



# **Zoning Board of Adjustment**

July 20, 2011

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

Prepared by:

**Paul Demarest**

Chairman Knee called to order, at 8:08pm, the Regular Monthly Hearing of the Zoning Board of Adjustment for the Borough of Closter, New Jersey, convening Wednesday, July 20, 2011 in the Council Chambers of the Borough Hall. He stated the meeting was being held in compliance with the provisions set forth in the New Jersey Open Public Meetings Act and had been advertised in the Borough's officially-designated newspaper. 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
- Joseph Bianco, RA/PP
- Theodore West, DDS
- Mitchell Monaco
- Antranig Ouzoonian, PE
- Thomas Hennessey- Alternate #1
- Mark Crisafulli- Alternate #2
- Andrew Shyong, DDS- Alternate #3
- Marie Hartwell- Alternate #4
- Leonard Sinowitz- Zoning Officer
- Alysia Smickley, Esq.- Board Attorney
- Jeffrey Morris, PE- Board Engineer
- Paul Demarest- Board Coordinator

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

- Steven Freesman, Esq.- Secretary
- Arthur Dolson- Council Liaison



Prior to the meeting, the Board obtained mail correspondence received by the Land Use Department on its behalf. In lieu of Secretary Freesman's absence, Chairman Knee read said mailings into the record. Dr. West asked for clarity on the order issued by the Superior Court of New Jersey- Bergen County Law Division regarding 170 & 176 Closter Dock Road (Case #Z-2008-06); Chairman Knee explained that being the Court is requiring an appeal of the Board approval, filed by DR Schmidt Realty, LLC, be heard within 60 days, the applicant, Desan Enterprises, Inc., must re-file an application and proofs with the Board in time for the October 19, 2011 Hearing, a date which will be reserved for that case only. Ms. Smickley informed that while the judge has yet to approve said hearing date, consent by all parties involved has been given; she further stated that the re-filed application would not require perfection at a Work Session beforehand.



A motion was made by Mr. Bianco and seconded by Dr. West, to approve the minutes for the May 18, 2011 Hearing; all eligible members present voted in favor. A motion was made by Mr. Bianco and seconded by Vice Chairman Sonenshine, to approve the minutes for the June 2, 2011 (Special) Hearing; all eligible members present voted in favor. A motion was made by Mr. Bianco and seconded by Dr. West, to approve the minutes for the June 15, 2011 meeting with noted corrections; all eligible members present voted in favor.



Chairman Knee requested 3 volunteers from the Board to serve on the Subcommittee for the July 27, 2011 Work Session. The following were assigned: Mr. Bianco, Dr. West and Mr. Monaco.



Mr. Demarest reported that the Borough's Code Enforcement Officer (West Side), James Whitney, expressed concern about the recently memorialized Resolution for 3 Lindemann Avenue (Case #Z-2010-14) not stipulating the timeframe in which the applicant must fulfill the Board's condition(s); he said Mr. Whitney believed by there not being deadlines, his ability to enforce Resolutions issued by the Borough's Land Use Boards is essentially made impossible. Mr. Bianco agreed with such a position. Ms. Smickley informed that New Jersey's Permit Extension Act of 2008 remains in effect until 2012, but stated that such legislation did not prohibit the Borough from creating a rule by ordinance, which would require that all applicants be subject to a uniform timeframe for fulfilling conditions written into a Resolution; she said such an approach would negate having to specify a deadline in each Resolution. Ms. Smickley said the alternative would be to deal with the issue on a case-by-case basis, whereby a specific mentioning of a deadline would be needed, if the Board felt it necessary for any given case. Ms. Smickley also noted that if conditions were not met within a determined period of time, the Board approval would become null and void. Mr. Sinowitz reminded that prior to 2008, it was commonplace for all of the Board's Resolutions to contain wording that stated its approval would lapse 1 year after memorialization. The Board decided, without taking an official vote, to continue its practice of placing a deadline into its Resolutions only when it felt it was warranted rather than recommending a blanket provision to the Planning Board.



When the Board began discussing the implications of a site visit to 247 West Street (Case #Z-2011-11), a condition of perfection required of the applicant at the May 25, 2011 Work Session, Mr. Bianco, who served on said Subcommittee, revealed he would be recusing himself from the case. Mr. Ouzoonian, Mr. Crisafulli and Ms. Smickley believed the Zoning Officer should conduct such an inspection prior to the applicant's presentation to the Board. Mr. Sinowitz informed that it is not his practice to visit a site either before or after deciding upon an application filed with the Zoning Office. Mr. Demarest noted that, regarding questionable 2- and multiple-family residences, it is protocol for the Code Enforcement Bureau to issue a temporary Residential Certificate of Continued Occupancy (RCCO) after an safety inspection is passed, which would allow for the rental or resale transaction to take place; he said, however, the Certificate would stipulate that if a Use Variance is not obtained within 1 year after its issuance, the temporary RCCO would become null and void. Both Mr. Hennessey and Mr. Crisafulli, who served on the relevant Subcommittee, agreed to withdraw said condition placed upon the applicant for 247 West Street.

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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 evening's agenda. No one wished to be heard.

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A motion was made by Mr. Bianco and seconded by Dr. West, to memorialize the Resolution for 531 Durie Avenue (Case #Z-2010-11). All eligible members present voted in favor.

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**Item #1**

Case #Z-2011-10  
219 Cedar Lane  
(Block 705/Lot 9)

Applicant(s): Tito & Adoracion Temporosa  
Representation: Douglas Radick, RA

The applicants are seeking Bulk Variance Relief for the construction of an addition, deck, front porch (2-tiered) and front steps/walkway to their residence.

Douglas Radick, RA, 243 West Street, Closter, New Jersey, introduced himself and stated he would be speaking on behalf of the applicants; he was also sworn in as Witness #1. He apologized for not attending the June 15, 2011 Hearing, which led the Board not to hear any testimony and adjourn the case to this evening. He stated he prepared the architectural drawings that were filed with the Board. He testified the applicants, along with their 2 children, have resided in the Borough since 1997 in the subject bungalow, constructed around 1920 and located in District #2 (Residential), that is extremely small and situated on a 50'x125' lot. The witness noted there is an existing enclosed, front porch that does not extend to either extremity of the house's footprint; he informed both ends (voids) would be filled, thus, squaring out the home's front section and adding a roof area of 122 sf. Mr. Radick continued saying an entire 2<sup>nd</sup> floor (with a veranda to match the floor below) would be built on top of the existing 1-story structure. He stated there is an existing cinderblock patio with both a roof overhang and steps (leading to the basement), which will be demolished and replaced with a 200 sf deck to be placed off the kitchen; the witness noted the existing concrete, front walkway would be reconfigured so it is narrower and centered with the house. Mr. Radick revealed the proposal would reduce the site's existing impervious coverage from 32.6% to 32.2% while increasing its building coverage from 20.36% to 23.0%; he noted the building height would go up to 25', 3.5". He reminded the Board that the variances are a result of the miniscule 6,250 sf parcel of land. He explained the existing footprint is approximately 950 sf, a mere 50 sf above the minimum floor space required for a 1-story home (as per Chapter 200-10 of the Borough Code). He said the existing side yard setbacks would remain unchanged: 1.) left-facing: 14.65'; 2.) right-facing: 8.44'; 3.) aggregate: 23.09'. He stated the existing rear yard setback would be reduced from 57.98' to 47.98'. The witness revealed the front yard setback is to be increased from 19.9' to 23.69', with the average being calculated as 21.50'; as far as the floor area ratio (FAR), he said the existing 19.4% would increase to 37.7%, though the maximum allowance is 45%. Mr. Radick explained the existing ceiling height in the basement is slightly above 6'; he said to make it more accommodating and usable, it would be increased to 7+' by deepening the basement and underpinning the foundation, making it a cellar by definition. The witness stated that, at the May 25, 2011 Work

Session, the Subcommittee expressed concern about the new home exceeding 2.5 stories; he said, to address such, elevations were taken at curb level with relation to the 1<sup>st</sup> floor and the surveyor determined it was 50.00', which is to be lowered to 48.80' (new cellar). Mr. Ouzoonian asked if a hip roof could be considered to lower the entire silhouette of the project; the witness replied his clients would prefer not to since it would diminish the look. Mr. Ouzoonian inquired why the basement's ceiling height would only be increased by 1.20', given the substantial effort involved in underpinning a foundation; Mr. Radick said it was the applicants' wish to have a ceiling height of roughly 7.5' only. The witness further stated that there was no intention to finish the basement and noted there is currently a drop beam that makes for 5', 10" ceiling height, making the space functionally useless. Chairman Knee asked for the distance between the subject house's right exterior wall and the neighboring home; the witness stated it to be 18.40' (225 Cedar Lane has a side yard setback <left-facing> of 10.00'). Dr. West expressed concern that there is no proposed abatement to the existing driveway that runs along the right side of the subject house, taking up the entire 8.44' width of the side yard; referring to the pre-filed photographs, he noted there is an unsightly container/trailer at the back end of the driveway as well as the neighboring house having 5 windows that look out onto the subject area. He felt such a small distance between the 2 houses and a greater building height to the applicants' house is a negative result of the proposal. Mr. Radick responded that 225 Cedar Lane has an existing 2<sup>nd</sup> floor window and he believed some of the 1<sup>st</sup> floor windows are in the kitchen; he disagreed with Dr. West's questioning if his clients should be allowed to have a 2-storied house as well. The witness explained that the existing storage container on-site is used to store household items that the home cannot accommodate space for. Dr. West pointed out that the roof peak of 225 Cedar Lane slopes from front to back while the Temporosas' would be the exact opposite and make it appear to tower over the surrounding houses; Mr. Radick disagreed, saying the neighboring house to the left (217 Cedar Lane) would still have a greater building height than his clients once their project is complete. He revealed the distance between the nearest exterior walls of 217 Cedar Lane and 219 Cedar Lane is 19.10'. Mr. Bianco asked how the subject property is situated; the witness said it runs in a North-South direction. Mr. Bianco determined that the Southern exposure would be at the front of the house and cast a shadow into the rear yard, thus 225 Cedar Lane would not be affected in the morning; Mr. Radick agreed, saying it would be affected during the late afternoon and vice versa for 217 Cedar Lane. Mr. Bianco asked if underpinning the foundation was the best approach for the project; the witness replied he has done such several times and the Building Department, not the Board, should address the matter, if need be. Mr. Bianco reminded that if greater than 50% of the existing structure were to be demolished during construction, the Temporosas would be required to return to the Board for Amendment Approval; Mr. Radick remarked that he did not calculate such a percentage. Chairman Knee asked if the intent is to build a new house; the witness stated he has not drawn up final working drawings. Mr. Bianco asked if the existing foundation could hold the extra load of a 2<sup>nd</sup> story; the witness explained the foundation will be underpinned and a footing installed under its walls; he said the only unknown will be the nature of the foundation wall, which cannot be known until the contractor begins to dig. Mr. Bianco asked if the proposed roof's slope of 9/12 could be reduced for the overall look; he agreed with the architect that a previously suggested hip roof is not called for being the front elevation has some relief to it (2 open porches) rather than a blank wall facing Cedar Lane. Mr. Radick replied he would lessen the slope to 7/12. Mr. Bianco asked for the finished exteriors to the renovated house; the witness replied the front will have a brick façade and the remaining sides would consist of siding. As for the interior layout, the witness testified the existing 1<sup>st</sup> floor contains a large living room, small kitchen, 1 bathroom and 3 bedrooms stacked together in a gallery fashion; he informed the proposal would expand the kitchen considerably as well as add both a guestroom and powder room. He explained the 2<sup>nd</sup> floor would have the 3 relocated bedrooms,

2 bathrooms and a lounge area; he said the attic would be utilized for storage only (29% of its ceiling will have a height of at least 7'). He stated there would be both bay and garden windows in the kitchen and the existing crawl space in front of the basement would be expanded due to the front porch add-ons. Mr. Bianco asked if the proposed cellar would contain a 2<sup>nd</sup> kitchen; the witness answered that while there is no stove currently, there is a sink and refrigerator as well as a bathroom. Mr. Radick said the basement/cellar would be used for storage, not as an apartment. The witness acknowledged that page #A-5 of the architectural drawings (drawn prior to the underpinning approach being conceived) needed to be revised and reflect that everything existing in the basement is to be eliminated in order to lower its slab. Dr. West inquired what the proposed layout of the basement/cellar would be; the witness deferred to the applicants. Mr. Bianco asked for the existing and proposed area of the home's habitable space; Mr. Radick replied it is now 1,007 sf and will become 2,500 sf. Mr. Sinowitz stated page #A-2 of the architectural drawings is confusing in that the intention of the 1<sup>st</sup> floor's partitions, both new and to-be-demolished, is not apparent; he asked that shadowing and/or a legend is included in the revision. Mr. Radick asked for clarification on how to determine if more than 50% of the existing structure would be demolished; Mr. Bianco replied it should be calculated using volume. Chairman Knee asked what the detriment would be of having new walls in relation to the >50% threshold; Mr. Sinowitz stated that being the subject house is a non-conforming structure, further variance relief would be needed if more than 1/2 of it is gone. Dr. West asked what of the existing house would remain; Mr. Hennessey responded that the foundation walls and the 4 exterior walls on the 1<sup>st</sup> floor would be all that is left over. Mr. Ouzoonian interjected, saying that the proposal would not include underpinning but rather excavation in order to extend the basement and build new foundation walls. Mr. Radick disagreed, saying new foundation walls would not be constructed; Vice Chairman Sonenshine questioned how the basement slab could be lowered without removing the existing walls. The witness replied that the slab would be cut and then re-poured; Vice Chairman Sonenshine disagreed, saying the only way to do so would be to gut the entire basement to which Mr. Radick responded that such an approach may be the quickest way but not the only. Vice Chairman Sonenshine specified that he was referring to the gutting of the basement's interior walls; the witness reiterated that the basement's exterior walls would be remaining and lowered sequentially. He added that the center wall on the interior is load-bearing but would still be removed; though the Board questioned the veracity of the witness' testimony, it deferred such construction code matters to the Building Department. Vice Chairman Sonenshine asked for clarity on the proposed exterior façade of the house; the witness stated such details had not been decided upon. Vice Chairman Sonenshine asked that the basement's windows be shown on the elevation pages like they are depicted on the floor plans (deciphering whether they are air wells or below-grade).

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

Jesse Rosenblum, 65 Knickerbocker Road, if the house is situated on a rubble trench foundation; the witness answered in the negative and stated that while he cannot determine, specifically, what the composition is (due to sheetrock on the inside of the walls), he felt the foundation was made of machine block. Mr. Rosenblum asked if there was sufficient shrubbery along the property lines to buffer the expansion; the witness replied he could not respond since he is not a certified landscape architect. Mr. Rosenblum questioned if the water table on-site has been determined to avoid future setbacks during excavation; Mr. Radick said it has not.

Adoracion Temporosa, applicant and owner-in-fee of the subject property, 219 Cedar Lane, Closter, New Jersey, was sworn in as Witness #2. Dr. West inquired why she would go through the expense of lowering the basement to increase its ceiling height if her sole intention is to use

it for storage; she replied that her family would utilize the cellar for exercising and doing laundry. The witness noted that she did not have the benefit of a garage on her property and assured that the existing container/trailer on-site would be removed once the project is completed. Mr. Hennessey asked if, in terms of financing, she had contemplated building a new house instead of renovating her existing home; Ms. Temporosa said such was discussed but decided against. The witness confirmed that the residence would be vacated during construction.

Chairman Knee opened the meeting to the public for questioning of Witness #2 only. No one wished to be heard.

Chairman Knee opened the meeting to the public for general comments only. No one wished to be heard.

## **Outcome**

Mr. Ouzoonian believed the more economical approach would be for the applicant to demolish the existing house and rebuild; he said he could not fathom 50% of the home being salvaged with such an undertaking. Chairman Knee questioned why the Board could not grant variance(s) as if new construction was contemplated, thereby negating the applicant's return to the Board if problems arise during construction; Mr. Bianco replied that such a view of thinking would create zoning deficiencies. Vice Chairman Sonenshine stated that the subject neighborhood consists of similar lots and residences which are slowly being renovated; he had no objection with the application. Both he and Mr. Bianco agreed the Board could not dictate how the applicants use their money. A motion was made by Mr. Bianco and seconded by Dr. West, to approve the application with the following conditions: 1.) revised architectural, earmarking both existing and proposed construction on all floors, to be filed with Board by August 7, 2011; 2.) proposed slope of roof to be lowered from 9/12 to 7/12; 3.) applicants must return to Board for Amendment Approval if greater than 50% of existing house is demolished during course of construction; 4.) a kitchen is prohibited in basement/cellar. The motion passed (7-0: YES- Hennessey/ Ouzoonian/ Monaco/ West/ Bianco/ Sonenshine/ Knee).



## **Item #2**

Case #Z-2010-12  
237-241 Closter Dock Road  
(Block 1303/Lot 1)

Applicant(s):	Mrs. Kubitis Realty, LLC
Representation:	David Watkins, Esq.

The applicant is seeking Use Variance and Site Plan Approvals for the construction of an addition and the conversion of existing office space to (3) residential units at the subject mixed-use building.

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

Mr. Demarest stated that Mr. Hennessey (absent from the February 16, 2011 Hearing when the presentation of "Item #2" began) along with Mr. Ouzoonian and Ms. Hartwell (absent from the May 18, 2011 Hearing when the presentation of "Item #2" continued) have signed affidavits

attesting that they listened to the proceedings via compact disc and, thus, are eligible to vote on the case.

David Watkins, Esq., 285 Closter Dock Road, Closter, New Jersey, introduced himself.

Andrew Missey, PE, Lapatka Associates, Inc., 12 Route 17 North, Paramus, New Jersey, was sworn in as Witness #1. Exhibit #A-4, a colorized version of a pre-filed site plan prepared by the witness' firm, dated July 13, 2010 and last revised June 24, 2011, was presented. He and Mr. Watkins commented on the following portions of Mr. Morris' report dated July 18, 2011: 1.) Item #6- applicant confirms stated variances are being sought: A.) front yard and side yard parking setback: 20' and 5' required/0' and 2' proposed <resulting from proposed on-site parking>; B.) front yard setback: 10' required/0.1' proposed; C.) side yard setback: 6' required/0.2' and 4.9' proposed <no negative impact since subject side yard faces CSX Transportation rail line; 2.) Item #11- applicant agrees to install concrete apron between proposed drop curb and on-site parking spaces; 3.) Item #12- no storage containers will be utilized and site will be fenced during construction; 4.) Item #15- applicant is continuing 20+ year-old traffic pattern that Borough has used for its municipal parking lot <North Lot> whereby railroad company's right-of-way is encroached upon and vehicles back out into Railroad Avenue; 5.) Item #17- northerly triangular portion of site is presently used for public parking and applicant believes Code Enforcement Bureau should police such violations in lieu of applicant being granted an easement without indemnification from Borough; 6.) Item #18- applicant agrees to have concrete area in front of refuse enclosure as well as curbing along subject building to hinder damage from wheeled refuse containers; 7.) Item #19- applicant agrees not to install 2 colonial-style light poles and brick pavers along Railroad Avenue <which would match ambiance of Closter Dock Road> because existing "cobra head" street light provides substantial illumination and existing narrow, concrete sidewalk is in good condition and has several drainage pipes running beneath it; 8.) Item #20- applicant agrees to install 1 "shoebox" light to illuminate on-site parking spaces; 9.) Item #21- applicant agrees to plant shrubbery on-site rather than grass. Mr. Ouzoonian expressed concern about the depressed curb that is to run the length of the site along Railroad Avenue; Ms. Missey explained that a sanitation truck would not be pulling onto the site to collect garbage but rather the refuse containers would be rolled out a distance of 25' to the truck parked on Railroad Avenue. Mr. Ouzoonian asked if an electrical substation would be needed; the witness answered in the negative, stating power would run from a utility pole's transformer on Railroad Avenue and enter the building via underground conduit. Mr. Bianco disagreed, saying the proposed elevator could warrant a substation; Mr. Watkins replied that if 1 becomes necessary in the future, there would be space for it on-site. Mr. Bianco noted that the Bergen County Planning Board gave a conditional approval for the project, citing its request to have handicap ramps, made of brick pavers, installed at the corner of Railroad Avenue and Closter Dock Road as well as near the rail line; Mr. Watkins and Mr. Morris, while believing the County's request to be unreasonable, agreed to collaborate on the matter. Exhibit #A-5, a black/white version of a pre-filed site plan prepared by the witness' firm, dated July 13, 2010 and last revised June 24, 2011, was presented. Mr. Bianco questioned if the Fire Department had been consulted as to where the hook-up into the building would be located in case of an emergency; Mr. Missey replied it has not, but assured the Department would be contacted. Mr. Bianco expressed concern about the proposed electrical meter bank being situated above 8' high refrigerant units; the witness stated the conduit would be placed there but the meter heads would be located elsewhere. Mr. Bianco inquired if the on-site parking spaces would conform to the New Jersey Residential Site Improvement Standards (RSIS); Mr. Watkins stated the RSIS do not apply to the project, but the local code does. He pointed out that in 2005, when the Planning Board approved a different design for the subject building that required 64 parking spaces, the applicant paid waiver fees

for 5 spaces to the Parking Authority, money which Mr. Watkins felt should be refunded. Mr. Bianco disagreed, saying the Board is dealing with a separate application involving a Use Variance and parking deficiency; Mr. Watkins concurred, but he noted that the requirement for the current application is 1/2 (32 spaces) of what the 2005 proposal required. Mr. Morris informed that the RSIS contain parking requirements based on apartment and bedroom counts; Mr. Watkins agreed and said such data is included on the site plan. Mr. Sinowitz believed it would be prudent for the Board to recognize the investment and enhancement to the community that the applicant is undertaking; he also reminded that the Parking Authority's power to charge is not absolute and such fees could be negotiated by the Board. Mr. Bianco believed the Planning Board did not access enough waiver fees as part of its approval in 2005; Mr. Watkins stated such was irrelevant and its decision ran with the land. Dr. West believed a refund was not called for since the applicant has had use of the parking privilege for the past 6 years; Mr. Watkins understood but reiterated that his client would be spending \$100,000's for 3 apartments and some play was called for. Mr. Bianco and Mr. Morris believed the applicant would at least need a de minimis exception from the RSIS. Mr. Crisafulli asked if the building's sewer and water lines are adequate for the additional bathrooms proposed. Referring to the sewer, Mr. Missey said the necessary fixture count is reduced with the 2<sup>nd</sup> floor's use changing from medical office to residential; as for the water, he stated the building will have a fire sprinkler system and that the water utility's fire hydrant flow tests revealed formidable water pressure at the corner of Durie Avenue and Closter Dock Road (1,600 gallons per minute with a residual of 65 psi). He also stated that there is a 6" water main line under Railroad Avenue and the fire service would be sized out by the applicant's mechanical engineer. Mr. Bianco asked if the refuse container's doors had to be 5' wide being its wooden slats tend to come in 4' increments; the witness said each door would be narrowed by 1'.

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

Jesse Rosenblum, 65 Knickerbocker Road, asked for the composition of the building's existing foundation; the witness deferred to the applicant's architect. Mr. Rosenblum asked if greater than 50% of the existing building would be demolished during the course of construction; Mr. Missey said it would not.

George Held, RA, 587 Getty Avenue, Clifton, New Jersey, was sworn in as Witness #2. To answer the question raised by Mr. Rosenblum, he stated the building's support consists of a series of exterior masonry wall with wood framing. He said, as per the Board's request, the elevator/stair core was reconfigured slightly to avoid affecting the exterior corner of the main building; he said, as a result, the core section now would have the elevator surrounded by the stairway and that, in turn, enlarged the following apartments in size: 1.) "Bedroom #1" - from 550 sf to 638 sf; 2.) "Bedroom #2" - from 811 sf to 854 sf; 3.) "Bedroom #3" - from 654 sf to 748 sf. Mr. Held stated the laundry room was enlarged to accommodate counter space. He informed that the bay window located on the 2<sup>nd</sup> floor would be replaced with 1 complimenting the existing space; he indicated the main entrance door on the 1<sup>st</sup> floor would be refurbished and stay in place due to its historic nature along with all storefronts being newly-replaced. The witness stated the revised plan shows a janitor's closet and location of the roof scuttle as well as sound insulation for all 2<sup>nd</sup> floor partitions. Exhibit #'s A-6 through A-9, 4 sheets of architectural prepared by the witness dated October 28, 2010 and last revised July 19, 2011, were presented; he gave the following synopsis for each exhibit: 1.) Exhibit #A-6: indicates additional 6', 4.5" section being added to rear section of stair well; 2.) Exhibit #A-7: indicates minor 2<sup>nd</sup> floor plan changes including glass door for laundry room, access to utility room being switched from directly off apartment unit to directly off corridor; 3.) Exhibit #A-8: indicates

slight realignment of proposed 2<sup>nd</sup> floor windows on North and South elevations resulting in better symmetry and less “chaotic” look; 4.) Exhibit #A-9: indicates utility meter bank on East and West elevations facing rail line. Mr. Ouzoonian asked if any mechanical equipment would be installed on the roof; the witness replied that low-profile compressors (no higher than 24” to 30”) would be present, but not visible, especially since the parapet will block them. Mr. Held informed that the proposed elevator is a hydraulic, piston-driven unit with no override device.

Chairman Knee opened the meeting to the public for questioning of Witness #2 only.

Jesse Rosenblum, 65 Knickerbocker Road, asked what currently exists where the proposed elevator shaft will be; the witness stated its part of the 1-story portion of the building that is to be demolished. Mr. Rosenblum asked if the building has an existing basement; Mr. Held answered the structure is atop a slab on-grade. Mr. Rosenblum questioned how much load would be added to the structure via the project; the architect responded that the increase is negligible, informing that the relevant building code dictates that a medical office use has a higher live load requirement (100 psf) than a residential use (40 psf).

Roger De Niscia, PP, 347 Upper Mountain Avenue, Upper Montclair, New Jersey, was sworn in as Witness #3. He stated the existing mixed-use building requires substantial interior and exterior improvements; he noted the proposed on-site parking and landscaping would enhance both the functionality and aesthetics of the property. The witness felt that the eventual total of 5 apartments (1 studio and 4, 1-bedrooms) would result in either a negligible or extremely low level of child output; he explained that for a greater output of children, the building would have to be providing 50 to 100 units since such units are not suitable for families. Mr. De Niscia stated the installation of an elevator adds to the site’s capability to serve a broader population (disabled, elderly, etc.). The witness testified that the proposed building rehabilitation follow the pattern existing along Closter Dock Road, whereby buildings have stores on the 1<sup>st</sup> floor and apartments on the 2<sup>nd</sup>. He cited the Borough’s Master Plan which states the central business district should “...allow for residential apartments above ground floor retail as an inducement to improve and re-tenant ground floor retail stores.” He summarized that the project represented the positive criteria for downtown development and had no negative impact on the Borough’s zoning scheme, plan or intent as per the New Jersey Municipal Land Use Law (MLUL).

Chairman Knee opened the meeting to the public for questioning of Witness #3 only.

Jesse Rosenblum, 65 Knickerbocker Road, asked several questions, all of which were objected to by Mr. Watkins; all objections were sustained by Ms. Smickley, deeming the inquiries irrelevant to the case.

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

Jesse Rosenblum, 65 Knickerbocker Road, hoped that the apartments would be sound-proofed; Mr. Watkins interjected, saying Mr. Held had already testified that such was part of the proposal.

Mr. Watkins summated.

## **Outcome**

A motion was made by Dr. West and seconded by Mr. Bianco, to approve the application with the following condition: revised site plan and architectural drawings to be filed with Board Engineer by August 3, 2011 and full board by August 7, 2011. The motion passed (**7-0: YES**- Crisafulli/ Hennessey/ Ouzoonian/ Monaco/ West/ Bianco/ Knee).



### **Item #3**

Case #Z-2011-07	Applicant(s):	Marc Votto
551 Closter Dock Road (Block 1709/Lot 12)	Representation:	Self

The applicant is seeking Bulk Variance Relief for the as-built construction of his new single-family house; NOTE: the application stems from the “Final As-Built Survey” being denied by the Zoning Officer.

Marc Votto, applicant and owner-in-fee of the subject property, 551 Closter Dock Road, Closter, New Jersey, was sworn in as Witness #1. He stated he is requesting a variance for excessive impervious coverage. He informed that he purchased the residence in December 2009 on a short sale from a builder in financial trouble. The applicant said that while the house was advertised as being unfinished and having no Certificate of Occupancy, he was assured it was compliant with all relevant zoning and construction codes; he said such claims turned out to be false. Mr. Votto said the offending part of the site is the driveway and to conform to the maximum allowance of 30%, 3/4 of the asphalt would essentially need to be removed; he said such a drastic measure would result in him not having a driveway from before the front exterior wall of the house to beyond the garage doors. The witness said the current impervious coverage is at 39.20% and the only other impervious elements on-site, beside the house, are 2 front steps/landings, a front walkway, and concrete slabs below the air conditioning system’s compressors. Mr. Bianco asked for other options to reduce the impervious coverage; Mr. Votto replied his surveyor believed 2% to 3% could be reduced via the removal of both a brick paver pad in the rear yard as well as 1’ to 2’ off the rear section of the driveway. Dr. West asked for the width of the curb cut; the witness replied it was 23.50’. Mr. Bianco informed that the existing fence running along the left-facing side yard line encroaches onto the neighboring parcel (543 Closter Dock Road); Mr. Votto acknowledged that and stated the builder installed it. Mr. Bianco asked and Mr. Sinowitz confirmed that the site is located in District #2 (Residential) which requires a 2’ setback requirement for driveways. Vice Chairman Sonenshine explained that if the driveway, currently hugging the side yard line, could be adjusted to meet the minimum setback requirement for its entire length, the impervious coverage would be reduced at the same time; he further commented that for a vehicle to make a turn, either in a parking lot or driveway, 24’ is needed, and he stated the rear portion of the applicant’s driveway is 28’ wide, which he felt could be reduced as well. He asked how many garage doors there are; Mr. Votto answered there is 1 single-car and 1 double-car. The witness questioned if the existing fence would have to be eliminated; Mr. Hennessey responded it would not but merely relocated to his own side of the shared property line. Mr. Morris advised that the applicant not be made to reduce the rear section of driveway to less than 26’ because a vehicle could not safely maneuver in and out of the garage; he explained a driveway cannot be compared to a parking lot, in this case, because the

former is not a parking space with an aisle. Mr. Bianco suggested that the left side of the driveway be narrowed by 3' and a parking block be installed at its rear. Chairman Knee stated that by 2' being removed from the driveway's width for its entire length (70'), 1.40% of the impervious coverage would be removed from the 10,000 sf lot. Chairman Knee said installing a deck, to replace the existing pad in the rear yard, was not feasible because the site's building coverage is 19.20% (maximum allowance is 20%). Mr. Morris believed the driveway's width could be reduced to 12' from the curb cut to the house's front exterior wall; Mr. Votto disagreed, saying the dimension would not be adequate for exiting onto Closter Dock Road, a thoroughfare with heavy traffic. Mr. Morris explained that the Borough's right-of-way in front of the house is 17' so the driveway could taper out in that section of land since it was not the applicant's property and, thus, would not count towards impervious coverage. Vice Chairman Sonenshine stated that the curb cut could not exceed 21'. Mr. Votto expressed that he wished to do the least expensive approach so his Temporary Certificate of Occupancy could be made permanent, especially after the ordeal the Borough put him through when obtaining a waiver to not install a sidewalk. Mr. Bianco responded it was the applicant's choice to purchase the property and that no public official stated the site was in conformance; the witness did not appreciate such comments and Mr. Bianco apologized. Mr. Morris calculated that his previously-mentioned suggestion would bring the impervious coverage down to 36.79%. Mr. Bianco questioned if the front walkway must also connect to the 2<sup>nd</sup> set of front steps/landing. The applicant said the front door, nearest the driveway, leads to a mudroom, and the 1 farthest away is the home's main entrance; he said that while the door leading to the mudroom is rarely used, it would look awkward if there were no path to access it. Dr. West asked if there was an entrance to the mudroom from within the garage; the witness answered in the negative. Chairman Knee asked for the size of the brick paver pad in the rear yard; Mr. Sinowitz replied it measured 4'x12' and Mr. Votto informed the pad leads to a sliding door, which accesses the basement. Mr. Sinowitz stated the existing fence, currently 6' high and solid, would have to be modified so that it is 4' high and 50% open once it enters the front yard. Mr. Bianco informed that the row of shrubbery along the curb line, acting as a "living fence", is also on the Borough's right-of-way, which meant it must be replanted 17' in towards the house; Mr. Sinowitz pointed out that a "living fence" must be setback a minimum of 3' from a property line and so, in actuality, the shrubs must be pushed back 20' from the curb line.

Chairman Knee opened the meeting to the public for both questioning of Witness #1 and general comments.

Jesse Rosenblum, 65 Knickerbocker Road, asked that if the construction plans for the applicant's residence were approved by the Building Department prior to the issuance of permits, what caused his need for variance relief; the witness replied that the builder did not follow the approved plans.

## **Outcome**

A motion was made by Mr. Ouzoonian and seconded by Mr. Hennessey, to approve the application with the following conditions: 1.) 3% reduction of impervious coverage from 39.20% to 36.20%; 2.) driveway to be modified so to meet 2' setback requirement; 3.) removal of non-conforming fence in front yard or its adjustment to become 4' high and 50% open; 4.) removal or relocation of "living fence" along Closter Dock Road so that it is setback 20' from curb line; 5.) revised "Final-As Built Survey" to be filed with Board by August 7, 2011. The motion passed (**7-0: YES**- Hennessey/ Ouzoonian/ Monaco/ West/ Bianco/ Sonenshine/ Knee).



There being no further items to discuss, a motion to adjourn the meeting was made by Dr. West and seconded by Mr. Ouzoonian. All members present voted in favor. The meeting adjourned at 11:10pm.