



Zoning Board of Adjustment

August 18, 2010

Hearing
(Minutes)

Prepared by:

Paul Demarest

Chairman Knee called to order, at 8:07pm, the Regular Monthly Hearing of the Zoning Board of Adjustment for the Borough of Closter, New Jersey being held Wednesday, August 18, 2010 in the Council Chambers of the Borough Hall. 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.

He 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
- Steven Freesman, Esq.- Secretary
- Joseph Bianco, RA/PP
- Theodore West, DDS
- Mark Crisafulli- Alternate #2
- Marie Hartwell- Alternate #4
- 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:

- Mitchell Monaco
- Jennifer Rothschild, Esq.
- Thomas Hennessey- Alternate #1
- VACANT- Alternate #3

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Prior to the meeting, the Board received copies of mail correspondence received by the Land Use Department on its behalf. Secretary Freesman 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 July 21, 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.

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Mr. Bianco asked that the Board consider requesting from the Governing Body, in writing, the power to require applicants (with an emphasis on residential cases) to post engineering escrow, if the assigned Subcommittee at that particular Work Session deemed Mr. Tichacek's review as imperative. He pointed out that the Board Engineer's involvement with applications is currently restricted to non-residential cases specifically requesting Site Plan Review, which mandates that a new site plan proposal be presented; by having this additional power, Mr. Tichacek could be more beneficial to the Board in its consideration of cases where not only storm water management but also factors such as environmentally-sensitive land, topography, traffic, etc. could now be examined regardless of both whether or not the subject property is residential or if the applicant is seeking Site Plan Approval. Councilman Dolson added that the Zoning Officer had recently asked the Mayor and Council for an increase in his fee schedule; he pointed out that the Board would have to provide the wording and phraseology of any such change to the Borough's fee ordinance for the Governing Body's consideration. Mr. Tichacek informed that his firm's billable hourly rate is \$150.00; based on that and the current financial times, the Board felt, in such instances, an applicant should be required to post an initial/minimum engineering escrow deposit of \$300.00, at the discretion of the assembled Subcommittee. With regards to the Borough's Zero Increase in Storm Water Runoff code, which comes into play for projects involving new construction, increase in a structure's existing roof surface area by 1/3 or if a land use board conditions a decision on it, Mr. Demarest stated that such review and inspection is conducted by the Borough Engineer during the Building Department's handling of the project; Mr. Bianco felt this change to the Board's escrow requirements would better serve the applicant in that the Board could provide "one-stop shopping" rather than having several Borough entities getting involved in engineering review following an applicant's appearance before the Board.

A motion was made by Mr. Bianco and seconded by Mr. Crisafulli, to have a communiqué, written by the Board Attorney, sent to the Governing Body making the above request; The motion passed (7-0: YES- / Hartwell/ Crisafulli/ West/ Bianco/ Freesman/ Sonenshine/ Knee).

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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.

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Item #1

Case #Z-2009-14
63 John Street
(Block 1203/Lot 2)

Applicant(s): Dennis Wiggers
Representation: Donna Vellekamp, Esq.

The applicant is seeking a Use Variance for the continuation of an existing contractor's yard operation located in District #2 (Residential).

Donna Vellekamp, Esq. 161 Mc Kinley Street, Closter, New Jersey, informed the Board that she would not be able to produce confirmation of proper public noticing since the certified mailing receipts were lost; she indicated, therefore, that she was not comfortable proceeding with the

case this evening since future legal ramifications could arise if the proof of notice were not found.

Outcome

Ms. Vellekamp informed that her office would re-notice both via newspaper and an updated 200' list since the case has been on the Board's agenda for several months without action. Vice Chairman Sonenshine pointed out that the applicant's taxes (current) certification filed with the Board is outdated and should be re-certified; he also asked that the Board's application packet be re-filed with current dates since the version on-file is simply a reproduction of the applicant's previous Board application that had been dismissed without prejudice. Ms. Vellekamp agreed to do so and asked that the case be postponed to the September 15, 2010 Hearing; Chairman Knee felt that due to the inconvenience now being brought upon the other cases on the Board agenda, that Ms. Vellekamp's presentation at the next hearing date should be limited to 9:45pm or so to allow for another case to be heard; Ms. Vellekamp obliged and said only the applicant and his engineer would testify next month.



A motion was made by Vice Chairman Sonenshine and seconded by Secretary Freesman, to memorialize the Resolution for 49 John Street (Case #Z-2010-06). Mr. Sinowitz asked if there would be a deadline for when the applicant must submit a last revised site plan and felt, until then, the Board should not entertain a motion to memorialize. Mr. Ellis informed that statute says that if there is an appeal of a Board decision, then the approvals can stand pending the appeal outcome; he further stated that since there is a challenge to the subject Board decision, that there would be no action taken on it.

Stuart Liebman, Esq., Wells, Jaworski & Liebman, LLP, 12 Route 17 North, Paramus, New Jersey, appearing on behalf of the applicant, James Crimmins, concurred with the Board Attorney's assertion stating that while there are provisions that one could proceed if they were to bond, he did not see that happening in this case and that disposition of the court case would come first. Mr. Ellis said he, therefore, did not feel the Board could require conditions to be met if the event an appeal leads to the underlying Resolution being "thrown out." He continued to say that the applicant would surely say he should not have to spend money before the court case is finalized; he concluded the applicant should elect whether or not to proceed in fulfilling the conditions of the Resolution, in the absence of a stay. Vice Chairman Sonenshine asked why a court would accept an appeal to a case of which the Resolution has yet to be memorialized. Mr. Ellis informed that the complaint had not been filed as of yet and that any interested party could do so within 45 days after the memorialization of the Resolution. He also pointed out that the Zoning Officer is protected simply by not issuing a permit until all conditions stated in the Resolution have been met; Mr. Sinowitz was satisfied. All eligible members present voted in favor.



Mr. Sinowitz informed that he would be absent from the September 15, 2010 Hearing and, therefore, neither of the following applications should be scheduled for the next agenda since his presence is vital to those cases: 9 First Street (Case #Z-2009-15) and 24 Yale Place (Case #Z-2010-07); Mr. Demarest made note of such.



There being no further items to discuss, a motion to adjourn the meeting was made by Vice Chairman Sonenshine and seconded by Mr. Crisafulli. All members present voted in favor. The hearing adjourned at 8:58pm.