



# **Zoning Board of Adjustment**

September 15, 2010

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

Prepared by:

**Paul Demarest**

Chairman Knee called to order, at 8:03pm, the Regular Monthly Hearing of the Zoning Board of Adjustment for the Borough of Closter, New Jersey, being held Wednesday, September 15, 2010 in the Council Chambers of the Borough Hall. 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 Borough's officially-designated newspaper according to law. He advised that the Board adheres to an 11:00pm adjournment and no new matters would be considered after such time.

He invited all persons present to join the Board 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.
- Thomas Hennessey- Alternate #1
- Mark Crisafulli- Alternate #2
- Arthur Dolson- Council Liaison
- Alysia Smickley, Esq.- *in lieu of Joel Ellis, Esq.- Board Attorney*
- Kevin Tichacek, PE- Board Engineer
- Paul Demarest- Board Coordinator

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

- VACANT- Alternate #3
- Marie Hartwell- Alternate #4
- Leonard Sinowitz- Zoning Officer
- Joel Ellis, Esq.- Board Attorney



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.



Mr. Demarest informed that the minutes for the August 18, 2010 Hearing and the August 30, 2010 (Special) Hearing would be completed in time for a Board vote at the October 20, 2010 Hearing.



Chairman Knee requested 3 volunteers from the Board to serve on the Subcommittee for the September 22, 2010 Work Session. The following were assigned: Chairman Knee, Mr. Bianco

and Mr. Hennessey. Since 1 of the applications to be reviewed that evening is seeking Site Plan Approval, Mr. Tichacek agreed to attend as well.



Going out of order on the Board agenda, a motion was made by Mr. Bianco and seconded by Ms. Rothschild, to memorialize the Resolution for 95 Robinhood Avenue (Case #Z-2010-08) with noted corrections; all eligible members present voted in favor. A motion was made by Mr. Bianco and seconded by Mr. Monaco, to memorialize the Resolution for 251 Parsells Lane (Case #Z-2010-09); all eligible members present voted in favor. A motion was made by Ms. Rothschild and seconded by Mr. Crisafulli, to memorialize the Resolution for 277 Herbert Avenue/Ruckman Road (Case #Z-2010-10) with noted corrections; all eligible members present voted in favor.



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.

Lawrence Garguilo, 207 West Street, asked for specifics on what the Board takes into consideration when reviewing an application. Chairman Knee said the Board is a quasi-judicial body that grants relief from the Zoning Code, where appropriate, and all members must pass a state-sponsored certification program. Mr. Bianco added that an applicant provides a written application outlining, in narrative form, what is being proposed for a certain property and technical drawings in the form of surveys, site plan, architectural, etc. He said the Board looks at the case's potentially positive and negative impact on the community as well as special reasons to grant relief; he continued saying the applicant presents the case, the Board cross-examines and the public can ask questions and comment on the application (he noted the public can object and present a counter case). In concluding, he said the Board does a balancing act in making its decision (called a Resolution in its written form), by way of usually stipulating conditions for its approval or denial.

John Kilduff, 180 Herbert Avenue, asked if commercial vehicles are allowed to be stored on residential properties and, if so, how many and what weight-class is permitted. The Board said the absent Zoning Officer would have to field that question. Mr. Kilduff asked if a permit was needed to install brick pavers on a Borough street; the Board stated such is not permitted without approval from the Governing Body.



**Item #1**

Case #Z-2009-15  
63 John Street  
(Block 1203/Lot 2)

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

The applicant is seeking Use Variance and Site Plan (Major) Approvals for the continuation of an existing contractor's yard located in District #2 (Residential).

Vice Chairman Sonenshine asked if the applicant's prior case before the Board had been dismissed without prejudice due to his inaction and wanted confirmation that the postponement dates listed on the Board agenda pertain to the re-filed application being heard this evening; Mr. Demarest stated his summary was accurate.

Donna Vellekamp, Esq., 161 Mc Kinley Street, Closter, New Jersey, introduced herself. She confirmed that proper re-noticing was done and that taxes (current) confirmation had been updated. She said the subject property consisted of 4 lots owned by the applicant's parents, Donald and Doris Wiggers; she stated they acquired the 1<sup>st</sup> 2 lots in 1979 and bought the other 2 a few months later. She stated the property borders on John Street to the south, Railroad Avenue to the east and Westminster Avenue (paper street) to the west. Ms. Vellekamp said it is surrounded by commercial/industrial properties and that her client has conducted a part of his landscaping business on-site since 1981. She continued saying there is a single-family residence on-site, dating back to the late 1800's, located at the corner of John Street and Railroad Avenue and it is rented out. Ultimately, she said the applicant wished to keep both the current residential and commercial activities unchanged.

Dennis Wiggers, 387 Paramus Road, Paramus, New Jersey, was sworn in as Witness #1. Exhibit #A-1, a site plan prepared by Frank O'Leary, PE on August 14, 2009 and last revised September 7, 2010, was presented. Mr. Wiggers stated the mailing address of his business located in the Borough is known as 76 Railroad Avenue and his main office is located at the Paramus site. The witness testified to being a landscape contractor/designer for 30 years and using the subject property for the operation of his landscape crew, plantings and storage of equipment. He said, in the past, he had accessed the site via John Street, but later changed to taking Railroad Avenue and entering through Westminster Avenue exclusively in order to prevent his trucks from using residential streets for travel. He stated that to the north of the site is an industrial property that stores the equipment of 7 to 8 landscapers, to the east is both the Rinaldi Bus Co. and the John J. Demarest lumber yard and to the south is a commercial area, including a transmission repair shop and storage yard. Mr. Wiggers said there are currently 3 employees working out of the subject property during a typical day which starts at 7:15am and ends by 5:30pm every day except Sunday; he said that other employees do visit the site during the day to acquire material and tools. He said there is currently on-site a firewood splitting operation, truck storage and a full-time mechanic who works on his company equipment. He pointed out that up until 2 years ago, he operated a tub-grinder for making mulch there as well; he revealed that the mulch stored on-site is bought from an outside source. Depending on the day, he said 1 to 2 trucks would be at the property. The witness said the house on-site that he leases out is 2-storied, well-maintained and landscaped and has a new roof and siding. Mr. Wiggers stated that going west on John Street, he screened the yard from the residences with a berm and maintains 30 to 40 large evergreens. He acknowledged to being told by the Borough not to use Westminster Avenue for any reason, being it was not his property. The witness said that he rents out space at 76 Railroad Avenue to conduct his business as well, which abuts the northern side of Westminster Avenue, and where he has a row of concrete blocks; he stated he also has a row of firewood along the southern border of the paper street to ensure that the unimproved Borough land stays clear and open. The witness admitted that his employees cross back and forth between 63 John Street and 76 Railroad Avenue during the work day but assured the Board that his equipment is never permanently stored on the paper street. Mr. Wiggers said he has also planted 8 to 10 spruce on the improved portion of Westminster Avenue as well as a few evergreens at 50 Railroad Avenue (Miele Sanitation Co.) to provide additional screening; he noted that to the west of the site, the 2 nearest properties, 35 and 49 John Street, each have a contractor's yard and residence. Referring to Exhibit #A-1, the witness testified that the trailers

labeled #'s 1 through 4 store sprinkler pipe, seed, Portland cement and tools. He said the larger framed-garage is used for mechanical repairs and contains a computer and phone for ordering parts; he said the smaller framed-garage, to which he has no access, was used for storage of antiques belonging to a friend of his parents. Mr. Wiggers stated that while Exhibit #A-1 was made back in January, the site changes on almost a daily basis due to day-to-day activities; for example, he said the wood pile noted on the exhibit, which can reach 10' to 15' in height, has since expanded because he is in the height of the firewood season, however, in the next 3 months, said pile will probably be reduced to nothing as orders come in. The witness said the depicted mulch pile is much larger currently, but that it could be gone in a couple of weeks. He said while there is no designated parking on-site for his employees, they park their personal vehicles on Railroad Avenue and John Street; he stated the tenants of the residence have use of a brick paver driveway. In terms of exterior lighting for the contractor's yard, he stated there are 2 security/motion-detector lights mounted on the larger framed-garage; he pointed out that a barn, at 76 Railroad Avenue that houses a newspaper delivery service, has next to it a telephone pole light that shines over onto his yard. Exhibit #'s A-2 through A-12, a series of photographs taken by counsel and depicting several angles of the site, were presented. Vice Chairman Sonenshine felt it was wrong for counsel to submit photos in such a manner unless they were submitted prior to the meeting, mounted on board or handed out to each Board member; he said, while other pictures were filed with the original packet, the presentation of the new photos was not professional at all. Ms. Vellekamp said she would concur under normal circumstances, however, she proceeded this way because she wanted to show the site as it is today since the conditions change daily; for instance, she said the submitted site plan showed a gate at the entrance to Westminster Avenue, while the new photos show it has been removed. Mr. Bianco asked, for the next hearing date, that the new photographs be made into a collage format using arrows to show from where the photos were taken. Ms. Vellekamp said the applicant's planner would be presenting his own recent photos, taken of the surrounding commercial areas that essentially remain the same in look, to supplement his testimony. Mr. Bianco felt same-day photographs are essential to see the site as it looks at "maximum capacity" and believed certain angles/perspectives have not been presented in the selective pictures for some reason; he asked that an aerial view of the site be taken from the 2<sup>nd</sup> floor window of the residence looking down into the yard. Mr. Hennessey asked if it would be possible, when taking the new photos, to identify the corners of the subject property with vertical poles and flags reaching 15' into the air to help the Board identify what it is being shown rather than having to guess what is behind the piles of material scattered throughout the yard. Mr. Bianco added that he would like to see poles at all property corners for all 4 lots especially along Westminster Avenue (a pole at each north and south lot line to show how the yard intersects the paper street line for a total of 5 poles); he said this would allow the Board to get a straight line view of which side is which since it seems the paper street is "floating out there." He said that any Board member wishing to visit the site could then easily tell the boundaries. Mr. Crisafulli stated the applicant's surveyor should be the one actually marking where the vertical poles and flags are to be staked. Mr. Hennessey pointed out that 1 corner is already shown on the site plan as "iron pipe and rod" at the northeast corner, so the applicant only needs 1 more point established and then he could string a line himself; the Board decided that the poles to be staked should be 10' high. Mr. Wiggers stated he was never informed back in 1981 that running his business out of that property was illegal and in fact, he only received a summons from the Borough 2 years ago; he acknowledged that the building inspector, Harold Benel, had visited the site in the 1980's and 1990's. Ms. Vellekamp informed that former counsel for the applicant's parents, David Watkins, Esq., had presented an application before the Governing Body in 1984 dealing with the zoning of the property, but it was later withdrawn. Remembering from the applicant's past testimony during his later-dismissed case, Vice Chairman Sonenshine asked about his being fined by the New Jersey

Department of Environmental Protection (NJDEP), on 2 occasions, for operating a tub-grinder at the property; the witness said that occurred 2 years ago. Dr. West asked the size of the 2 diesel fuel tanks located by the smaller framed-garage; the witness said 500 gallons each. Dr. West asked what kind of fire control he had for them; Mr. Wiggers said he had an annual inspection from the Fire Prevention Bureau which found that an automatic shut-off, yellow poles in front of the tanks and lettering of the tanks' content in both English and Spanish were needed, all of which were corrected. Dr. West asked what kind of animals live in and around the piles of material; the witness said he had only approximately 3 cats living on the property and that an exterminator comes to the site every other month to keep rodents out. Secretary Freesman asked what the subject property was used as by the previous owner; Mr. Wiggers believed a family lived on-site and the father, a carpenter, used it as a contractor's yard as well. The applicant acknowledged that he knew the property was zoned residential since 1981 but that it suited his commercial needs. Secretary Freesman asked if any odors emit from the site; the witness answered that odors were present when he used to make mulch on-site, but stated there are also several contracting businesses in the area. Secretary Freesman asked about noise factors; the witness said there is equipment that runs at the property, which he tries to counteract by buffering the property with vegetation and by operating it only during regular work hours. He elaborated saying he had a couple of log splitters and a bobcat to load trucks. Mr. Hennessey asked where the logs come from; Mr. Wiggers said he does some of his own tree work and he also has tree service companies that drop off their wood, which he chops into small pieces. He said, as a result, he had built up a lucrative firewood delivery-only business over the years under the same company name as his landscaping company (no sale of wood on-site). Mr. Hennessey asked how he cut up the logs; the witness said they usually come in 18" lengths (pre-cut) and he splits them via 2 types of splitters (hydraulic and spring-loaded). Mr. Wiggers stated that, occasionally, logs come to the site that are 3 1/2' or 4' and those would be cut down in size using a chainsaw. Mr. Hennessey asked if he is required to install a containment barrier around the diesel fuel tanks in case of a leak, especially since the exposed steel tanks are not in a concrete vault; Mr. Wiggers did not have an answer but stated his insurance company has questioned that as well. Mr. Monaco asked how his interaction with his residential neighbors has been since the prospect of having personal 1-on-1 meetings came up during the dismissed case; the witness he has made attempts but that it was a work in progress. Vice Chairman Sonenshine asked if the gate that was removed from the paper street had been installed by the applicant; Mr. Wiggers said he did so. Vice Chairman Sonenshine asked who installed the concrete wall on the paper street; the witness he did so, but that it and the material piles have been removed from Westminster Avenue. He did say that all remains is a small retaining wall in the northern corner of the site that does not block the property but only divides the elevations (he said he was willing to remove it as well). Vice Chairman Sonenshine asked if the applicant would be willing to pay his pro rata share of the cost to improve Westminster Avenue, if sanctioned by the Governing Body; Ms. Vellekamp refrained from answering until the Board indicated all conditions in a possible approval. Vice Chairman Sonenshine referred to an administrative report from the Fire Prevention Bureau, an email dated January 16, 2010, which spoke of code citations pertaining to the diesel fuel tanks; counsel stated that email was not a citation but rather a commentary based on the filed Board application and pointed out that an email dated August 15, 2009 from the Bureau indicates its only concern to be with the storage of mulch and firewood on-site. Mr. Bianco asked that all Fire Prevention Bureau inspection records be supplied to the Board for the next hearing date because he could not see how the installation of diesel fuel tanks would be allowed on a residential piece of land; Mr. Demarest said he would contact the Bureau's head, Kevin Whitney, for his input via copies of his records or testimony before the Board. Vice Chairman Sonenshine referred to an administrative report from the Building Department that questioned a furnace at the site; the witness said he has an

external stove that is not being used and which he will remove. Vice Chairman Sonenshine asked if he planned to improve the look of the garage that stores antiques; Mr. Wiggers said he very much wants to do so. Vice Chairman Sonenshine asked what utilities are running through the yard; the witness said only electricity is in the containers (trailers). Vice Chairman Sonenshine asked what activities are done in the mechanic's garage; the witness said there is a tire machine, drills, 1 jack (not a hydraulic lift), vehicles and an air compressor inside. Mr. Bianco felt a permit would be needed to do such an operation especially if bulldozers and backhoes are being completely broken down and reassembled. Councilman Dolson said he recently witnessed earth-moving equipment mixing mulch with horse manure at the site; the witness said it was soil, not mulch, being mixed with the manure. Mr. Crisafulli felt such an operation would cause a horrible odor; the witness said if mulch is fresh and being moved quickly, it does not have an odor, however, if it sits around for a period of time, it will ferment like grass clippings. Mr. Crisafulli asked what the impervious coverage is for the site; Mr. Tichacek said it is 71%. Mr. Crisafulli asked the witness when he paved the paper street and installed the gate and the block wall; Mr. Wiggers said the gate and pavers were installed about 25 years ago and the wall was put up about 20, all of which he did not receive permits for. Mr. Tichacek recommended that a fence with a gate be put along the property line shared with Westminster Avenue to prevent any type of intrusion of the part of the applicant. He also felt that, with regards to Vice Chairman Sonenshine's request for a drainage plan, that since the piles of material are constantly changing, it would be difficult to establish a drainage pattern; he said it is what it is and has been that way for 30 years, but he would still need to hear the engineer's testimony. Mr. Tichacek further stated that, from a practical sense, with obstructions changing the flow daily, and the purpose of contour plains being to show the pattern across the property, it is difficult to draw up, however, a general idea can be shown on a revised site plan. Mr. Bianco asked if this application to the Board was required by court order; counsel answered it was not and there were only discussions in adjourning court proceedings due to a pending Board case. Mr. Bianco asked why gates were installed at the entrance to the paper street; the witness said he had security concerns and wanted to protect the yard. Mr. Bianco asked who lived in the house on-site and how many cars they owned; the witness a family of 4 resided there and believed they had 1, maybe 2 cars. Mr. Bianco asked how the firewood gets transported to the yard; the witness said it is driven in by truck. Mr. Bianco asked if long lengths of logs are often brought on-site; Mr. Wiggers stated that rarely, noting if it is not he who supplies the logs, the tree service companies, Arrow Co. or De Carlo Tree Service, would be dropping off logs. Mr. Bianco asked how many logs are brought in on any given shipment, the largest size of log that would be imported and how often such shipments occurred; the witness answered a shipment, which occurs roughly 5 times per year, could contain 50 to 100 pieces (being a chipper truck is used) with longest piece being 10' or so. Mr. Bianco inquired about the types of vehicles and equipment stored on-site; Mr. Wiggers said that there are trucks, a "skid skier", an excavator and rubber-tired backhoe kept in the yard. Mr. Bianco requested the vehicle manifest be put on the actual site plan, which should be revised to indicate a reasonable layout of how each piece of equipment can be parked on the grounds. Mr. Bianco asked how long ago his Fire Prevention Bureau violations were abated; the witness stated about 3 to 5 years ago. Mr. Bianco felt such a statement did not concur with the previously-mentioned administrative report from the Bureau, which cited current non-compliance at the site. Mr. Bianco revealed he recently noticed a tub-grinder on a truck parked on the sidewalk north of the site along Railroad Avenue; the witness answered that a couple of months ago, that piece was being repaired on-site by his mechanic, but insisted that the tub-grinder was not being used at that address. Mr. Bianco questioned whether or not the applicant was associated with a mulching operation being run out of 76 Railroad Avenue; Mr. Wiggers said he has a soil separator there to screen top soil (no manufacturing of top soil being conducted), not to be confused with a mulcher, and described

the machine as being a box that is 10' in length, 8' wide and 7' to 8' in height which has soil dumped into it before shaking the rocks off and allowing the clean soil to fall through. He acknowledged that said equipment is quite noisy. Mr. Bianco asked what came of the block wall that he removed from Westminster Avenue; the witness stated it was relocated to the borderline shared between the paper street and 76 Railroad Avenue. The Board, noting several changes to the property that are not shown on the latest revision, required a new revision be filed with all mentioned alterations being indicated via "bubbling" for easier review; counsel stated the engineer would do his best. Mr. Bianco added that the revised site plan should be 2 pages, 1 being the "expanded" version of when the site is at its maximum operating capacity and the other being at its contracted state (least busiest); counsel agreed to such. Mr. Bianco asked what was used as the direct ingress/egress to the site via the public right-of-way; Mr. Wiggers stated it was through Railroad Avenue and onto Westminster Avenue. Mr. Hennessey asked if any imported logs/trunks could be diseased; the witness assured that he inspected every piece and rejected any that have bugs/parasites. Secretary Freesman asked for the circumference of the wood pile that was testified to being 10' to 15' high; the witness stated it is the length as shown on the latest revised site plan but that, due to the busy storm season, it was much wider than depicted on the revision. Secretary Freesman asked if lawn maintenance was part of his business; the witness said it was not and that he only provided services dealing with the design and construction of anything dealing with the exterior of a property. Mr. Hennessey believed that selling firewood was not a landscaping operation; Mr. Wiggers countered saying that the majority of firewood suppliers are landscapers as well, however, not all landscapers sell firewood. Ms. Rothschild asked if the applicant had ever been denied by the Zoning Officer for the granting of permission to operate his contractor's yard prior to his application that was denied on July 9, 2008; he answered in the negative. Mr. Bianco asked why there are 2 fuel tanks on-site; the applicant said there are 2 color designations for diesel: yellow (used for on-road purposes which has a road tax associated with it) and red (used for off-road purposes which is not taxed) and that explained why he housed 2 at the yard. Mr. Bianco asked how said tanks are refilled; Mr. Wiggers stated an oil company visits (1 to 2 times a month) with a truck just as it would at a gas service station. Vice Chairman Sonenshine asked how waste oil was disposed off from the yard; the witness said he has a 100 gallon to 200 gallon waste oil tank that is labeled and its contents get recycled into the environment once its level nears the top. Mr. Monaco asked for how long stone to be used for projects remains on-site; Mr. Wiggers said it depended on the job and that either the stone is shipped directly to the jobsite or brought back to the yard (he mentioned he also recycles the stone that is removed from soil by his separator). Dr. West asked if the site plan accurately depicted that there are no storm water management devices currently on-site; counsel said that was true and that the revised site plan will have drainage information as if the property was void of anything on it (spot elevations).

Chairman Knee opened the meeting to the public for questions of Witness #1 only.

Lidia Auriti, 36 John Street, questioned the witness' statement that he has reached out to his neighbors and their concerns/complaints about his business operation; the witness said he had spoken to many but not all of them, as recently as during this year's snowstorms. She also doubted the witness' statement that his attempts at buffering the noise and odors coming from his yard are solving the neighborhood's problem with his business.

John Kilduff, 180 Herbert Avenue, indicated that his residence is directly east of the applicant's yard across from the railroad tracks and that he has a clear view of the site from the 2<sup>nd</sup> floor of his home. He revealed that 2 years ago, he complained about the yard to the Health Department, which took a noise reading from 350' away and found it to be unacceptable; he

noted the Police Department was requested to his residence and he believed that the smells and debris finding its way from the applicant's site to his pool and on the side of his home were the direct reason for his children's illnesses that summer. Mr. Kilduff asked if there had ever been any other homes on any of the 4 lots that make up the property other than the present 1 on the corner; Mr. Wiggers answered no. Mr. Kilduff asked if there were any septic or oil tanks in the ground on-site; he stated he did not believe so. The Board requested that Mr. Kilduff produce to it the Health and Police Department complaints he filed. Mr. Kilduff asked how many trucks were stored on the grounds overnight; the applicant stated 5 to 6. Mr. Kilduff asked how many of those are over 7,000 pounds; Mr. Wiggers said 4 are. Mr. Kilduff questioned who had installed brick pavers on Westminster Avenue and if a permit was secured for such work; the witness said he did so but did not get Borough approval for it. Mr. Kilduff asked how many storage containers are on the residential property; Mr. Wiggers stated there are 3 and that they are about 25' from the home at the corner of the property. Exhibit #O-1, a Police Department report filed by Mr. Kilduff, was presented.

Jesse Rosenblum, 65 Knickerbocker Road, asked why the applicant is using the paper street to enter his own property; the witness testified Westminster Avenue had always been open for access dating back 25 years ago when he first starting conducting his operation on-site. Mr. Rosenblum asked if the applicant was responsible for clearing the paper street of its natural elements; Mr. Wiggers answered that he was not and, in fact, he remembers the area as being grass as well as having a garden (maintained by the previous property owner of 63 John Street) since the beginning of his occupancy. Mr. Rosenblum asked if the front-end loader used in conjunction with the soil separator is positioned solely at 76 Railroad Avenue; the witness answered yes. Mr. Rosenblum asked for the route used by the loaded truck that leaves the soil separator; the applicant said the truck could "cut through" the paper street onto Railroad Avenue or leave from 76 Railroad Avenue. Mr. Rosenblum asked how far away from the paper street was his soil separator; the witness stated it was a distance 25' to 40'. Mr. Rosenblum asked for the applicant's primary source of work during the winter months; the applicant said, unless there is a blizzard, he hustles for jobs (stone work, plantings, etc.).

Mr. Crisafulli pointed out that there were pages missing from Exhibit #O-1; Mr. Kilduff agreed to submit the remainder at the next hearing date.

Lawrence Garguilo, 207 West Street, asked what are the major variances being sought by the applicant; counsel stated the business use of the property is the primary, while some deal with existing conditions, such as setbacks and the residence on-site. Mr. Garguilo asked that if the zoning district that the subject property is located within were to be changed to District #4 (Commercial), would the applicant's activities on-site be permitted without the need for a variance; Dr. West stated the Borough Code reads that a contractor's yard is allowed in District #4.

Rita Ciancio, 15 John Street, asked how the 2 entrances to the applicant's yard are blocked/secured at night; Mr. Wiggers said that the paper street access is always open but that he does park trucks at the 76 Railroad Avenue entrance. Ms. Ciancio revealed that she has witnessed the applicant working at the site as late as 9:30pm and also informed that she sometimes views Mr. Wiggers parking a smaller pick-up truck on John Street in order to load it with firewood; the witness stated that was true, on occasion.

Marguerite Pallatta, 40 Westminster Avenue, asked what the purpose was for the applicant to have brick pavers installed on the paper street; Mr. Wiggers answered that type of surface

material is much more durable as opposed to macadam/blacktop, which would be torn up by his equipment. Ms. Pallatta felt the piles of material were much taller than the applicant's testimony revealed (she thought they reached peaks of 40+'). Mr. Wiggers responded that, as per the NJDEP, the piles could go as high as 20'. Ms. Pallatta asked if the witness ever resided in the house on-site; he stated no and that his parents bought it in 1979 as an investment. Ms. Pallatta asked for the size of the trucks involved with his soil screening operation; he stated the largest could be 15 cubic yards but usually is only 8 to 10 cubic yards.

Jesse Rosenblum, 65 Knickerbocker Road, asked where the soil for his separation operation came from and if a permit was required for soil movement; Mr. Wiggers stated that the soil's origins are from his job sites and, being he uses the soil for horticultural purposes and not filling a yard, that a permit is not necessary. Mr. Rosenblum asked how much soil the witness handles in a year; he responded a couple thousand cubic yards.

Mr. Garguilo asked if the witness ever considered relocating his operation to 1 of the many vacant lots along Railroad Avenue; Mr. Wiggers answered in the negative.

### **Outcome**

The Board adjourned the case to the October 20, 2010 Hearing, at which, counsel stated testimony would be given by the applicant's engineer and planner (the case would begin at approximately 9:45pm following a yet-to-be-determined residential application).



There being no further items to discuss, a motion to adjourn the meeting was made by Mr. Bianco and seconded by Vice Chairman Sonenshine. All members present voted in favor. The hearing adjourned at 11:00pm.