



Zoning Board of Adjustment

April 15, 2015

Meeting
(Minutes)

Prepared by:

Paul Demarest

◇ **OPENING REMARKS** (Commenced at 8:07pm) ◇

◇ **PLEDGE OF ALLEGIANCE** ◇

◇ **ATTENDANCE** ◇

Present

Joseph Bianco, RA/PP- Chairman
Mitchell Monaco- Vice Chairman
Dharamraj Baboo
Evan Elias
Antranig Ouzoonian, PE- Alternate #1
Joan Marks- Alternate #2
Mindy Rothbaum- Alternate #3
Leonard Sinowitz- Zoning Officer
Daniel Steinhagen, Esq.- Board Attorney
Jeffrey Morris, PE- Board Engineer
Paul Demarest- Board Coordinator

Absent

Theodore West, DDS- Secretary
Heena Dhorajia, EIT
Kenneth Wasserman
Phillip Kwon, Esq.- Alternate #4
Arthur Dolson- Council Liaison

◇ **CORRESPONDENCE** ◇

In light of Secretary West's absence, Vice Chairman Monaco read mail received by the Land Use Department into the record.

◇ **MINUTES** ◇

A motion was made by Vice Chairman Monaco and seconded by Ms. Marks, to approve the minutes for the March 18, 2015 Meeting. The motion passed (6-0-0):

YES- Rothbaum/Marks/Ouzoonian/Baboo/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

LATE ARRIVAL- Marks/Baboo;

A motion was made by Vice Chairman Monaco and seconded by Mr. Ouzoonian, to approve the minutes for the March 25, 2015 (Special) Meeting. The motion passed (5-0-0):

YES- Marks/Ouzoonian/Elias/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

◇ **SUBCOMMITTEE ASSIGNMENTS** ◇

◇ MISCELLANEOUS ◇

With respect to those Board members who have yet to obtain land use board certification from an agency/affiliate recognized by the State of New Jersey within 18 months of their initial appointments by the Governing Body, Mr. Demarest confirmed that due to scheduling conflicts, none would be attending the seminar hosted by New Jersey Planning Officials (NJPO) slated for April 18, 2015. Mr. Demarest assured he would keep the Board abreast of future seminars/symposiums being offered by NJPO, the Bergen County Bar Association or local law firms.

David Watkins, Esq., 285 Closter Dock Road, Closter, New Jersey, introduced himself and asked that the 2 cases he was scheduled to present this evening, Case #Z-2014-11 (265 Demarest Avenue/Gajera) and Case #Z-2014-18 (147 Closter Dock Road/Ro), be postponed; without specifying, he indicated an unnamed Board member may have a conflict of interest. Mr. Steinhagen required Mr. Watkins to prepare a memo giving reason to his argument; the Board rescheduled both cases to the May 27, 2015 (Special) Meeting.

◇ OPEN TO THE PUBLIC ◇

n/a;

◇ MEMORIALIZATION OF RESOLUTION(S) ◇

A motion was made by Vice Chairman Monaco and seconded by Mr. Ouzoonian, to memorialize the Resolution for Case #Z-2014-19 (309 Closter Dock Road/309 Closter Dock Road, LLC). The motion passed (5-0-0):

YES- Marks/Ouzoonian/Baboo/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

A motion was made by Mr. Elias and seconded by Vice Chairman Monaco, to memorialize the Resolution for Case #Z-2015-01 (22 Garry Road/Schifter). The motion passed (5-0-0):

YES- Marks/Ouzoonian/Elias/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

◇ CASELOAD ◇

<p>Case #Z-2014-14 James Crimmins 49 John Street (Block 1203/Lot 5) District #2- Residential B</p>

Case History

The applicant is seeking a Use Variance and Site Plan Approval for the continuation of a contractor's yard operation at the subject property; NOTE #1: the applicant's initial attempt at ratification (Case #Z-2008-13) was approved by the Board, a decision upheld by the Superior Court of New Jersey (Law Division), but subsequently overturned by its Appellate Division; NOTE #2: the applicant's petition for certification by the Supreme Court of New Jersey was denied, resulting in a new Board application having distinction from the original; the application was received September 3, 2014 and scheduled for the October 15, 2014 (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 21, 2015 Meeting; due to the Board's heavy caseload, the application was postponed to the February 18, 2015 Meeting, March 18, 2015 Meeting and, again, to the April 15, 2015 Meeting.

Representation

- 1.) Stuart Liebman, 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;

Exhibits

- A-1: portion of site plan presented as evidence for Case #Z-2008-13 (49 John Street/Crimmins) indicating storage of both non-organic construction material and vehicles on-site, prepared by Steven Eid, PE (Eid & Lapatka, LLC), dated March 15, 2010 and last revised June 2, 2010;
- A-2: Zoning Board of Adjustment Resolution detailing Board approval of Case #Z-2008-13 (49 John Street/Crimmins) and memorialized August 18, 2010;
- A-3: Superior Court of New Jersey (Appellate Division) decision of Jesse Rosenblum v. James Crimmins/Zoning Board of Adjustment reversing approvals by both Board and Court's Law Division relating to Case #Z-2008-13 (49 John Street/Crimmins) and dated January 7, 2013;
- A-4: aerial photograph depicting exterior conditions of subject and surrounding properties with Borough's tax map underlain, prepared by Witness #1's firm and dated April 13, 2015;
- A-5: map entitled "Existing Land Use & Zoning" depicting exterior conditions of subject and surrounding properties, prepared by Witness #1's firm and dated April 13, 2015;
- A-6: non-binding document entitled "Master Plan & Zoning Update/Draft Findings Recommendations", prepared by Banisch Associates, Inc. on behalf of Planning Board and dated June 2013;

Relief Sought

- 1.) Use Variance: contractor's yard (involving storage of non-organic construction material only) is not permitted in District #2;
- 2.) Site Plan Approval-
 - a.) Design Waiver: fence in front yard <through lot facing Westminster Avenue> (4' height maximum allowed and 50% visibility minimum required/6' height and 50% visibility provided);
 - b.) Design Waiver: driveway/parking lot curbing (required/none provided);
 - c.) Design Waiver: driveway/parking lot surface material (asphalt, bituminous or cement-binder pavement/partially gravel);

Response to Prior Board and/or Subcommittee Requests

n/a;

New Board Requests

- 1.) explore means by which to ensure applicant's commercial vehicle route to/from subject property will have least possible impact on neighboring residences located on John Street east of its intersection with William Street;
- 2.) inform where 11 commercial vehicles (depicted in Exhibit #A-1) are to be parked during overnight hours given decision by Superior Court of New Jersey (Appellate Division) prohibiting their storage on subject property;
- 3.) provide both average amounts (tonnage) and heights of non-organic construction material to be stored on-site;
- 4.) clarify which portions of driveway/parking lot are proposed to be surfaced with pavement or gravel;

Public Questions

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

Public Comments

n/a;

Decision

The case was adjourned to the May 20, 2015 Meeting.

<p>Case #Z-2014-24 Joseph & Mary Ceccon 181 Herbert Avenue (Block 1501/Lot 13) District #2- Residential B</p>
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Case History

The applicants are 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, they would seek a Use Variance; the application was received December 19, 2014 and scheduled for the February 18, 2015 (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 April 15, 2015 Meeting.

Representation

- 1.) Thomas Izzard, Esq., Fierro, Fierro & Izzard, PC, 230 Main Street, Fort Lee, New Jersey;

Witnesses

- #1: Joseph Ceccon, 25 Harriot Avenue, Harrington Park, New Jersey;

Exhibits

- A-1: pre-filed survey prepared by Mihir Shah, PLS (Sun Land Surveying, Inc.) and dated December 20, 2012;

- A-2:** pre-filed property record card indicating existence of 2 dwelling units within subject house, prepared by Tax Assessor and dated 1968;
- A-3:** pre-filed floor plans of basement, 1st floor, 2nd floor and attic, prepared by Witness #1 and undated;
- A-4:** pre-filed enlargement of Exhibit #A-1 demonstrating capability of on-site parking for 4 motor vehicles in existing driveway;
- A-5:** 2 pre-filed photographs depicting existing driveway on subject property, uncredited and undated;
- A-6:** 11 pre-filed photographs depicting exterior conditions of subject property, uncredited and undated;

Relief Sought

- 1.)** Appeal of Determination by Zoning Officer: pre-existing/nonconforming status for 2-family use <WITHDRAWN>;
- 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: side yard <right-facing> setback (15' minimum required/12.94' provided);

Response to Prior Board and/or Subcommittee Requests

n/a;

New Board Requests

n/a;

Public Questions

- 1.)** Linda De Falco, 175 Herbert Avenue, Closter, New Jersey;
- 2.)** Jesse Rosenblum, 65 Knickerbocker Road, Closter, New Jersey;

Public Comments

- 1.)** Anthony De Falco, 175 Herbert Avenue, Closter, New Jersey;

Decision

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

YES- Rothbaum/Marks/Ouzoonian/Elias/Baboo/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

Conditions

- 1.)** provide floor plans of basement, 1st floor, 2nd floor and attic (including Limiting Schedule, attribution to Exhibit #A-1 and signature block) prepared by design professional to validate information provided in Exhibit #A-3;

◇CLOSED SESSION◇

A motion was made by Ms. Marks and seconded by Vice Chairman Monaco, to have the Board go into closed session at 11:10pm. The motion passed by acclamation.

Chairman Bianco reopened the meeting to the public at 11:23pm. Mr. Steinhagen summated the Board discussed the anticipated legal action by Dennis Wiggers, the appellant in Wiggers v. Zoning Board of Adjustment which relates to Case #Z-2009-14 (63 John Street/Wiggers), following his failed attempts to get the Board's denial of his Use Variance and Site Plan Review application reversed, overturned or vacated by the Superior Court of New Jersey (both the Law and Appellate Divisions). Given the probability that the Supreme Court of New Jersey would not approve a petition for certification by Mr. Wiggers, Mr. Sinowitz outlined when the Borough could enforce vacating the subject property of all non-residential activities.

◇ADJOURNMENT OF MEETING◇

A motion was made by Vice Chairman Monaco and seconded by Ms. Marks, to have the Board adjourn at 11:23pm. The motion passed by acclamation.
