



Zoning Board of Adjustment

June 15, 2011

Hearing
(Minutes)

Prepared by:

Paul Demarest

Vice Chairman Sonenshine called to order, at 8:02pm, the Regular Monthly Hearing of the Zoning Board of Adjustment for the Borough of Closter, New Jersey, convening Wednesday, June 15, 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.

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The following Board members and professionals were present at the meeting:

- Lorin Sonenshine, RA/PP- Vice Chairman
- Steven Freesman, Esq.- Secretary
- Joseph Bianco, RA/PP
- Theodore West, DDS
- Antranig Ouzoonian, PE
- Mark Crisafulli- Alternate #2
- Andrew Shyong, DDS- Alternate #3
- Arthur Dolson- Council Liaison
- Leonard Sinowitz- Zoning Officer
- Alysia Smickley, Esq.- Board Attorney
- Paul Demarest- Board Coordinator

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

- Robert Knee- Chairman
- Mitchell Monaco
- Thomas Hennessey- Alternate #1
- Marie Hartwell- Alternate #4
- Jeffrey Morris, PE- Board Engineer

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Due to the absence of Chairman Knee, Vice Chairman Sonenshine chaired the meeting.

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

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Because of the Board's poor attendance, a vote on the minutes for the April 20, 2011 Hearing was postponed to the July 20, 2011 Hearing.

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Vice Chairman Sonenshine requested 3 volunteers from the Board to serve on the Subcommittee for the June 22, 2011 Work Session. The following were assigned: Vice Chairman Sonenshine, Mr. Hennessey and Dr. Shyong.



Vice Chairman Sonenshine 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.



A motion was made by Mr. Bianco and seconded by Dr. West, to memorialize the Resolution for 208 Piermont Road (Case #Z-2011-09). All eligible members present voted in favor. A motion was made by Mr. Bianco and seconded by Dr. West, to memorialize the Resolution for 3 Lindemann Avenue (Case #Z-2010-14). All eligible members present voted in favor.



Mr. Ouzoonian asked that either business cards or vehicle placards be made available to Board members so that they can properly identify themselves to the public, especially applicants with pending applications before the Board, during site visits.



In response to Mr. Bianco’s request to have Board members gather for a field trip to inspect how prior Board decisions have later been executed by applicants, the Board determined such action was not necessary as a group but rather it was more appropriate for an individual member to decide on their own.



Item #1

Case #Z-2010-11
531 Durie Avenue
(Block 1312/Lot 23)

Applicant(s):
Representation:

Steven Panagi
Donna Vellekamp, Esq.

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

Mr. Demarest stated that Mr. Crisafulli (absent from the March 16, 2011 Hearing when the presentation of “Item #1” commenced) has signed an affidavit attesting that he listened to the proceedings via compact disc and, thus, is eligible to vote on the case.

Donna Vellekamp, Esq., 161 Mc Kinley Street, Closter, New Jersey, introduced herself. She noted that, as per the Board’s request, the applicant had architectural drawings prepared to replace his inadequate, pre-filed drawings.

Steven Lydon, PP, Burgis Associates, 25 Westwood Avenue, Westwood, New Jersey, was sworn in as Witness #1. Exhibit #A-3, a set of pre-filed architectural drawings by Steven Lazarus, RA (Axis Architectural Studio) dated May 12, 2011, was presented. The witness stated the subject property is located in District #2 (Residential) and the 2-storied principal structure on-site was constructed in 1924, according to tax records. He said the applicant is seeking to keep the existing improvements with no changes whatsoever; he noted that because of the 6,250 sf site's deficiency in meeting the Borough's minimum lot size requirement of 12,500 sf in District #2 as well as its street frontage (50' is existing while 75' is required), a Use Variance became necessary. He explained that the interior lot is 125' deep and the house is accompanied by a concrete patio and driveway that leads to a detached garage in the rear yard. Mr. Lydon testified that the home's 1st floor consists of 1 kitchen, bathroom, bedroom, living/dining area and a covered porch; he said the 2nd floor is equipped with 1 kitchen, bathroom, living/dining area, laundry room and 2 bedrooms. The witness stated there is no internal connection between the 2 dwelling units, which are distinct and have separate utilities. He explained that the Borough adopted its Zoning Ordinance in 1923 and 1st amended it in 1940 to include a Limiting Schedule. He stated that under the current Zoning Code, a 2-family residence is permitted in District #2 so long as it both involves the conversion of an existing dwelling unit and all present day bulk standards are met. He said the site's condition has been longstanding and there is a "sister" house (535 Durie Avenue), very similar in appearance, immediately to the north. He mentioned that the properties to the south and west are developed as well. Mr. Lydon felt such realities were important because there is no available property abutting the site for the applicant to acquire and, thus, meet the minimum lot size. He, therefore, said his client must satisfy positive and negative criteria, as per *Medici v. BPR Co.*, since the use involved is not inherently beneficial. The witness believed that the subject case meets "Special Reasons" (Sections A and D) of the New Jersey Municipal Land Use Law (MLUL); he explained the 2-family use is quite prevalent in the subject area and its short distance from the downtown section puts non-residential uses (optometrist's office, 3-storied office building, automotive repair shop, abandoned public school building, restaurant, etc.) in close proximity as well. He pointed out that there is no defined architectural standard in the neighborhood either. Mr. Lydon testified that the relevant section of Durie Avenue is split-zoned, with portions between High Street and Closter Dock Road being in either District #'s 2 or 3 (Business). While not considered an area of transition, the witness stated the neighborhood has no definitive character. He believed the applicant's 2-family use has no substantial detriment to the surrounding land use nor the Borough's Zoning Ordinance or Master Plan. Mr. Lydon expressed that since the use is permitted in the subject zone, the application should be viewed more as a bulk variance request. Elaborating on the "sister" house, he stated both it and the applicant's home are set back from the curb line equally, have uniform dimensions and though slightly different in architectural features, the "sister" house's 2nd floor treatment mimics the 1st floor treatment of 531 Durie Avenue leading him to believe both were originally-built at the same time and by the same builder. Vice Chairman Sonenshine asked which properties in the area have legal 2-family use status; the witness replied that 535 Durie Avenue has such (he revealed that a business operation is being run out of its detached garage, the legality of which he could not comment on). Mr. Sinowitz revealed that there are additional bulk standards not in compliance: 1.) side yard setback <left-facing> (15' required/deficient by 0.10'); 2.) side yard setback <right-facing> (15' required/deficient by 4.90'); 3.) side yard setback aggregate (30' required/deficient by 5.0'); 4.) lot width at building setback line (100' required/deficiency undetermined); 5.) impervious coverage (30% maximum allowed/excess undetermined). Mr. Bianco asked if Floor Area Ratio (FAR) was conforming; the witness replied the site was under the maximum allowance. Mr. Bianco inquired about adequate off-street parking; Mr. Lydon answered there was sufficient parking on-site, especially having a detached garage. Mr. Sinowitz asked if the detached garage

was being utilized for parking of vehicles only; the witness could not answer such being its doors were closed during his site visits. Mr. Sinowitz asked for the square footage of both dwelling units; Mr. Lydon responded that each unit, not including the porch, is 30'x24'. The Zoning Officer, knowing that the subject apartments should not be held to the 900 sf/1,200 sf living space requirements as per Chapter 200-8 of the Borough Code, still felt the issue of safe habitation should put on the record. Mr. Lydon replied that each bedroom has adequate space and each kitchen and bathroom are fully-functional; he noted there are no egress windows, a code requirement he did not feel was critical. Mr. Bianco interjected saying the purpose of such windows is for entry rather than exiting/escape. Vice Chairman Sonenshine asked what the driveway is composed of; the witness said it consists of a thin layer of gravel. Being there is no additional evidence as to the age of the house or its use, Vice Chairman Sonenshine said the witness had given an estimated assumption. Exhibit #A-4, a letter by the Borough's Tax Assessor, dated November 22, 2004 and confirming the subject property's 2-family tax status as of 1990, was presented. Vice Chairman Sonenshine asked if the property's lot size is the exception for the neighborhood; Mr. Lydon replied that 4 lots in a row (including 531 Durie Avenue) are all 50'x125'. Vice Chairman Sonenshine asked if the applicant would accept a Board approval conditioned upon 1 window being installed in the living/dining area of the 2nd floor unit to split the façade and meet minimum light and air standards for habitable space; Ms. Vellekamp agreed to such.

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

Jesse Rosenblum, 65 Knickerbocker Road, asked what purpose the concrete slab in the rear yard served; the witness did not know.

Vice Chairman Sonenshine opened the meeting to the public for general comments only.

Jesse Rosenblum, 65 Knickerbocker Road, was sworn in as Objector #1. Exhibit #O-1, a tax list dated 1942, was presented. Exhibit #O-2, the Board's 2008/2009 Annual Report to the Governing Body, was presented. Exhibit #O-3, the Board's 2010 Annual Report to the Governing Body, was presented. Mr. Rosenblum said Exhibit #O-1 shows that in 1942, the subject property contained 3 separate dwellings owned by 1 party; he noted the tax list does not label the site as "2F", which the Board has interpreted to mean 2-family usage. He reminded that the Board's most recent correspondence included a complete tax list from 1942 that revealed there to be only 17 multiple-family homes, out of a total of 700+, in the entire Borough.

Outcome

A motion was made by Mr. Bianco and seconded by Dr. West, to approve the application with the following condition: installation of 1 window in living/dining area of 2nd floor unit. The motion passed (**7-0: YES-** Shyong/ Crisafulli/ Ouzoonian/ West/ Bianco/ Freesman/ Sonenshine).



Item #2

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

Applicant(s):
Representation:

Tito & Adoracion Temporosa
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.

Christopher Lantelme, PE, Lantelme, Kurens & Associates, PC, 101 West Street, Hillside, New Jersey, was sworn in as Witness #1. He revealed that the applicant’s representative, Douglas Radick, RA, who prepared the pre-filed architectural and could not attend this evening’s proceedings, asked that he present the case on his behalf. He explained the only involvement he had in the design of the proposal was to determine elevations around the existing house and calculate the front yard setback; he noted, as well, that he did no surveying for the project.

Before the witness could begin testifying, the Board decided that he should not be permitted to discuss architectural he did not prepare, especially since he is not an expert in the field. Ms. Smickley asked if the applicants would be testifying as part of the presentation; the witness did not know. Ms. Smickley pointed out that while the Board application filed states a “D (2)” variance (expansion of non-conforming use) is being sought, the public noticing does not; Mr. Demarest informed that the Zoning Officer’s Denial mentioned nothing about a Use Variance being necessary and that only bulk items are in question. Ms. Smickley understood, but asked that the Board application be amended to reflect such.

Outcome

The Board adjourned the case to the July 20, 2011 Hearing.



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 9:41pm.