



Zoning Board of Adjustment

June 20, 2012

Hearing
(Minutes)

Prepared by:

Paul Demarest

◇ **OPENING REMARKS** (Commenced at 8:01pm) ◇

◇ **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
Joan Marks- Alternate #3
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
Evan Elias- Alternate #2
John Galluccio, Esq.- Alternate #4

◇ **CORRESPONDENCE** ◇

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

◇ **MINUTES** ◇

As per the request of Chairman Bianco, the Board postponed a vote on the minutes for both the May 16, 2012 Hearing and May 23, 2012 (Special) Hearing to the June 20, 2012 Hearing pending changes to their format.

◇ **SUBCOMMITTEE ASSIGNMENTS** ◇

June 27, 2012 Work Session: ***CANCELLED***;

◇ **MISCELLANEOUS** ◇

Chairman Bianco reiterated the need to have Resolutions prepared and emailed by Mr. Kates to the Board 5 days in advance of their scheduled memorialization; Mr. Kates agreed.

Chairman Bianco stated if the Board Engineer's review is required for an application, Mr. Morris' report should be distributed prior to the Hearing date and, if possible, in time for the Subcommittee to discuss during the Work Session. Chairman Bianco also requested that future Resolutions stipulate, when applicable, that Mr. Morris conduct inspections on site work items, which are not under the jurisdiction of the Building Department.

Mr. Hennessey asked Mr. Morris to prepare a standard detail for refuse enclosures, an issue discussed by the 2011 Annual Report Drafting Subcommittee. Chairman Bianco informed several municipalities incorporate such, along with details for sewer plates, catch basins, curbing/sidewalks, etc., into 1 sheet available to the public. He pointed out that the following applications, previously-approved by the Board, were required to provide for durable and presentable refuse enclosures (having 36" open side areas for daily access to dumpsters so to prevent having main gate left open and looking unkempt): 1.) Case #Z-2008-26 (1 Railroad Avenue/Vantage Health System); 2.) Case #Z-2011-09 (208 Piermont Road/Locale Restaurant & Bar); 3.) Case #Z-2010-12 (237-241 Closter Dock Road/Mrs. Kubitis Realty, LLC). Ultimately, the Board tabled the matter to determine if an ordinance must be adopted by the Governing Body prior to the Borough's use of such a standard detail.

Chairman Bianco reminded that he, Secretary West and Mr. Morris (when applicable) will be providing their signatures on all future site plans approved by the Board, whether residential or non-residential in nature, to ensure no deviation occurs during their implementation in the field.

Mr. Hennessey suggested that the Borough Engineer's firm, Boswell Mc Clave Engineering, Inc., be charged with conducting site work inspections for all construction projects in the Borough, regardless of whether or not a land use board's review is involved; Mr. Morris replied that unless an ordinance to that effect is adopted by the Mayor and Council, the Building Department would perform said inspections, including curbing/sidewalk installations. Mr. Sinowitz reiterated that the Building Department can only enforce the Uniform Construction Code of New Jersey.

Mr. Hennessey inquired about permitting and inspection procedures for street excavations; Mr. Morris responded that approximately 20 years ago (when he served as Borough Engineer), the protocol was to have an escrow or bond posted by the applicant to cover costs of permits and inspections, however, he could not confirm such is the current practice.

◇OPEN TO THE PUBLIC◇

Inga Grossman-Savitsky, 3 Lindemann Avenue, Closter, New Jersey stated that she received Amendment Approval from the Board approximately 1 year ago (Case #Z-2010-14) with the stipulation that a 10' high trellis with English ivy (in lieu of a "living fence" consisting of several trees) be established on her property line shared with 61 Taillon Terrace in exchange for the removal of a deed restriction stipulated in a previously-approved Board application (Case #Z-1991-08), whereby Bulk Variance Relief was granted for the construction of an addition to her residence. She informed that the Code Enforcement Bureau recently issued her a Residential Certificate of Continued Occupancy (RCCO) upon inspection of her property, a Borough requirement for residential resales; she said her RCCO has since been rescinded due to said

Board stipulation not being completed and her closing date is now in jeopardy. Ms. Grossman-Savitsky revealed that James Whitney, the Code Enforcement Officer who issued/rescinded the

RCCO, suggested she research on-line when asked for guidance on how to proceed in erecting a trellis and growing vegetation on it. Ultimately, she believed Mr. Whitney was wrong in his actions and felt the memorialized Resolution did not give proper direction on how to comply. She stated the trellis and ivy was installed during the late summer/early autumn of 2011, but stressed that the ivy would take several years to grow 10 in height. Mr. Demarest stated that William Fuchs, the Borough's newly-hired Certified Tree Expert, who did not provide testimony during Ms. Grossman-Savitsky's 2010 Board case, was scheduled to inspect what she installed thus far, and if he determined the Board's intent was fulfilled, Mr. Whitney would most likely defer to Mr. Fuchs' expertise and reissue the RCCO. Mr. Kates said the norm for a continuing obligation during a title transfer is to establish an escrow account out of the sale price to secure its fulfillment; Ms. Grossman-Savitsky replied no such measure was planned. Mr. Kates informed that the Board has no jurisdiction to cure the matter and if she has a complaint about a Borough employee, she must address such with the Governing Body.

Michael Brown, 24 Arcadia Court, Harrington Park, New Jersey, commented that while he sympathizes with Ms. Grossman-Savitsky, he has found Mr. Whitney to be fair and accommodating during his dealings with him as a real estate agent.

Mr. Demarest informed that the Code Enforcement Bureau would be issuing a summons to the applicants for Case #Z-2011-02 (17 Bogert Street/Witko) to appear in Municipal Court for not completing Board stipulations required as part of their denial.

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

Mr. Kates informed that the Resolutions for Case #'s Z-2012-04 (1 Ruckman Road/Kim) and Z-2010-15 (24 Naugle Street/Hansen) would be completed in time for their memorialization at the June 27, 2012 (Special) Hearing.

◆ **CASELOAD** ◆

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 of 4 within 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 #2" 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; the applicant's engineer completed subsequent testimony and the case was adjourned, with no items requested by the Board, to the May 16, 2012 Hearing; due to the Board's heavy caseload, the application was postponed to the June 20, 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, 263(A), South Washington Avenue, Bergenfield, New Jersey;
- #2: David Hals, PE/PP, Schwanewede Hals Engineering Co., 9 Post Road- Suite M11, Oakland, New Jersey (FOR OBJECTOR);

Exhibits

- S-5:** subdivision map of 317 Harrington Avenue (depicting creation of 176 Closter Dock Road) prepared by John Kuhn, PLS (Hobelman, Argenti & Kuhn Co.) and dated August 15, 1975;
- S-6:** photograph depicting rear building, uncredited and dated April 15, 2012;
- S-7:** photograph depicting rear building and vicinity, uncredited and dated April 15, 2012;
- S-8:** photograph depicting rear building and storage vehicles, uncredited and dated April 15, 2012;
- S-9:** photograph depicting rear building, uncredited and dated April 15, 2012;
- S-10:** photograph depicting excavated area on 162 Closter Dock Road along shared property line with 170 Closter Dock Road, uncredited and dated May 14, 2009;
- S-11:** photograph depicting sidewalk/depressed curb/ramp along eastern corner of 170 Closter Dock Road, uncredited and undated;
- S-12:** photograph depicting pedestrian on Closter Dock Road in front of #170 and vehicle impeding upon sidewalk, uncredited and dated November 19, 2011;
- S-13:** photograph depicting front building and its under canopy access to rear building with chained-off stop sign, uncredited and dated May 15, 2012;
- S-14:** photograph depicting rear building and adjacent storage container, uncredited and dated April 15, 2012;
- BD-1:** site plan of 317 Harrington Avenue prepared by Guy Giordano, RA and dated June 16, 1975;
- BD-2:** memorialized Resolution granting Subdivision Approval for 317 Harrington Avenue, signed by Planning Board Chairman Patrick Ulrich/Secretary Frank Atkinson and dated September 3, 1975;

BD-3: memorialized Resolution granting Site Plan Approval for 317 Harrington Avenue, signed by Mayor Elias Eliasof/Borough Clerk Mary Starr and dated September 24, 1975;

Relief Sought

(DISCUSSED AT APRIL 18, 2012 HEARING);

Response to Prior Board and/or Subcommittee Requests

- 1.) applicant provided wheel stops along parking spaces #'s 14, 15 and 16 (PARTIALLY-ELIMINATING DESIGN WAIVER REQUEST)
- 2.) applicant provided slotted curbing for paved driveway in order to restrict drainage impact on adjacent properties;
- 3.) applicant provided enhanced detail of refuse enclosure having metal posts and wooden shadow board fencing;
- 4.) applicant provided enhanced access to refuse enclosure by realigning nearby parking spaces (ELIMINATING DESIGN WAIVER REQUEST);
- 5.) applicant provided additional landscaping (island) at site ingress;
- 6.) applicant provided corrections to height of light poles (10', not 12') and their color (green, not black to match those in downtown area) as well as foundation detail (PARTIALLY-ELIMINATING DESIGN WAIVER REQUEST);
- 7.) applicant eliminated 3 service station bays as part of calculation for total parking spaces provided and instead provided 2 parking spaces in front of bays resulting in total of 19 parking spaces provided (AS PER OBJECTOR);
- 8.) applicant indicated number of on-street parking spaces on Closter Dock Road immediately in front of #'s 170 and 176 (east side: 13 <1-hour> parking spaces/west side: parking prohibited);

New Board Requests

- 1.) provide chart itemizing Variance/Design Waiver requests and reasons for such (including those addressed by objector's engineer) (PREVIOUSLY REQUESTED);
- 2.) provide clarity on existing/proposed waste oil evacuation system for service station;
- 3.) seek Bulk Variance for side yard setback (left-facing) with respect to storage container adjacent to/abutting rear building (if deemed accessory structure: 3' setback required/if deemed addition to rear building: 6' setback required) (AS PER OBJECTOR);
- 4.) provide revised calculations for building and impervious coverage to include storage container and amend existing Bulk Variance request for such (increase of approximately 2% for each bulk standard) (AS PER OBJECTOR);
- 5.) provide abatement of non-compliant sidewalk/depressed curbs/ramps (AS PER OBJECTOR);
- 6.) provide revised calculations for total parking spaces provided that omit 2 parking spaces in front of service station bays and 1 beneath front building's under canopy access to rear building (which is 15' wide between columns and cannot provide for both parking space and drive aisle) resulting in total of 16, not 19, parking spaces provided (AS PER OBJECTOR);
- 7.) provide revised calculations for total on-street parking spaces on Closter Dock Road immediately in front of #'s 170 and 176 to reflect 11, not 13 parking spaces (AS PER OBJECTOR);
- 8.) provide abatement of drainage pattern from paved area (between front and rear buildings) onto 162 Closter Dock Road (AS PER OBJECTOR);

- 9.) provide abatement of 2 fences encroaching onto 162 Closter Dock Road (AS PER OBJECTOR);
- 10.) provide abatement of water and gas lines as well as overhead wires encroaching onto 162 Closter Dock Road (AS PER OBJECTOR);

Public Questions

Jesse Rosenblum, 65 Knickerbocker Road, Closter, New Jersey;

Public Comments

n/a;

Decision

The case was adjourned to the July 18, 2012 Hearing.

◇ **ADJOURNMENT OF HEARING** ◇

A motion was made by Mr. Ouzoonian and seconded by Dr. Shyong, to adjourn the meeting at 11:00pm. The motion passed by acclamation.
