



Zoning Board of Adjustment

May 27, 2015

*****Special***
Meeting
(Minutes)**

Prepared by:

Paul Demarest

◇**OPENING REMARKS** (Commenced at 8:10pm)◇

◇**PLEDGE OF ALLEGIANCE**◇

◇**ATTENDANCE**◇

Present

Joseph Bianco, RA/PP- Chairman
Mitchell Monaco- Vice Chairman
Heena Dhorajia, EIT
Kenneth Wasserman
Joan Marks- Alternate #2
Mindy Rothbaum- Alternate #3
Phillip Kwon, Esq.- Alternate #4
Leonard Sinowitz- Zoning Officer
Arthur Chagaris, Esq.- Board Attorney
Jeffrey Morris, PE- Board Engineer
Paul Demarest- Board Coordinator

Absent

Theodore West, DDS- Secretary
Dharamraj Baboo
Evan Elias
Antranig Ouzoonian, PE- Alternate #1
Arthur Dolson- Council Liaison

◇**MISCELLANEOUS**◇

Referring to the Developer's Agreement for Case #Z-2014-19 (309 Closter Dock Road/309 Closter Dock Road, LLC), Mr. Chagaris said the document outlines the technical requirements (insurance, bond, etc.), with emphasis on off-tract improvements, and in the event the developer (applicant) defaults on such requirements, the Borough has the means to ensure certain conditions agreed on are fulfilled. He explained that the Agreement is signed by the Board, followed by the developer and lastly, executed by the Governing Body. Chairman Bianco asked that the Board Attorney devise the means by which the Board can assure compliance for lesser projects without requiring a fully-executed Developer's Agreement, likely in the form of a monetary guarantee. Mr. Demarest indicated the Borough Code authorizes James Whitney, the Borough's Code Enforcement Officer to enforce Resolutions memorialized by land use boards, but often

stipulations to be verified in the field are outside the realm of his expertise. Mr. Sinowitz reiterated both he and the Building Department collaborate in assuring such compliance. Mr. Kwon questioned if the Governing Body would have to adopt an ordinance to allow the Board to take such measures, noting that such could be construed as a penalty followed by some sort of adjudication to determine if an applicant is in compliance with the Board Resolution. Mr. Chagaris agreed with such, noting the alternative would be to take court action. Mr. Demarest confirmed that the Board Engineer receives all applications filed with the Board, regardless of whether engineering escrow is required.

A motion was made by Mr. Wasserman and seconded by Ms. Rothbaum, to adopt the Developer's Agreement for Case #Z-2014-19 (309 Closter Dock Road/309 Closter Dock Road, LLC). The motion passed (7-0-0):

YES- Kwon/Rothbaum/Marks/Wasserman/Dhorajia/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

◇ **OPEN TO THE PUBLIC** ◇

n/a;

◇ **CASELOAD** ◇

<p>Case #Z-2015-03 Bruce Frank 384 Knickerbocker Road (Block 612/Lot 11)</p>

Case History

The applicant is seeking a Bulk Variance for the expansion of a driveway (circular) at the subject property; the application was received April 10, 2015 and scheduled for the April 22, 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 May 27, 2015 (Special) Meeting.

Representation

1.) Bruce Frank, 384 Knickerbocker Road, Closter, New Jersey;

Witnesses

#1: Bruce Frank, 384 Knickerbocker Road, Closter, New Jersey;

Exhibits

n/a;

Relief Sought

1.) Bulk Variance: impervious coverage (30% maximum allowed/39% provided);

Response to Prior Board and/or Subcommittee Requests

n/a;

New Board Requests

n/a;

Public Questions

n/a;

Public Comments

n/a;

Decision

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

YES- Kwon/Rothbaum/Marks/Wasserman/Dhorajia/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

Conditions

1.) revise non-professional site plan rendering to indicate portion and square footage of existing driveway to be eliminated and replaced with vegetation as well as portion and square footage of proposed expansion installed with asphalt (such will clarify discrepancy in existing and proposed impervious coverages calculated by Zoning Officer <37%> and Witness #1 <39%>);

◇ADJOURNMENT OF (SPECIAL) MEETING◇

Chairman Bianco informed that a memo both he and the Board Attorney authored on behalf of the Board was forwarded to the Governing Body this evening detailing its feedback on a pending amendment to Chapter 200-69E of the Borough Code (Ordinance #2015:1186), which would permit more than 1 building and use per lot situated in District #3 (Business) only. Chairman Bianco reiterated the Board’s suggestions discussed at the May 20, 2015 Meeting would provide better modern techniques in planning the downtown area.

Mr. Demarest revealed that the Building Department would likely be issuing demolition and construction permits (shells only/no tenant fit-outs) for Phase 1 of the “Closter Plaza” shopping center no later than May 29, 2015, assuming the Governing Body executes the corresponding Developer’s Agreement this evening; he noted that the property owner/developer is proceeding at its own risk with respect to a pending lawsuit in the Superior Court of New Jersey (Appellate

Division) co-filed by The Great Atlantic & Pacific Tea Co. and Borough resident, Jesse Rosenblum.

Vice Chairman Monaco inquired about the status of Wiggers v. Zoning Board of Adjustment which relates to Case #Z-2009-14 (63 John Street/Wiggers), given the appellant's failed attempts to have 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). Mr. Sinowitz said he recently issued a summons to the property owner (Dennis Wiggers) to vacate all non-residential activities on-site within 60 days; in response to Chairman Bianco, he said adequate time must be given for all equipment and material relating to the illegal contractor's yard to be removed. Mr. Sinowitz noted that Mr. Wiggers could appeal said summons to the Superior Court of New Jersey (Law Division); Mr. Chagaris concurred, saying enforcement of the Board's decision and applicable ordinances are separate legal matters while stressing the presiding judge can issue heavy penalties consecutively. Mr. Sinowitz said that the Construction Official, not the Zoning Officer, has the authority to evict Mr. Wiggers because he is operating on-site without a Certificate of Occupancy.

A motion was made by Mr. Wasserman and seconded by Ms. Marks, to have the Board adjourn at 8:58pm. The motion passed by acclamation.
