



Zoning Board of Adjustment

August 29, 2012

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

Prepared by:

Paul Demarest

◇ **OPENING REMARKS** (Commenced at 8:05pm) ◇

◇ **PLEDGE OF ALLEGIANCE** ◇

◇ **ATTENDANCE** ◇

Present

Joseph Bianco, RA/PP- Chairman
Theodore West, DDS- Secretary
Mitchell Monaco
Antranig Ouzoonian, PE
Thomas Hennessey
Heena Dhorajia, EIT
Andrew Shyong, DDS- Alternate #1
Evan Elias- Alternate #2
Arthur Dolson- Council Liaison
Matthew Earle, Esq.- *in lieu of Michael Kates, Esq.- Board Attorney*
Paul Demarest- Board Coordinator

Absent

Steven Freesman, Esq.- Vice Chairman
Joan Marks- Alternate #3
John Galluccio, Esq.- Alternate #4
Leonard Sinowitz- Zoning Officer
Jeffrey Morris, PE- Board Engineer

◇ **OPEN TO THE PUBLIC** ◇

n/a;

◇ **CASELOAD** ◇

<p>Case #Z-2012-08 Ramona Grbic 144 Haring Street (Block 605/Lot 6) District #2- Residential Area B</p>
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Case History

The applicant is seeking Bulk Variance Relief for the reconstruction of an enclosed/screened-in porch (no heat/habitation) at the subject property; the application was received July 6, 2012 and scheduled for the July 25, 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 August 15, 2012 Hearing; being the applicant did not file requested items by

the deadline, the application was postponed to the August 22, 2012 (Special) Hearing; being the applicant did not fulfill public noticing requirements, the application was postponed to the August 29, 2012 (Special) Hearing.

Representation

1.) Ramona Grbic, 144 Haring Street, Closter, New Jersey;

Witnesses

#1: Ramona Grbic, 144 Haring Street, Closter, New Jersey;

#2: Mara Grbic, 144 Haring Street, Closter, New Jersey;

Exhibits

A-1: series of photographs depicting interior and exterior of existing enclosed/screened-in porch prepared by Witness #1 and undated;

Relief Sought

1.) Bulk Variance: side yard setback <left-facing> (15' required/10.78' provided);

2.) Bulk Variance: rear yard setback (20' required/18.40' provided);

Response to Prior Board and/or Subcommittee Requests

n/a;

New Board Requests

n/a;

Public Questions

n/a;

Public Comments

n/a;

Decision

A motion was made by Mr. Ouzoonian and seconded by Secretary West, to approve the application without conditions. The motion passed (7-0-0):

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

NO- n/a;

ABSTAIN- n/a;

Conditions

n/a;

<p>Case #Z-2012-09 Sean Gunderman 16 Morrison Street (Block 902/Lot 2) District #2- Residential Area B</p>

Case History

The applicant is seeking Bulk Variance Relief for the reconstruction of a deck at the subject

property; the application was received July 13, 2012 and scheduled for the July 25, 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 August 15, 2012 Hearing; being the applicant did not fulfill public noticing requirements, the application was postponed to the August 22, 2012 (Special) Hearing; to consolidate the Board's caseload, the application was postponed to the August 29, 2012 (Special) Hearing.

Representation

1.) Sean Gunderman, 16 Morrison Street, Closter, New Jersey;

Witnesses

#1: Sean Gunderman, 16 Morrison Street, Closter, New Jersey;

#2: Liza Gunderman, 16 Morrison Street, Closter, New Jersey;

Exhibits

n/a;

Relief Sought

1.) Bulk Variance: rear yard setback (20' required/14' provided);

Response to Prior Board and/or Subcommittee Requests

n/a;

New Board Requests

n/a;

Public Questions

n/a;

Public Comments

n/a;

Decision

A motion was made by Ms. Dhorajia and seconded by Mr. Hennessey, to approve the application without conditions. The motion passed (7-0-0):

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

NO- n/a;

ABSTAIN- n/a;

RECUSED- Shyong;

Conditions

n/a;

◇ **MISCELLANEOUS** ◇

The Board discussed the Governing Body's proposed Ordinance #2012:1130, which would amend Chapter 173-27D of the Borough with respect to Site Plan Review involving non-residential tenant space in excess of 2,000 sf. Chairman Bianco stated that while he is a

proponent of expediting the approval process for new establishments entering the Borough, he finds issue when the participants in the review of a complex application consists of the Zoning Officer and/or Construction Official in a private setting; he felt a land use board should be the approving authority to allow for a collective effort by several people in a public forum. Keeping in mind the Borough often receives complaints that its review procedures are too cumbersome, Councilman Dolson revealed he had suggested to the Mayor and Council that additional wording should be incorporated in the proposal (the words "like" and "use" are non-descript), specifically that Chapter 3 of the International Building Code (IBC)- New Jersey Edition, 2009 be referenced to empower prospective merchants, landlords and realtors with the information needed to decide upon how to proceed in searching for tenant space; he believed such an inclusion would assist them in determining the use-to-use allowances and noted the Borough Attorney believed such to be a de minimis change that could be added to the already-introduced proposal prior to the public hearing.

Chairman Bianco explained that the term "use" has 2 connotations when dealing with land and structures: 1.) Borough is divided into 6 zoning districts in which certain uses are permitted outright or conditionally as per Chapter 200 of Borough Code; 2.) IBC stipulates building occupancy classifications into categories known as Assembly, Business, Educational, Factory, High-Hazard, Institutional, Mercantile, Residential, Storage and Utility uses (each of which have subcategories of varying degrees). Thus, he said if a prospective use is not both permitted within the zoning district and not the same IBC use as the prior establishment to operate out of the tenant space (regardless of whether it is greater than 2,000 sf), application must be made to either the Planning Board or Zoning Board of Adjustment. Chairman Bianco stated the absent Mr. Kates prepared and distributed a memo to the Board stating the proposal's wording does not give specific-enough standards to determine whether Site Plan Review is necessary. Secretary West concurred, saying that "material change" mentioned in the existing wording is very subjective and could wrongly help/hurt the applicant's chances of approval from the Zoning Officer and/or Construction Official.

A motion was made by Dr. Shyong and seconded by Mr. Hennessey, to authorize Mr. Kates, via Mr. Earle, to draft an official Board response to the Ordinance including the IBC use groups as discussed and subject to comment by Board members not present. The motion passed by acclamation.

With a potential conflict of interest being resolved, Mr. Earle revealed that legal counsel for Case #Z-2011-17 (597 Piermont Road/TD Bank, NA) informed that his client wishes to proceed with its presentation at the earliest possible hearing date; the Board rescheduled the application for the October 31, 2012 (Special) Hearing.

◇ ADJOURNMENT OF HEARING ◇

Mr. Hennessey stated that Westminster Avenue (paper street) is still being used by Dennis Wiggers Landscape Co. as part of its illegal contractor's yard, the subject matter of Case #Z-2009-14 (63 John Street/Wiggers) which the Board denied. Councilman Dolson stated the Governing Body recently ordered the Department of Public Works and Police Department to close the thoroughfare so it is not accessible; he noted, however, soon afterwards the Code Enforcement Bureau apparently authorized the removal of the installed barricade for reasons unknown.

Mr. Monaco questioned the status of Case #Z-2011-02 (17 Bogert Street/Witko), a Board approval conditioned upon the removal of the applicants' appurtenances encroaching onto the Borough's right-of-way; Mr. Demarest revealed the Code Enforcement Bureau has issued several summonses to appear in Municipal Court for failure to comply with the memorialized Resolution.

Chairman Bianco reminded that the Borough's bi-annual Joint Meeting, a forum in which several government bodies and the public can discuss pressing land uses matters in the Borough, would take place on September 29, 2012. As a hint of what would be on the agenda, Chairman Bianco stated the layout of the downtown area is hurting the merchants because there are no raised crosswalks to slow traffic, hence, passersby are less likely notice its storefronts as well as due to the elimination of angled parking; he further noted that the public parking areas (North Lot and South Lot) should have gateway entrances and enhanced signage to make shoppers aware of their existence.

A motion was made by Secretary West and seconded by Dr. Shyong, to adjourn the meeting at 9:25pm. The motion passed by acclamation.
