



Zoning Board of Adjustment

January 20, 2016

Meeting
(Minutes)

Prepared by:

Paul Demarest

◇ **OPENING REMARKS** (Commenced at 8:12pm) ◇

◇ **PLEDGE OF ALLEGIANCE** ◇

◇ **2016 REORGANIZATION** ◇

Oaths of Office

Full Member (New 4-Year Term Expires December 31, 2019): Heena Dhorajia
Reappointed

Alternate #2 (New 2-Year Term Expires December 31, 2017): Joan Marks
Reappointed

Alternate #4 (New 2-Year Term Expires December 31, 2017): Phillip Kwon
Reappointed

Election of Officers

A motion was made by Mr. Elias and seconded by Mr. Monaco, to nominate Mr. Bianco as Chairperson of the Board. The motion passed (5-0-1):

YES- Daly/Elias/Baboo/Dhorajia/Monaco;

NO- n/a;

ABSTAIN- Bianco;

A motion was made by Mr. Elias and seconded by Mr. Baboo, to nominate Mr. Monaco as Vice Chairperson of the Board. The motion passed (6-0-0):

YES- Daly/Elias/Baboo/Dhorajia/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

Out of deference to the absent Mr. Wasserman, the incumbent Secretary, the Board postponed a Secretary nomination for the calendar year 2016 to the February 17, 2016 Meeting.

Professional Services

A motion was made by Vice Chairman Monaco and seconded by Mr. Baboo, to nominate Daniel Steinhagen, Esq. of Beattie Padovano, LLC as Board Attorney. The motion passed (6-0-0):

YES- Daly/Elias/Baboo/Dhorajia/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

A motion was made by Vice Chairman Monaco and seconded by Mr. Baboo, to nominate Jeffrey Morris, PE of Boswell Engineering, Inc. as Board Engineer. The motion passed (6-0-0):

YES- Daly/Elias/Baboo/Dhorajia/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

Adoption of Calendar

The Board previously approved its 2016 schedule at the November 18, 2015 Meeting.

Adoption of Fee Schedule

A motion was made by Ms. Dhorajia and seconded by Mr. Daly, to approve the Board’s 2016 application fee schedule. The motion passed (6-0-0):

YES- Daly/Elias/Baboo/Dhorajia/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

Adoption of Escrow Deposit Schedule

A motion was made by Ms. Dhorajia and seconded by Mr. Daly, to approve the Board’s 2016 legal and engineering escrow deposit schedules. The motion passed (6-0-0):

YES- Daly/Elias/Baboo/Dhorajia/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

Adoption of Official Newspaper Designations

A motion was made by Ms. Dhorajia and seconded by Mr. Daly, to approve both *The Record* and *The Star-Ledger* as the Board’s 2016 official newspapers for public noticing. The motion passed (6-0-0):

YES- Daly/Elias/Baboo/Dhorajia/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

◇ATTENDANCE◇

Present

- Joseph Bianco, RA/PP- Chairman
- Mitchell Monaco- Vice Chairman
- Heena Dhorajia, EIT
- Dharamraj Baboo
- Evan Elias
- Richard Daly
- Antranig Ouzoonian, PE- Alternate #1
- Joan Marks- Alternate #2
- Phillip Kwon, Esq.- Alternate #4
- Jannie Chung- Council Liaison
- Leonard Sinowitz- Zoning Officer
- Daniel Steinhagen, Esq.- Board Attorney
- Jeffrey Morris, PE- Board Engineer
- Paul Demarest- Board Coordinator

Absent

- Kenneth Wasserman
- Mindy Rothbaum- Alternate #3

◇CORRESPONDENCE◇

In lieu of a postponed vote on the Board’s Secretary for the calendar year 2016, Mr. Daly read mail received by the Land Use Department into the record.

◇MINUTES◇

A motion was made by Mr. Ouzoonian and seconded by Mr. Daly, to approve the minutes for the November 18, 2015 Meeting. The motion passed (8-0-0):

YES- Kwon/Marks/Ouzoonian/Daly/Elias/Dhorajia/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

A motion was made by Ms. Dhorajia and seconded by Mr. Elias, to approve the minutes for the December 16, 2015 Meeting. The motion passed (7-0-0):

YES- Kwon/Ouzoonian/Daly/Elias/Baboo/Dhorajia/Bianco;

NO- n/a;

ABSTAIN- n/a;

◇SUBCOMMITTEE ASSIGNMENTS◇

January 27, 2016 Work Session: ***CANCELLED***;

◇MISCELLANEOUS◇

Mayor John Glidden, 295 Closter Dock Road, Closter, New Jersey, thanked the Board for its service and volunteerism. He commented on the redevelopment of the Closter Plaza shopping center underway and expressed his pleasure with the owner/developer, Edens, LLP. He noted that given the anticipated future establishments at the Plaza, including Whole Foods Market, more traffic (both vehicular and foot) is expected which hopefully will spread to a revitalized downtown area; Mayor Glidden said the Governing Body would be collaborating with the Chamber of Commerce to bring about additional enhancements. He informed that the Borough would likely be reexamining its Master Plan in 2016 with the input of both the Board and Planning Board. He reiterated his mission to protect what the Borough has and improve upon it, which involves maintaining strong property values and an excellent local school system, for its residents. Mayor Glidden reassured that Closter will remain residential in nature while gaining a strong commercial sector.

Mayor Glidden asked that the Board handle its applications both expeditiously and fairly. In response to Mr. Ouzoonian wanting to maintain the quality of the Borough, he replied the Board should address aesthetics on an adjudicated basis to some extent but not design from the dais. Reacting to Mr. Ouzoonian's suggestion for an architectural review committee, Mayor Glidden responded that having a historical perspective on architecture is important so long as the proposal before the Board is not crafted into its own vision as a result.

Mr. Elias confirmed he would be available to attend a land use seminar being hosted by New Jersey Planning Officials (NJPO) on March 2, 2016; Chairman Bianco and Councilwoman Chung confirmed they would be attending the NJPO-sponsored seminar on April 16, 2016. Mr. Demarest reiterated that Mr. Elias and the absent Ms. Rothbaum must obtain their land use board certification from an agency/affiliate recognized by the State of New Jersey within 18 months of their initial Board appointments by the Governing Body.

◇OPEN TO THE PUBLIC◇

n/a;

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

A motion was made by Vice Chairman Monaco and seconded by Mr. Daly, to memorialize the Resolution for Case #Z-2014-17 (59 West Street, 11 & 15 Van Sciver Street/Closter Assisted Living, LLC) with corrections suggested by Mr. Kwon. The motion passed (6-0-0):

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

NO- n/a;

ABSTAIN- n/a;

◇ **CASELOAD** ◇

<p>Case #Z-2015-08 Dykes Lumber, Inc. 23 Naugle Street (Block 1206/Lot 1) District #4- Commercial</p>
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Case History

The applicant is seeking a Use Variance and Site Plan Approval for the construction of a new building (prefabricated warehouse located between existing lumber yard facilities) at the subject property; the application was received December 3, 2015 and scheduled for the December 16, 2015 (Special) Work Session, at which time, it was deemed complete; pending the Board's receipt of requested items and public noticing requirements, the application was scheduled for the January 20, 2016 Meeting.

Representation

- 1.) Bruce Rosenberg, Esq., Winne, Banta, Basralian & Kahn, PC, 21 Main Street, Suite 101, Hackensack, New Jersey;

Witnesses

- #1: Charles Kreyer, 1899 Park Avenue, Weehawken, New Jersey;
- #2: Douglas Radick, RA, 243 West Street, Closter, New Jersey;

Exhibits

- A-1: 6 pre-filed photographs depicting existing exterior conditions of certain buildings on-site, uncredited and undated;
- A-2: shop drawing of proposed exterior light fixtures to be installed above forklift access points of proposed building, prepared by Cree, Inc., undated and last revised July 31, 2015;

Relief Sought

- 1.) Use Variance: number of accessory structures per lot in District #4 (2 accessory structures maximum allowed/7 accessory structures provided);
- 2.) Site Plan Approval-

- a.) Design Waiver: number of parking spaces (95 parking spaces minimum required/8 parking spaces provided);

Response to Prior Board and/or Subcommittee Requests

- 1.) applicant provided proposed exterior lighting plan;
- 2.) applicant provided direction of proposed roof ridge in relation to Railroad Avenue (including how roof drainage, gutters and leaders will be handled);

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 Vice Chairman Monaco and seconded by Mr. Daly, to approve the Use Variance portion of the application. The motion passed (7-0-0):

YES- Ouzoonian/Daly/Elias/Baboo/Dhorajia/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

A motion was made by Ms. Dhorajia and seconded by Vice Chairman Monaco, to approve the Site Plan Review portion of the application. The motion passed (7-0-0):

YES- Ouzoonian/Daly/Elias/Baboo/Dhorajia/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

Conditions

- 1.) revise site plan to indicate drainage along westerly side of proposed building connecting 3 existing seepage pits to prevent potential storm water run-off into Railroad Avenue;
- 2.) paint exterior walls of proposed building and 2 existing/abutting buildings facing Railroad Avenue in 1 uniform color;

<p>Case #Z-2015-07 John Williams 15 Jane Street (Block 1713/Lot 12) District #2- Residential B</p>

Case History

The applicant is seeking Bulk Variances for the construction of an addition, rear steps/landing and rear walkway at the subject property; the application was received November 3, 2015 and scheduled for the November 18, 2015 (Special) Work Session, at which time, it was deemed complete; pending the Board's receipt of requested items and public noticing requirements, the application was scheduled for the December 16, 2015 Meeting; being the applicant both did not

submit requested items or fulfill public noticing requirements, the case was postponed to the January 20, 2016 Meeting.

Representation

1.) John Williams, 15 Jane Street, Closter, New Jersey;

Witnesses

#1: John Williams, 15 Jane Street, Closter, New Jersey;

Exhibits

A-1: 5 photographs depicting exterior conditions of subject property, uncredited and undated;

A-2: 5 photographs depicting exterior conditions of subject property, uncredited and undated;

Relief Sought

- 1.) Bulk Variance: building coverage (20% maximum allowed/21.54% provided);
- 2.) Bulk Variance: impervious coverage (30% maximum allowed/47.12% provided);
- 3.) Bulk Variance: side yard (left-facing) setback (15' minimum required/4.62' provided);
- 4.) Bulk Variance: side yard (right-facing) setback (15' minimum required/14.50' provided);
- 5.) Bulk Variance: side yard setback aggregate (30' minimum required/19.12' provided);

Response to Prior Board and/or Subcommittee Requests

- 1.) applicant revised architectural drawings so that proposed exterior wall to be setback less than 5' from property line will meet fire resistance rating (1-hour minimum) and non-rated window opening (25% maximum) requirements;

New Board Requests

n/a;

Public Questions

n/a;

Public Comments

n/a;

Decision

A motion was made by Mr. Daly and seconded by Ms. Dhorajia, to approve the application without conditions. The motion passed (7-0-0):

YES- Ouzoonian/Daly/Elias/Baboo/Dhorajia/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

Conditions

n/a;

◇ **CLOSED SESSION** ◇

A motion was made by Vice Chairman Monaco and seconded by Mr. Baboo, to have the Board go into closed session at 10:06pm. The motion passed by acclamation.

Chairman Bianco reopened the meeting to the public at 10:26pm.

Mr. Steinhagen reported that the frivolous litigation notice he prepared in response to the lawsuit filed in the Superior Court of New Jersey (Law Division) by the applicant concerning the Board's denial of Case #Z-2014-14 (49 John Street/Crimmins), did not result in the appeal being withdrawn; he said he had hoped to prevent costly ongoing litigation. Mr. Steinhagen stated he subsequently filed an answer to the appeal. He advised Mr. Sinowitz that enforcement of the subject site for conducting illegal non-residential activities can proceed being the basis for the applicant's appeal is not a zoning ordinance but rather a Board decision.

Regarding Case #Z-2014-17 (59 West Street, 11 & 15 Van Sciver Street/Closter Assisted Living, LLC), Mr. Steinhagen revealed that a notice of tort claim was filed by the applicant. He summated it accuses certain Board official(s) of influencing the New Jersey Department of Environmental Protection (NJDEP) to reverse its original decision with respect to wetlands on and around the subject properties, which had been favorable to the applicant in that they were classified as being "isolated"; he said the NJDEP then changed its ruling by considering them "non-isolated", which triggered a buffer requirement so great that it effectively made the parcels undevelopable. In response, the Board rejected such an accusation. Mr. Steinhagen said the filing usually foreshadows a lawsuit upon which grounds are not yet known.

◇ADJOURNMENT OF MEETING◇

Concerning 63 John Street, the subject property of Case #Z-2009-14 (63 John Street/Wiggers), in which the Board denied a request by the property owner, Dennis Wiggers, to continue a contractor's yard operation on-site, Vice Chairman Monaco asked for a status report on enforcement of the illegal activities on-site. Mr. Steinhagen explained that if enforcement had been stayed previously, it is no longer because the applicant exhausted all legal remedies with respect to the Board's decision. He promised to contact the Borough Attorney, Edward Rogan, Esq., regarding his preparation of an order to show cause to be filed with the Superior Court of New Jersey (Law Division) for Mr. Wiggers to vacate the subject property of all non-residential activities. Mr. Sinowitz confirmed he has been issuing summonses weekly to Mr. Wiggers in the amount of \$2,000.00 each, believing there to be 12 that have yet to be adjudicated by the Municipal Court. He stressed that Mr. Wiggers has been successful in postponing court appearances, noting he has changed legal counsel several times and is now being represented by Holly Schepisi, Esq., a member of the New Jersey General Assembly. He revealed it is custom for a judge to issue a bench warrant following 3 postponements by a defendant.

A motion was made by Ms. Dhorajia and seconded by Vice Chairman Monaco, to have the Board adjourn at 10:45pm. The motion passed by acclamation.
