



Zoning Board of Adjustment

April 18, 2012

Hearing
(Minutes)

Prepared by:

Paul Demarest

◇ **OPENING REMARKS** (Commenced at 8:00pm) ◇

◇ **PLEDGE OF ALLEGIANCE** ◇

◇ **ATTENDANCE** ◇

Present

Joseph Bianco, RA/PP- Chairman
Steven Freesman, Esq.- Vice Chairman
Theodore West, DDS- Secretary
Mitchell Monaco
Antranig Ouzoonian, PE
Thomas Hennessey
Heena Dhorajia, EIT
Andrew Shyong, DDS- Alternate #1
Evan Elias- Alternate #2
Joan Marks- Alternate #3
John Galluccio, Esq.- Alternate #4
Arthur Dolson- Council Liaison
Leonard Sinowitz- Zoning Officer
Michael Kates, Esq.- Board Attorney
Jeffrey Morris, PE- Board Engineer
Paul Demarest- Board Coordinator

Absent

n/a;

◇ **CORRESPONDENCE** ◇

Secretary West read mail received by the Land Use Department into the record. Mr. Kates noted that the Board's approval of both 531 Durie Avenue (Case #Z-2010-11) and 85-87 Chestnut Avenue (Case #Z-2010-05) were upheld on appeal by the Superior Court of New Jersey- Bergen County Law Division; Mr. Kates noted that while an appeal of the latter Court decision has been filed with the Appellate Division, he has informed the objector that if said appeal is not withdrawn, the Board will apply for sanctions (attorney fees and court costs) on the grounds the suit is frivolous.

◇ **MINUTES** ◇

Mr. Ouzoonian asked if Mr. Demarest's new format for minutes preparation would create any legal issues; Mr. Kates replied the new approach is appropriate; he noted that the digital recording of all Board meetings must be retained by the Borough for 10 years.

A motion was made by Mr. Ouzoonian and seconded by Dr. Shyong, to approve the minutes for the January 18, 2012 Reorganization/Hearing. The motion passed (7-0-0):
YES- Dhorajia/Hennessey/Ouzoonian/Monaco/West/Freesman/Bianco;

NO- n/a;
ABSTAIN- n/a;

A motion was made by Dr. West and seconded by Mr. Ouzoonian, to approve the minutes for the January 25, 2012 (Special) Hearing. The motion passed (7-0-0).

YES- Dhorajia/Hennessey/Ouzoonian/Monaco/West/Freesman/Bianco;
NO- n/a;
ABSTAIN- n/a;

A motion was made by Dr. West and seconded by Mr. Ouzoonian, to approve the minutes for the February 15, 2012 Hearing. The motion passed (7-0-0):

YES- Shyong/Dhorajia/Hennessey/Ouzoonian/Monaco/West/Bianco;
NO- n/a;
ABSTAIN- n/a;

A motion was made by Dr. West and seconded by Mr. Ouzoonian, to approve the minutes for the February 22, 2012 (Special) Hearing. The motion passed (7-0-0):

YES- Shyong/Dhorajia/Hennessey/Ouzoonian/West/Freesman/Bianco;
NO- n/a;
ABSTAIN- n/a;

Being the Resolution for 17 Bogert Street (Case #Z-2011-02) is being revised and the applicants have yet to filed requested items, a vote on the minutes for the February 29, 2012 (Special) Hearing was postponed to the April 24, 2012 (Special) Hearing.

A motion was made by Dr. West and seconded by Ms. Dhorajia, to approve the minutes for the March 21, 2012 Hearing. The motion passed (7-0-0).

YES- Dhorajia/Hennessey/Ouzoonian/Monaco/West/Freesman/Bianco;
NO- n/a;
ABSTAIN- n/a;

A motion was made by Dr. West and seconded by Dr. Shyong, to approve the minutes for the March 27, 2012 (Special) Hearing. The motion passed (7-0-0):

YES- Marks/Shyong/Hennessey/Ouzoonian/West/Freesman/Bianco;
NO- n/a;
ABSTAIN- n/a;

Being the minutes for the March 28, 2012 (Special) Hearing had yet to be finalized, a vote on their approval was postponed to the May 16, 2012 Hearing.

◇ **SUBCOMMITTEE ASSIGNMENTS** ◇

April 25, 2012 Work Session: ***CANCELLED***;

◇ **MISCELLANEOUS** ◇

The Board commended the Governing Body on Ordinance #2012:1119, which is being proposed to designate the church at 7 Campbell Avenue as a historic landmark due to its rich history

originating from its establishment by freed African-American slaves during 19th century.

A motion was made by Mr. Ouzoonian and seconded by Dr. West, to instruct Mr. Kates to draft a letter to the Mayor and Council relaying the Board's support for said ordinance. The motion passed (7-0-0):

YES- Dhorajia/Hennessey/Ouzoonian/Monaco/West/Freesman/Bianco;

NO- n/a;

ABSTAIN- n/a;

With respect to Ordinance #2012:1123 being considered by the Governing Body, the Board expressed its confusion as to the purpose of the proposal, which would increase, by 0.5%, the maximum allowance for both building and impervious coverage pertaining to historic landmarks located in District #'s 1 and 2 (Residential Areas A and B); in fact, it felt the purpose of a historic landmark designation is to preserve a building/structure in its current state. Regardless, the Board believed the creation of an ordinance for such a negligible increase seems pointless and counterproductive at the same time. Councilman Dolson informed that the proposal originated from the Ordinance Committee with no explanation, and he pointed out that it may be in conflict with how the Historic Preservation Commission reviews construction plans and issues Certificates of Appropriateness. Mr. Kates said he would consult with the Borough Attorney, Edward Rogan, Esq., on the proposal and the Board agreed to table the issue to the April 24, 2012 (Special) Hearing, allowing for an official Board response to be drafted in time for the Governing Body's next meeting on May 9, 2012.

Chairman Bianco, referencing Chapter 173-30 of the Borough Code, discussed how the Board could improve its procedures as well as the extent of its powers. He believed that the Subcommittee should withhold perfection of an application until all application checklist items have been filed and administrative reports, most importantly from the Building Department and Fire Prevention Bureau, have been received; he felt by having an application return to the Subcommittee at Work Session(s) until being deemed complete in its entirety, the full Board could streamline its review process during Hearings. Mr. Kates questioned how such would not result in needlessly delaying an applicant and he said a built-in flexibility is needed to be responsive to the citizenry; he reminded that the Board must decide a case within 120 days of it being perfected (barring a consent to extend the time for Board action). He gave the following suggestions: 1) Work Sessions to be held on same date as Hearings with applicant giving public notice under assumption it would be cleared same date; 2.) technical review to be conducted by separate committee with no Board involvement. Mr. Bianco suggested that applicants be given the option of returning to a Work Session for further review. Mr. Kates reminded the Board that because perfection is granted by only 3 of its members, it is important for individual Board members to conduct site visits (so long there is not a quorum on-site); he also indicated that email transmittals between those serving on the Subcommittee and those who are not, is illegal since such violates New Jersey's Open Public Records Act (OPRA).

Mr. Demarest agreed to distribute Ordinance #2012:1122 to the Board in time for the April 24, 2012 (Special) Hearing so the Governing Body would have feedback in time for its May 9, 2012 meeting. Mr. Bianco said the proposal would tie the Leadership in Energy and Environmental Design (LEED) certification system to the Borough's Limiting Schedule with relation to green building elements.

◇ **OPEN TO THE PUBLIC** ◇

n/a;

◇ **MEMORIALIZATION OF RESOLUTION(S)** ◇

A motion was made by Ms. Marks and seconded by Dr. West, to memorialize the resolution for 34 Laurence Court (Case #Z-2011-20). The motion passed (6-0-0):

YES- Marks/Shyong/Hennessey/West/Freesman/Bianco;

NO- n/a;

ABSTAIN- n/a;

Mr. Kates informed that the Resolutions for 47-49 Fairview Avenue (Case #Z-2011-18) and 66 Taillon Terrace (Case #Z-2011-12) would be prepared in time for the April 24, 2012 (Special) Hearing. The Board expressed concern that requested items have still not been received from the applicants for 17 Bogert Street (Case #Z-2011-02), further delaying the memorialization of the Resolution.

◇ **CASELOAD** ◇

<p>Case #Z-2012-03 Babu & Geeta Patel 14 Susan Drive (Block 2102/Lot 2) District #1- Residential Area A</p>
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Case History

The applicants are seeking Bulk Variance Relief for the installation of a patio (raised) at the subject property; the application was received February 6, 2012 and scheduled for the February 22, 2012 Work Session, at which time, it was perfected; pending the Board's receipt of requested items and public noticing requirements, the application was scheduled for the April 18, 2012 Hearing.

Representation

1.) John Dineen, Esq., Netchert, Dineen & Hillmann Co., 294 Harrington Avenue- Suite 3, Closter, New Jersey;

Witnesses

#1: Babu Patel, 14 Susan Drive, Closter, New Jersey;
#2: Geeta Patel, 14 Susan Drive, Closter, New Jersey;

Exhibits

A-1: pre-filed site plan prepared by Richard Burns, PE and Michael Ritchie, PLS, Azzolina & Feury Engineering, Inc., 30 Madison Avenue, Paramus, New Jersey dated June 20, 2011 and last revised March 29, 2012;

Relief Sought

1.) Bulk Variance: impervious coverage (30% maximum allowance/35.20% provided);

Response to Prior Board and/or Subcommittee Requests

- 1.) applicants reduced dimensions of raised patio from 16'x50' (800 sf) to 15'x35' (525 sf);
- 2.) applicants provided detail of existing and proposed landscaping;
- 3.) applicants posted engineering escrow for Mr. Morris' review of drainage on-site, of which he found no concerns;

New Board Requests

n/a;

Public Questions

n/a;

Public Comments

n/a;

Decision

A motion was made by Mr. Hennessey and seconded by Ms. Dhorajia, to approve the application. The motion passed (7-0-0):

YES- Dhorajia/Hennessey/Ouzoonian/Monaco/West/Freesman/Bianco;

NO- n/a;

ABSTAIN- n/a;

Conditions

- 1.) edge detail around perimeter of raised patio to be indicated;
- 2.) raised patio stepping to be installed as per Uniform Construction Code of New Jersey;
- 3.) submission of revised site plan incorporating Board's requests prior to memorialization of Resolution at May 16, 2012 Hearing;

<p>Case #Z-2011-16 Desan Enterprises, Inc. 170 & 176 Closter Dock Road (Block 1301/Lots 1 & 2) District #3- Business Area</p>
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Case History

The applicant is seeking Site Plan Approval for the conversion of existing office space to 2 residential units, resulting in a total 4 in a mixed-use building at the subject property; NOTE #1: the application stems from an order by the Superior Court of New Jersey- Bergen County Law Division (see Docket #BER-L-6731-09) remanding a prior Board decision (Case #Z-2008-06), which approved the above-mentioned proposal, for further review by the Board; NOTE #2: the Court order does not require that a Use Variance, again, be granted as part of the applicant's re-filing; NOTE #3: due to the nature of the case, perfection by the Subcommittee at a Work Session was not required; the application was received September 30, 2011 and scheduled, pending the Board's receipt of outstanding application items and public noticing requirements, for the October 19, 2011 Hearing; being the Board decided that testimony by both the Zoning Officer and the applicant's witnesses (with respect to "Item #3" on the Board agenda) should precede presentation of the remanded case, the application was postponed to the November 22, 2011 Hearing, December 19, 2011 Hearing and, again, to the January 18, 2012 Hearing; due to the Board's heavy caseload, the application was postponed to the February 15, 2012 Hearing; the

applicant's engineer completed initial testimony and the case was adjourned, pending the Board's receipt of requested items, to the March 21, 2012 Hearing; due to a scheduling conflict with the applicant's attorney, the case was postponed to the April 18, 2012 Hearing.

Representation

- 1.) Mark Madaio, Esq., 29 Legion Place, Bergenfield, New Jersey;
- 2.) Elliot Urdang, Esq., 19 Engle Street, Tenafly, New Jersey (FOR OBJECTOR);

Witnesses

- #1: Michael Hubschman, PE, Hubschman Engineering, PA, 263A, South Washington Avenue, Bergenfield, New Jersey;

Exhibits

- A-2: pre-filed engineering plans prepared by Witness #1, dated September 27, 2011 and last revised April 5, 2012;

Relief Sought

- 1.) Design Waiver: parking space (29 spaces required/20 spaces provided);
- 2.) Design Waiver: parking space dimension (10'x20' required/9'x18' provided);
- 3.) Design Waiver: parking space area (200 sf required/162 sf provided);
- 4.) Design Waiver: parking in sight triangle (25' minimum clearance required/3 parking spaces <#'s 8, 9 and 21> within sight triangle provided) <WITHDRAWN- PARKING SPACES REMOVED FROM SIGHT TRIANGLE>;
- 5.) Design Waiver: parking in front yard (20' setback required/10' setback provided);
- 6.) Design Waiver: parking in side yard (5' setback required/0' setback provided);
- 7.) Design Waiver: parking in rear yard (5' setback required/0' setback provided);
- 8.) Design Waiver: parking/driveway curbing (required/none provided) <PROVIDED FOR EXCEPT PARKING SPACE #1>;
- 9.) Design Waiver: refuse collection/storage (reasonable access required/none provided) <WITHDRAWN- PARKING SPACE #'S 15, 16 AND 17 RELOCATED TO PROVIDE ACCESS>;
- 10.) Design Waiver: 500' drainage area map (required/not provided);
- 11.) Design Waiver: refuse enclosure material (masonry <to match building> required/fencing provided);
- 12.) Bulk Variance: side yard setback <left-facing>- 2nd story deck (6' required/1.59' provided);
- 13.) Site Plan Review: accessory structure setback- container (3' required/3' provided);
- 14.) Site Plan Review: 2nd means of egress <2nd floor apartment (rear steps)>;
- 15.) Site Plan Review: drainage (existing underground sanitary sewer and storm drain systems connected to Borough system);
- 16.) Site Plan Review: landscaping (2 shade trees/planters provided on Lot #11 and 3 existing pine trees on Lot #10);
- 17.) Site Plan Review: lighting (<2> light posts <matching downtown area's colonial style> provided on Lot #11 and existing building-mounted and undercanopy lights on Lot #11);
- 18.) Site Plan Review: utilities (existing layout to remain) <AS PER COURT ORDER, ELECTRIC METERS TO BE RELOCATED TO REAR OF FRONT BUILDING AND GAS AND FIRE DEPARTMENT WATER SUPPLY LINES TO BE RELOCATED TO FRONT OF FRONT BUILDING TO PREVENT TRESPASSING ONTO 162 CLOSTER DOCK ROAD>;

- 19.) Site Plan Review: fire safety (front building equipped with fire suppression system while rear building is not);

Response to Prior Board and/or Subcommittee Requests

n/a;

New Board Requests

- 1.) provide better access to refuse enclosure (proximity to parking spaces);
- 2.) provide masonry (or metal frame with wood overlay) refuse enclosure;
- 3.) provide more accentuated radius curvature for ingress, duplicating site egress, when entering site from north-to-south direction on Closter Dock Road;
- 4.) provide wheel stops for parking space #'s 15, 16 and 17;
- 5.) verify grades of adjacent properties are sufficient so they will not be impacted by proposed parking/driveway curbing (slotted curb should be used if impact is suspected);
- 6.) consider relocation of container away from rear building (proximity poses fire safety concerns);
- 7.) provide additional landscaping at site ingress;
- 8.) indicate on-street parking spaces for Closter Dock Road;
- 9.) provide correction to height of proposed light poles (to be 10', not 12') as well as color (to be green, not black) to match those in downtown area;
- 10.) provide "bumper" curbing to protect light poles;
- 11.) provide enhanced detail of refuse enclosure (plan view and elevation);
- 12.) provide testimony as to usage of site to assist Board in determining Site Plan Review (despite Use Variance not being required by court order);

Public Comments

n/a;

Public Questions

n/a;

Public Comments

n/a;

Decision

The case was adjourned to the May 16, 2012 Hearing.

◇ADJOURNMENT OF HEARING◇

Mr. Kates informed that a draft of the 2011 Annual Report, based on the efforts of Chairman Bianco, Mr. Hennessey and Ms. Marks as part of the Subcommittee, will be forwarded to the Board for its consideration.

A motion was made by Dr. West and seconded by Mr. Ouzoonian, to adjourn the meeting at 10:58pm. The motion passed by acclamation.
