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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)*

October 21, 2009

Prepared by:

Paul Demarest
Coordinator

Chairman Knee called the Regular Monthly Hearing of the Zoning Board of Adjustment for the Borough of Closter, New Jersey being held on Wednesday, October 21, 2009 in the Council Chambers of Borough Hall to order at 8:02pm. 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 statute. He advised that the Board adhered 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
- Steven Freesman, Esq.- Secretary
- 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
- Kevin Tichacek, PE- Board Engineer
- Paul Demarest- Board Coordinator

There were no Board members or professionals absent from the meeting.



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



A motion was made by Dr. West and seconded by Ms. Rothschild, to approve the minutes for the June 17, 2009 Hearing. All members present voted in favor.



Since the Board did not receive any new applications by the filing deadline, the Work Session to be held on October 28, 2009 was cancelled.



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.



The Board conducted a "round-table discussion" about the proposed Board application packet as undertaken by Mr. Demarest; he made revisions as per Board members' comments made at the August 19, 2009 Hearing. A motion was made by Vice Chairman Sonenshine and seconded by Dr. West, to approve the new Board application packet. The motion passed (**7-0: YES:** Knee/ Sonenshine/ Freesman/ Bianco/ West/ Monaco/ Rothschild).



Item #1

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 proceedings.

The applicant is seeking Use Variance and Site Plan Approvals for the continuation of an existing contractor's yard operation located in District #3 (Business).

Jennifer Knarich, Esq., Price, Meese, Shulman & D'Arminio, PC, 50 Tice Boulevard, Woodcliff Lake, New Jersey, introduced herself. Mr. Kates reminded all that an objector from the audience presented pictures to the Board at the September 16, 2009 Hearing; Ms. Knarich, at that time, requested an adjournment so that she and her client could review same. She stated that her client's position is that the objector's photographs do not demonstrate any relevance or importance to the application and no weight should be given to them; she further stated that she did not wish to cross-examine the objector. Mr. Kates informed the objector that he would be given some time to make a few summary comments but that the hearing was not being re-opened.

Donald Schmidt, 162 Closter Dock Road, an objector to the subject application, was sworn in. He stated the Bergen County Planning Board, in its review letter of the case, said the subject address did not abut a county road and returned the check payments the applicant had submitted to it; Mr. Schmidt pointed out that portion of the street, known as "Old" Closter Dock Road, was not a county road while the thoroughfare from the clock tower on Main Street continuing onto Harrington Avenue was. He said Ms. Knarich misled the Board by saying that portion of the street where her client has his residence and contractor's yard was a county road; he felt he had to say that because he thought some Board members were under the impression that the Bergen County Planning Board reviewed the traffic patterns. He said his 2 main concerns with the application were safety and drainage. Citing Chapter 173-48 of the Borough Code, Mr. Schmidt said vehicles cannot back out of the lot; since he felt the property was basically a parking lot for Mr. Futterknecht's vehicles, the objector said the ordinance did not provide for a waiver provision but rather such was not allowed under any circumstances. He

said a traffic expert was never before the Board to discuss the already hazardous traffic conditions in the area and how the application would further exacerbate them. Vice Chairman Sonenshine said the Board did not feel such expert testimony was necessary in this case. The objector said there were discrepancies about how the applicant said his trucks are pulling in and out of the site as opposed to how it is depicted on the site plan filed with the Board. Mr. Schmidt said the driveway width and turning radius are not sufficient for the property's truck flow. He said the Board members must be made aware of the minimum standards for waiver provisions stipulated in Chapter 173-8 of the Borough Code before they "give them out" to the applicant. He felt the applicant's public notice was not sufficient even with the use of "catch-all" phrasing. Mr. Schmidt said the applicant's existing attached garage and its use should have been discussed during the proceedings. He believed the applicant could re-design his proposal to alleviate most of the safety concerns he mentioned. He said the pictures he submitted to the Board are the best pieces of evidence to show the density of the subject property is being overused. Mr. Bianco asked if the objector had any suggestions on how to improve the application; Mr. Schmidt said it was the applicant's job to do so. He believed the former Board Engineer, John Pacholek, was wrong to suggest in his review letter that it was okay to have the applicant's water runoff go over the curbing to the catch basin in the Borough's North Lot. He ultimately felt the Board should deny the application before it so Mr. Futterknecht may re-apply with a revised proposal. Mr. Tichacek said he discussed water runoff designs with the applicant's engineer and found that due to the area's high water table, an underground storage and recharge system was not feasible; he felt the proposal did improve existing drainage by reducing impervious surface area and replacing compacted gravel with crushed stone along with a 3" curb face in the rear to help in smaller storm events. Vice Chairman Sonenshine reminded that the site plan must be revised to include curbing detail. Mr. Kates asked counsel what type of principal/accessory use pattern was being suggested by her; Ms. Knarich said the business would be accessory to the home. Mr. Kates said the condition is not a home occupation and he wondered if the Board should condition an approval for the contractor's yard by having it apply only if the home is owned/used by the proprietor of the business; otherwise, he said, you would end up having 2 principal uses. He did point out that such a condition would not be limited only to Mr. Futterknecht.

Chairman Knee opened the meeting to the public for questions and/or comments. No one wished to be heard.

Ms. Knarich summated her client's application and thanked the Board for its consideration.

Outcome

A motion was made by Mr. Bianco and seconded by Vice Chairman Sonenshine, to grant Use Variance and Site Plan Approvals with the following conditions: 1.) deeding the property so to conjoin the home and business as accessory to each other preventing their separation; 2.) limitation on activities, specifically, the prohibition of any processing, cutting, grinding, splitting, storing, stacking, sawing, etc. of materials; 3.) vehicles to be limited to rubber-tired/track-based vehicles or storage of such on trailers is prohibited <no earth-moving equipment allowed>; 4.) outdoor storage of snow plow blades limited to (5); 5.) drainage/curbing detail on a revised site plan to be submitted. The motion passed **(7-0: YES: Sonenshine/ Freesman/ Bianco/ West/ Monaco/ Rothschild/ Noh)**.

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Item #2

Case #Z-2009-07
459 High Street
(Block 1315/Lot 4)

Applicant: Albert Giannotti
Representation: David Watkins, Esq.

The applicant is seeking a Use Variance for the continuation of a 2-family use at the subject property.

NOTE: WHILE DIRECT TESTIMONY DID BEGIN, IT WAS DISCOVERED DURING THE PROCEEDINGS THAT A PREVIOUS OWNER OF THE SUBJECT PROPERTY HAD ALREADY OBTAINED 2-FAMILY USE CLASSIFICATION FROM THE ZONING BOARD OF ADJUSTMENT ON JUNE 18, 1958 (THIS APPLICATION WAS LATER WITHDRAWN BY THE APPLICANT).

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A motion was made by Vice Chairman Sonenshine and seconded by Mr. Bianco, to memorialize the Resolution for 88(A) Knickerbocker Road (Case #Z-2009-16). The motion passed.

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There being no further items to discuss, a motion was made by Mr. Bianco and seconded by Vice Chairman Sonenshine, to adjourn the hearing at 10:11pm. The motion passed.