

MINUTES OF  
ZONING BOARD OF ADJUSTMENT  
Hopatcong Borough Hall, Hopatcong, NJ  
September 13, 2006

CALL TO ORDER: Chairman Mike Francis called the meeting to Order at 7:35PM

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: Michael Rahill, Roy Winfield, Michael Collins, Cliff Lundin, Chairman Mike Francis  
Zoning Officer William Donegan  
Zoning Board Attorney William Haggerty  
Excused: Borough Planner Kenneth Nelson

ABSENT: Steve Wenz, Robert Daddis, Ken Trumpore

**MINUTES:**

Motion to approve the minutes of August 9, 2006, was made by Winfield, seconded by Rahill

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

**CONTINUED APPLICATION:**

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

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

Applicant wants to establish pre-existing three-unit use in an R-1 zone. This matter was continued from the July 12, 2006 meeting with new notice. Chris Colabella, Esq. represented Mr. Shouten. He was informed that because this application was for a "D" variance, five votes would be needed to carry. Mr. Colabella wanted to proceed.

Since the last meeting they had found a witness who had looked at the property in 1956. Before this testimony, John Ursin, representing neighbors, Jeff and Joann Chaplin requested that Mr. Shouten also be available for questioning. James Murray was sworn in. He lives in Pennsylvania now but looked at 223 Lakeside Boulevard in 1956 with a realtor and bought 229 Lakeside Boulevard where he lived until 1970 when he moved to 239 Lakeside Boulevard. When he looked at the property it was three-family and people were living there when he looked at it. He was not sure if they were there all winter. He is 76 years old. He is not related to the applicant and received no compensation from him.

Mr. Murray told Ursin that he was in the house in 1956 for five minutes, he did not meet the people living there, the realtor told him it was three family. There were two entrances and two kitchens and he was not sure of the floor plan.

Arie Schouten was sworn in. His family started renting there in the summer of 1962 for a few weeks in the summer. He was not sure about year round rentals. He said there had been no expansion of the residences by him or his family. The house is the same as it was when they bought it in 1970. Ursin submitted Exhibit O-1 through O-14 and compared O-13, a survey dated 7/3/70 and O-14, a survey dated 7/21/97. There were several differences in the survey, a deck became an addition, a dock was increased in size, patios were increased, walkways and patios added, a shed was put up. Mr. Colabella objected to

the surveys and their accuracy. No permits were taken out for this work. Mr. Schouten said he didn't do it, his family did it or said the surveyor must have missed it. . Exhibit O-11 & O-12 were tax assessor's cards from 1988 that indicated each building on the property was single-family and they were signed by his mother. His mother was not at this hearing, she is elderly and gets confused but Mr. Schouten said her mental health was good in 1988.

Exhibit O-4 was a roofing permit Schouten had taken out in 1997 to reroof and reside the residence 223B, the one he claims is two family. The floor plan attached to the permit did not indicate that it was two family. Mr. Schouten said the house is three stories one on one side and two on the roadside. The 1970 survey indicates a one story, 1988 survey, two story and now it is a three-story. Exhibit O-4 is a permit to repair an existing dock, the same size. Schouten said he had to prove the dock was the same size to the Zoning Officer and Lake authorities. Exhibit O-7 was a Zoning denial for a deck that they went to the Board for approval. The Resolution marked Exhibit 8 made no mention of the three family use. Schouten said it was never brought up.

Mr. Schouten lived at 223 from 1970 to 1980 and now lives two houses down. His father never had leases and he has leases from 3 to 4 years back. He was in the army from 1967 through 1969. He thought he was paying taxes on a three-family use but had nothing to prove that with him. The tax records determine this, they indicated single-family but there were two kitchens. This could be a cultural tendency and there were some other discrepancies on the tax cards.

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

Ursin said it was the burden of the applicant to prove continued use as a three-family year round.

A motion to deny pre-existing three family use with a finding that there is a pre-existing two family use was made by Winfield, seconded by Lundin.

Roll call: Winfield – yes, Rahill – yes, Lundin – yes, Collins – yes, Francis – yes

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

Applicant is seeking relief from 242-38d(6), rear yard setback; 242-15B/C, pool side and rear yard setback; 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; 242-38D(4), front yard setback

Applicant would like approval of a shed relocation, pool, retaining walls, driveway and deck expansion. This matter was carried from the August 9, 2006 meeting so the Borough Engineer could assess the engineering issues. Anthony Compitiello was sworn in. Since the last meeting he had paved the driveway although the Board thought they were clear that nothing was supposed to be done until after this meeting.

John Ruschke had met with both the applicant and his neighbor at the properties and found no clear evidence that water was inundating the neighbor's property in fact the retaining walls might be retaining water. The neighbor had some prior damage from a roof leader but this had been addressed. Further mitigation was outlined in Ruschke's report dated September 12, 2006, and were discussed. The issue of the pool liner was open, Mr. Compitiello said it was a pervious fabric. Mr. Compitiello agreed to correct the problems but needs back surgery and is out of work.

The meeting was open to the public. Paul Bevacqua, adjoining neighbor maintained that the drywell was no good after paving, the liner under the deck was a problem and water is channeled into his yard since Mr. Compitiello regraded his yard. He submitted photos of his yard and his neighbor's labeled 0-1 through 0-21. No one else from the public commented.

Ruschke felt if the Compitiellos addressed the comments in his letter of Sept. 12<sup>th</sup> the neighbor's concerns would be satisfied. There is water that drains into the street. The Board did not want to condone either the paving that was done or the discharge into the street for icing reasons. They wanted a drywell design. Ruschke felt the best location would be in the front and he would approve the design.

A motion to approve the variances provided the applicant complies with all the items in Ruschke's letter of Sept. 12<sup>th</sup> within 60 days after the adoption of the Resolution including the approval of the design and installation of a drywell by the Borough Engineer was made by Lundin, seconded by Winfield.

Roll call: Winfield – yes, Rahill – yes, Lundin – yes, Collins – yes, Francis – yes

**NEW APPLICATIONS:**

**DEVITO, SCOTT BLOCK 50608, LOT 4 6 Hilltop Road**

Applicant is seeking relief from 242-11C, steep/critical slope and any variances required by the Zoning Board. Pre-existing nonconforming: 242-38D(1), minimum lot size; 242-38D(2), lot width; 242-38D(4) front yard setback; 242-38D(5), side yard setback; 242-38D(6), rear yard setback; 242-18A, distance to lake; 242-21F, improved, approved road.

Applicant wants to build a parking area. Scott DeVito was sworn in. He had received Ruschke's letter of May 16, 2006 and he revised his plans afterward. There is a cesspool underneath the house that is for a sink and shower only. There is an outhouse. He was trying to get a closed septic system approved by the DEP. The plans he submitted don't show a dock but there is one there, he got permits for it. He has a lake water system and uses the Hilltop well for water.

The Board was concerned that if he needs to put in a septic it would be the area where the parking area is. He is happy using the outhouse at this time and only uses the house on weekends with his son. He is here for approval of the parking area only because he needs to get his cars off the road.

John Pretto, 2-4 Hilltop Ave., explained the history of the community well. He was concerned about how far forward the parking would be and how high the walls were. DeVito said it will be as close as Pretto's was. Mr. Pretto was glad he was doing the engineering and going to the Board.

Haggerty felt an application with possible health code violations was unusual but they are a different issue, we are here for the parking area approval.

Thelma Jacoby, a neighbor with an engineering background was in favor of the parking. She and her husband had done a lot of work on their property since they purchased it and she felt this plan would work. No one else from the public commented.

A turnaround is needed on Hilltop. The wall for the parking is 4' and tiered, DeVito agreed to keep it graveled or use pervious pavers. He agreed to use soil erosion controls. The lot coverage was under 35%.

A motion to approve the parking area with the stipulation that he use pervious pavers was made by Rahill, seconded by Collins.

Roll call: Winfield – yes, Rahill – yes, Lundin – yes, Collins – yes, Francis – yes

**DILLON, JOHN BLOCK 31003, LOT 29 & 30 25 Fordham Trail**

Applicant is seeking relief from 242-11C, steep/critical slope; 242-28C(1), retaining wall setback and any variances required by the Zoning Board.

Applicant wants to build a new house. John Dillon and Engineer William Chapin were sworn in. The house would be built on two lots, the lot size is conforming, however, there is some steep slope. They had received a Ruschke's letter dated September 1, 2006 and would comply with the recommendations. They would like conditional approval and will revise their plans.

Lundin was not happy that the lot had been cleared prior to approval. They said they had not done any blasting but had used a chipping gun to move some boulders. There are wetlands across the street and they have made an application to the DEP and would wait for a determination from them. Any action was conditional on this. The slope is steep at the road and then levels out. They agreed to a conservation easement for the rock outcropping from 174 elevation back with the exception of the well.

The meeting was open to the public. Michael Keyes was concerned about rock and blasting. The conservation easement will address that.

The septic is approved for a three-bedroom home.

A motion to approve the variances for steep slope and walls with a DEP letter, a conservation easement and compliance with Ruschke's report of September 1, 2006 was made by Collins, seconded by Winfield.

Roll call: Winfield – yes, Rahill – yes, Lundin – yes, Collins – yes, Francis – yes

**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. Luis Castro and Jessica Quervo, his daughter, were sworn in. The addition is for guest rooms.

Francis agreed that this home needs improvements but the drawings that were submitted were not clear. The Board cannot understand the drawings and they want to see what it will look like afterward, they need dimensions, details and where the proposed addition is going to be.

The applicants asked for a postponement to resubmit their plans.

A motion to adjourn to the October 11, 2006 meeting with no further notice was made by Lundin, seconded by Rahill.

Roll call: Winfield – yes, Rahill – yes, Lundin – yes, Collins – yes, Francis – yes

**HARDER, TIM BLOCK 40203, LOT 19 314 West End Ave,**

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

Applicant wants to rebuild a home. Engineer Dave Fantina and Tim Harder were sworn in. Mr. Harder doesn't live there now. He wants to demolish the existing house and build a 20' x 40' home. The neighboring houses are larger, the lot is 3999 sf. The septic will be abandoned and they will tie into the sewers. They had submitted a stormwater plan and would like to use pervious pavers. The car and garbage will be removed from the property.

Neighbor, Donna Kolmer, adjoining neighbor, and her ex-husband, James Kolmer, of 312 West End, felt the new house would be a great improvement, however, her well supplies the property now (there is an easement) and this is a problem. Harder agreed to drill a

new well. They were also concerned about the basement. They agreed not to blast for the basement, it will be a partial basement and the plans will be modified to show this.

Tom Bordon, 312 West End Ave. also had the same concerns about rock and blasting. No one else from the public commented. This will be an improvement to the shed that is there.

A motion to approve the application with the architectural revision to show the partial basement and use of pervious pavers was made by Rahill, seconded by Lundin.

Roll call: Winfield – yes, Rahill – yes, Lundin – yes, Collins – yes, Francis – yes

**HENNEN, JOSEPH BLOCK 50414, LOT 5 13 Daydream Lane**

Applicant is seeking relief from 242-38D(4) front yard setback; 242-18A, distance to stream; 242-15A, accessory structure without principal structure 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

Applicant wants to place a 12' x 16' storage shed on his property. Lundin recused himself from this application leaving only four Board members. Because a "D" variance needs five affirmative votes, the matter could not be heard. Mr. Hennen was not available for the next meeting. Waiver of the memorialization will certainly be considered due to this postponement. He was advised to do everything he could to combine his lots in the meantime.

A motion to carry the matter to the November 8, 2006 meeting was made by Rahill, seconded by Winfield.

Roll call: Winfield – yes, Rahill – yes, Lundin – abs, Collins – yes, Francis – yes

**RESOLUTIONS:**

|                 |                 |
|-----------------|-----------------|
| <b>Everard</b>  | <b>40405/46</b> |
| <b>Bobinski</b> | <b>11008/4</b>  |
| <b>Vreeland</b> | <b>50410/7</b>  |

A motion to approve the Resolutions was made by Winfield, seconded by Lundin.

Roll call: Winfield – yes, Rahill – yes, Lundin – yes, Collins – abs, Francis – yes

|                    |                          |
|--------------------|--------------------------|
| <b>Steinbaum</b>   | <b>11306/2</b>           |
| <b>O'Connor</b>    | <b>30604/20</b>          |
| <b>Deary</b>       | <b>11202/2</b>           |
| <b>Carvalho</b>    | <b>70111/9</b>           |
| <b>Brennan</b>     | <b>11209/23</b>          |
| <b>Vasarhelyi</b>  | <b>31304/36</b>          |
| <b>Ciborski</b>    | <b>31007/11 &amp; 22</b> |
| <b>Designer Hm</b> | <b>10712/64</b>          |
| <b>Homan</b>       | <b>11006/9</b>           |
| <b>Meyer</b>       | <b>30904/21</b>          |

A motion to approve the Resolutions was made by Winfield, seconded by Rahill.

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

**BILLS:**

|                          |          |          |
|--------------------------|----------|----------|
| <b>Dolan &amp; Dolan</b> |          |          |
| Bobinski                 | 11008/4  | \$150.00 |
| Chaplin                  | 10811/3  | \$246.00 |
| Ciborski                 | 31007/11 | \$204.00 |
| Des. Homes               | 31503/21 | \$204.00 |
| Des. Homes               | 10712/64 | \$222.00 |
| Des. Homes               | 10106/18 | \$60.00  |
| Des. Homes               | 31103/2  | \$48.00  |
| Downey                   | 30327/7  | \$240.00 |
| Everard                  | 40505/46 | \$150.00 |
| Gruber                   | 11036/20 | \$234.00 |

|                         |           |          |
|-------------------------|-----------|----------|
| Hauck                   | 10501/42  | \$282.00 |
| Henshaw                 | 30501/37  | \$90.00  |
| Hickey                  | 30103/37  | \$48.00  |
| Hoer                    | 101010/29 | \$36.00  |
| Marinock                | 40319/11  | \$216.00 |
| Marinock                | 40319/11  | \$25.99  |
| Mikitik 31304/2         |           | \$258.00 |
| Mitchell                | 40201/21  | \$186.00 |
| Morreale                | 11003/13  | \$48.00  |
| Northwood               | 70111/1   | \$288.00 |
| OnMyWay Homes           | 10809/10  | \$216.00 |
| Ortiz                   | 20709/7   | \$204.00 |
| Sabo                    | 10712/31  | \$48.00  |
| Servoss                 | 31402/18  | \$30.00  |
| VanBeke                 | 11003/23  | \$216.00 |
| Vreeland                | 50410/7   | \$168.00 |
| Zeiselman               | 11002/18  | \$180.00 |
| Ruschke                 | 10706/4   | \$150.00 |
| RJ Investors litigation |           | \$48.00  |
| Gen. 6/14 & 7/12 mtg.   |           | \$800.00 |

**Hatch Mott MacDonald**

|                |         |          |
|----------------|---------|----------|
| Morreale       | 1100313 | \$210.00 |
| Quick Chek     | 107012  | \$472.50 |
| Gen. July mtg. |         | \$315.00 |

A motion to approve the bills was made by Winfield, seconded by Collins.

Roll call: Winfield – yes, Rahill – yes, Lundin – yes, Collins – yes, Francis – yes

|                               |                  |                 |                 |
|-------------------------------|------------------|-----------------|-----------------|
| <b><u>ESCROW REFUNDS:</u></b> | <b>McKiernan</b> | <b>10408/10</b> | <b>\$402.00</b> |
|                               | <b>Hickey</b>    | <b>30103/37</b> | <b>\$432.00</b> |
|                               | <b>Pampanin</b>  | <b>30803/98</b> | <b>\$414.00</b> |

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

Roll call: Winfield – yes, Rahill – yes, Lundin – yes, Collins – yes, Francis – yes

**OLD BUSINESS:****NEW BUSINESS:****LEKA, XHELADIN BLOCK 70221, LOT 6.02 Northwood Road**

Change to approved plans. Mr. Leka added a dormer to the approved home that increased the size of the exercise room. Donegan handed out plans. No new variances were involved.

A motion to approve the minor change was made by Collins, seconded by Winfield.

Roll call: Winfield – yes, Rahill – yes, Lundin – yes, Collins – yes, Francis – yes

**ADJOURNMENT:**

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

ALL IN FAVOR, MOTION CARRIED.

The meeting was adjourned at 10:40 p.m.

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Eugenia Wiss, Secretary