

MINUTES OF  
ZONING BOARD OF ADJUSTMENT  
Hopatcong Borough Hall, Hopatcong, NJ  
October 11, 2006

CALL TO ORDER: Chairman Mike 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: Roy Winfield, Michael Collins, Cliff Lundin, Steve Wenz, Robert Daddis, Ken Trumpore Alt. Mike Rahill, Alt. Judith Kracht, Chairman Mike Francis  
Zoning Officer William Donegan  
Zoning Board Attorney William Haggerty  
Zoning Board Engineer John Ruschke  
Excused: Borough Planner Kenneth Nelson

ABSENT:

**MINUTES:**

Motion to approve the minutes of September 13, 2006, with minor corrections was made by Lundin, seconded by Winfield

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

**CONTINUED APPLICATION:**

**CASTRO, LOURDES BLOCK 30802, LOT 21 21 Northwestern Way**

Applicant is seeking relief from 242-38D(4) front yard setback; 242-38D(5), side yard setback; 242-38D(8), lot coverage; 242-38E(1), footprint and any variances required by the Zoning Board. Pre-existing non-conforming: 242-38D(1), minimum lot size; 242-38D(2), lot width; 242-38D(6), rear yard setback; 242-18A, distance to stream.

Applicant wants approval of an addition. This matter was continued from the September 14, 2006 meeting so the applicant could submit clearer plans. Mr. Castro was sworn in. A carport was enclosed with an 11' x 13' addition and had been constructed a year ago. The deck on the back of the house is rotted and a room has been built on it. Mr. Castro has lived at the house for one year and purchased it a month ago. The carport addition had been done without permits. If the Board approves this addition then permits would be issued and the building would have to be inspected by the Building Official.

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

The Board was not happy that work had been done without proper permits with the expectation that the Board would approve the work. The building footprint was at 45%, 20% was permitted.

A motion to deny the application was made by Trumpore, seconded by Daddis

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

**NEW APPLICATIONS:**

**MCCLELLAN, LARRY BLOCK 10205, LOT 1 8 Jenkins St.**

Applicant is seeking relief from 242-38D(1), minimum lot size; 242-38D(2), lot width; 242-38D(3) lot depth; 242-18A, distance to stream and any variances required by the

The applicant wants to build a new single-family home on a vacant lot. This matter was not properly noticed so the applicant requested an extension to the November 8, 2006 meeting.

A motion to carry this matter with new notice to the November 8, 2006, meeting was made by Lundin, seconded by Winfield.

Roll call: Winfield – yes, Lundin – yes, Collins – yes, Francis – yes, Wenz – yes, Daddis – yes, Trumpore – yes

**DICHIARA, DAVE AND DONNA BLOCK 30320, LOT 4 31 Shawnee Road**

Applicant is seeking relief from 242-38D(4) front yard setback front yard setback; 242-15C(2), accessory structure in front yard and any variances required by the Zoning Board. Preexisting nonconforming 242-44D(1), lot size; 242-44D(2), lot width

Applicant wants approval of a new shed. David Dichiaras was sworn in. He had gotten Zoning Permits and Construction Permits to put in a 10' x 20' shed. The shed was placed on a base of crushed stone and railroad ties. Photos of the shed, base and road were submitted and marked Exhibits A-1 through A-6.

The Dichiaras misunderstood Mr. Donegan and thought they could place the shed in it's present location as long as it met the setback requirements. This is a corner property with two front yards although the front of the house is on Shawnee Road. The shed is on the Sharp Ave. side considered a front yard and requiring a variance. The other shed on the property has been removed.

Mr. Dichiaras said moving the shed would be expensive and his neighbors did not have a problem with the location. Some Board members felt the location of the shed should be in the location that was approved on the Zoning permit, the back of the property, and the present location was not attractive.

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

It was likely that this was not a deliberate mistake since the property is close to the Borough Hall and would have been noticed, it was more likely a miscommunication. The Board can approve the location of the shed in the front yard.

A motion to deny the application was made by Trumpore, seconded by Daddis.

Roll call: Winfield – yes, Lundin –abs., Collins – no, Francis –no, Wenz – no, Daddis – yes, Trumpore – yes

The motion did not carry. Lundin was concerned about visibility from the street and wanted a report from the traffic bureau that the shed did not interfere. He was also concerned about nonconformance to the Town's regulations.

A motion to carry the matter to the next meeting with a traffic report to be submitted as to visibility was made by Lundin, seconded by Collins.

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

**PATEL, BUD BLOCK 30607, LOT 6.07 530 Naritcong Avenue**

Applicant is seeking relief from 242-11C, steep/critical slope and any variance required by the Zoning Board.

Applicant wants approval of fill on this property. Bud Patel was sworn in. In 2004 he took dirt from Marbel and Metra when they were doing the sewers, he took over 1500 sf and was informed he needed to do a Soil Erosion and Sediment Control Plan.

Lundin noted that he filled over his property line and also thought there was a conservation easement as part of this subdivision approval. The lots were mislabeled on the site plan. His driveway was on his neighbor's property but he had purchased the lot from Jack Chaplin like that.

This application involves variances on other properties as a result of the fill. There are boulders and dead trees on the other properties. These property owners affected should be summoned to get them before the Board to address the fill problem.

Rushcke said Mr. Patel was told not to fill more than 1500 sf. by Mr. O'Connor and himself before the project started. Patel signed a waiver from the sewer contractor making Patel responsible for the permits and legal contract. On Jan. 16, 2004 Ruschke sent a letter to him for the SESC Plan and then fines were issued. The plan was submitted but there were problems, the fill was in violation of the deed restrictions.

The Board can only address this application on this lot for a steep slope variance. Mr. Patel disregarded the Zoning and Construction Office and the neighbors had been violated. The neighbor was not happy with the driveway on his property and had been told by Patel it would be remedied. If it remains it needs an easement, the Board cannot approve this as part of this application.

There is also fill in the Borough right away, this is another issue. There is significant work required to straighten this matter out.

No fines have been paid yet, the new owners have received a summons and that was what brought this matter here.

The meeting was open to the public. Rosanne Hastings lives below the property and has damages because the excavation has changed the slope. She submitted photos marked Exhibit 0-1 through 0-6 taken of her backyard and showing foundation and floor damage. Boulders were rolled down the hill and her survey stakes are buried. Her deck is now unstable and she had no problem until the fill was placed there. She also brought up a previous fill problem in the town on the Rios property where the town had corrected the problem with an engineered wall system. She would like restoration of the property with deadlines and repair of the foundation.

Dennis Twyford, 4 Coolidge Trail, said there was no enforcement in this matter. Donegan said he had noticed Patel before Hastings reported the matter to him and has since changed his policy and issues summons instead of per diem fines that are ignored.

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

Atty. Haggerty will contact Borough Atty. Stein to determine how to get the other property owners to the Board including the Borough and the current property owner as soon as possible. This application is incomplete, they need an accurate site plan that show the actual disturbance with the 200' list on it, the other property owners involved need to be subpoenaed to appear, copies of the deed restriction need to be submitted along with prior Resolutions.

A motion to declare the application incomplete, carry the application to November and subpoena the other property owners including the Borough and new property owner was made by Lundin, seconded by Trumpore.

Roll call: Winfield – yes, Lundin – yes, Collins – yes, Francis – yes, Wenz – yes, Daddis – yes, Trumpore – yes

A second motion to authorize the Board attorney, Borough attorney and Borough Administrator relative to the need for a comprehensive Borough enforcement action dealing with this situation was made by Lundin, seconded by Trumpore.

Roll call: Winfield – yes, Lundin – yes, Collins – yes, Francis – yes, Wenz – yes, Daddis – yes, Trumpore – yes

The per diem fine collection needs to be more effective and a penalty enforcement specialist in the Borough Attorney's office can take action.

**DEJAGER, JOSEPH BLOCK 40408, LOT 3 23 Tulane Trail**

Applicant is seeking relief from 242-38D(2) lot width; 242-38D(3), lot depth; 242-38D(4), front yard setback front yard setback; 242-38D(5) side yard setback and any variances required by the Zoning Board

Applicant wants to build a new home on a vacant lot. Joseph DeJager was sworn in. He had purchased property from family friends and was now ready to build. The property had once had a home on it, it is a nice piece of property and has an old well on it. The site plan showed a municipal water hookup. He was pursuing that and also was advised by the Health Department that a well could also work in a different location on the property. The existing well was too close to the area that perked for the septic. A letter addressing the wetlands had been submitted.

The Board wanted the tub in the downstairs bath eliminated and an archway put in the den to ensure that the bedroom count remained at two.

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

There are dormers shown in the attic that needed to be eliminated along with a third floor. Also if the basement is included, the home would be four stories. The plans need to be revised to show a 2 ½ story home or 35' high home. All floors should be shown with floor plans. The rear deck needs to be cut back to be at least 6' from the property line.

A motion to carry the matter to the November 8th meeting with no further notice for redesign and to address the water issue was made by Daddis, seconded by Trumpore

Roll call: Winfield – yes, Lundin – yes, Collins – yes, Francis – yes, Wenz – yes, Daddis – yes, Trumpore – yes

**MEREDITH, JONATHAN BLOCK 10806, LOT 8 2 Lawrence Avenue**

Applicant is seeking relief from 242-38D(4) front yard setback front yard setback and any variances required by the Zoning Board. Preexisting nonconforming 242-44D(1), lot size; 242-44D(2), lot width; 242-38D(1), retaining wall set back

Applicant wants to build a deck. Jonathan Meredith was sworn in. The deck was partially built. Some of his neighbors had the impression that you could build to code, get caught and then get approvals. The Board felt that making people tear down illegal additions would get the point across that this is not acceptable.

Meredith had gotten permission to build a pool and then started the deck. The Building and Zoning office had fined him. He was here to square off the deck. When he purchased the house there was an upper story deck that he partially removed for the pool. He didn't need variances for most of the deck, only a 10' x 12' section as he had purchased an additional 10' of property on the deck side.

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

The application to screen in the 10' x 12' addition under the upper deck was withdrawn because he wasn't sure how he was going to do it.

A motion to approve the 10' x 12' expansion to the deck provided it only squares off the deck with no screening was made by Lundin, seconded by Daddis.

Roll call: Winfield – yes, Lundin – yes, Collins – yes, Francis – yes, Wenz – yes, Daddis – yes, Trumpore – yes

A motion to waive the memorialization at the applicant's request was made by Wenz, seconded by Collins.

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

The motion was denied so he can't build past where he has permits.

**MARINONI, ARTHUR BLOCK 40204, LOT 24 306 Knox Way**

Applicant is seeking relief from 242-38D(4) front yard setback front yard setback; 242-38E(1), footprint and any variances required by the Zoning Board. Preexisting nonconforming 242-44D(1), lot size; 242-44D(2), lot width

Applicant wants to build an addition. Fred Hickey and Ginger Marinoni were sworn in. This application includes block work in the driveway and the elimination of asphalt in the lower area. The wall will be at least 5' from the property line. After a site inspection Donegan had revised the calculations, the footprint is over 22%. The house will remain three bedrooms. The sewers are in this area. If they disturb 1500 sf they will have to do stormwater controls. They agreed to reduce the driveway 62 sf to bring it into compliance for lot coverage.

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 with the stipulation that the lot coverage is no greater than 35% was made by Daddis, seconded by Winfield.

Roll call: Winfield – yes, Lundin – yes, Collins – yes, Francis – yes, Wenz – yes, Daddis – yes, Trumpore – yes

**OLIVA, MICHAEL BLOCK 31101, LOT 17 311 Maxim Drive**

Applicant is seeking relief from 242-38D(5), side yard setback; 242-38E(1) and any variances required by the Zoning Board. Pre-existing non-conforming: 242-38D(1), minimum lot size; 242-38D(2), minimum lot width; 242-38D(4) front yard setback front yard setback; 242-18A, distance to stream.

Applicant wants to add an addition to a single-family home. Michael Oliva was sworn in. This addition was on other side of the house from the stream. The upper dormer and eyebrow window will be eliminated from the plan. They are adding a dining room and playroom. He had given the plans to the Lake Commission to review but there was no letter received from them.

Winfield noticed a strong septic smell on the property. Mr. Oliva said that was from his neighbor, the system was designed for one bedroom and there are five bedrooms now. Donegan will inform the Health Department of the problem.

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 Winfield, seconded by Trumpore.

Roll call: Winfield – yes, Lundin – yes, Collins – yes, Francis – yes, Wenz – yes, Daddis – yes, Trumpore – yes

**REHE, ROBERT BLOCK 40211, LOT 6 545 Brooklyn Mountain Road**

Applicant is seeking relief from 242-38D(4) front yard setback; 242-38D(5), side yard setback and any variances required by the Zoning Board. Pre-existing non-conforming: 242-38D(1), minimum lot size; 242-38D(2), lot width; 242-38D(3), lot depth; 242-D(6), rear yard setback; 242-28C, retaining wall setback

Applicant wants to build a second-story addition to a single-family home. Robert Rehe was sworn in. This house is 453 sf., a modest house on a modest lot. The basement is only 4' deep. The addition will be a vast improvement to the existing house.

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 Trumpore, seconded by Daddis. Roll call: Winfield – yes, Lundin – yes, Collins – yes, Francis – yes, Wenz – yes, Daddis – yes, Trumpore – yes

A motion to waive the memorialization at the applicants request due to the approaching winter was made by Trumpore, seconded by Daddis.

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

<b><u>RESOLUTIONS:</u></b>	<b>Schouten</b>	<b>30408/26</b>
	<b>Dillon</b>	<b>31003/29 &amp; 30</b>
	<b>Devito</b>	<b>50608/4</b>
	<b>Harder</b>	<b>40205/19</b>

A motion to approve the Resolutions with a change to Devito regarding the plumbing and minor corrections to Schouten and Harder was made by Lundin, seconded by Winfield.

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

**Compietello 11017/15**

The Resolution will be revised.

<b><u>BILLS:</u></b>	<b>Dolan &amp; Dolan</b>		
	Steinbaum	11306/2	\$282.00
	Des. Homes	10712/64	\$60.00
	Ciborski	31007/11	\$30.00
	Bobinski	11008/4	\$36.00
	Everard	40504/46	\$42.00
	Vreeland	50410/7	\$30.00
	Deary	11203/2	\$192.00
	Homan	11006/9	\$162.00
	Meyer	30904/24	\$150.00
	Carvalho	70111/9	\$252.00
	Brennan	11209/23	\$186.00
	Vasarhelyi	31304/36	\$186.00
	O'Connor	30604/20	\$186.00
	RJ Inv. litigation		\$42.00
	General	Mtg. 8/9	\$460.00

**Hatch Mott MacDonald**

Homan	11006/9	\$525.00
On My Way Homes	10809/10	\$14.24
Gardenview Const.	1110747	\$262.50
McClellan	10205/1	\$472.50
Dillon	31003/29	\$525.00
Patel	30607/6.1	\$105.00
DeJager	40408/3	\$367.00
Gen.	Aug. mtg	\$24.92

A motion to approve the bills was made by Trumpore, seconded by Daddis.

Roll call: Winfield – yes, Lundin – yes, Collins – yes, Francis – yes, Wenz – yes, Daddis – yes, Trumpore – yes

**ESCROW REFUNDS:** Ruschke 10706/4 \$450.00

A motion to approve the refund was made by Trumpore, seconded by Daddis.

Roll call: Winfield – yes, Lundin – yes, Collins – yes, Francis – yes, Wenz – yes, Daddis – yes, Trumpore – yes

**OLD BUSINESS:**

**NEW BUSINESS:**

**PAMPANIN BLOCK 30803, LOT 98 3 Bucknell Trail**

Revision to approved plans. Mr. Pampanin had an addition approved in 2005 and now wants to add a dormer that needs a sideyard variance. He needs to apply for an amendment of approval and the Board agreed to waive the application fee.

**DOCK WIDTH:** In other new business Donegan wanted clarification on the dock width that was allowed without a variance. Lundin explained the history Uniform Piers and Docks Regulations which requires a 5' width. The local reviewing Board can approve a 10' width for safety and structural integrity.

A motion to authorize the Zoning Officer to approve up to a 10' width was made by Lundin, seconded by Daddis

Roll call: Winfield – yes, Lundin – yes, Collins – yes, Francis – yes, Wenz – yes, Daddis – yes, Trumpore – yes

**COMPITIELLO, ANTHONY & GAIL BLOCK 11017, LOT 15 15 Lackawanna Trail**

Anthony and Gail Compitiello said they complied with all the conditions of Mr. Ruschke's report. They cannot afford a drywell and had a French drain system presently. The lot coverage is under 35% so there is no legal requirement for a drywell.

A motion to grant relief from the requirement of a drywell was made by Daddis, seconded by Wenz.

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

**LOT & IMPERVIOUS COVERAGE ORDINANCE CHANGE:**

No discussion

**SEWER ORDINANCE CHANGE: TANK ABANDONMENT**

This proposed ordinance provides use of the abandoned sewer tanks for leaders of drywells and will help infiltrate water. The tanks will be filled with 1 ½' stone. Francis will present the change to the Council.

A motion to endorse the change was made by Lundin, seconded by Winfield.

Roll call: Winfield – yes, Lundin – yes, Collins – yes, Francis – yes, Wenz – yes, Daddis – yes, Trumpore – yes

**ADJOURNMENT:**

A motion to adjourn was made by Lundin, seconded by Collins.

Roll call: Winfield – yes, Lundin – yes, Collins – yes, Francis – yes, Wenz – yes, Daddis – yes, Trumpore – yes

ALL IN FAVOR, MOTION CARRIED.

The meeting was adjourned at 10:36 p.m.