



Zoning Board of Adjustment

July 25, 2012

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

Prepared by:

Paul Demarest

◇ **OPENING REMARKS** (Commenced at 8:55pm) ◇

◇ **PLEDGE OF ALLEGIANCE** ◇

◇ **ATTENDANCE** ◇

Present

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

Absent

Mitchell Monaco
Joan Marks- Alternate #3
Arthur Dolson- Council Liaison

◇ **CORRESPONDENCE** ◇

Secretary West read mail (less the correspondence list for June 21, 2012 to July 13, 2012) received by the Land Use Department into the record.

◇ **MINUTES** ◇

A motion was made by Mr. Ouzoonian and seconded by Secretary West, to approve the minutes for the May 16, 2012 Hearing. The motion passed (7-0-0).

YES- Elias/Shyong/Dhorajia/Ouzoonian/West/Freesman/Bianco;

NO- n/a;

ABSTAIN- n/a;

A motion was made by Dr. Shyong and seconded by Mr. Hennessey, to approve the minutes for the May 23, 2012 (Special) Hearing. The motion passed (7-0-0):

YES- Galluccio/Shyong/Dhorajia/Hennessey/Ouzoonian/Freesman/Bianco;

NO- n/a;

ABSTAIN- n/a;

A motion was made by Secretary West and seconded by Ms. Dhorajia, to approve the minutes for the June 20, 2012 Hearing. The motion passed (6-0-0):

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

NO- n/a;

ABSTAIN- n/a;

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

YES- Galluccio/Elias/Shyong/Dhorajia/Hennessey/West/Bianco;

NO- n/a;

ABSTAIN- n/a;

◇ MISCELLANEOUS ◇

The Board discussed its legal options for expediting its heavy caseload, specifically to hinder needless postponements by applicants. Chairman Bianco inquired about the Board's power to subpoena; Mr. Kates replied that, for such a purpose, issuing subpoenas would prolong the caseload because the legal tool is intended to force testimony that would otherwise not be coming forward. He noted subpoenaing should not be done in advance of a meeting as anticipation of deficiencies. He explained the Chairperson of the Board (usually upon the request of a presenting/opposing attorney to produce a witness), with the Board's consent, retains the actual power to subpoena; he stated that for the Chairperson to do such independent of an attorney's request would be overreaching. Secretary West asked if fines can be levied by the Board; Mr. Kates responded in the negative. He stated the Board can fill its monthly agenda with several cases and revise it as the Hearing date nears. Mr. Kates suggested a recommendation to the Governing Body to amend ordinances which produce those Board applications that are usually approved, thereby making the exception the rule and clearing the Board's agenda; Mr. Bianco disagreed with such an idea. Dr. Shyong inquired if an attorney's request to postpone a case must be granted by the Board; Mr. Kates said such is the practice so long as justification for the request is provided, keeping in mind that the notified public is inconvenienced by postponements. Ultimately, the Board directed Mr. Kates to amend its By-Laws to state an applicant must re-file after 3 postponements not caused by the Board. Vice Chairman Freesman suggested the new rule, once adopted, be reflected within the Board's application packet; Mr. Demarest agreed to do so as well as contact the Board via both email and phone if a meeting is cancelled the day of.

The Board agreed to amend its meeting schedule for the remainder of 2012 (and to continue said format for 2013 and beyond) to allow for convening of Work Sessions and/or Hearings and/or (Special) Hearings every 3rd, 4th and 5th Wednesday of each month to expedite the Board's caseload and alleviate backlog from last-minute cancellations.

◇ OPEN TO THE PUBLIC ◇

n/a;

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

A motion was made by Mr. Ouzoonian and seconded by Ms. Dhorajia, to memorialize the resolution for Case #Z-2010-15 (24 Naugle Street/Hansen). The motion passed (3-0-0):

YES- Dhorajia/Ouzoonian/Bianco;

NO- n/a;

ABSTAIN- n/a;

Chairman Bianco and Secretary West signed a revised Developer's Agreement for Case #Z-2010-12 (237-241 Closter Dock Road/Mrs. Kubitis Realty, LLC), the changes of which Mr. Kates said dealt solely with insurance requirements as per the Borough Attorney, Edward Rogan, Esq.

◇ **CLOSED SESSION** ◇

A motion was made by Secretary West and seconded by Mr. Ouzoonian, to have the Board go into closed session at 9:27pm. The motion passed (7-0-0):

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

NO- n/a;

ABSTAIN- n/a;

NOTE: Due to the topics of discussion, the minutes of this closed session will be released upon the resolution of said matters.

Chairman Bianco reopened the hearing to the public at 10:20pm.

◇ **ADJOURNMENT OF HEARING** ◇

A motion was made by Mr. Ouzoonian and seconded by Dr. Shyong, to adjourn the meeting at 10:20pm. The motion passed by acclamation.
