



# **Zoning Board of Adjustment**

November 16, 2016

**Meeting**  
*(Minutes)*

Prepared by:

**Paul Demarest**

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

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◇ **PLEDGE OF ALLEGIANCE** ◇

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◇ **ATTENDANCE** ◇

Present

Joseph Bianco, RA/PP- Chairman  
Mitchell Monaco- Vice Chairman  
Thomas Hennessey- Secretary  
Heena Dhorajia, EIT  
Dharamraj Baboo  
Evan Elias  
Richard Daly  
Joan Marks- Alternate #2  
Leonard Sinowitz- Zoning Officer  
Daniel Steinhagen, Esq.- Board Attorney  
Paul Demarest- Board Coordinator

Absent

Antranig Ouzoonian, PE- Alternate #1  
Mindy Rothbaum- Alternate #3  
Phillip Kwon, Esq.- Alternate #4  
Jannie Chung- Council Liaison  
Jeffrey Morris, PE- Board Engineer

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◇ **CORRESPONDENCE** ◇

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

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◇ **MINUTES** ◇

A motion was made by Mr. Daly and seconded by Ms. Dhorajia, to approve the minutes for the October 19, 2016 Meeting. The motion passed (6-0-0):

**YES-** Daly/Elias/Dhorajia/Hennessey/Monaco/Bianco;

**NO-** n/a;

**ABSTAIN-** n/a;

**LATE ARRIVAL-** Baboo;

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◇ **SUBCOMMITTEE ASSIGNMENTS** ◇

November 23, 2016 Work Session: \*\*\*CANCELLED\*\*\*;

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◇ **MISCELLANEOUS** ◇

Regarding the Board's 2017 calendar, Mr. Demarest confirmed all holidays, religious or otherwise, were taken into consideration when preparing 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. Because of conflict with the 3<sup>rd</sup> Wednesday of the month in September and November, specifically, the 1<sup>st</sup> day of Rosh Hashanah (September 20<sup>th</sup>) and Thanksgiving Eve (November 22<sup>nd</sup>), Chairman Bianco suggested the Board convene for its regular monthly meeting on Monday, September 18<sup>th</sup> and Monday, November 20<sup>th</sup>.

A motion was made by Ms. Dhorajia and seconded by Mr. Daly, to approve the Board's 2017 schedule of Work Sessions and Meetings with noted amendments. The motion passed (7-0-0):  
**YES-** Daly/Elias/Baboo/Dhorajia/Hennessey/Monaco/Bianco;  
**NO-** n/a;  
**ABSTAIN-** n/a;

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**◇ OPEN TO THE PUBLIC ◇**

n/a;

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

n/a;

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**◇ CASELOAD ◇**

n/a

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**◇ CLOSED SESSION ◇**

A motion was made by Vice Chairman Monaco and seconded by Ms. Dhorajia, to have the Board go into closed session at 8:20pm. The motion passed by acclamation.

Chairman Bianco reopened the meeting to the public at 8:36pm.

*Due to the topic(s) discussed, the minutes for this closed session will be released upon the resolution of said matter(s).*

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**◇ ADJOURNMENT OF MEETING ◇**

Regarding Case #Z-2014-09 (421 & 437-439 Durie Avenue/Asfarjani & Kiarash), Mr. Steinhagen informed that a condition of the Board's Use Variance, Site Plan and Major Subdivision Approvals was for a portion of the existing driveway/parking lot at 437-439 Durie Avenue to stay gravel with the remainder being paved with asphalt; he revealed the applicants have since paved the driveway in its entirety. He explained having the applicants remove the newly-installed pavement may run afoul of New Jersey Department of Environmental Protection (NJDEP) regulations due to nearby Tenakill Brook. Secretary Hennessey stated

because storm water runoff onsite travels towards Durie Avenue, a trench drain and dry well can be installed to resolve the matter. Mr. Steinhagen understood, but noted the applicants wish to avoid returning to the Board for approval. He explained that because the application was previously approved for Site Plan and Major Subdivision Approvals, Amendment Approval would not be required; he said, however, the relief granted was based on a specific plan. Chairman Bianco pointed out that the Borough Code does not decipher between gravel and bituminous/cement-binder pavement, saying both are considered impervious surfaces. Mr. Steinhagen stated the driveway/parking lot material to be installed was not a condition explicitly stated in the memorialized Resolution. He said had the Board required for it all to be paved, the NJDEP would have deemed such a major development under its storm water management regulations, triggering buffers due to its proximity to a Category 1 waterway; thus, he said the intent was to have the applicants be exempt by retaining the graveled portion. Secretary Hennessey believed the applicants should not be punished for doing something better than was required of them. He suggested they apply to the Zoning Officer for approval to directly replace the driveway/parking lot with a material that would bring it into compliance with Chapter 92-2E of the Borough Code. Mr. Steinhagen said the Building Department issued a Temporary Certificate of Occupancy for the project conditioned upon compliance with the Board's stipulations. Chairman Bianco pondered if the situation could be handled with the applicants coming before the Board again as per NJSA 40:55D-70b to have it contemplate a Special Question with respect to the zoning ordinance or map. Mr. Sinowitz said, without further guidance from the Board, he must enforce its Resolution. Mr. Steinhagen said Mr. Morris believed this issue can be considered a field change, negating Board involvement. The Board debated if additional landscaping and/or curbing could alleviate the situation. It directed Mr. Steinhagen to request that the applicants or Mr. Morris provide, in writing, a request or direction respectively.

A motion was made by Mr. Baboo and seconded by Mr. Daly, to have the Board adjourn at 8:52pm. The motion passed by acclamation.

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