

MINUTES OF  
ZONING BOARD OF ADJUSTMENT  
Hopatcong Borough Hall, Hopatcong, NJ  
July 12, 2006

CALL TO ORDER: Chairman Francis called the meeting to Order at 7:30PM

CHAIRMAN'S STATEMENT: The Chairman stated that this meeting is held in Accordance with the Open Public Meetings Act 10:4-1 et seq. annual notice having been forwarded to the New Jersey Herald, the Sunday Herald and posted on the bulletin board maintained in the Municipal Building for public announcements.

SALUTE TO THE FLAG: The Members joined in a salute to the Flag.

ROLL CALL PRESENT: Cliff Lundin, Robert Daddis, Michael Rahill, Steve Wenz, Roy Winfield, Ch. Michael Francis  
Zoning Officer William Donegan  
Zoning Board Attorney William Haggerty  
Borough Engineer John Ruschke  
Excused: Borough Planner Kenneth Nelson

ABSENT: Michael Collins, Ken Trumppore

**MINUTES:**

Motion to approve the minutes of June 14, 2006, with spelling corrections was made by Daddis, seconded by Wenz.

Roll call: Lundin – yes, Winfield – abs., Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

**CONTINUED APPLICATIONS:**

**HAUCK, GLEN BLOCK 10501, LOT 42 9 Florence Street**

Applicant is seeking relief from 242-38D(4), front yard setback; 242-38D(5), side yard set back; 242-11C, steep/critical slope; 242-28C(1), retaining wall setback and any variances required by the Board. Preexisting nonconforming: 242-38D(1), minimum lot size; 242-38D(2), minimum lot width

Applicant would like to build an addition to a single-family home. This matter was continued from the April 12, and June 14, 2006 meetings for redesign and were renoticed.

Attorney Chris Colabella represented the applicant. They had made a significant change in the plans previously submitted. A letter from Louis S. Sceusi, attorney for the adjoining neighbors, the Webers, dated July 7, 2006 indicated that they had no objection to the new design. Ed Marcey who testified at the last meeting as a representative of the architectural firm discussed the changes. There is a bump out for a fireplace and a front entry and a wrap around trek deck. The deteriorating steps will be replaced and angled and will provide safer access to the home.

The meeting was open to the public. Mr. Frank, abutting neighbor, had a concern that his septic would be affected by the excavation and elevation changes. Mr. Elam, the engineer who had been qualified at the previous meeting said this should not happen. The oak tree on the property should also not be affected. The Haucks are not increasing the number of bedrooms. The meeting was closed to the public.

Mr. Colabella explained that the hardship was the steep slope of the driveway and the existing stairs that were unsafe. They are not disturbing more than 1500 sf. so a soil erosion plan was not required. They will step down the steep slope and landscape it to mitigate the runoff.

A motion to approve the application with this mitigation was made by Lundin, seconded by Lundin, seconded by Daddis

Roll call: Lundin – yes, Winfield – yes, Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

**CARVALHO, LUIS & LAURA BLOCK 70111, LOT 9 316 Lakeside Avenue**

Applicant is seeking relief from 242-11C, steep/critical slope; 242-28C(1), retaining wall setback and any variances required by the Board. Preexisting nonconforming: 242-38D(1), minimum lot size; 242-38D(2), minimum lot width; 242-18A, minimum distance to the Lake.

Applicant would like to build retaining walls, a deck and a dock. The applicant has requested a continuation to the August 9<sup>th</sup> meeting.

A motion to postpone the matter to the August 9, 2006 meeting was made by Lundin, seconded by Daddis

Roll call: Lundin – yes, Winfield – yes, Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

**ON MY WAY HOMES BLOCK 10809, LOT 10 21 Shore Road**

Applicant is seeking relief from 242-38D(1), minimum lot size; 242-38D(2), minimum lot width; 242-38D(4) front yard setback, 242-11C, steep/critical slope; 242-28C(1), retaining wall setback and any variances required by the Board.

Applicant would like to construct a single-family home on a vacant lot. This matter was continued from the June 14<sup>th</sup> meeting so applicant could try to get public sewer and water allocation and provide proof of Nash notice.

Engineer Marc Walker and Robert Lamanna were sworn in. At the last hearing they were directed to move the retaining wall 5', get sewer allocation and provide copies of their Nash notice to abutting neighbors. Copies of the Nash letters were submitted to the Secretary and they received no response to the letters. Because they secured sewer allocation, they moved the house forward and provided a swale behind the retaining wall. This lot is undersized, 10,446 sf. They have addressed Engineer Ruschke's stormwater concerns.

Ruschke felt they could move the house forward similar to other setbacks in the neighborhood to mitigate lot disturbance and tree removal and the well could be moved to be more accessible. There is a drainage problem on the property across the street and shortening the driveway would minimize this. There is stormwater run-on on this property prior to development. This could cause a problem in the future. As part of approval the stormwater management would be the homeowner's responsibility.

The meeting was open to the public. No one from the public commented. The meeting was closed to the public.

Mr. Lamanna wanted to save as many trees as possible and would use sod to maximize runoff control. They agreed to move the house forward with a 30' set back, reposition the well and drywells and agreed to a deed restriction regarding the managing the runoff on site.

A motion to approve the application with those caveats was made by Daddis, seconded by Winfield.

Roll call: Lundin – yes, Winfield – yes, Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

**NEW APPLICATIONS:**

**SCHOUTEN, ARIE BLOCK 30408, LOT 26 223 LAKESIDE BLVD.**

Applicant is seeking relief from 242-38, permitted principle uses.

Applicant is wants to continue a pre-existing non-conforming three-unit use in an R-1 zone. Atty. Colabella represented the applicant. Haggerty clarified that they were looking for a use variance and not a certification of pre-existing non-conforming use.

Atty. Ursin represented the adjoining neighbors and objected to the notice that doesn't specify where the plans are on file and doesn't list the bulk variances, there are at least a dozen of them. Haggerty examined the notice. They are not making any changes on the site, just establishing 3 family use, not an expansion. He felt the notice was adequate.

A motion to accept that the notice was adequate was made by Lundin, seconded by Rahill. Roll call: Lundin – yes, Winfield – yes, Wenz – yes, Daddis – no, Rahill – yes, Francis – no

Arie Schouten was sworn in. He has lived at 227 Lakeside Boulevard since 1980. He came to the Lake in 1962 and he rented a lower apartment from Mr. Storm, the former owner of 223 Lakeside Boulevard. Storm lived in the upstairs apartment. The lower house was under repair in 1962. He described the property as a two family by the road and a single family by the lake. His family rented yearly until 1966, he stayed in the efficiency apartment in 67 or 68. The Storms lived upstairs and there was a tenant below. In 1970 his father bought it. He described the interior. There are separate entrances. Since 1970 the property has been rented but he doesn't have copies of his leases. Schouten has leases now. His mother, age 86, lives in the lower house.

Lundin felt if this use doesn't pre-exist zoning which was 1957 then this testimony isn't relevant. The burden of the applicant is to prove why there should be three units on this property.

Colabella said his client has relied on this use since it's purchase from his mother. Lundin noted that an economic hardship is not a qualifying hardship. Haggerty said that a continuing use since 1962 and no negative aspect to this use has to be determined.

Schouten said he could find no living witnesses to his use but when he moved in 1962 it was two-family. Colabella said this use is common on Lakeside Boulevard and his client wants to legitimize what has been going on all these years.

The Board suggested they do a better search to find out if this pre-existed zoning (pre-1957). They have the burden of proof. Either that, or they need to make a case for a use variance, i.e. special reasons why this property qualifies. Colabella requested that the case be carried for 60 days to do more research.

A motion to carry the matter to the September 13, 2006 meeting with new notice was made by Lundin, seconded by Rahill

Roll call: Lundin – yes, Winfield – yes, Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

Ursin requested that the notice include bulk variances because they have made 12 expansions of use with no permits.

**ROSENZWEIG, SUSAN ZIESELMAN BLOCK 11002, LOT 18 212 Tulsa Trail**

Applicant is seeking relief from 24242-38D(1), minimum lot size; 242-38D(2), minimum lot width; 242-38D(4) front yard setback; 242-38D(5), side yard set back; and any variances required by the Board.

Applicant wants to convert an existing one-bedroom home to a three-bedroom home with no exterior change. Atty. Ursin was sworn in. The Board approved the construction of a 2000 sf. house renovation in Sept., 2004. It was approved as a one-bedroom home. This home is on sewers now and the Floor Area Ratio Ordinance has been eliminated. The applicant would like to make the home three-bedroom now. It is a bi-level with a garage underneath that is characteristic of the neighborhood. No exterior changes are proposed.

Haggerty said the history was that the variance had been granted on the intensity of use and was very specific on the number of bedrooms. This new application had been renoticed listing all the original variances.

The meeting was open to the public. No one from the public commented. The meeting was closed to the public.

Ruschke felt it would be beneficial to install drywells to enhance recharge on this property but the Board felt it was too late and this would be a burden to the applicant.

A motion to grant the applicant the right to convert the home from a one bedroom to a three-bedroom home was made by Daddis, seconded by Rahill.

Roll call: Lundin – no, Winfield – no, Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

**DESIGNER HOMES OF NJ BLOCK 10712, LOT 64 104 RANDOLPH AVE.**

Applicant is seeking relief from 242-38E(2) lot coverage; 242-38D(2), dock side yard; 242-30C(4), water area coverage; 242-30C(5), minimum dock width; 242-30C(6), one dock per 100'; 242-30C(7), 21' min. between docks and any other variances required by the Board. Preexisting nonconforming: 242-38D(1), minimum lot size; 242-38D(2), minimum lot width; 242-38D(5), side yard set back; 242-38D(6), rear yard setback; 242-38E1, footprint; 242-18A, 50' to the lake, 242-28C(1), retaining wall setback 242-11C, steep/critical slope

Applicant wants to construct a dock and modify the parking. Atty. Ursin representing the applicant reviewed the history of this application that was a renovation of a dilapidated home on a very steep hill. The approval included an 18' x 18' parking area at the top of the hill. They need to expand the parking area to 20' x 20' and have obtained Council approval for building walls in the Borough right of way to get the cars off the road. The walls were all five feet off the property line although the site plan is not clear on this. They are also seeking approval of a variance for the docks that were there before the house was built. The docks are longer than what was previously there. The catwalk was 20' and proposed is 40'.

They applicant agreed to construct the docks parallel to the property line, the catwalk will be 20' x 2' which would be safer, with no boat parking permitted on the other side and the other dock will be 30' long. They agreed to try to provide proof that the property runs out into the Lake via a deed showing lake rights.

A motion to approve the application under those conditions was made by Lundin, seconded by Daddis.

Roll call: Lundin – yes, Winfield – yes, Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

**MITCHELL, WILLIAM BLOCK 40201, LOT 21 2 Fiske Trail**

Applicant is seeking relief from 242-38D(4) front yard setback and any variances required by the Board. Preexisting nonconforming: 242-38D(1), minimum lot size; 242-38D(2), minimum lot width; 242-18A, stream setback

Applicant would like to build a 20' x 11 ½' addition to a single-story home. Rosemary and William Mitchell were sworn in. They would like to put the addition on the Fiske Trail side, on the opposite of the house from the stream. Rosemary would like to make the addition 6" bigger 12' instead of 11'5" because of her contractor's recommendation. The addition seemed in line with others in the neighborhood.

The meeting was open to the public. No one from the public commented. The meeting was closed to the public.

A motion to approve the application was made by Daddis, seconded by Wenz

Roll call: Lundin – yes, Winfield – yes, Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

**BOBINSKI, JOAN BLOCK 11008, LOT 4 100 Pocono Trail**

Applicant is seeking relief from 242-38D(4) front yard setback and any variances required by the Board. Preexisting nonconforming: 242-38D(1), minimum lot size; 242-38D(3), minimum lot depth; 242-38D(5), side yard setback

Applicant wants to construct a porch on the front of a single-family dwelling. Joan Bobinski was sworn in with her builder, Fred Hickey.

The Board felt the porch would be an improvement. The applicant agreed to the condition that it never be enclosed.

The meeting was open to the public. No one from the public commented. The meeting was closed to the public.

A motion to approve the application was made by Lundin, seconded by Daddis.

Roll call: Lundin – yes, Winfield – yes, Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

The applicant asked that the memorialization period be waived so the porch could be built and used this summer.

A motion to waive the memorialization was made by Wenz, seconded by Daddis.

Roll call: Lundin – no, Winfield – yes, Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

**DOWNEY, MIKE BLOCK 30327, LOT 7 106 Chinopee Ave.**

Applicant is seeking relief from 242-38D(4), front yard setback; 242-38D(5), side yard setback; 242-62B, expansion of non conforming use and any variances required by the Board. Preexisting nonconforming: 242-38D(1), minimum lot size; 242-38D(2), minimum lot width

Applicant would like to add a second story addition to an existing single-family dwelling. Mike Downey and Robert Frazier, builder, were sworn in. This property is in the B-2 zone, however, there are other residential uses in the homes surrounding this property. He uses the property as a residence, not a business. He has only one bathroom in the home and wants to increase the size of the bedrooms to be more functional. There will be a 2' cantilever in the back and a one foot cantilever in the front. He agreed to put in a drywell sized to capture 3" of roof runoff and he will provide a sketch of where it would be to the engineer. He agreed to a condition in the resolution that this home remain three-bedroom.

The meeting was open to the public. No one from the public commented. The meeting was closed to the public.

The Board would like to see an archway put in the computer room and the applicant agreed to this.

A motion to approve the application under these conditions was made by Daddis, seconded by Wenz.

Roll call: Lundin – yes, Winfield – yes, Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

The applicant's wife is a teacher and since they need to move out of the house they asked to have the memorialization period waived.

A motion to waive the memorialization period was made by Lundin, seconded by Daddis.

Roll call: Lundin – yes, Winfield – yes, Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

**CIBORSKI, KRISTON & MATTHEW BLOCK 31007, LOT 11 5 Kansas Way**

Applicant is seeking relief from 242-38D(4), front yard setback and any variances required by the Board. Preexisting nonconforming: 242-38D(1), minimum lot size; 242-38D(2), minimum lot width; 242-28C(1), retaining wall setback

Applicant would like to build a deck, second story and rear addition to a single-family house. Kriston and Matthew Ciborski were sworn in. They have lived in the house four years and have a family now and the house is too small with only one bathroom. They would like to bump out the back and go up. The construction does not interfere with the well or septic and the bedroom count will remain at three. They agreed to a 4' archway in the rec. room.

The meeting was open to the public. No one from the public commented. The meeting was closed to the public.

A motion to approve the application was made by Daddis, seconded by Wenz.

Roll call: Lundin – yes, Winfield – yes, Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

**EVERARD, EVAN BLOCK 40504, LOT 46 110 Dartmouth Trail**

Applicant is seeking relief from 242-38D(4), front yard setback; 242-38D(5), side yard set back; 242-38E(1) footprint and any variances required by the Board. Preexisting nonconforming: 242-38D(1), minimum lot size; 242-38D(2), minimum lot width

Applicant would like to build an addition to a single-family home. Evan Everard was sworn in. His home is presently 14' x 20'. The construction does not interfere with the well or septic system according to Health Dept. letter of June 19<sup>th</sup> and the bedroom count will remain at one. He would like to relocate the bedroom and bathroom upstairs. He agreed to square of the walk-in closet, eliminate the linen closet and put an archway in the office.

The meeting was open to the public. No one from the public commented. The meeting was closed to the public.

The Board felt the addition would be a marked improvement.

A motion to approve the application as modified was made by Wenz, seconded by Winfield.

Roll call: Lundin – yes, Winfield – yes, Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

**BRENNAN, KATHLEEN & WILLIAM BLOCK 11209, LOT 23 18 Smokehouse Road**

Applicant is seeking relief from 242-38D(5), side yard set back; 242-38E(1) footprint and any variances required by the Board. Preexisting nonconforming: 242-38D(1), minimum lot size; 242-38D(2), minimum lot width; 242-38D(4), front yard setback

Applicant would like to build an addition and deck to a single-family home. The notice was too late so this matter needs to be continued to the August 9, 2006 meeting with new notice.

A motion to postpone the matter to the August 9, 2006 meeting was made by Lundin, seconded by Winfield

Roll call: Lundin – yes, Winfield – yes, Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

**VREELAND, JEANNETTE BLOCK 50410, LOT 7 323 Squaw Trail**

Applicant is seeking relief from 242-18A, 50' from Lake, 242-38D, side yard setback and any variances required by the Board. Preexisting nonconforming: 242-38D(1), minimum lot size; 242-38D(2), minimum lot width; 242-38D(5) side yard setback.

Applicant would like to install a tram down the hill to the Lake. Jeannette and Milton Vreeland were sworn in. They have difficulty managing the 50 steps to the Lake especially going back up. The only place to put the tram in is on the side because of the terrain according to the installer. It will be drilled into the bedrock and at the bottom there will be a pad.

The meeting was open to the public. No one from the public. The meeting was closed to the public.

The hardship had been demonstrated for this application and trams are unique to the lake environment.

A motion to approve the application was made by Lundin, seconded by Daddis.

Roll call: Lundin – yes, Winfield – yes, Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

They requested that the memorialization period could be waived so they could have it installed before the summer was over.

A motion to waive the memorialization period was made by Daddis, seconded by Wenz.

Roll call: Lundin – yes, Winfield – yes, Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

<b><u>RESOLUTIONS:</u></b>	<b>Otiz</b>	<b>10709/7</b>
	<b>Servoss</b>	<b>31402/18</b>
	<b>Morreale</b>	<b>11003/13</b>
	<b>Henshaw</b>	<b>30501/37</b>
	<b>Marinock</b>	<b>40319/11</b>
	<b>Gruber</b>	<b>11036/20</b>
	<b>VanBeke</b>	<b>11003/23</b>

A motion to approve the memorializations was made by Daddis, seconded by Wenz

Roll call: Lundin – yes, Winfield – abs., Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

<b>O’Rafferty</b>	<b>31507/2</b>
<b>McKiernan</b>	<b>10408/10</b>
<b>Otte</b>	<b>10810/59</b>

A motion to approve the memorializations was made by Daddis, seconded by Winfield

Roll call: Lundin – yes, Winfield – yes, Wenz – abs, Daddis – yes, Rahill – yes, Francis – yes

<b>Ruschke</b>	<b>10706/4</b>
<b>Sabo</b>	<b>10712/31</b>

A motion to approve the memorializations was made by Daddis, seconded by Wenz

Roll call: Lundin – abs, Winfield – yes, Wenz – abs, Daddis – yes, Rahill – yes, Francis – yes

<b><u>BILLS:</u></b>	<b>Dolan &amp; Dolan</b>		
	O’Rafferty	31507/2	\$24.00
	Otte	10810/59	\$198.00
	McKiernan	10408/10	\$198.00
	Riser	10810/3	\$210.00
	Grazilla	20113/10	\$210.00
	Hickey	30103/37	\$168.00
	Rosenswig	11002/18	\$24.00
	Sabarese	3040810	\$24.00
	Michelman	50204/1M	\$216.00
	Chaplin	10901/15	\$25.00
	Hoer	10501/29	\$218.75
	RJ Inv. litigation		\$102.00
	General	5/10 mtg.	\$460.00

**Hatch Mott MacDonald**

Northwood Inn	70111/1	\$157.50
General		\$329.24
Designer Homes	31103/2	\$157.50
Devito	50608/4	\$157.50
Carvalho	70111/9	\$157.50
On My Way Homes	10809/21	\$52.50
Chaplin	10811/3	\$210.00

A motion to approve the bills was made by Lundin, seconded by Wenz.

Roll call: Lundin – yes, Winfield –yes, Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

**ESCROW REFUND:** Iberer 10901/22 \$420.00

A motion to approve the escrow refund was made by Lundin, seconded by Wenz.

Roll call: Lundin – yes, Winfield –yes, Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

**OLD BUSINESS:****NEW BUSINESS:****VAN BEKE, HAROLD BLOCK 11003, LOT 23 210 Windsor Ave**

Open grid paver relocation. Mr. Van Beke did not want to be restricted on where he could put the open grid pavers on his driveway. The Board agreed as long as it was the same square footage.

A motion to approve square footage and not location was made by Lundin, seconded by Wenz.

Roll call: Lundin – yes, Winfield –yes, Wenz – yes, Daddis – yes, Rahill – yes, Francis – yes

**BLAU MAANI, LLC. BLOCK 30501, LOT 66 411 Lakeside Boulevard**

Discussion on approval. Francis said a buyer had balked at purchasing this property because he couldn't comply with the resolution. This property needs renovation. He would like to have approval modified for two units. The owner could come in for a certification of modification of Resolution.

**ADJOURNMENT:**

A motion to adjourn was made by Trumpore, seconded by Daddis

ALL IN FAVOR, MOTION CARRIED.

The meeting was adjourned at 10:08 p.m.

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Eugenia Wiss, Secretary