



# **Zoning Board of Adjustment**

September 19, 2012

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

Prepared by:

**Paul Demarest**

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◇ **OPENING REMARKS** (Commenced at 8:03pm) ◇

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◇ **PLEDGE OF ALLEGIANCE** ◇

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◇ **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  
Leonard Sinowitz- Zoning Officer  
Matthew Earle, Esq.- *in lieu of Michael Kates, Esq.- Board Attorney*  
Paul Demarest- Board Coordinator

*Absent*

Arthur Dolson- Council Liaison  
Jeffrey Morris, PE- Board Engineer

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◇ **CORRESPONDENCE** ◇

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

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◇ **MINUTES** ◇

A motion was made by Secretary West and seconded by Mr. Hennessey, to approve the minutes for the August 15, 2012 Hearing; an amendment to the motion, clarifying the Board's response to the alleged conflict of interest surrounding Case #Z-2011-17 (597 Piermont Road/TD Bank, NA), was proposed by Mr. Ouzoonian and seconded by Ms. Dhorajia. Both the motion and its amendment passed (6-0-1).

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

**NO-** n/a;

**ABSTAIN-** Bianco;

A motion was made by Secretary West and seconded by Mr. Monaco, to approve the minutes for the August 29, 2012 (Special) Hearing. The motion passed (7-0-0).

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

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

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◇ **SUBCOMMITTEE ASSIGNMENTS** ◇

September 26, 2012 Work Session: **\*\*\*CANCELLED\*\*\***;

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

A motion was made by Secretary West and seconded by Dr. Shyong, to memorialize the Resolution for Case #Z-2012-08 (144 Haring Street/Grbic). 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 Secretary West and seconded by Mr. Hennessey, to memorialize the Resolution for Case #Z-2012-09 (16 Morrison Street/Gunderman). The motion passed (7-0-0):  
**YES-** Elias/Dhorajia/Hennessey/Ouzoonian/Monaco/West/Bianco;  
**NO-** n/a;  
**ABSTAIN-** n/a;  
**\*RECUSED\*-** Shyong;

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◇ **OPEN TO THE PUBLIC** ◇

n/a;

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◇ **MISCELLANEOUS** ◇

The Board discussed its official response, prepared by Mr. Kates, conveying its concerns with the language of 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 noted that the response suggests Chapter 3 of the International Building Code (IBC)- New Jersey Edition, 2009 be referenced in the ordinance to empower prospective merchants, landlords and realtors with the information needed to decide upon how to proceed in searching for tenant space. He revealed he asked Mr. Kates to include a suggestion that the High-Hazard and Institutional (subcategory I-3 only) use groups be prohibited within the Borough altogether because they pertain to dangerous materials and detention of people under restraint. Mr. Monaco commended the response, believing it would streamline the application process. He questioned what entity would decipher use groups during the review process; Chairman Bianco replied the Building Department has jurisdiction. The Board had no objections to his inclusion.

A motion was made by Mr. Monaco and seconded by Mr. Ouzoonian, to approve the transmittal of the Board's official response to the Mayor and Council. The motion passed (7-0-0).  
**YES-** Dhorajia/Hennessey/Ouzoonian/Monaco/West/Freesman/Bianco;  
**NO-** n/a;  
**ABSTAIN-** n/a;

In light of no cases being heard for the evening due to applicants' postponements, Chairman

Bianco started a discussion on exploring additional methods of expediting the Board's caseload.

James Whitney, Code Enforcement Officer (West Side), 31 Bogert Street, Closter, New Jersey, introduced himself and spoke on his pre-filed report to the Board, which gave background on current Board cases that were the result of illegal activity/conditions; he revealed the following applications involve either warning notices and/or summonses being issued: 1.) Case #Z-2011-11 (247 West Street/Osso); 2.) Case #Z-2011-15 (447 High Street/Haverilla); 3.) Case #Z-2012-01 (318 Harrington Avenue/Baquiran); 4.) Z-2012-10 (24 Naugle Street/Hansen). Mr. Sinowitz stated the norm for such applicants is to plead guilty in Municipal Court along with payment of a fine; he concluded the only way to put pressure on those applicants to present to the Board in a timely fashion is to restart the legal process, including the Court both specifying timelines to abide by and levying heavier penalties. Mr. Earle said he would discuss the matter and the Board's legal options with the absent Mr. Kates. Mr. Monaco questioned how the Board could assist the Code Enforcement Bureau in its efforts; Mr. Whitney replied all memorialized Resolutions must contain deadlines for applicants to comply with stipulations, which should be clearly defined. He referred to a prior Board approval, Case #Z-2010-14 (3 Lindemann Avenue/Grossman-Savitsky), whereby the Resolution did not indicate a date for conditions to be met; he stated the result was needless confusion and delays on the part of the applicant, who was only recently found to have met the intent of the Board.

Chairman Bianco reminded that the Borough's bi-annual Joint Meeting, a forum in which municipal bodies and the public discuss land use issues, will convene on September 29, 2012; he revealed said meeting's agenda, compiled by the Mayor's office, would contain the following topics: 1.) modifying regulations governing 2-family housing; 2.) permitting direct replacement of certain structures without requiring variance relief; 3.) sharing of responsibility for curb and sidewalk repair/replacement between Borough and property owners; 4.) reviewing proposed changes to Sign Ordinance with emphasis on lighting regulations; 5.) miscellaneous topics if time permits. Chairman Bianco expressed concern about potential repercussions of the Governing Body making changes to rules in place whereby 1 or 2 bureaucrats, not the Board with the input of the public, would decide if a 2-family house is legitimate or a non-conforming structure can be replaced in kind. He believed amending the Limiting Schedule, even to accommodate the replacement of storm-damaged structures as suggested by Dr. Shyong and Mr. Galluccio, would be detrimental and lead to over-development. He suggested, in response to those concerned about the expense of forcing applications to the Board in such instances, that the Board's fee and escrow costs be lowered; Mr. Sinowitz disagreed, saying the real cost is in the applicant having to retain legal counsel and design professionals to present their case. Vice Chairman Freesman believed the Board, in recent years, has been able to convince applicants to scale back their endeavors rather than "rubberstamping" the initial proposal; he further believed that such application are not the culprits causing the Board's case backlog. Mr. Ouzoonian was perturbed that his request to discuss the creation of an architectural commission was not placed on the Joint Meeting agenda; he believed such a body could serve in an advisory capacity. Secretary West and Ms. Marks expressed caution, citing strict examples of aesthetic parameters mandated in Hilton Head Island, South Carolina and Martha's Vineyard, Massachusetts. Vice Chairman Freesman said such a body would be helpful so long as it is not dictatorial nor delay the permitting process. Ms. Marks believed the Borough has a diverse, not homogenous, stock of housing.

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**◇CLOSED SESSION◇**

A motion was made by Secretary West and seconded by Ms. Marks, to have the Board go into closed session at 9:05pm. The motion passed by acclamation.

\*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 9:17pm.

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**◇ADJOURNMENT OF HEARING◇**

Chairman Bianco reminded the Board of the upcoming Annual Conference of the New Jersey League of Municipalities taking place in Atlantic City, New Jersey.

Chairman Bianco stated the Borough's future is in its next development stage, explaining there is a 2<sup>nd</sup> generation of buildings being constructed to replace existing housing and factories that date back to the American Revolution (the Borough was founded and incorporated in 1710 and 1904 respectively). He felt the Borough could become a cultural and artistic community using its rich history; he hoped it evolves from a "service town" for dry-cleaning and manicures to a destination.

Mr. Ouzoonian reiterated the need for the Board's traffic expert, Berge Tombalakian, PE (employed with Mr. Morris' firm, Boswell Mc Clave Engineering, Inc.) to be present at the October 17, 2012 Hearing to testify on his report prepared in connection with Case #Z-2011-17 (597 Piermont Road/TD Bank, NA).

A motion was made by Secretary West and seconded by Ms. Dhorajia, to adjourn the meeting at 9:22pm. The motion passed by acclamation.

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