



Zoning Board of Adjustment

October 16, 2013

Meeting
(Minutes)

Prepared by:

Paul Demarest

◇ **OPENING REMARKS** (Commenced at 8:05pm) ◇

◇ **PLEDGE OF ALLEGIANCE** ◇

◇ **ATTENDANCE** ◇

Present

Joseph Bianco, RA/PP- Chairman
Steven Freesman, Esq.- Vice Chairman
Mitchell Monaco
Antranig Ouzoonian, PE
Michael Kafer, Esq.- Alternate #1
John Galluccio, Esq.- Alternate #3
Phillip Kwon, 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

Theodore West, DDS- Secretary
Thomas Hennessey
Heena Dhorajia, EIT
Joan Marks- Alternate #2

◇ **CORRESPONDENCE** ◇

In lieu of the absent Secretary West, Vice Chairman Freesman read mail received by the Land Use Department into the record.

◇ **MINUTES** ◇

A motion was made by Mr. Ouzoonian and seconded by Mr. Galluccio, to approve the minutes for the September 18, 2013 Meeting. The motion passed (5-0-0):

YES- Kwon/Galluccio/Ouzoonian/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

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

The Board postponed a vote to memorialize the Resolution for Case #Z-2013-10 (626 Closter Dock Road/Khanna) being submitted revisions did not adhere to the agreed-upon stipulations.

◇ **SUBCOMMITTEE ASSIGNMENTS** ◇

◇**OPEN TO THE PUBLIC**◇

n/a;

◇**MISCELLANEOUS**◇

Mr. Kates informed that the final draft of the Board's merged 2011 and 2012 Annual Report to the Planning Board and Governing Body includes a recommended definition for "place of worship" as suggested by Mr. Sinowitz; Mr. Kates mentioned though the term is referenced within the Zoning Code's description of "group gathering uses", a further definition specifically for it is lacking. He explained the proposed definition originates from *The Latest Illustrated Book of Development Definitions* by Harvey Moskowitz and Carl Lindbloom, standard reading in municipal land use law. Mr. Kates also informed that the erroneous references to both the North American Industrial Classification System (NAICS) and Standard Industrial Classification (SIC) in previous drafts have been eliminated; he stated that annual disposition lists prepared by Mr. Demarest which summarize the Board's caseload, have been annexed to said draft. Mr. Ouzoonian asked for confirmation from Mr. Morris that the recommended defining of "impervious surface" is sufficient, with emphasis that the inclusion of the term "compacted" within said definition was adequate; Mr. Morris replied that for a matter of consistency and to avoid having multiple definitions of a term within the Borough Code, he was satisfied that the Board could defend such verbiage. Mr. Morris noted it is not possible to quantify the term "compacted", but he suggested the Borough could adopt the New Jersey Stormwater Best Management Practices Manual as prescribed by the New Jersey Department of Environmental Protection (NJDEP). He explained the resource divided into series for gravel, permeable pavement, grass pavers and macadam with percentages of drainage percolation being assigned to each material; he stressed such an approach may complicate the Board's attempt to enhance the "impervious surface" definition.

With the Board contemplating further delay of a vote on the Annual Report, Mr. Kafer stressed it should want to have an approved draft to present at the Borough's next bi-annual Joint Meeting. Chairman Bianco questioned if the Board is under a time constraint in which it must present its Annual Report; Mr. Kates replied it is not, and while he noted that many municipalities ignore the statutory requirement, he stressed it to be an immeasurable tool to inform the Borough of the Board's activity.

A motion was made by Mr. Kwon and seconded by Vice Chairman Freesman, to adopt the Board's merged 2011 and 2012 Annual Report to the Planning Board and Governing in its current wording. The motion passed (6-0-1):

YES- Kwon/Galluccio/Ouzoonian/Monaco/Freesman/Bianco;

NO- n/a;

ABSTAIN- Kafer;

Chairman Bianco announced the completed affordable housing project relating to Case #Z-2008-26 (1 Railroad Avenue/Vantage Health System, Inc.) recently attained a gold rating from the Leadership in Energy and Environmental Design (LEED) program for the incorporation of green elements into its construction.

Chairman Bianco inquired if the Board wished to amend its upcoming schedule so that it does not conflict with either Thanksgiving or Hanukkah.

A motion was made by Mr. Kafer and seconded by Mr. Monaco, to have the Subcommittee and/or full Board convene for a Work Session and/or Meeting on November 20, 2013 instead of November 27, 2013. The motion passed (7-0-0):

YES- Kwon/Galluccio/Kafer/Ouzoonian/Monaco/Freesman/Bianco;

NO- n/a;

ABSTAIN- n/a;

Mr. Demarest confirmed he will fulfill public noticing requirements as a result of the amendment to the Board's calendar.

◇**CASELOAD**◇

<p>Case #Z-2013-13 Aurora Baquiran, MD 318 Harrington Avenue (Block 1312/Lot 10) District #3- Business</p>

Case History

The applicant is appealing the determination of the Zoning Officer as to the legality of as well as seeking pre-existing/nonconforming status for a 3-family use (front building), 2-family use (middle building) and 1-family use (rear building) at the subject property; in the alternative, she would seek a Use Variance and Site Plan Approval; the application was received June 21, 2013 and scheduled for the July 24, 2013 Work Session, at which time, it was deemed incomplete; pending the Subcommittee's receipt of requested items, the application was rescheduled for the August 21, 2013 (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 September 18, 2013 Meeting; due to the applicant's failure to both submit requested items and fulfill public noticing requirements, the application was postponed to the October 16, 2013 Meeting.

Representation

- 1.)** Andrew Kohut, Esq., Wells, Jaworski & Liebman, LLP, 12 Route 17 North, Paramus, New Jersey;

Witnesses

- #1:** Steven Lydon, PP, Burgis Associates, Inc., 25 Westwood Avenue, Westwood, New Jersey;
- #2:** Leonard Sinowitz, Zoning Officer, 295 Closter Dock Road, Closter, New Jersey;
- #3:** Aurora Baquiran, MD, 489 Anderson Avenue, Alpine, New Jersey;

Exhibits

- A-1:** 5 Sanborn maps depicting subject site and dated August 1913, October 1923, July 1930, 1949 and 1959 respectively;
- A-2:** Resolution (Case # not assigned) outlining Board's recommendation to Governing Body to approve use of middle building on subject site for light assembly work as presented by

Cooper Pen and Pencil Manufacturing Co. and dated May 26, 1947/letter of public notification (for purposes of Board's May 26, 1947 Meeting) detailing existence of 2 apartments and 1 non-residential unit within front building on subject site, prepared by John Carpenter and dated May 20, 1947/letter requesting appearance before Board and detailing existence of 2 apartments and 1 non-residential unit within front building on subject site, prepared by John Carpenter and dated April 15, 1947;

- A-3:** Board minutes for November 19, 1954 Meeting detailing request to convert use of middle building on subject site from light assembly work to 1-family as presented by Henry Wassberg;
- A-4:** letter indicating Board's recommendation to Governing Body to approve use of middle building on subject site for light assembly work as presented by Cooper Pen and Pencil Manufacturing Co., prepared by Carol Wilson (Borough Clerk) and dated July 1, 1947;
- A-5:** pre-filed report prepared by Witness #1 and dated October 3, 2013;
- A-6:** Certificate of Registration sanctioning 3-family use of front building on subject site, issued by Bureau of Housing Inspection (New Jersey Department of Community Affairs) and dated May 2, 2012;

Relief Sought

- 1.) Appeal of Zoning Officer Determination: pre-existing/nonconforming status for 5 of 6 dwelling units on subject site, specifically, 2- of 3-family use (front building), 2-family use (middle building) and 1-family use (rear building);
- 2.) Use Variance: 1 of 6 dwelling units on subject site, specifically, 1- of 3-family use (front building);
- 3.) Bulk Variance: floor area of 1-family used/2-storied house (1,200 sf minimum required/1,154 sf provided);
- 4.) Design Waiver: number of parking spaces (16 spaces minimum required/7 spaces provided);

Response to Prior Board and/or Subcommittee Requests

n/a;

New Board Requests

- 1.) clarify types of relief being sought in terms of use and bulk for all 3 buildings on-site;
- 2.) provide survey in existence when Phillip and Kriemhilde Vaz conveyed title of subject property to applicant and ex-husband in 1985;
- 3.) provide construction drawings of 2nd floor addition to rear building completed subsequent to applicant and ex-husband being conveyed title to subject property in 1985;
- 4.) address comments in Board Engineer's report dated October 16, 2013;

Public Questions

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

Public Comments

n/a;

Decision

The case was adjourned to the November 20, 2013 Meeting.

◆ADJOURNMENT OF MEETING◆

Mr. Kates informed that that the applicant relating to Case #Z-2009-14 (63 John Street/Wiggers) recently filed an appeal with the Superior Court of New Jersey- Appellate Division to reverse the Board's denial; he noted such action does not preclude the Borough from citing violations that occur on-site during the appeal process. He noted the Court would soon be rendering its decision on an appeal filed by an interested party (Jesse Rosenblum) relating to the Board's approval of Case #Z-2010-11 (531 Durie Avenue/Panagi); he revealed that since the case would not be published, it is anticipated not to be precedent-setting.

Chairman Bianco reminded that an amendment to Chapter 87-5 of the Borough Code was recently adopted by the Governing Body. He questioned how the change(s) would affect enforcement by the Zoning Officer in terms of requiring zoning review if questions arise about the use of a building being inspected for rental/resale purposes; Mr. Sinowitz replied that while the amendment does not bring significant change to such procedures, it does give more discretion to the Construction Official. Mr. Kafer interjected, saying the Board should not be discussing a matter that falls solely under the auspices of the Mayor and Council.

Mr. Monaco inquired about the Borough's progress in digitizing its records currently in hard copy storage; Mr. Demarest responded that much of the Building Department's files have been scanned electronically, but stressed such is a very expensive project.

A motion was made by Mr. Kafer and seconded by Vice Chairman Freesman, to have the Board adjourn at 10:19pm. The motion passed by acclamation.
