



Zoning Board of Adjustment

February 15, 2012

Hearing
(Minutes)

Prepared by:

Paul Demarest

◇ **OPENING REMARKS** (Commenced at 8:06pm) ◇

◇ **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
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

Steven Freesman, Esq.- Vice Chairman

◇ **CORRESPONDENCE** ◇

Secretary West read mail received by the Land Use Department into the record.

◇ **MINUTES** ◇

Being minutes for both the January 18, 2012 Reorganization/Hearing and January 25, 2012 (Special) Hearing were not finalized, the Board postponed their votes to the March 21, 2012 Hearing.

◇ **SUBCOMMITTEE ASSIGNMENTS** ◇

February 22, 2012 Work Session: Bianco/Ouzoonian/Marks;

◇ **LIAISON REPORT** ◇

Councilman Dolson stated the Borough Administrator, Quentin Wiest, is contemplating the Board's request for a more sophisticated portable device to digitally-record its meetings in which the Council Chambers is not the venue. Mr. Kates pointed out that another option would be for

the Board to hire a court stenographer and pay an appearance fee (transcript costs would accrue only in the event of litigation).

The Board discussed recent correspondence it received concerning a pending Planning Board ordinance proposal to the Governing Body which would tie the Leadership in Energy and Environmental Design (LEED) certification program to the Borough's Limiting Schedule with relation to green building elements. While the Board vocalized its concern about the feasibility of attaining LEED certification, the issue of its enforcement and the potential for the proposal to inadvertently increase development, Councilman Dolson agreed to ask the Mayor and Council to solicit the Board, a quasi-judicial body, for official review and comment.

◆ **OPEN TO THE PUBLIC** ◆

n/a;

◆ **MEMORIALIZATION OF RESOLUTION(S)** ◆

Being Resolutions for both 94 Alpine Drive (Case #Z-2011-19) and 3-5 Harvey Street (Case #Z-2010-16) were not finalized as of yet, the Board postponed votes on memorialization to the February 22, 2012 (Special) Hearing.

◆ **CASELOAD** ◆

<p>Case #Z-2011-18 Estate of Alexander & Mary Giannotti 47-49 Fairview Avenue (Block 705/Lot 11) District #2- Residential Area B</p>

Case History

The applicant is appealing the determination of the Zoning Officer as to the legality of the continuation of both a 2-family use for the main house as well as a 1-family use for a detached garage at the subject property; in the alternative, it would seek a Use Variance; the application was received October 28, 2011 and scheduled for the November 28, 2011 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 January 18, 2012 Hearing; due to the Board's heavy caseload, the application was postponed to the February 15, 2012 Hearing.

Representation

1.) Rose Tubito, Esq., 239 Old Tappan Road, Old Tappan, New Jersey;

Witnesses

#1: Charles Olivo, PE, Stonefield Engineering & Design, LLC, 36 Ames Avenue- Suite 2B, Rutherford, New Jersey;

Exhibits

A-1: pre-filed site plan/floor plan prepared by Witness #1, dated August 9, 2011 and last revised December 7, 2011;

- A-2: photograph of 2nd floor dwelling unit in detached garage uncredited and undated;
- A-3: photograph of 2nd floor dwelling unit in detached garage uncredited and undated;
- A-4: photograph of 2nd floor dwelling unit in detached garage uncredited and undated;

Relief Sought

- 1.) Appeal of Zoning Officer Determination: pre-existing/non-conforming status for both 2-family use and 1-family use (REQUEST WITHDRAWN);
- 2.) Use Variance: 2-family use & 1-family use (main house and property were developed after December 19, 1940 and do not meet all current bulk requirements as well as no more than 2 dwelling units are permitted per lot in District #2/Residential Area B);

Response to Prior Board and/or Subcommittee Requests

n/a;

New Board Requests

- 1.) provide confirmation that layout of detached garage (with 2nd floor dwelling unit) meets requirements for fire-resistance rating;
- 2.) provide square footage (per room and total) for 3 dwelling units;
- 3.) provide percentage of ceiling height that is at least 7' for 2nd floor dwelling unit in detached garage;
- 4.) consider removal of concrete pad in rear yard and reduction of driveway's width (other than curb cut) to lessen excessive impervious coverage;
- 5.) provide correction to stairway depicted on architectural drawings to indicate how basement is accessed from 1st floor in main house;

Public Questions

- 1.) Jesse Rosenblum, 65 Knickerbocker Road, Closter, New Jersey;

Public Comments

n/a;

Decision

The case was adjourned to the March 21, 2012 Hearing.

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

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 Case #Z-2009-10) 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.

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-1: colorized version of pre-filed engineering plans prepared by Witness #1, dated September 27, 2011 and last revised January 9, 2012;

Relief Sought

- 1.) Design Waiver: parking space (29 spaces required/21 spaces provided);
- 2.) Design Waiver: parking space dimension (10'x20' required/18'x9' 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);
- 5.) Design Waiver: parking in front yard (20' setback required/0' 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);
- 9.) Design Waiver: site lighting <for non-residential use parking> (required/none provided);
- 10.) Design Waiver: refuse collection/storage (reasonable access required/none provided);
- 11.) Design Waiver: 500' drainage area map (required/not provided);
- 12.) Design Waiver: refuse enclosure material (masonry <to match building> required/fencing provided);
- 13.) Bulk Variance: side yard setback <left- and right-facing> (6' required/1.59' provided);

Response to Prior Board and/or Subcommittee Requests

- 1.) objector conceded that dwelling units on-site are permitted as conditional use;
- 2.) applicant confirmed it would comply with all items detailed in review letters prepared by Mr. Morris dated November 18, 2011 and February 10, 2012;
- 3.) applicant and objector agreed to consider Lot #'s 10 and 11 (170 & 176 Closter Dock Road) technically merged, if not legally (deed of consolidation), to lessen number of variances/design waivers required;

New Board Requests

- 1.) provide clarity if variance (side yard setback) is required for auxiliary building (container having wheels);
- 2.) provide spot elevations for all structures on-site;

- 3.) provide grades/pitch of roof drains/leaders;
- 4.) provide grades with respect to protecting adjacent properties from drainage concerns in lieu of curbing;
- 5.) provide layout reconfiguration so vehicle entering/exiting parking space #8 utilizes parking aisle rather than Borough's right-of-way;
- 6.) provide impervious coverage in both percentage and square footage for Lot #11 (176 Closter Dock Road);
- 7.) provide indication that drainage facilities/methods on-site are sufficient in protecting adjacent properties and Closter Dock Road from excessive storm water runoff;
- 8.) provide clarity on existence of street lights along Closter Dock Road;
- 9.) provide chart itemizing variance/design waiver requests and reasons for such (including those addressed by objector's engineer);

Public Questions

- 1.) Jesse Rosenblum, 65 Knickerbocker Road, Closter, New Jersey;

Public Comments

n/a;

Decision

The case was adjourned to the March 21, 2012 Hearing.

◇ CLOSED SESSION ◇

A motion was made by Secretary West and seconded by Mr. Ouzoonian, to have the Board go into closed session at 10:55pm. The motion passed (7-0-0):

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

NO- n/a;

ABSTAIN- n/a;

NOTE: Due to the topic of discussion, the minutes of this closed session will be released upon the resolution of pending litigation.

Chairman Bianco reopened the hearing to the public at 11:01pm.

◇ ADJOURNMENT OF HEARING ◇

Referring to the 3 Lindemann Avenue application (Case #Z-2010-14), the Board reiterated its wish to have deadlines written into Resolutions to allow for their enforcement; Mr. Kates agreed, noting he would review the Resolution for said case. He noted that in the absence of a deadline, the Code Enforcement Bureau can set a reasonable deadline for compliance and, if not adhered to, force the matter to Municipal Court.

A motion was made by Mr. Monaco and seconded by Mr. Hennessey, to adjourn the meeting at 11:07pm. The motion passed by acclamation.
