



# **Zoning Board of Adjustment**

January 16, 2013

## **Reorganization & Meeting (Minutes)**

Prepared by:

**Paul Demarest**

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

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◇ **PLEDGE OF ALLEGIANCE** ◇

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◇ **2013 REORGANIZATION** ◇

Oaths of Office

Full Member (4-Year Term Expires December 31, 2016): Theodore West, DDS  
\*Reappointed\*

Full Member (4-Year Term Expires December 31, 2016): Mitchell Monaco  
\*Reappointed\*

Alternate #1 (2-Year Term Expires December 31, 2014): Andrew Shyong, DDS  
\*Reappointed\*

Alternate #3 (2-Year Term Expires December 31, 2014): Joan Marks  
\*Reappointed\*

Election of Officers

Mr. Ouzoonian nominated Mr. Bianco as Chairperson of the Board; there were no other nominations. The nomination was approved (7-0-0):

**YES-** Marks/Shyong/Dhorajia/Hennessey/Ouzoonian/West/Freesman;

**NO-** n/a;

**ABSTAIN-** n/a;

Dr. West nominated Mr. Freesman as Vice Chairperson of the Board; there were no other nominations. The nomination was approved (7-0-0):

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

**NO-** n/a;

**ABSTAIN-** n/a;

Vice Chairman Freesman nominated Dr. West as Secretary of the Board; there were no other nominations. The nomination was approved (7-0-0):

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

**NO-** n/a;

**ABSTAIN-** n/a;

Professional Services

A motion was made by Vice Chairman Freesman and seconded by Secretary West, to nominate Michael Kates, Esq. of Kates, Nussman, Rapone, Ellis and Farhi, LLP as Board Attorney. 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 Mr. Ouzoonian and seconded by Secretary West, to nominate Jeffrey Morris, PE of Boswell Engineering, Inc. as Board Engineer. The motion passed (7-0-0):  
**YES-** Dhorajia/Hennessey/Ouzoonian/Monaco/West/Freesman/Bianco;  
**NO-** n/a;  
**ABSTAIN-** n/a;

Adoption of Calendar

The Board previously approved its 2013 schedule at the November 21, 2013 Meeting.

Adoption of Fee Schedule

A motion was made by Vice Chairman Freesman and seconded by Secretary West, to approve the Board's 2013 application fee schedule. The motion passed by acclamation.

Adoption of Escrow Deposit Schedule

A motion was made by Secretary West and seconded by Vice Chairman Freesman, to approve the Board's 2013 legal and engineering escrow deposit schedule. The motion passed by acclamation.

Adoption of Official Newspaper Designations

A motion was made by Mr. Ouzoonian and seconded by Secretary West, to approve both *The Record* and *The Star-Ledger* as its 2013 official newspapers for public noticing. The motion passed by acclamation.

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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  
Arthur Dolson- Council Liaison  
Leonard Sinowitz- Zoning Officer  
Michael Kates, Esq.- Board Attorney  
Jeffrey Morris, PE- Board Engineer  
Paul Demarest- Board Coordinator

Absent

Evan Elias- Alternate #2

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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 Mr. Ouzoonian and seconded by Secretary West, to approve the minutes for the November 21, 2012 Meeting. The motion passed (7-0-0):

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

**NO-** n/a;

**ABSTAIN-** n/a;

Due to a discrepancy over a Board member's eligibility based on attendance, a vote to approve the minutes for the December 19, 2012 Meeting was postponed to the January 23, 2013 (Special) Meeting.

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**◇SUBCOMMITTEE ASSIGNMENTS◇**

January 23, 2013 Work Session: Ouzoonian/Hennessey/Dhorajia;

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**◇MISCELLANEOUS◇**

Chairman Bianco expressed concern about the Borough's procedure in certifying 200' radius lists for purposes of applicants fulfilling public noticing requirements; he explained he was recently approached by several residents informing him they had not been notified via registered mail of impending hearing dates pertaining to parcels located within 200' of their properties. Chairman Bianco said the reason for such occurring was due to the applicants' lists not containing all properties within the 200' radii. He explained that an assistant to the Tax Assessor currently prepares and certifies the lists; he wished to have Mr. Morris' firm conduct the technical aspects of creating the list, which in turn would be forwarded to the Tax Assessor's office for distribution. Mr. Kates indicated that such a change in procedure could be made without action from the Governing Body so long as the Borough administration has no objection. Mr. Demarest believed the lists are now prepared with the use of a protractor and/or drafting compass.

A motion was made by Mr. Ouzoonian and seconded by Vice Chairman Freesman, to direct Mr. Kates to draft a request to the Borough Administrator, Richard Sheola, that 200' radius lists, relating to applications before the Board, be prepared and certified by Boswell Mc Clave Engineering, Inc. prior to them being distributed by the Tax Assessor. The motion passed (7-0-0):

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

**NO-** n/a;

**ABSTAIN-** n/a;

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**◇OPEN TO THE PUBLIC◇**

n/a;

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◇MEMORIALIZATION OF RESOLUTION(S)◇

The Board postponed a vote on memorializing the Resolution for Case #Z-2012-10 (24 Naugle Street/Hansen) to the January 23, 2013 (Special) Meeting in order to allow for further review of its contents.

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◇CASELOAD◇

<p><b>Case #Z-2012-12</b> <b>Selaudin &amp; Arjent Erbeli</b> <b>388 Anderson Avenue</b> <b>(Block 2304/Lot 29)</b> <b>District #1- Residential A</b></p>
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Case History

The applicants are seeking Bulk Variance Relief for the construction of a new single-family house at the subject property; the application was received October 17, 2012 and scheduled for the October 31, 2012 (Special) Work Session, at which time, it was deemed incomplete; pending the Board's receipt of requested items, the application was rescheduled for the November 21, 2012 (Special) 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 December 19, 2012 Meeting; the applicants' engineer and architect completed their initial testimony and the case was adjourned, pending the Board's receipt of requested items, to the January 16, 2013 Meeting.

Representation

1.) Elliot Urdang, Esq., 19 Engle Street, Tenafly, New Jersey;

Witnesses

#1: Joseph Bruno, RA, 29 Pascack Road, Park Ridge, New Jersey;

#2: William Koenig, CLA, 28 Pascack Road, Park Ridge, New Jersey;

Exhibits

A-5: pre-filed architectural prepared by Witness #1 dated July 5, 2012 and last revised January 3, 2013;

A-6: pre-filed site plan prepared by Christopher Lantelme, PLS/PE (Lantelme, Kurens & Associates, PC) dated August 2, 2012 and last revised January 3, 2013;

A-7a: photograph depicting exterior of subject site from Anderson Avenue, uncredited and undated;

A-7b: photograph depicting exterior of 382 Anderson Avenue, uncredited and undated;

A-7c: photograph depicting exterior of 400 Anderson Avenue, uncredited and undated;

A-7d: photograph depicting exterior of unidentified house located opposite subject site on east side of Anderson Avenue (Borough of Alpine), uncredited and undated;

A-7e: photograph depicting view of Johnson Court via Anderson Avenue, uncredited and undated;

A-8: landscape plan prepared by Witness #2 dated January 16, 2013;

### Relief Sought

- 1.) Bulk Variance: lot width at building setback line (100' minimum required/62.50' provided);
- 2.) Bulk Variance: street frontage (75' minimum required/62.50' provided);
- 3.) Bulk Variance: front yard setback <facing Johnson Court> (43' minimum required/19.10' provided) <REDUCED REQUEST>;
- 4.) Bulk Variance: side yard setback (15' minimum required/8.60' provided);

### Response to Prior Board and/or Subcommittee Requests

- 1.) applicants reduced size of house's core to accommodate more sunken-in front portico thereby creating both increased front yard setback (facing Johnson Court) from 17.10' to 19.10' and reduced overall footprint by 50 sf;
- 2.) applicants reduced profile of west elevation facing cul de sac of Johnson Court by reducing gable roof to partial hip roof;

### New Board Requests

n/a;

### Public Questions

- 1.) Joseph Spivack, 40 Johnson Court, Closter, New Jersey;
- 2.) Richard Chan, 80 Johnson Court, Closter, New Jersey;
- 3.) David Van Houten, 45 Dana Place, Closter, New Jersey;

### Public Comments

- 1.) Wanda Hollender, 20 Johnson Court, Closter, New Jersey;
- 2.) Steven Freesman, 30 Johnson Court, Closter, New Jersey;
- 3.) Joseph Spivack, 40 Johnson Court, Closter, New Jersey;
- 4.) David Van Houten, 45 Dana Place, Closter, New Jersey;

### Decision

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

**YES-** Galluccio/Dhorajia/Hennessey/Monaco/West/Bianco;

**NO-** n/a;

**ABSTAIN-** Ouzoonian/Marks;

**\*RECUSED\***- Freesman/Shyong;

### Conditions

- 1.) recommendation to install concrete curbing and sidewalk (off-tract improvements) along Anderson Avenue, which is narrow causing pedestrian hazard, to match those existing along Johnson Court (contingent upon verification of municipal boundary lines along Anderson Avenue differentiating Boroughs of Closter and Alpine);
- 2.) planting of trees with 4" caliper measurement and 25' spacing in Borough's right-of-way to replace hemlocks clustered in projecting curb line (bulge) along Johnson Court (species to be determined by Mr. Morris and Witness #2);
- 3.) removal of 3 arborvitae located within sight triangle of Anderson Avenue and Johnson Court intersection;

- 4.) enumerate sight triangle for Anderson Avenue and Johnson Court intersection onto Exhibit A-8 to prevent future planting;
- 5.) substitute 6 proposed taxus with type of boxwood to lessen likelihood of attracting deer;
- 6.) provide revised site plan (containing signature blocks) and landscape plan prior to memorialization of Resolution;

**Case #Z-2012-14  
Dina Marinaccio  
10 Jane Street  
(Block 1712/Lot 3)  
District #2- Residential B**

#### Case History

The applicant is seeking Bulk Variance Relief for the construction of an addition to a single-family house at the subject property; the application was received December 7, 2012 and scheduled for the December 19, 2012 (Special) 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 January 16, 2013 Meeting.

#### Representation

- 1.) Dina Marinaccio, 10 Jane Street, Closter, New Jersey;

#### Witnesses

- #1: Dina Marinaccio, 10 Jane Street, Closter, New Jersey;
- #2: George Shalhoub, 522 Cleveland Avenue, River Vale, New Jersey;

#### Exhibits

- A-1: construction rendering prepared by Witness #1, undated and last revised January 16, 2013;
- A-2: 18 photographs depicting subject site in relation to shared property line with 14 Jane Street, prepared by Witness #1 and dated October 2012;

#### Relief Sought

- 1.) Bulk Variance: side yard <left-facing> setback (15' minimum required/13.70' provided);
- 2.) Bulk Variance: side yard setback aggregate (30' minimum required/19.40' provided);

#### Response to Prior Board and/or Subcommittee Requests

n/a;

#### New Board Requests

n/a;

#### Public Questions

n/a;

#### Public Comments

- 1.) Cinthia Vianna, 418 Closter Dock Road, Closter, New Jersey;
- 2.) John Williams, 15 Jane Street, Closter, New Jersey;

Decision

A motion was made by Mr. Hennessey and seconded by Mr. Ouzoonian, to approve the application. The motion passed (7-0-0):

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

**NO-** n/a;

**ABSTAIN-** n/a;

Conditions

- 1.) 2<sup>nd</sup> story addition is to continue line of existing foundation wall towards rear yard and maintain existing side yard <left-facing> setback (13.70’);
- 2.) front to rear linear dimension of 2<sup>nd</sup> story addition shall not exceed 26’ in length when measured from exterior walls (soffits not included);

Chairman Bianco declared the Board would go into recess at 9:47pm.

The Board reconvened at 9:53pm.

**Case #Z-2012-11**  
**Audrey Carpentieri**  
**120 High Street**  
**(Block 510/Lot 6)**  
**District #2- Residential B**

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, she would seek a Use Variance; the application was received October 11, 2012 and scheduled for the October 24, 2012 Work Session; due to the necessity for further administrative review, the application was rescheduled for the October 31, 2012 (Special) Work Session and, again, for the November 28, 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 January 16, 2013 Meeting.

Representation

- 1.) Ronald Groseibl, Esq., 17-10 River Road, Suite 3C, Fair Lawn, New Jersey;

Witnesses

- #1: Audrey Carpentieri, 60 Leonard Drive, Old Tappan, New Jersey;

Exhibits

- A-1: Zoning Permit Application Denial prepared by Michael Sartori (Construction Official) on behalf of Mr. Sinowitz (residence is located within 200’ of subject property) and dated July 11, 2012;

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);

Response to Prior Board and/or Subcommittee Requests

n/a;

New Board Requests

- 1.) explore issue of estoppel with Board Attorney as it relates to Certificate of Occupancy issued January 18, 1991 by former Construction Official (Harold Benel) for 1- to 2-family use conversion of subject house;
- 2.) consider retaining planner to testify to Use Variance request in event that Board upholds Zoning Officer's determination;

Public Questions

- 1.) Anthony Giulini, 28 Haring Street, Closter, New Jersey;
- 2.) Jesse Rosenblum, 65 Knickerbocker Road, Closter, New Jersey;
- 3.) David Van Houten, 45 Dana Place, Closter, New Jersey;

Public Comments

n/a;

Decision

The case was adjourned to the January 30, 2013 (Special) Meeting.

**\*RECUSED\***- Dhorajia;

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**◇CLOSED SESSION◇**

A motion was made by Vice Chairman Freesman and seconded by Ms. Dhorajia, to have the Board go into closed session at 11:11pm. The motion passed by acclamation.

Chairman Bianco reopened the meeting to the public at 11:31pm. Mr. Kates disclosed that the Board discussed litigation, specifically Rosenblum v. Crimmins/Zoning Board of Adjustment which pertains to the Board's prior decision approving Case #Z-2008-13 (49 John Street/Crimmins) that sanctioned an existing contractor's yard operation located in District #2 (Residential B); he elaborated that the Appellate Division of New Jersey Superior Court reversed the Board's decision. He stated the consensus of the Board is to not pursue an appeal, at this time, in the form of a petition for certification to the Supreme Court of New Jersey on the understanding that the applicant through counsel would make such an effort if desired.

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**◇ADJOURNMENT OF MEETING◇**

Mr. Kates informed that due to the lapse in time, the narrative (to be accompanied by disposition lists prepared by Mr. Demarest) for the pending Annual Report to the Governing Body being composed in conjunction with the Drafting Subcommittee, will evaluate Board cases heard in both 2011 and 2012.

A motion was made by Dr. Shyong and seconded by Ms. Marks, to have the Board adjourn at 11:34pm. The motion passed by acclamation.

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