



# **Zoning Board of Adjustment**

February 19, 2014

**Meeting**  
*(Minutes)*

Prepared by:

**Paul Demarest**

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◇ **OPENING REMARKS** (Commenced at 8:04pm) ◇

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◇ **PLEDGE OF ALLEGIANCE** ◇

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◇ **2014 REORGANIZATION** ◇

Oath of Office

Alternate #2 (2-Year Term Expires December 31, 2015):

Joan Marks

\*Reappointed\*

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◇ **ATTENDANCE** ◇

Present

Joseph Bianco, RA/PP- Chairman  
Steven Freesman, Esq.- Vice Chairman  
Theodore West, DDS- Secretary  
Antranig Ouzoonian, PE  
Thomas Hennessey  
Heena Dhorajia, EIT  
Michael Kafer, Esq.- Alternate #1  
Joan Marks- Alternate #2  
John Galluccio, Esq.- Alternate #3  
Arthur Dolson- Council Liaison  
Leonard Sinowitz- Zoning Officer  
Michael Kates, Esq.- Board Attorney  
Jeffrey Morris, PE- Board Engineer  
Paul Demarest- Board Coordinator

Absent

Mitchell Monaco  
Phillip Kwon, Esq.- Alternate #4

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◇ **CORRESPONDENCE** ◇

Secretary West read mail received by the Land Use Department into the record. Mr. Ouzoonian, referring to memos about Case #Z-2014-03 (515 Piermont Road/Ben-Avraham), currently on the Board agenda, questioned the accusation that the architectural firm retained for said application has a conflict of interest since 1 of its principals (John Lignos, RA/PP) serves on the Planning Board. Mr. Kates revealed the Borough's Code of Ethics states that if a person serves on a land use board, they cannot participate as a professional in a case before either the Planning Board or Zoning Board of Adjustment on which they also serve; he noted that if one were to resign from said Board, a cooling-off period would be required vis-à-vis the Board he or she sat on. Mr. Kates clarified that because Mr. Lignos has apparently resigned from the Planning Board, the cooling-off period is not applicable due to the subject case being before the Zoning Board of Adjustment; therefore, he said Mr. Lignos and/or his firm can participate in presenting to the Board. He noted that Mr. Lignos could be reappointed to the Planning Board upon a vacancy becoming available in the future.

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◇MINUTES◇

Mr. Demarest informed that the minutes for the January 15, 2014 Meeting would be finalized and distributed in time for a vote at the March 19, 2014 Meeting.

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◇SUBCOMMITTEE ASSIGNMENTS◇

February 26, 2014 Work Session: \*\*\*CANCELLED\*\*\*;

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◇MISCELLANEOUS◇

Speaking on his applicant's behalf concerning Case #Z-2011-16 (170 & 176 Closter Dock Road/Desan Enterprises, Inc.), Mark Madaio, Esq., 27 Legion Drive, Bergenfield, New Jersey, requested an extension of time, amounting to 6 months, in which certain conditions of the Board's approval were to be met; he summarized that the Board memorialized the Resolution for Site Plan Approval on August 21, 2013 and stipulations were to be met no later than 6 months thereafter (February 21, 2014). Acknowledging the application's litigious history, he nonetheless stressed that the Borough's ordinance concerning Site Plan Review dictates an applicant should be given 1 year to fulfill site improvements. He stated site improvements were not immediately begun following memorialization until the 45-day appeal period given to any interested party had run its course; he noted it was assumed that an appeal would be filed by the land owner of 162 Closter Dock Road (DR Schmidt Realty, LLC) given it was an objector during the Board proceedings. Mr. Madaio further commented that said delay coupled with the harsh winter season and unavailability of asphalt, pushed back the start date for site improvements.

Mr. Madaio presented the following exhibits: #A-1: order by Superior Court of New Jersey-Bergen County Law Division requiring that utility lines encroaching onto 162 Closter Dock Road be removed immediately by service providers at no cost to Desan Enterprises, Inc. or DR Schmidt Realty, LLC, prepared by Honorable Joseph Conte and dated April 4, 2013; #A-2: settlement agreement relating to United Water Co. removing water service encroachment from 162 Closter Dock Road at its own expense, prepared by Mr. Madaio and dated November 21, 2013; #A-3: letter informing Public Service Enterprise Group (PSEG) of court order mentioned in Exhibit #A-1, specifically that gas service encroachment be removed from 162 Closter Dock Road at its own expense; #A-4: email addressed to Mr. Madaio regarding procedure for affirmatively marketing (2) affordable housing units at 170 Closter Dock Road and income certifying tenants, prepared by Megan York (Borough's newly-appointed Council on Affordable Housing <COAH> Administrator) and dated February 19, 2014.

Mr. Madaio clarified that the water utility meters have not yet been relocated, but the gas utility meters as well as Cablevision and Verizon telecommunication lines have; he mentioned that Rockland Electric Co. is in the process of fabricating electric panels. He noted that adding to the delay of complying with the Board's stipulations was the initial refusal by the various utility companies to pay for the abatement of encroachments they created. Concerning the COAH-designated apartments, he said the Borough only recently hired a consultant, mentioned in Exhibit #A-4; he said such an oversight by the Borough has prevented it from acquiring COAH credits and the applicant from earning rental income.

Elliot Urdang, Esq., 19 Engle Street, Tenafly, New Jersey, representing DR Schmidt Realty, LLC spoke in opposition to the granting of an extension. He stated while the Resolution may have not been memorialized until August 21, 2013, the voice vote granting Site Plan Approval was conducted much earlier on March 20, 2013; he further stated that performance guarantees have not been posted by the applicant as per the Resolution.

Chairman Bianco opened the meeting to the public for both questions and/or comments; no one wished to be heard.

A motion was made by Mr. Ouzoonian and seconded by Secretary West, to grant a 6-month extension (starting from February 21, 2014) to the applicant concerning Case #Z-2011-16 (170 & 176 Closter Dock Road/Desan Enterprises, Inc.) contingent upon both the posting of performance and maintenance guarantees as well as payment of outstanding engineering escrow invoices within 60 days. The motion passed (6-0-0):

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

**NO-** n/a;

**ABSTAIN-** n/a;

David Watkins, Esq., 285 Closter Dock Road, Closter, New Jersey, spoke of Carpentieri v. Zoning Board of Adjustment, an appeal by the applicant of Case #Z-2012-11 (120 High Street/Carpentieri) currently before the Superior Court of New Jersey- Bergen County Law Division, which challenges certain conditions imposed by the Board in its approval of said application, specifically, the requirement to remove a detached garage and bulkhead doors. Citing Whispering Woods v. Middletown Township, Mr. Watkins said his client re-noticed the public to reopen the case to merely explore specific condition amendments and, ultimately, announce a tentative agreement. He said the following conditions, previously stipulated to by the Board, would now be eliminated from the record: 1.) demolition of detached garage; 2.) removal of bulkhead doors; 3.) relocation of steps/landing in side yard to front yard facing Haring Street; 4.) removal of patio to accommodate enlarged driveway having 4 parking spaces stacked in southernmost portion of site; 5.) removal of walkway along western portion of house that travels from patio to steps/landing in front yard facing High Street.

Chairman Bianco pointed out that the following conditions originally written into the Resolution would remain in effect: 1.) installation of concrete curbing along entire length of Haring Street to point of its intersection with High Street; 2.) installation of curb cut for reconfigured driveway; 3.) conversion of existing macadam pad along Haring Street to landscaped area so to prohibit recapturing as parking space.

Chairman Bianco opened the meeting to the public for questions and/or comments.

David Van Houten, 45 Dana Place, Closter, New Jersey, spoke and his questions/comments were objected to by Mr. Watkins based on their irrelevancy; the Board sustained.

A motion was made by Secretary West and seconded by Mr. Galluccio, to remove 5 said conditions from the memorialized Resolution concerning Case #Z-2012-11 (120 High Street/Carpentieri). The motion passed (5-0-0):

**YES-** Galluccio/Marks/Ouzoonian/West/Bianco;

**NO-** n/a;

**ABSTAIN-** n/a;

◇ **OPEN TO THE PUBLIC** ◇

n/a;

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

Due to the absence of a super majority vote in favor of Case #Z-2013-13 (318 Harrington Avenue/Baquiran) and the complex wording within its Resolution, Mr. Kates distributed in hopes for a vote to occur at the March 19, 2014 Meeting. He noted the applicant's attorney has informed that being the Board denied the Use Variance, his client would not be implementing tentatively-agreed upon site improvements (which would have been enumerated if a vote for Site Plan Approval had been achieved).

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◇ **CASELOAD** ◇

<p><b>Case #Z-2013-16</b> <b>Nir Dhan</b> <b>32 Harvey Street</b> <b>(Block 901/Lot 5)</b> <b>District #2- Residential B</b></p>
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Case History

The applicant is seeking a Bulk Variance for the installation of an in-ground swimming pool, patio (on-grade), (3) walkways and driveway reconfiguration at the subject property; the application was received October 4, 2013 and scheduled for the October 23, 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 November 20, 2013 Meeting; the applicant's engineer completed initial testimony and a Board vote was delayed, pending the status of Uniform Construction Code Permit #10-0133, to the December 18, 2013 Meeting; in order for the applicant to explain a discrepancy found in the Limiting Schedule notations of said permit, the case was postponed to the January 15, 2014 Meeting and, again pending the Board's receipt of public *re-noticing* requirements, to the February 19, 2014 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;

Exhibits

A-2: colorized version of pre-filed site plan prepared by Witness #1, dated March 22, 2012 and last revised January 2, 2014;

Relief Sought

- 1.) Bulk Variance: building coverage (20% maximum allowed/20.32% provided);
- 2.) Bulk Variance: impervious coverage (30% maximum allowed/35.20% provided);

Response to Prior Board and/or Subcommittee Requests

- 1.) applicant determined discrepancy between impervious coverage calculations provided as part of Uniform Construction Code Permit #10-0133 and that of which was actually installed on-site, was caused by original architectural drawings failing to include steps/landing and certain walkways as impervious surfaces;
- 2.) applicant provided 1 red maple (having 3.5” caliper measurement) in each front corner of subject property;
- 3.) applicant eliminated both existing shed as well as 69 sf of existing and proposed walkways;
- 4.) applicant provided perimeter drain around both proposed swimming pool and seepage pits to mitigate additional impervious coverage;

New Board Requests

n/a;

Public Questions

n/a;

Public Comments

n/a;

Decision

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

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

**NO-** n/a;

**ABSTAIN-** n/a;

Conditions

- 1.) remove approximately 100 sf of existing/proposed front walkway as well as ancillary steps accessing front porch;
- 2.) provide dimensions for both proposed walkway at platform on westerly side of house and proposed patio surrounding swimming pool;
- 3.) obtain at least Temporary Certificate of Occupancy for construction done under Uniform Construction Code Permit #10-0133 within 60 days of Resolution being memorialized;

<p><b>Case #Z-2013-19</b> <b>Gil &amp; Shlomit Makleff</b> <b>51 Mc Cain Court</b> <b>(Block 2102/Lot 37.05)</b> <b>District #1- Residential</b></p>
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Case History

The applicants are seeking a Bulk Variance for the installation of an in-ground swimming pool (spa inclusive), outdoor barbecue station, fire pit and patio (on-grade) at the subject property; the application was received December 4, 2013 and scheduled for the December 18, 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 January 15, 2014

Meeting; due to a scheduling conflict with the applicants' engineer and landscape architect, the case was postponed to the February 19, 2014 Meeting.

Representation

1.) Matthew Capizzi, Esq., 11 Hillside Avenue, Tenafly, New Jersey;

Witnesses

#1: Thomas Skrable, PE, 65 Ramapo Valley Road, Suite 213, Mahwah, New Jersey;

#2: Joshua Hampton, CLA, Landscape Perceptions of Di Tomaso Design, Inc., 30 Franklin Avenue, Oakland, New Jersey;

Exhibits

A-1: colorized version of pre-filed site plan prepared by Witness #1, dated November 18, 2013 and last revised January 22, 2014;

A-2: pre-filed landscape plan prepared by Leonard Di Tomaso, CLA, dated December 16, 2013 and last revised January 8, 2014;

Relief Sought

1.) Bulk Variance: impervious coverage (30% maximum allowed/35.70% provided);

Response to Prior Board and/or Subcommittee Requests

1.) applicant reduced proposed impervious coverage by 225 sf via reduction of patio and elimination of outdoor barbecue station and fire pit;

New Board Requests

n/a;

Public Questions

n/a;

Public Comments

n/a;

Decision

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

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

**NO-** n/a;

**ABSTAIN-** n/a;

Conditions

1.) provide overflow device to prevent surcharging of proposed seepage pit;

2.) obtain permit from Borough's Certified Tree Expert for removal of 4 trees and fulfill mitigation if necessary;

**Case #Z-2013-17  
Shlomo Moalem  
250 Madison Avenue  
(Block 1704/Lot 9)  
District #2- Residential B**

### Case History

The applicant is seeking a Bulk Variance for the construction of (2) additions, gazebo, deck, front porch, driveway expansion and walkway at the subject property; the application was received October 18, 2013 and scheduled for the November 20, 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 December 18, 2013 Meeting; being the applicant contemplated new legal counsel, the case was postponed to the January 15, 2014 Meeting and, again, to the February 19, 2014 Meeting.

### Representation

1.) Morton Covitz, Esq., 400 Sylvan Avenue, Englewood Cliffs, New Jersey;

### Witnesses

#1: Shlomo Moalem, 9 Rutgers Street, Closter, New Jersey;

#2: Gary Segal, RA, 272 Closter Dock Road, Closter, New Jersey;

### Exhibits

A-1: pre-filed "front offset study" prepared by Christopher Lantelme, PLS and dated January 13, 2014;

### Relief Sought

1.) Bulk Variance: front yard setback (25' minimum required <no buildings unrelated to subject lot exist on Madison Avenue>/10' provided);

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

n/a;

### New Board Requests

- 1.) provide renderings prepared by dismissed contractor (as testified to by Witness #1) and utilized to commence construction on-site without authorization;
- 2.) correct required front yard setback calculation so that it reflects average of 34.67', not 25' minimum, being both 522 High Street and 383 Closter Dock Road are corner lots each with 1 front yard facing Madison Avenue;
- 3.) revise architectural to include access point (doorway) between proposed garage and remainder of house;
- 4.) consider relocation of addition to side yard (left-facing) having existing 40.10' setback and, thereby, negating variance relief being sought;
- 5.) clarify whether existing in-ground swimming pool is intended to remain covered with as-built structure above (conflicting testimony between Witness #'s 1 and 2);

### Public Questions

1.) Louise Ungar, 518 High Street, Closter, New Jersey;

2.) Rita Walsh, 377 Closter Dock Road, Closter, New Jersey;

### Public Comments

n/a;

### Decision

The case was adjourned to the March 19, 2014 Meeting.

**Case #Z-2014-01**  
**NJR Investment Properties II, LLC c/o Leonard Nason**  
**31 Storig Avenue**  
**(Block 803/Lot 16)**  
**District #2- Residential B**

Case History

The applicant is seeking Bulk Variances for the construction of (2) additions, (2) roof overhangs, front walkway, rear steps/landing and driveway at the subject property; the application was received January 14, 2014 and scheduled for the January 22, 2014 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 February 19, 2014 Meeting.

Representation

1.) Marc Weissman, Esq., 623 Eagle Rock Avenue, West Orange, New Jersey;

Witnesses

#1: Leonard Nason, 480 West Saddle River Road, Upper Saddle River, New Jersey;

Exhibits

n/a;

Relief Sought

- 1.) Bulk Variance: side yard <left-facing> setback (15' minimum required/10.90' provided);
- 2.) Bulk Variance: side yard <right-facing> setback (15' minimum required/12.20' provided);
- 3.) Bulk Variance: side yard setback aggregate (30' minimum required/23.10' provided);

Response to Prior Board and/or Subcommittee Requests

n/a;

New Board Requests

n/a;

Public Questions

- 1.) Orlando Tobia, 65 Colgate Street, Closter, New Jersey;
- 2.) Michelle Lee-Baxter, 22 Storig Avenue, Closter, New Jersey;

Public Comments

n/a;

Decision

The case was adjourned to the March 19, 2014 Meeting.

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**◇ADJOURNMENT OF MEETING◇**

A motion was made by Ms. Marks and seconded by Ms. Dhorajia, to have the Board adjourn at 11:39pm. The motion passed by acclamation.

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