. Mr. Vogt said the sheds are roughly 8', 8" in height to the peak and have roof drains which would be directed to the center of the subject property (following the natural drainage of the site). He said the site plan prepared as per the 1984 Board Resolution was now being disregarded because, although a good plan at the time, it no longer reflected the present day conditions of the site; thus, he said, a new survey was prepared and such a step had been agreed upon by Mr. Pacholek. The witness said the new crushed stone driveway would require a waiver since its composition was not a material recognized by the Borough Code. Exhibit #Q-2, a catalogue of proposed sheds, was presented. Although the exact sheds to be put on-site were not portrayed in said exhibit, Mr. Vogt said they would follow such a design. He said the single-family residence is meticulously maintained. As previously requested, he said a 2<sup>nd</sup> series of photographs showing the layout of commercial trucks and residential cars, as well as the rear fence/gate, had been submitted. Exhibit #R-2, a manifest of all vehicles on-site, was presented. Mr. Vogt said there were 6 trucks, each of which hauled a trailer (5 were depicted on the revised site plan). The lengths of the depicted trucks were 16', 16', 12', 12' and 12'; he noted that if the 6<sup>th</sup> truck had a trailer, plenty of space was available for it. He said whether or not a trailer would be needed depended on the workload for that particular day. The witness said 2 *Bobcats* would be stored in the new sheds or elsewhere outside. The witness said there was Belgian block curbing that defined the stopping point of the residential parking spaces; by remaining, a design waiver of the existing, non-conforming 5' setback was being sought. He continued saying the new sheds would have a pitched roof in the center line with shingles; they would compose of some sort of white pine board siding and have doors located where the applicant sees fit. In terms of Mr. Pacholek's report responding to the revised site plan, the witness said the items requested were simple "house-keeping" items; Mr. Pacholek concurred. Dr. West stated concern with the water runoff aspects and the elimination of pavers in favor of crushed bluestone; he asked if any specifications were necessary. Mr. Pacholek stated that since all surfaces were being replaced in kind, nothing would be required.

Mr. Pacholek asked the witness what the coefficient runoff would be for stone so to try and determine where the line should be drawn between pervious and impervious; Mr. Vogt answered somewhere around the 0.7 range. The witness said he understood the Borough code viewed crushed stone differently from the State. Mr. Bianco inquired if the site would be curbed and how water would be retained on-site. The witness said the runoff would not be retained on-site but rather follow the natural pattern running from the front to back yard; he said what does not get absorbed through the crushed stone and landscaped area, would go to the existing inlet in the rear yard by means of the overline flow over the present property. Mr. Vogt said any remaining water would flow across to the municipal lot located behind the subject property. Mr. Bianco asked if it would not be appropriate to put a structure there to intercept the flow that would be crossing onto Borough property. The witness said the proposal is only following the current natural pattern. Mr. Bianco felt the catch basin would silt/jam up with sediment leading to the municipal lot being flooded. Vice Chairman Sonenshine asked if the applicant would have a problem curbing around the entire site (other than the sheds) and separating the gravel from the grass area, thus preventing water from entering adjacent lots. Mr. Hennessey asked about the trench drain in the rear yard. Mr. Pacholek stated the existing catch basin in the municipal lot had been designed to handle current drainage conditions. The witness said the proposal actually has more pervious surfaces and less storm water leaving the site in a rain event than the existing layout. Mr. Bianco concurred, but reiterated that the trucks constantly driving over the land would make for a more compacted surface leading to runoff concerns. Ms. Knarich stated the applicant would be willing to work with the engineers to compile a curbing plan. Mr. Vogt said that by bringing the sheds into compliance and pulling the crushed stone back 5', the property's impervious coverage would be decreasing from 73% to 67%. Ms. Rothschild asked if the municipal lot to the rear has experienced any ponding; the witness said he did not view any evidence of such around its 2 catch basins during a site visit earlier in the day. Mr. Bianco requested to see every solitary vehicle (with size and type) being parked on-site within the site plan. Vice Chairman Sonenshine asked why the current conditions of the property require there to be 5 residential parking spaces. Mr. Vogt said that under the 1984 Board Resolution, the then 2-family dwelling would require 2 spaces for each unit along with 1 space for guests; currently, he said, the house is a 1-family dwelling with the Futterknecht family having 2 personal cars. Vice Chairman Sonenshine asked that since the 2-family use had been abandoned, could more green area and less gravel be on the property. Mr. Bianco asked why the site plan showed both the proposed sheds having a height of 8', 8" as well as a notation stating they would not exceed 15'. Mr. Vogt said the Borough code did not have a height requirement for accessory structures, but acknowledged that the sheds would not exceed 10' (the 15' notation was a starting point during design discussions); he agreed to amend the site plan. Vice Chairman Sonenshine asked if the sheds would have cupolas to which the witness deferred him to the applicant. To Vice Chairman Sonenshine's inquiry, Mr. Sinowitz said an 18" overhang projection was permitted based on residential standards. Vice Chairman Sonenshine asked for clarity on the sheds' water drainage at the right side of the property. Mr. Vogt said there would be a peaked roof down the center of the sheds allowing for water to be split down to both roof drains on either side, leading the water to the splash block; the down spouts of which would be directed so that the water would be filtered to the interior of the property. Vice Chairman Sonenshine asked if such a design would handle a large rain event; the witness said yes because they were dealing with a very small roof area and the splitting of the water into 2 meant only 1/2 of the roof area was going to each gutter. Vice Chairman Sonenshine asked about the PVC grass pavers depicted in the previous site plan. Mr. Pacholek said they were deleted from the proposal. Vice Chairman Sonenshine asked if the applicant would object to moving the gravel back around 5' from the Closter Dock Road entrance and installing a concrete apron, thus preventing any gravel spillage onto the street. Mr. Vogt agreed to do so. Vice Chairman asked why the manifest and site plan

did not show the 6<sup>th</sup> trailer; the witness agreed to correct both. Mr. Hennessey asked if the sheds would have foundations as well as electricity. Mr. Vogt said they would probably have plywood floors and no lighting. Vice Chairman Sonenshine asked if such flooring would support the weight of the equipment to be stored on it; the witness said some could be made of wood while others would be open ground or having a foundation. Mr. Hennessey asked where fuel for the equipment would be stored; the witness deferred to the applicant. Vice Chairman Sonenshine asked if the single light pole would be sufficient in the center of the rear property. Mr. Vogt said it would because said light is geared towards only the landscaping business which is conducted mainly during daylight hours.

Vice Chairman Sonenshine opened the meeting to the public for questions and comments.

Donald Schmidt, 162 Closter Dock Road, asked how many trucks *Wood Landscapes* had in 1985 when the business opened up. Mr. Kates stated that was a question for the applicant who would be coming back for questioning at the next hearing date. Mr. Schmidt asked where the remainder of the 14 employees would be parking their personal cars if only 3 were testified to using the municipal parking lot; he felt the number of parking spaces to be required should be based on the business' payroll records. Mr. Schmidt also inquired how traffic flow could be improved so the subject commercial trucks having trailers would not have to back out onto Closter Dock Road between 7:30AM and 8:30AM. Ms. Knarich said the property owner would have to answer such questions along with the professional planner he has retained.

### **Outcome**

Ms. Knarich requested the case be adjourned to the July 15, 2009 Hearing subject to the Board's receipt of outstanding items; the Board obliged.



### **Item #3**

Case #Z-2008-17  
9 Ranch Lane  
(Block 2402/Lot 2)

Applicant: Terrance Allen  
Representation: Alain Mulkay, Esq.

The applicant is seeking Variance Relief for an as-built fish pond and patio.

Alain Mulkay, Esq., Mulkay & Rendo, 700 79<sup>th</sup> Street, North Bergen, New Jersey, stated that the applicant was remanded back to the Board, as per a Bergen County Superior Court decision, stemming from a complaint brought about by Dennis Unterman, a neighbor of the applicant's residing at 14 Jason Woods Road. Mr. Mulkay stated Mr. Unterman had argued that he was denied by the Board to be heard on the C (2) Variance (substantial benefit) portion of the application (heard on July 18, 2007); Mr. Mulkay pointed out that at Mr. Allen's previous appearance before the Board, he was not represented. Mr. Mulkay stated the current application included a hardship variance request along with any other necessary relief. He continued with the history of the previous Board application: 1) testimony was taken as a C (1) Variance (hardship); 2) Mr. Unterman argued that there was no hardship; 3) At the conclusion of the hearing's public comment portion, a Board member motioned to approve said application as a C (2) Variance (de minimis exception); 4) the Board voted followed by a re-opening of the hearing

for public comment. Thus, the Court determined Mr. Unterman was denied an opportunity to be heard. Mr. Mulkay stated his client had submitted a new application and was going for C (1) and C (2) Variances, emphasizing mostly on the substantial benefit request. Mr. Mulkay said the case involved a very small fish pond and decking; he acknowledged Mr. Allen commenced construction without permits. The applicant subsequently applied for a zoning permit, which was denied due to excessive impervious coverage.

Jill Hartmann, PP, 21 Sparrowbush Road, Mahwah, New Jersey, was sworn in as Witness #1. The witness said the subject property is slightly irregular in shape and non-conforming in its lot size; a single-family residence sits on the lot. Exhibit #'s A-1, a series of 9 photographs depicting the subject and neighbors' properties, A-2, a "Final As-Built" survey dated December 10, 2007 stating a 2.59% excess in impervious coverage, A-3, a photograph of the applicant's fish pond, landscaping and landscape wall, A-4, a photograph of the rear property showing Mr. Allen's patio, A-5, a photograph of the patio, retaining wall and landscaping and A-6, a series of 3 photographs showing different views of the fish pond, were presented. Ms. Hartmann said the property is situated in a neighborhood made up of larger new homes. She said 3 of the neighboring properties have appurtenances consisting of 2 patios with a pond and waterfall, a deck and a swimming pool with a deck. Ms. Hartmann felt the as-built work substantially benefited the community and outweighed any detriment by having a better zoning alternative. She added the project was made of a natural element, is a water feature, provides a minor habitat for wildlife, provides enjoyment for the neighborhood and accommodates some water retention. She said the patio is on-grade and made with natural stone. The area provides for a modest-size table and 4 chairs according to the witness. She testified to all of the homes in the area having similar types of structures in their rear yards. In addition, she said landscaping and berming provided screening. Ultimately, Ms. Hartmann said, even though the lot is undersized, it meets all bulk items except impervious coverage (32.59%); as to the C (1) Variance, the hardship that would be put on the applicant, said the witness, would be to remove all the improvements made; she said frankly, the hardship argument is quite weak and that is why her emphasis has been on the C (2) Variance.

Dennis Unterman, objector, 14 Jason Woods Road, cross-examined the witness. He asked Ms. Hartmann if she felt it was proper planning to build Mr. Allen's house on an undersized lot. The witness said it was because the home had met all of the bulk requirements. She said she was not knowledgeable as to whether or not permits were received for the fish pond or whether surrounding properties had received variances from the Board for any of their improvements. Mr. Mulkay objected and said the witness did not testify to the neighbors' having legal structures but rather only that such improvements existed. Exhibit #O-1, a photograph dated March 2009 showing the air conditioning compressor and garbage collection area of the subject property, was presented. Mr. Unterman asked if poisonous snakes would be included in the witness' statement that the pond acted as a wildlife refuge; the witness said such a species could be included. Mr. Unterman asked what the applicant's hardship was since he could have built a smaller house; the witness said she did not testify to a hardship but rather a substantial benefit. Vice Chairman Sonenshine asked the witness if, as a planner, should she not have done her "due diligence" and more research of the surrounding properties, including finding out about variances received. Ms. Hartmann said she did not walk on the properties but did view aerial photographs. Ms. Rothschild felt such line of questioning was not appropriate because the Board had never previously asked for such from a professional planner; she further stated the Borough did not have a database conducive to such research. Mr. Kates said such a question was not relevant because the application was coming in as a C (2) application and it was not topographical or dimensional in nature; the whole issue, he said, was benefits versus burdens.

Mr. Bianco agreed with Vice Chairman Sonenshine in that tax maps, 200' lists, etc. could have been utilized by the witness in researching the neighborhood. Mr. Crisafulli questioned the drainage and sloping of the property. The witness said if there was runoff, it would flow to the west, but kept in mind that there were 3 seepage pits present on the subject property. Mr. Bianco asked if the impervious coverage could be reduced to which Ms. Hartmann answered in the negative.

Vice Chairman Sonenshine opened the meeting to the public for questions and comments.

Jesse Rosenblum, 65 Knickerbocker Road, asked if it was good planning for a builder to "max out" a property following the demolition of the existing house. The witness said the zoning ordinances were put in place to guide how a property could be developed.

Diane Larsen, 49 John Street, commented that the subject lot was undersized and that, generally, a municipal board would be responsible for subdivisions, leading to such undersized lots. She asked what the excess impervious coverage was in square footage. Mr. Hennessey said 365 sf.

Ms. Rothschild asked if the term "de minimis" was critical to the case. Mr. Kates said that as per *Green Meadows v. Planning Board*, a self-created hardship is not a concept to be dealt. Mr. Unterman asked if Mr. Kates recalled why the Bergen County Superior Court remanded the application back to the Board. Mr. Kates responded that the Board vote and Resolution introduced the concept of a C (2) Variance and the objector did not have an opportunity to question such an element. Mr. Unterman felt Mr. Kates made a mistake, not the Board. Mr. Kates said the Resolution was adopted by a Board vote on August 15, 2007, a month following the vote on the merits on July 18, 2007. Mr. Unterman disagreed saying there was no vote that evening based on the Resolution; he said nobody prepared a Resolution which was proper procedure. He continued to say that if there was a Resolution, the Board would have denied the original application. Mr. Kates said the objector's argument had been noted. Mr. Unterman requested an adjournment to review the record and transcript. Chairman Knee said there was a new application and that meant the record was new.

Dennis Unterman, 14 Jason Woods Road, was sworn in as Witness #2. He said that as a former councilman and Planning Board attorney, he could not understand how the Borough was allowing so much overbuilding and questioned "how much is too much?"

Chairman Knee opened the meeting to the public for questions and comments.

Jesse Rosenblum, 65 Knickerbocker Road, commented that at some point, the concept of "buyer beware" must be adhered to, with regards to homeowners purchasing "maxed out" properties.

Diane Larsen, 49 John Street, expressed her support for the application and felt that there was sufficient buffering.

Deborah Felder, 24 Henmar Drive, voiced her support for the application and Mr. Allen's "good deeds."

Kim Miller, 23 Henmar Drive, supported the application and stated that prior to the subject house being built, her basement would always flood; since its construction, it has not.

Mr. Mulkay summarized his case and said the court order stated that the original Board application could be amended; instead, a new application was submitted and he was therefore, Against granting the objector's request for an adjournment. Dr. West asked if the Board rejected the request for adjournment, would it end up with another court order. Mr. Kates doubted.

Mr. Unterman withdrew his request for an adjournment.

Dr. West stated he hoped the Mayor and Council would follow through with the Board's longstanding request to pass an ordinance informing people buying homes if the property being purchased was "maxed out."

**Outcome**

A motion was made by Ms. Rothschild and seconded by Dr. West, to grant a C (2) Variance without conditions. The Board approved the application (6-1): YES- Knee/Sonenshine/West/Monaco/Rothschild/Noh; NO- Bianco.



A motion was made by Mr. Bianco and seconded by Ms. Rothschild, to memorialize the Resolution for 22 Mc Cain Court, an approved application to construct an addition. All members present voted in favor.



A motion was made by Mr. Bianco and seconded by Vice Chairman Sonenshine, to go into Closed Session at 11:46pm, to discuss existing litigation involving certain Board members.

The Board re-opened the meeting to the public at 11:52pm.



There being no further items to discuss, a motion to adjourn the hearing was made by Dr. West and seconded by Ms. Rothschild. All members present voted in favor. The hearing adjourned at 11:52pm.