



# **Zoning Board of Adjustment**

November 18, 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  
Kenneth Wasserman- Secretary  
Heena Dhorajia, EIT  
Evan Elias  
Richard Daly  
Antranig Ouzoonian, PE- Alternate #1  
Joan Marks- Alternate #2  
Phillip Kwon, Esq.- Alternate #4  
Arthur Chagaris, Esq. *in lieu of Daniel Steinhagen, Esq.- Board Attorney*  
Paul Demarest- Board Coordinator

Absent

Dharamraj Baboo  
Mindy Rothbaum- Alternate #3  
Arthur Dolson- Council Liaison  
Leonard Sinowitz- Zoning Officer  
Jeffrey Morris, PE- Board Engineer

---

◇ **CORRESPONDENCE** ◇

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

---

◇ **MINUTES** ◇

A motion was made by Ms. Dhorajia and seconded by Mr. Daly, to approve the minutes for the October 21, 2015 Meeting. The motion passed (4-0-0):

**YES-** Ouzoonian/Daly/Dhorajia/Bianco;

**NO-** n/a;

**ABSTAIN-** n/a;

---

◇ **SUBCOMMITTEE ASSIGNMENTS** ◇

November 25, 2015 Work Session: \*\*\*CANCELLED\*\*\*;

---

◇ **MISCELLANEOUS** ◇

Regarding the Board's 2016 calendar, Mr. Demarest confirmed all holidays, religious or otherwise, were taken into consideration when preparing a list of dates and deadlines; he also

said the New Jersey State League of Municipalities Conference, which is held annually during the 3<sup>rd</sup> week in November, did not warrant a change to the Board's schedule given this evening's good attendance.

A motion was made by Ms. Marks and seconded by Mr. Wasserman, to approve the Board's 2016 schedule of Work Sessions and Meetings. The motion passed (7-0-0):

**YES-** Marks/Ouzoonian/Daly/Elias/Dhorajia/Wasserman/Bianco;

**NO-** n/a;

**ABSTAIN-** n/a;

**LATE ARRIVAL-** Monaco;

With respect to the Board's 2016 Application Fee and Escrow Deposit Schedules, Mr. Demarest said his suggestion that the minimum engineering escrow deposit for Site Plan Review applications be increased from its current \$1,500.00 requirement was not endorsed by the Borough Engineer, Nick De Nicola, PE, of Boswell Mc Clave Engineering, Inc. Mr. Demarest said the official vote for the remaining Reorganization items will occur at the January 20, 2016 Meeting.

Chairman Bianco congratulated Secretary Wasserman and Mr. Daly on being certified recently while attending a land use seminar hosted by New Jersey Planning Officials (NJPO), a requirement within 18 months of Board members' initial appointments by the Governing Body; he reminded that Mr. Elias and Ms. Rothbaum did not attend said certification course sponsored by NJPO, an agency/affiliate recognized by the State of New Jersey.

Chairman Bianco stated that the merged 2013/2014 Annual Report to the Governing Body and Planning Board is being drafted by Mr. Steinhagen and will likely be ready for a Board vote at the December 16, 2015 Meeting; he pointed out that he, along with Vice Chairman Monaco and Ms. Rothbaum, served on the Subcommittee tasked with compiling the Report's overall theme and recommendations.

Mr. Demarest said the Construction Official, Gary Montroy, is scheduled to give a presentation to the Board at its December 16, 2015 Meeting on digitizing how its applications are submitted, presented and stored, thereby saving on copious amounts of paper; he pointed out that Mr. Montroy is implementing aspects of such measures in the Building Department and is proposing to utilize the Department's surplus in fees collected to purchase the hardware/software necessary to modernize the Board and Planning Board's functionality. Chairman Bianco commended Mr. Montroy's efforts in his short time since being employed with the Borough, especially given the anticipated construction activity as a result of the Closter Plaza shopping center redevelopment and downtown area revitalization.

Chairman Bianco announced the Borough will hold its bi-annual Joint Meeting on November 21, 2015 whereby the Board, Planning Board, Governing Body, Historic Preservation Commission, Environmental Commission, Shade Tree Commission and Improvement Commission gather to discuss land use issues affecting the Borough (no formal action will be taken), the following of which are to be on the agenda: 1.) Board and Planning Board interaction with other governmental bodies; 2.) revitalization of downtown area; 3.) miscellaneous items.

Mr. Chagaris stated that being neither the applicant, nor a party on its behalf, is present regarding Case #Z-2014-17 (59 West Street, 11 & 15 Van Sciver Street/Closter Assisted Living,

LLC), as well as due to the fact the applicant failed to present to the Board 3 consecutive hearing dates on which it was scheduled to do so, the Board has the option to deny the application. He explained that the denial can be with prejudice (same application cannot be re-filed for Board's consideration) or without prejudice (same application can be re-filed for Board's consideration). He said being the applicant presented its case on the merits with witnesses, the Board may deny with prejudice, noting had the case been filed and not presented, the Board's only option would be to deny without prejudice.

Mr. Chagaris reminded that the applicant also failed to replenish its legal and engineering escrow accounts, which are deficient by approximately \$700.00 and \$2,000.00 respectively. Additionally, he said the Board required it retain a planner of its own (separate from the applicant's planner), whose services rendered were to be funded through the applicant posting an escrow account with \$6,000.00. As to why the Board-selected planner began work on the case without monies being posted initially, Mr. Chagaris explained that the applicant was not willing to grant the Board an extension of time in which it must decide on its case (at the conclusion of the 5<sup>th</sup> hearing date), and the planner's preparation was fast-tracked for a 6<sup>th</sup> hearing date, which never occurred. Mr. Chagaris stated the applicant, who is the contract purchaser of the subject properties, is legally responsible for funding the 3 escrow accounts as is, by default, the current property owner.

Secretary Wasserman questioned what constitutes a different application being filed if the Board were to deny the application with prejudice; Mr. Chagaris responded it depends on the use and scale of the project, thus, he could not answer such a hypothetical. Mr. Ouzoonian inquired how the outstanding escrow monies would be collected. Mr. Chagaris explained that if Closter Assisted Living, LLC were to disband or go bankrupt, something akin to a lien can be applied to the subject properties to collect. He said bankruptcy does not discharge a governmental debt.

In response to Ms. Marks, Mr. Chagaris said there is no communication as to why the applicant is not in attendance this evening. Mr. Demarest clarified that the current property owner, the Estate of William Eisenring c/o Glenn Eisenring, wrote the Board as to the status of the application and forwarded an email from the applicant indicating its intention to withdraw; Mr. Chagaris stated such is not to be considered official correspondence despite it being read into the record by Secretary Wasserman earlier this evening. He opined that a determination by the New Jersey Department of Environmental Protection (NJDEP) that the wetlands on-site were not isolated may have played into the applicant's decision not to proceed. Secretary Wasserman said the Board must act accordingly to prevent the case being approved by default.

Mr. Kwon believed that because the Board engaged the planner owed \$6,000.00, then the direct obligation to pay lies with it; he further commented that the Board would have to take legal action in order to collect the monies as reimbursement. He worried that being the applicant's purchase of the subject properties was contingent upon Board approval, the reality of collecting money is unlikely given the limited liability company is based in Florida. He also explained if the planner decides to sue the Board for payment, its legal battle would be lengthy and costly. Mr. Chagaris noted interest compounds the escrow amount due.

A motion was made by Mr. Daly and seconded by Vice Chairman Monaco, to deny Case #Z-2014-17 (59 West Street, 11 & 15 Van Sciver Street/Closter Assisted Living, LLC) with prejudice. The motion passed (7-0-0):

**YES-** Ouzoonian/Daly/Elias/Dhorajia/Wasserman/Monaco/Bianco;

**NO-** n/a;

**ABSTAIN-** n/a;

---

**◇OPEN TO THE PUBLIC◇**

n/a;

---

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

A motion was made by Mr. Ouzoonian and seconded by Mr. Daly, to memorialize the Resolution for Case #Z-2015-04 (596 High Street/Nami Properties, LLC). The motion passed (4-0-0):

**YES-** Ouzoonian/Daly/Dhorajia/Bianco;

**NO-** n/a;

**ABSTAIN-** n/a;

---

**◇CASELOAD◇**

n/a;

---

**◇ADJOURNMENT OF MEETING◇**

A motion was made by Ms. Marks and seconded by Mr. Daly, to have the Board adjourn at 8:40pm. The motion passed by acclamation.

---