



Zoning Board of Adjustment

April 17, 2013

Meeting
(Minutes)

Prepared by:

Paul Demarest

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

◇ **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
Joan Marks- Alternate #2
John Galluccio, Esq.- Alternate #3
Phillip Kwon, Esq.- Alternate #4
Arthur Dolson- Council Liaison
Leonard Sinowitz- Zoning Officer
Michael Kates, Esq.- Board Attorney
Paul Demarest- Board Coordinator

Absent

Mitchell Monaco
Jeffrey Morris, PE- Board Engineer

◇ **CORRESPONDENCE** ◇

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

Chairman Bianco referred to a Police Department memo by Lieutenant James Winters, which authorized an alternative approach to a stipulation outlined in the Board approval of Case #2012-13 (11 Homans Avenue/11 Homans Properties, LLC). Chairman Bianco specified that said condition was for a sidewalk at the intersection of Homans Avenue and Ruckman Road to be rerouted in order to abate a pedestrian hazard caused by street signage installed within said sidewalk; he said the applicant has opted to relocate the signage 2.5' with no detriment to traffic safety and negating the costly sidewalk reroute. Mr. Kates said that so long as the change to the condition of approval is not considered substantial, the matter can be handled administratively.

A motion was made by Secretary West and seconded by Mr. Hennessey, to amend said condition of approval stipulated in the Resolution for Case #Z-2012-13 (11 Homans Avenue/11 Homans Properties, LLC) in favor of the proposal outlined in a Police Department memo dated April 10, 2013. The motion passed (6-0-0):

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

NO- n/a;

ABSTAIN- n/a;

Mr. Demarest said a copy of this evening's minutes will be attached to the memorialized Resolution on file to reflect the change in Board stipulations.

Chairman Bianco discussed a letter from the Borough Engineer, Nick De Nicola, PE, to Rockland Electric Co. with respect to the unauthorized installation of a replacement utility pole in connection with Case #Z-2010-12 (237-241 Closter Dock Road/Mrs. Kubitis Realty, LLC). Chairman Bianco explained the Board approved a design in which underground conduit would run from an existing pole at the northerly end of the site to the rear of the subject building but instead a new pole, recently installed within the curb cut of the site's driveway, was used to provide electric to the building; he said such was compounded by the fact 2 bollards were installed at the base of the new pole, resulting in obstruction of sight distance to and from the site. Chairman Bianco questioned what can be done to ensure that said deviation is rectified; Mr. Kates, while preferring to have field conditions delegated by the Borough Engineer, asked that he be able to review the subject Resolution prior to advising the Board on how to proceed.

◇ **MINUTES** ◇

Mr. Demarest indicated minutes for both the March 20, 2013 Meeting and March 27, 2013 (Special) Meeting have yet to be completed.

◇ **SUBCOMMITTEE ASSIGNMENTS** ◇

April 24, 2013 Work Session: Bianco/Ouzoonian/Hennessey;

◇ **OPEN TO THE PUBLIC** ◇

n/a;

◇ **MISCELLANEOUS** ◇

Mr. Kates announced that a revised draft of the merged 2011 and 2012 Annual Report to the Governing Body and Planning Board was recently distributed and asked that the Board review and comment in the hopes that a formal discussion would occur at the April 24, 2013 (Special) Meeting followed by a final version being presented at the bi-annual Joint Meeting on April 27, 2013. He explained that incorporated into the draft is a series of sample illustrations (previously prepared by Burgis Associates, Inc. for the Borough of Tenafly). He believed the accompanying pictures would assist both the Board and applicants by enhancing the definition of terms section in the Borough's Zoning Code, which currently defines "impervious surface" differently from what the storm water management ordinance states it to mean; Mr. Kates suggested a superior definition of said term offered in *The Latest Illustrated Book of Development Definitions* by Harvey Moskowitz and Carl Lindbloom, considered a standard in municipal land use law.

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

Mr. Demarest informed that requested items as per the voice vote for Case #Z-2012-11 (120 High Street/Carpentieri) have been received, but the Board delayed memorialization to allow for review of said items. He noted that requested items for Case #Z-2011-16 (170 & 176 Closter

Dock Road/Desan Enterprises, Inc.) are still outstanding. Mr. Kates stated that the Resolutions for dismissed Case #'s Z-2012-01 (318 Harrington Avenue/Baquiran) and Z-2011-15 (447 High Street/Haverilla) will be voted on for memorialization only after Mr. Demarest has confirmed the written timelines of events are accurate.

A motion was made by Secretary West and seconded by Ms. Dhorajia, to memorialize the Resolution for Case #Z-2013-03 (175 Herbert Avenue/De Falco). The motion passed (6-0-0):
YES- Shyong/Dhorajia/Hennessey/Ouzoonian/West/Bianco;
NO- n/a;
ABSTAIN- n/a;

◇ **CASELOAD** ◇

<p>Case #Z-2011-11 Fiore Osso 247 West Street (Block 1301/Lot 22) District #2- Residential B</p>

Case History

The applicant is seeking a Use Variance for the continuation of a 2-family use at the subject property; the application was received May 18, 2011 and scheduled for the May 25, 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 July 20, 2011 Meeting; due to the Board's heavy caseload, the application was postponed to the August 17, 2011 Meeting, September 21, 2011 Meeting, November 22, 2011 Meeting and, again, to the December 19, 2011 Meeting; due to scheduling conflicts with all parties involved in the applicant's presentation, the case was postponed to the January 18, 2012 Meeting; due to the Board's heavy caseload, the application was postponed to the February 15, 2012 Meeting; due to scheduling conflicts with all parties involved in the applicant's presentation, the case was postponed to the March 21, 2012 Meeting and, again, to the April 18, 2012 Meeting; due to the Board's heavy caseload, the application was postponed to the May 16, 2012 Meeting, June 20, 2012 Meeting, July 18, 2012 Meeting and, again, to the August 15, 2012 Meeting; due to scheduling conflicts with all parties involved in the applicant's presentation, the case was postponed to the September 19, 2012 Meeting; being the applicant did not fulfill public noticing requirements, the application was postponed to the September 26, 2012 (Special) Meeting; being the Board could not establish a quorum, the application was rescheduled for the November 28, 2012 (Special) Meeting; due to a scheduling conflict with the applicant's planner, the case was postponed to the December 19, 2012 Meeting; due to the Board's heavy caseload, the application was postponed to the January 23, 2013 (Special) Meeting and, again, to the February 20, 2013 Meeting; due to a scheduling conflict with the applicant's attorney, the case was postponed to the March 27, 2013 (Special) Meeting; the applicant's planner completed initial testimony and the case was adjourned, pending the Board's receipt of requested items, to the April 17, 2013 Meeting.

Representation

1.) David Watkins, Esq., 285 Closter Dock Road, Closter, New Jersey;

Witnesses

- #1: Michael Hubschman, PE, Hubschman Engineering, PA, 263(A) South Washington Avenue, Bergenfield, New Jersey;
- #2: Roger De Niscia, PP, 347 Upper Mountain Avenue, Montclair, New Jersey;
- #3: Jesse Rosenblum, 65 Knickerbocker Road, Closter, New Jersey (OBJECTOR);

Exhibits

- A-4: pre-filed site plan prepared by Witness #1 dated April 8, 2011 and last revised April 3, 2013;
- O-1: Borough listing of historic landmark designations dated October 31, 2011 and altered by Jesse Rosenblum with written-in old block and lot number conversions for West Street addresses;
- O-2: Borough tax list dated 1942 and indicating subject property as "Fr. Dwelling";
- O-3: owner and address report of 2- and multiple-family housing prepared by Tax Assessor and dated November 24, 2004 with indication of subject property as having 3-family use;

Relief Sought

- 1.) Use Variance: 2-family use (house was built prior to December 19, 1940 but does not meet all current bulk requirements)-
 - a.) Bulk Variance: lot size (12,500 sf minimum required/9,404.79 sf provided);
 - b.) Bulk Variance: lot width at building setback line (100' minimum required/50' provided);
 - c.) Bulk Variance: street frontage (75' minimum required/50' provided);
 - d.) Bulk Variance: side yard <left-facing> setback (15' minimum required/1.25' provided);
 - e.) Bulk Variance: side yard setback aggregate (30' minimum required/25.75' provided);
 - f.) Bulk Variance: impervious coverage (30% maximum allowed/46.97% provided);

Response to Prior Board and/or Subcommittee Requests

- 1.) applicant indicated locations on key map of 5 additional 2-family houses within 200' radius of subject site;
- 2.) applicant clarified that chimney-like structure in rear of building was flue for wood-burning stove since removed from recreation room;
- 3.) applicant provided utility room detail in basement;

New Board Requests

n/a;

Public Questions

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

Public Comments

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

Decision

A motion was made by Ms. Marks and seconded by Mr. Hennessey, to approve the application. The motion passed (6-1-0):

YES- Galluccio/Marks/Dhorajia/Hennessey/West/Freesman;

NO- Ouzoonian;

ABSTAIN- n/a;
RECUSED- Bianco/Shyong;

Conditions

- 1.) implement deed restriction for prohibition of site being converted to 3-family use (existing layout is conducive to illegal conversion) and record such with Bergen County Clerk;
- 2.) incorporate window locations and ceiling heights of both dwelling units onto floor plan;

The Board recessed at 9:37pm.

The Board reconvened at 9:44pm.

<p>Case #Z-2013-12 Keller 24 Robinhood Avenue (Block 702/Lot 6) District #2- Residential B</p>

Case History

The applicant is appealing the determination of the Zoning Officer as to the legality of the continuation of a 2-family use at the subject property; in the alternative, he would seek a Use Variance; the application was received January 16, 2013 and scheduled for the February 27, 2013 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 April 17, 2013 Meeting.

Representation

- 1.) David Watkins, Esq., 285 Closter Dock Road, Closter, New Jersey;

Witnesses

- #1: Paul Keller, 4041 East Amy Lane, Johns Island, South Carolina;
- #2: Roger De Niscia, PP, 347 Upper Mountain Avenue, Montclair, New Jersey;

Exhibits

- A-1:** informational packet consisting of 11 categories of documentation pertaining to subject property, uncredited and undated;
- A-2:** rider to contract for sale (6 pages) of subject property by prior owners (Glenn and Gina Pendergast) to Witness #1 dated August 20, 1996;
- BD-1:** Resolution for Case #Z-1994-12 outlining Board approval for construction of detached garage at subject property as presented by prior owners and memorialized March 15, 1995;

Relief Sought

- 1.) Appeal of Zoning Officer Determination: pre-existing/non-conforming status for 2-family use <WITHDRAWN>;
- 2.) Use Variance: 2-family use (house was built after December 19, 1940 and does not meet all current bulk requirements)-

- a.) Bulk Variance: lot size (12,500 sf minimum required/9,375 sf provided);
- b.) Bulk Variance: lot width at building setback line (100' minimum required/75' provided);
- c.) Bulk Variance: side yard <left-facing> setback (15' minimum required/13.50' provided);
- d.) Bulk Variance: building coverage (20% maximum allowed/21.51% provided);
- e.) Bulk Variance: impervious coverage (30% maximum allowed/40.85% provided);

Response to Prior Board and/or Subcommittee Requests

n/a;

New Board Requests

- 1.) incorporate window locations and ceiling heights of both dwelling units onto floor plan;

Public Questions

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

Public Comments

n/a;

Decision

The case was adjourned to the April 24, 2013 (Special) Meeting.

◇ ADJOURNMENT OF MEETING ◇

Chairman Bianco reminded that the Borough will hold its bi-annual Joint Meeting, a gathering in which the public and Borough official discuss land use matters, on April 27, 2013; he also informed of a land use symposium scheduled for April 20, 2013 which can be attended by Board members regardless of whether or not they have obtained land use board certification, a statutory requirement to serve on the Board.

A motion was made by Ms. Marks and seconded by Ms. Dhorajia, to have the Board adjourn at 10:46pm. The motion passed by acclamation.
