



# **Zoning Board of Adjustment**

April 21, 2010

***Hearing***  
***(Minutes)***

Prepared by:

**Paul Demarest**

Chairman Knee called the Regular Monthly Hearing of the Zoning Board of Adjustment for the Borough of Closter, New Jersey being held Wednesday, April 21, 2010 in the Council Chambers of the Borough Hall to order at 8:07pm. He stated the meeting was being held in accordance with the provisions in the Open Public Meetings Act of the State of New Jersey and had been advertised in the Borough's officially-designed newspaper as required by statute. He advised that the Board adheres to an 11:00pm adjournment and no new matters would be considered after such time.

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

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The following Board members and/or 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.
- Thomas Hennessey- Alternate #1
- Mark Crisafulli- Alternate #2
- Arthur Dolson- Council Liaison
- Leonard Sinowitz- Zoning Officer
- Joel Ellis, Esq.- Board Attorney
- Kevin Tichacek, PE- Board Engineer
- Paul Demarest- Board Coordinator

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

- Steven Freesman, Esq.- Secretary
- Steven Iafrate- Alternate #3
- Marie Hartwell- Alternate #4

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Prior to the meeting, the Board received copies of mail correspondence received by the Land Use Department on its behalf. In light of Secretary Freesman's absence, Chairman Knee read said mailings into the record.

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A motion was made by Vice Chairman Sonenshine and seconded by Mr. Bianco, to approve the minutes of the March 17, 2010 Hearing. All eligible members present voted in favor.

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Since the Board did not receive any new applications by the filing deadline, the April 28, 2010 Work Session was cancelled.

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

A motion was made by Vice Chairman Sonenshine and seconded by Mr. Bianco, to approve the revised 2008/2009 Annual Report to the Governing Body. The motion passed (**6-0-1: YES-** Sonenshine/ Bianco/ West/ Monaco/ Hennessey/ Crisafulli; **ABSTAIN-** Rothschild).

In absence of Secretary Freesman, a motion was made by Ms. Rothschild and seconded by Mr. Bianco, to nominate Vice Chairman Sonenshine to co-sign the Developer’s Agreement for 1 Railroad Avenue (Case #Z-2008-26). All eligible members present voted in favor.

Going out of order procedurally, the Board took up the “Memorialization of Resolution(s)” portion of the agenda at this time.

A motion was made by Dr. West and seconded by Mr. Bianco, to memorialize the Resolution for 254 Demarest Avenue (Case #Z-2009-09), with noted corrections agreed upon by the Board. All eligible members present voted in favor.

**Item #1**

Case #Z-2008-12  
35 John Street  
(Block 1203/Lot 7)

Applicant(s): Robert Armaniaco  
Representation: Stuart Liebman, Esq.

*Vice Chairman Sonenshine and Mr. Monaco recused themselves from this case.*

The applicant is seeking Site Plan (Major- Preliminary/Final) Approval for the continuation of an existing contractor’s yard operation located in District 2 (Residential); **NOTE:** the Board has granted a Use Variance for this bifurcated application.

Stuart Liebman, Esq., Wells, Jaworski & Liebman, LLP, 12 Route 17 North, Paramus, New Jersey, re-introduced himself. He stated that the 2<sup>nd</sup> portion of his client’s bifurcated application, Site Plan Review, is required since a Use Variance was granted by the Board. He indicated the Board was in receipt of revised plans as per the conditions of re-perfection from the March 24, 2010 Work Session; said revisions, he said, also took into account Administrative Reports from various Borough agencies as well as Mr. Tichacek’s findings. Mr. Liebman pointed

out the latest revised plans do not change the nature or any aspect of the Use Variance granted by the Board, the Resolution of which was memorialized at the March 17, 2010 Hearing. He said the revisions depict changes only in the sense that they now provided additional information on landscaping, buffering, fencing as well as detail required by the Borough's site plan and zoning ordinances; he pointed out that variances for impervious coverage and side yard setbacks as well as a number of design waivers were now indicated.

Stephen Eid, PE, Eid Associates, Inc., 555 Goffle Road, Ridgewood, New Jersey, was sworn in as Witness #1. Exhibit #S-1, a site plan prepared by the witness dated March 16, 2010 and last revised April 5, 2010, was presented; Mr. Eid noted that the latest revision contained a 2<sup>nd</sup> page entitled "Details". He testified that the subject property is on the northerly side of John Street and the applicant's 1-story residence sat on the northwest portion of the property while the existing contractor's yard was in the southeast corner. The witness said there is presently 2 driveway entrances, 1 for the applicant's personal use and another for access to the contractor's yard, the latter having a proposed gate and 2 piers setback 15' from the curb. He noted 1 change to the plan was to convert the existing gravel area east of the applicant's attached garage to a paver patio with a berm and plantings adjacent to it; having a chain link fence running from 1 of the proposed driveway piers to the rear residential property corner, he said, would make for a substantial 10' wide buffer strip separating the residential and commercial portions of the subject property. Mr. Eid continued saying that an additional fence running along the house line and parallel to John Street and connecting to the fence in the buffer strip would result in no visibility into the rear yard when the gate is closed. He said the lighting on the detached garage had a detail on the revised plan and that a waiver from the Borough's exterior lighting ordinance was being sought; he stated the existing light is slightly more powerful than a flood light but that the applicant said it was sufficient for operating his contractor's yard while remaining non-offensive to neighboring properties. Mr. Eid said a row of 12' to 14' spruce on the neighbor's land at 48 Westminster Avenue, running along the property line shared with the applicant, was being proposed assuming the neighbor agreed to such. The witness said an additional item in the revision was a 4' wide paver sidewalk in front of the residence. He stated his field work included taking inverts for the existing 15' wide sanitary sewer easement and 10' wide drainage easement running through the subject property; he indicated the revision shows all manholes in the vicinity. Mr. Eid testified that the drainage easement (which runs from the corner of John Street and William Street to the northeasterly end of Westminster Avenue) has only 2 to 3 dumpsters stored over it; he said the drainage easement's reinforced concrete pipe (rcp) is about 8' deep out at John Street and there is approximately 4' of cover on said pipe at the area in the contractor's yard where the dumpsters are. With regards to the sanitary sewer easement, he said a manhole was at John Street and while another's rim, on the subject property, has been covered in gravel apparently for years. Mr. Eid stated a berm was proposed in place of where the existing driveway pillars and gate are currently which would elevate the manhole somewhat and raise the average cover on the sewer easement to roughly 10'. Exhibit #S-2, a letter by the witness dated April 19, 2010, was presented; he testified that the exhibit indicated even without either knowing the original design specifications for all the relevant pipes or spending hours and thousand of dollars doing loading calculations, he still could surmise that the pipe was designed for heavy loading and traffic because it was discovered that the depth of the pipe out in John Street was almost identical to that of the applicant's land where the easements run. To further confirm that the containers would not pose any harm to the pipe below, the witness said after researching standards set forth by the American Association of State Highway and Transportation Officials (AASHTO), specifically Standard #20, he found that only 1' of cover was required for a 36" pipe having a live load 32,000 lbs. per axel above it; he noted the subject property had 4' to 8' of cover and the total weight of the applicant's trucks only amounted to

30,000 to 35,000 lbs. Mr. Eid continued saying that additional drainage was added along Westminster Avenue to provide zero increase in storm water runoff for the 550 sf of impervious surface being installed onsite. He spoke of the sewer, water and electrical utility lines coming to and from the detached garage which contained a bathroom. Mr. Eid stated a design waiver was needed for both the distance separating curb cuts (20' required/14' proposed) and the parking lot material (asphalt, bituminous or cement-binder pavement required/gravel existing); he felt the existing gravel handled the movement of trucks on it well and, though considered impervious by the Borough Code, it has pervious elements to it which suited the sight being it collects a lot of water in the rear. The witness said the 2<sup>nd</sup> page of Exhibit #S-1 contained drainage calculations and showed the trench drain and catch basin that will help in channeling excess rainwater through berms and swales towards the unimproved portion of Westminster Avenue, the direction it naturally flows. He said truck movement in and out of the site was detailed with turning radii as well as off-street parking; he felt both arrangements were safe. He detailed the buffer area which will separate the residential and contractor's yard sections of the subject property; said buffer strip would consist of a slightly elevated berm, 3 new trees and a 6' chain link fence. He stated there currently were 2 existing 6' chain link fences situated on 48 Westminster Avenue even though 1 belonged to the applicant. He said at least of 1 of those fences would be removed and a 8' to 10' chain link fence was being proposed as well a new row of 12' to 14' spruce to be planted on 48 Westminster Avenue (with that property owner's permission) running parallel with the existing row of trees along Mr. Armaniaco's property line; the witness felt such proposals were called for since the 48 Westminster Avenue property had a higher elevation than the applicant's. Mr. Eid was willing to compromise on the variety of the species of trees in that area but concluded the height and location were fine as proposed. He noted some concern that an 8' to 10' fence could affect the growth of the trees and suggested having a mesh material put over the 1 existing fence to remain as well as the newly installed one. Exhibit #S-3, a sample of privacy fence mesh, was presented. He summarized that the subject area between 35 John Street and 48 Westminster Avenue would consist of a double row of trees with possibly 2 fences between having black slats with black mesh covering them. Mr. Liebman pointed out that at the very least, 1 of the existing chain link fences, if not both, would have to be removed. Mr. Eid addressed Mr. Tichacek's review letter dated March 22, 2010 and noted that most of it had been touched upon in his testimony. He stated, however, that 8' to 10' fencing along Westminster Avenue and the 6' board on board-style gate with pillars in the front yard would require design waivers; the witness felt the latter would serve well as a visual buffer from the commercial activity taking place onsite. He continued saying variances for side and rear yard setbacks were needed due to the trucks and dumpsters being less than 5' from the property lines. The witness felt it was best not to have any fencing along the unimproved portion of the paper street, Westminster Avenue; he reasoned that to have it would create problems for the applicant when maneuvering his equipment leading to such fencing possibly being damaged. Mr. Eid pointed out that stockpiles of soil mentioned in the Board Engineer's review letter were actually on Westminster Avenue's unimproved section and he reiterated that there was no soil movement operation at the subject site. Mr. Hennessey asked what material would be used for the driveway apron. Mr. Eid said pavers would be used for the sidewalk in front of the residence and the personal driveway while the existing gravel and broken pavement behind the entrance of the contractor's yard would remain; following a brief side-bar discussion with the applicant, Mr. Eid stated he now agreed to continue the pavers in a uniform fashion from across the front of his house to the contractor's yard gate entrance, which was originally to be paved. Mr. Hennessey asked if the catch basin for the trench drain in the rear had an outlet or if it was a sump; the witness answered that if the water table came up high enough, the water would flow out the grate and to a swale in the corner of the property. Mr. Bianco asked if the driveway

to the contractor's yard could be curved so that traffic flow would always be in an eastbound direction towards Railroad Avenue, thus preventing trucks from driving westbound on John Street. Mr. Liebman asked about the ability then to make a left turn in coming from John Street or William Street; Mr. Bianco answered that would be eliminated once Westminster Avenue is opened up. Mr. Liebman said such an action by the Borough was only hypothetical; Mr. Eid added that such a design would make the turning radii for trucks with trailers difficult. Mr. Sinowitz asked how the witness justifies the request for a waiver from the parking lot material requirement especially when gravel would allow for groundwater to be contaminated with pollutants coming from the applicant's trucks; the witness stated that with the site's high water table, to put implement the standard design used today (sand filter) would be difficult and since most of the items in the contractor's yard were not motorized (boxes and containers), pollution was not a concern. Referring to the drainage easement, Mr. Bianco asked about impact load when a dumpster is dropped onto the ground; the witness felt there would be no problem with such. Mr. Tichacek felt that if the ground was being initially impacted then there would be reason for concern, however, he said the ground in question had already been impacted for approximately 15 years; the Board Engineer believed any compaction of earth still possible would actually help the pipes below over time. Mr. Tichacek pointed out that he was concerned there could be converging on the minimum of cover that would be required for the use onsite. Mr. Bianco asked what the conditions of the pipe below are; Mr. Eid stated he personally did the surveying at the site and it appeared to be in very good condition. Mr. Bianco inquired if any length of the pipe had cracking or misalignment; the witness said that putting a camera below was not necessary and informed that the applicant was willing to sign a hold-harmless agreement with the Borough for any damage to the pipe below. Continuing with the sanitary sewer easement, Mr. Bianco asked if the witness inspected its connection to the detached garage; Mr. Eid said although he did not literally dig up the line, he was able to get the ties to the pipe connections into the main from the Borough which had been tied into the side of the residence. Mr. Bianco questioned if a permit was acquired to tie the detached garage's sanitary line into the main; the witness did not know. Mr. Bianco felt the Norway spruce plantings were a good choice along the property line with 48 Westminster Avenue because of their density and hardened qualities and that there was no need to experiment with different species in this instance. Mr. Bianco asked Mr. Tichacek if the applicant complies with the Borough's storm water runoff regulations; the Board Engineer said, if the case is approved, a permit from the Borough Engineer would still be required, but based on the drainage calculations submitted, he saw no reason why the drainage proposal would not be approved. Mr. Bianco wondered whether installing guardrails along the property lines, where the dumpsters are, would be feasible to prevent damage to the buffer areas as well as along the unimproved portion of Westminster Avenue; the witness saw no need for such. Mr. Tichacek asked how the proposed shallow trench housing pipe along the Westminster Avenue border would be protected from any trucks that may cross over the property line onto the paper street. Mr. Eid suggested installing a 6" concrete bumper with reinforced steel; the Board felt that approach was insufficient. Mr. Bianco said that essentially 3 sides (west, south and east) of the property are fenced in and asked why the north side along Westminster should not be since it would add to safety and establish a border between the subject site and the paper street preventing the illegal use of Borough land. Mr. Liebman reserved giving a response until the rest of the Board spoke on the issue. Mr. Bianco reiterated his view that "Do Not Enter" barrel signs were essential at the end of John Street along with a "One Way" sign on the corner to prevent trucks from driving westbound toward the residential area. Mr. Liebman reminded that his client could not unilaterally take such action saying the Borough had jurisdiction over the matter.

Chairman Knee opened the meeting to the public for questions only.

Jesse Rosenblum, 65 Knickerbocker Road, asked if there was a ditch on the paper street portion of Westminster Avenue; Mr. Eid stated a storm drain empties into a ditch at the end of the pipe on the northerly side of the paper street. Mr. Rosenblum asked if there was any oily waste found by the witness on the paper street; he answered he did not observe any. Mr. Rosenblum asked if the applicant received permission from the Borough prior to planting trees on the paper street; the witness could not answer either way.

The Board went into recess at 10:06pm.

The Board returned to session at 10:15pm.

Mr. Liebman and Mr. Eid revealed that their client agreed to separate, by some means, his property from the unimproved portion of Westminster Avenue. Mr. Eid informed that in light of the stockpiles currently on the paper street which causes silt and debris to wash down onto the applicant's property during a storm event and thereby requiring the applicant to maintain the swale and proposed trench drain to prevent flooding, Mr. Armaniaco now proposed to install a 4' post-and-rail fence 4' in towards his property; such a fence, the witness said, would allow the applicant to easily access the paper street for maintenance purposes simply by removing a few rails of the fence. The Board felt such an approach was not sufficient.

Chairman Knee opened the meeting to the public for comments only.

Soon Shin, 48 Westminster Avenue, indicated she was the owner of the property where the applicant was hoping to plant a row of trees. She revealed that the applicant would be given permission to do so only if the Site Plan Review portion of his application was approved by the Board; she pointed out she vehemently disagreed with the Board's prior decision to allow Mr. Armaniaco to operate a contractor's yard from his residential property.

Jesse Rosenblum, 65 Knickerbocker Road, stated he opposed the application.

Rita Ciancio, 15 John Street, asked if there were any regulations on what time during the day the applicant could operate his commercial enterprise; Mr. Liebman reiterated that his client testified that, on occasion, activity could start as early as 5:00am or 6:00am and as late as 7:00pm or 8:00pm. Mr. Demarest stated that the Borough code only regulates hours pertaining to noise resulting from construction or landscaping and not an actual business' hours of operation.

Mr. Liebman summated.

## **Outcome**

A motion was made by Mr. Bianco and seconded by Mr. Hennessey, to approve the Site Plan Review portion of the application with the following conditions: 1.) applicant to enter into a hold-harmless agreement with Borough to allow for access to drainage and sanitary sewer easements, if need be, and to be responsible for any damage to pipes; 2.) 10' wide buffer strip separating residential portion of subject property from contractor's yard must be so marked on a revised site plan to be filed with the Board and recorded with the County Clerk's Office; 3.) a row of Norway spruce to be planted on 48 Westminster Avenue (Lot #20) by applicant; 4.) 6' high fencing and gate with pillars in front yard for both residential and contractor's yard entrances;

5.) 8' high black chain link fencing with black slats to be installed along border with 48 Westminster Avenue between an existing row of trees and proposed row mentioned in Condition #3; 6.) 6' high black chain link fencing with black slats to be installed along 10' buffer strip dissecting residential (Lot #7) and commercial (Lot #6) portions of site; 7.) 6' high black chain link fencing with black slats and consisting of <2> 10' wide gates to be installed along unimproved portion of Westminster Avenue; 8.) applicant to petition Governing Body to both improve paper street portion of Westminster Avenue and install off-tract signage <as previously stipulated during Use Variance portion of application>; 9) applicant to obtain a Zero Increase in Storm Water Runoff Permit from Borough Engineer for drainage upgrades; 10.) all previously-testified to variances and design waivers to be granted; 11.) legalized utility connections to detached garage to be verified by Building Department. The motion passed (**5-1: YES**-Hennessey/ Rothschild/ West/ Bianco/ Knee; **NO**- Crisafulli).



There being no further items to discuss, a motion to adjourn the meeting was made by Mr. Bianco and seconded by Mr. Hennessey. All members present voted in favor. The hearing adjourned at 10:55pm.