



# **Zoning Board of Adjustment**

January 15, 2014

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

Prepared by:

**Paul Demarest**

---

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

---

◇ **PLEDGE OF ALLEGIANCE** ◇

---

◇ **2014 REORGANIZATION** ◇

Oaths of Office

Full Member (4-Year Term Expires December 31, 2017): Joseph Bianco, RA/PP  
\*Reappointed\*

Alternate #4 (2-Year Term Expires December 31, 2015): Phillip Kwon, Esq.  
\*Reappointed\*

Election of Officers

A motion was made by Mr. Freesman and seconded by Mr. Kafer, to nominate Mr. Bianco as Chairperson of the Board; the motion passed (8-0-1):

**YES-** Kwon/Galluccio/Kafer/Dhorajia/Hennessey/Ouzoonian/West/Freesman;

**NO-** n/a;

**ABSTAIN-** Bianco;

A motion was made by Dr. West and seconded by Mr. Kafer, to nominate Mr. Freesman as Vice Chairperson of the Board; the motion passed (8-0-1):

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

**NO-** n/a;

**ABSTAIN-** Freesman;

A motion was made by Mr. Ouzoonian and seconded by Chairman Bianco to nominate Dr. West as Secretary of the Board; the motion passed (8-0-1):

**YES-** Kwon/Galluccio/Kafer/Dhorajia/Hennessey/Ouzoonian/Freesman/Bianco;

**NO-** n/a;

**ABSTAIN-** West;

Professional Services

A motion was made by Mr. Kafer and seconded by Secretary West, to nominate Michael Kates, Esq. of Kates, Nussman, Rapone, Ellis and Farhi, LLP as Board Attorney; the motion passed (9-0-0):

**YES-** Kwon/Galluccio/Kafer/Dhorajia/Hennessey/Ouzoonian/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 (9-0-0):

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

**NO-** n/a;

**ABSTAIN-** n/a;

Adoption of Calendar

The Board previously approved its 2014 schedule at the November 20, 2013 Meeting.

Adoption of Fee Schedule

A motion was made by Mr. Hennessey and seconded by Ms. Dhorajia, to approve the Board’s 2014 application fee schedule; the motion passed by acclamation.

Adoption of Escrow Deposit Schedule

A motion was made by Mr. Hennessey and seconded by Ms. Dhorajia, to approve the Board’s 2014 legal and engineering escrow deposit schedule; the motion passed by acclamation.

Adoption of Official Newspaper Designations

A motion was made by Mr. Hennessey and seconded by Ms. Dhorajia, to approve both *The Record* and *The Star-Ledger* as the Board’s 2014 official newspapers for public noticing; the motion passed by acclamation.

Mr. Kafer suggested that either the Board’s By-Laws or agenda format be amended so they are consistent with each other, specifically that “Closed Session” is continuously present on the Board’s agenda; he said because a closed session is a rare occurrence, it should only be called upon when it actually becomes necessary as opposed to having the Chairperson regularly question the Board during the proceedings if it needs to close the meeting to the public. Mr. Kates replied that because the By-Law amendment process requires advertisement in advance at least to the Board members, he postponed contemplation of Mr. Kafer’s request to allow for an amended version of the By-Laws to be circulated.

---

**◇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
- John Galluccio, Esq.- Alternate #3
- Phillip Kwon, Esq.- Alternate #4
- Arthur Dolson- Council Liaison
- Leonard Sinowitz- Zoning Officer
- Michael Kates, Esq.- Board Attorney
- Berge Tombalakian, PE- *in lieu of Jeffrey Morris, PE- Board Engineer*
- Paul Demarest- Board Coordinator

Absent

- Mitchell Monaco
- Joan Marks- Alternate #2

---

**◇CORRESPONDENCE◇**

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

---

◇MINUTES◇

A motion was made by Mr. Hennessey and seconded by Ms. Dhorajia, to approve the minutes for the December 18, 2013 Meeting. The motion passed (7-0-0):

**YES-** Kwon/Galluccio/Kafer/Dhorajia/Hennessey/Freesman/Bianco;

**NO-** n/a;

**ABSTAIN-** n/a;

---

◇SUBCOMMITTEE ASSIGNMENTS◇

January 22, 2014 Work Session: Bianco/Hennessey/Dhorajia;

---

◇MISCELLANEOUS◇

Mr. Kates informed that 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, challenges the conditions imposed by the Board in its approval of said application, specifically the requirement to remove a detached garage and bulkhead doors; he reminded that the Board went into closed session at the December 18, 2013 Meeting and approved the applicant's proposal to eliminate said conditions from the record and settle the lawsuit. Citing Whispering Woods v. Middletown Township, Mr. Kates said, procedurally, the applicant must re-notice the public for purposes of reopening the case and exploring specific condition amendments and, ultimately, announcing a tentative agreement. He noted the time frame for such to occur is soon because a transfer of title is being held up until the matter is resolved. Mr. Kafer questioned if only those Board members who participated in the case originally would be permitted to reconsider the conditions; Mr. Kates responded that since it is a re-argument on a record, a quorum is necessary and all eligible members can participate. He instructed Mr. Demarest to provide compact disc recordings to those absent from any of the relevant hearing dates so that they become eligible to participate and vote.

---

◇OPEN TO THE PUBLIC◇

n/a;

---

◇MEMORIALIZATION OF RESOLUTION(S)◇

A motion was made by Mr. Kafer and seconded by Vice Chairman Freesman, to memorialize the Resolution for Case #Z-2013-18 (27 Pine Street/Forst). The motion passed (6-0-0):

**YES-** Kwon/Galluccio/Kafer/Hennessey/Freesman/Bianco;

**NO-** n/a;

**ABSTAIN-** n/a;

---

◇CASELOAD◇

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

### 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; the applicant and her planner completed initial testimony and the case was adjourned, pending the Board's receipt of requested items, to the November 20, 2013 Meeting; due to a scheduling conflict with the applicant, the case was postponed to the December 18, 2013 Meeting; upon the applicant's planner completing subsequent testimony, the Board granted an appeal for the front building (2 apartments on 2<sup>nd</sup> floor only), middle building and rear building while upholding the Zoning Officer's determination on the front building (1 apartment on 1<sup>st</sup> floor only); to allow for the applicant to prepare a request for a Use Variance with respect to the front building (1 apartment on 1<sup>st</sup> floor only), the case was adjourned, pending the Board's receipt of public *re-noticing* requirements, to the January 15, 2014 Meeting.

### Representation

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

### Witnesses

- #1: Aurora Baquiran, MD, 489 Anderson Avenue, Alpine, New Jersey;
- #2: Michael Hubschman, PE, Hubschman Engineering, PA, 263(A) South Washington Avenue, Bergenfield, New Jersey;
- #3: Steven Lydon, PP, Burgis Associates, Inc., 25 Westwood Avenue, Westwood, New Jersey;

### Exhibits

- A-7: informational packet consisting of 10 categories of documentation (labeled A to J) pertaining to subject property, prepared by Mr. Kohut and dated December 13, 2013;
- A-8: pre-filed site plan prepared by Witness #2, dated September 20, 2011 and last revised October 25, 2013;
- BD-1: letter reminding applicant that violations found by Fire Prevention Bureau during its 2012 annual inspection of subject property have yet to be abated, prepared by Kevin Whitney and dated June 29, 2013;
- BD-2: email informing Building Department and Code Enforcement of violations found by Fire Prevention Bureau during its 2012 annual inspection of subject property, prepared by Kevin Whitney and dated April 24, 2012;

**BD-3:** informational packet provided by Chairman Bianco and consisting of United States Department of Housing and Urban Development (HUD) Section 202 Supportive Housing for the Elderly Handbook dated April 2013, New Jersey Housing Authority Dwelling Unit Specifications undated, Affordable Housing Design Advisor and the Project Book Developed by HUD undated;

Relief Sought

- 1.) Use Variance: 1 of 6 dwelling units on subject site, specifically, 1- of 3-family use (1 apartment located on first floor of front building does not meet all requirements for Conditional Use permitted in District #3 <Business>);
- 2.) Site Plan Approval-
  - a.) Design Waiver: number of parking spaces (16 spaces minimum required/7 spaces provided);
- 3.) Bulk Variance: lot width: (50' minimum required/40' provided);
- 4.) Bulk Variance: lot frontage (50' minimum required/40' provided);
- 5.) Bulk Variance: front yard setback (11.50' minimum required/8.28' provided);
- 6.) Bulk Variance: side yard (right-facing) setback: (6' minimum required/0.75' provided);
- 7.) Bulk Variance: side yard setback aggregate: (12' minimum required/1.60' provided);
- 8.) Bulk Variance: rear yard setback (50' minimum required/4.60' provided);
- 9.) Bulk Variance: building coverage (35% maximum allowed/40.09% provided);
- 10.) Bulk Variance: building height (25' to midpoint maximum allowed/30' provided);

Response to Prior Board and/or Subcommittee Requests

- 1.) applicant provided striping for parking lot consisting of 7 parking spaces;
- 2.) applicant provided refuse collection enclosure;
- 3.) applicant provided additional exterior lighting, specifically, "wall pack" on eastern side of front building above exterior door;

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 Vice Chairman Freesman, to approve the Use Variance portion of the application. The motion failed (4-3-0):

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

**NO-** Kafer/Dhorajia/Bianco;

**ABSTAIN-** n/a;

Conditions

n/a;

---

◇ **ADJOURNMENT OF MEETING** ◇

A motion was made by Mr. Ouzoonian and seconded by Ms. Dhorajia, to have the Board adjourn at 10:39pm. The motion passed by acclamation.

---