



# Zoning Board of Adjustment

February 27, 2013

**\*\*\*Special\*\*\*  
Meeting  
(Minutes)**

Prepared by:

**Paul Demarest**

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◇ **OPENING REMARKS** (Commenced at 8:00pm) ◇

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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  
Joan Marks- Alternate #3  
John Galluccio, Esq.- Alternate #4  
Leonard Sinowitz- Zoning Officer  
Michael Kates, Esq.- Board Attorney  
Paul Demarest- Board Coordinator

Absent

VACANT- Alternate #2  
Arthur Dolson- Council Liaison  
Jeffrey Morris, PE- Board Engineer

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

Mr. Demarest informed that requested items as per the voice votes for Case #'s Z-2012-12 (388 Anderson Avenue/Erbeli) and Z-2012-11 (120 High Street/Carpentieri) have still not been filed, thus, the Board postponed votes to memorialize the Resolutions.

A motion was made by Mr. Hennessey and seconded by Secretary West, to memorialize the Resolution for Case #Z-2012-14 (10 Jane Street/Marinaccio). Mr. Kates revealed that a condition to provide a final as-built survey upon completion of construction was incorporated into said Resolution, as per the Board's By-Laws regulating applications involving non-professionally designed renderings. The motion passed (6-0-0):

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

**NO-** n/a;

**ABSTAIN-** n/a;

**LATE ARRIVAL-** Monaco;

A motion was made by Secretary West and seconded by Dr. Shyong, to memorialize the Resolution for Case #Z-2011-08 (343 Closter Dock Road/Galdi). Because of its similar

subject matter to an application to be heard later in the evening, Case #Z-2012-07 (441 High Street/de la Bastida), Mr. Kates concluded that if a 2-family use conforms to the bulk standards prescribed in the Borough's inaugural Limiting Schedule adopted December 19, 1940 as well as pre-dates the adoption date (December 28, 1955) of a later revision of the Limiting Schedule that further limited 2-family housing, the use should be permitted as of right. The motion passed (6-0-0):

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

**NO-** n/a;

**ABSTAIN-** n/a;

**LATE ARRIVAL-** Monaco;

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◇ **MISCELLANEOUS** ◇

Chairman Bianco, in light of Case #Z-2012-01 (318 Harrington Avenue/Baquiran) being postponed yet again due to the applicant's planner having a scheduling conflict, questioned what further action the Board may take to compel certain applicants to present their cases to the Board in a timely fashion, specifically inquiring about the Board's ability to subpoena. Mr. Kates explained the Board's Chairperson has the power to subpoena, with the consent of the Board; he informed such is enacted not to compel a witness to appear but rather to obtain testimony that is not being presented properly. He stressed, however, the Board's true sanction in dealing with a malingering caseload is to dismiss those applications for failure to prosecute. Mr. Kates said such would require re-filing with the Board and allow the Municipal Court to take action.

Mr. Demarest suggested the Board amend its By-Laws to remove the stipulation that applicants' postponements must be 3 consecutive in nature in order to allow for dismissal by the Board; Mr. Kates replied such does not preclude the Board from dismissing a case. He reiterated that Case #'s Z-2012-01 (318 Harrington Avenue/Baquiran) has been postponed 7 times by the applicant and 4 times by the Board, Z-2011-11 (247 West Street/Osso) has been postponed 7 times by the applicant and 12 times by the Board and Z-2011-15 (447 High Street/Haverilla) has been postponed 7 times both by the applicant and the Board. Mr. Kates said the 3 applicants, represented by the same attorney, have assured him all will be present at the March 27, 2013 (Special) Meeting. Mr. Galluccio inquired if a case is postponed within 24 hours of a hearing date due to a scheduling conflict that has been known for some time, would it be considered an excused delay; Mr. Kates said such would be considered a postponement.

Mr. Kates stated that a judge is not required for a subpoena to be issued on behalf of the Board and noted it would cost approximately \$40.00 to serve. Both Mr. Ouzoonian and Mr. Monaco believed dismissal upon a 3<sup>rd</sup> non-consecutive postponement by an applicant, not subpoenaing, is a more effective approach to counteract delays.

Chairman Bianco requested that all professionally-designed site plans have their signature and title blocks placed in the lower right-hand corner of the 1<sup>st</sup> page to allow for their viewing without having to unfold the plan. He asked Mr. Demarest to purchase a red-inked stamp that will be used to indicate the Board's approval of a certain plan; Mr. Kates believed such would be especially beneficial in those instances whereby a Resolution is memorialized under the

assumption a revised plan is forthcoming, meaning the latest revision date is not written into the Resolution.

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◇ **OPEN TO THE PUBLIC** ◇

n/a;

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◇ **CASELOAD** ◇

<p><b>Case #Z-2012-07</b> <b>Jeanne de la Bastida c/o Thomas Donahue</b> <b>441 High Street</b> <b>(Block 1314/Lot 5)</b> <b>District #2- Residential B</b></p>
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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 30, 2012 and scheduled for the July 25, 2012 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 September 19, 2012 Meeting; being the applicant did not file requested items by the deadline and had yet to retain a planner, the application was postponed to the November 21, 2012 Meeting; due to the Board's heavy caseload, the application was postponed to the December 19, 2012 Meeting, January 16, 2013 Meeting and, again, to the February 27, 2013 (Special) Meeting.

Representation

1.) Joseph Colella, Esq., 680 Kinderkamack Road, River Edge, New Jersey;

Witnesses

- #1: Leonard Sinowitz, Zoning Officer, Borough of Closter, 295 Closter Dock Road, Closter, New Jersey;
- #2: Mia Petrou, PP, Kenneth Ochab Associates, LLC, 12-16 Fair Lawn Avenue, Fair Lawn, New Jersey;
- #3: Thomas Donahue, CPA, 17-10 River Road, Suite 3E, Fair Lawn, New Jersey;
- #4: Vincent Benanti, RA, 25 Addicks Road, Westwood, New Jersey;

Exhibits

- A-1: 10 photographs depicting mechanical/utility layouts and permanent property monuments (stakes), prepared by Witness #3 and undated;
- A-2: 5 pre-filed photographs depicting exterior of subject and surrounding houses, prepared by Witness #2 and dated November 2012;
- A-3: property record card of subject property dated 1999 and 2000;
- A-4: pre-filed property record card of subject property dated 1962 and 1972;
- A-5: pre-filed property record card of subject property dated 1990 and 1991;

Relief Sought

- 1.) Appeal of Zoning Officer Determination: pre-existing/non-conforming status for 2-family use;
- 2.) 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 width at building setback line (100' minimum required/75' provided);
  - b.) Bulk Variance: front yard setback (25' minimum required <in lieu of average setback calculations being furnished>/11.40' provided);
  - c.) Bulk Variance: side yard <left-facing> setback (15' minimum required/12.80' provided);
  - d.) Bulk Variance: side yard <right-facing> setback (15' minimum required/9.90' provided);
  - e.) Bulk Variance: side yard setback aggregate (30' minimum required/22.70provided);

Response to Prior Board and/or Subcommittee Requests

n/a;

New Board Requests

n/a;

Public Questions

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

Public Comments

n/a;

Decision

A motion was made by Mr. Hennessey and seconded by Mr. Ouzoonian, to overturn the Zoning Officer's determination, thereby, approving pre-existing and non-conforming status. The motion passed (7-0-0):

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

**NO-** n/a;

**ABSTAIN-** n/a;

A motion was made by Ms. Dhorajia and seconded by Vice Chairman Freesman, to approve the Use Variance portion of the application. The motion passed (7-0-0):

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

**NO-** n/a;

**ABSTAIN-** n/a;

Conditions (APPLY TO BOTH MOTIONS)

- 1.) shorten length of northwesterly driveway (1 of 2 on-site) by removing macadam up to northernmost point of concrete walkway adjacent to rear entrance (vestibule), thereby, reducing potential on-site parking density from 8 to 7 spaces;
- 2.) revision (professional design is not required) incorporating said condition is to be submitted prior to memorialization of Resolution;

**◇CLOSED SESSION◇**

A motion was made by Ms. Marks and seconded by Ms. Dhorajia, to have the Board go into closed session at 10:25pm; the motion passed by acclamation.

Chairman Bianco reopened the meeting to the public at 10:28pm. Mr. Kates disclosed that the Board discussed the status of on-going, illegal commercial activity at 63 John Street in spite of the Board denying Case #Z-2009-14 (63 John Street/Wiggers), which pertained to an existing contractor's yard operation located in a residential zoning district; he stated the Borough Prosecutor, Mark Fierro, Esq., confirmed there are no pending summonses and all fines have been paid to the Municipal Court.

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**◇ADJOURNMENT OF (SPECIAL) MEETING◇**

Chairman Bianco reminded that the annual symposium sponsored by several local law firms for purposes of certifying newly-appointed land use board members with the State of New Jersey will take place on April 20, 2013; he clarified that while all Board voting members are certified and are not required to re-certify, all are still welcome to attend.

A motion was made by Vice Chairman Freesman and seconded by Ms. Marks, to have the Board adjourn at 10:30pm. The motion passed by acclamation.

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