

MINUTES OF  
ZONING BOARD OF ADJUSTMENT  
Hopatcong Borough Hall, Hopatcong, NJ  
March 12, 2008

CALL TO ORDER: Chairman Ken Trimpore 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: Ch. Ken Trimpore, Mike Rahill, Judith Kracht, Robert Rehe, George Malanga, Linda Hawkins, Luis Balzac  
Zoning Officer William Donegan  
Board Attorney William Haggerty, Esq.  
Zoning Board Engineer John Ruschke

ABSENT:

**MINUTES:**

Motion to approve the minutes of January 9, 2008, was made by Kracht, seconded by Rehe

Kracht – yes, Rahill – yes, Rehe – yes, Hawkins – yes, Malanga – yes, Balzac – abs., Ken Trimpore – yes

**CONTINUED APPLICATIONS:**

**DEFINIS, DAVID & MARY BLOCK 30805, LOT 13 126 Hudson Ave.**

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

Applicant wants to get approval for a deck. This matter was continued from the December 12, 2007 meeting so the applicant could obtain a more detailed survey and get Council approval of a wall in the Borough right of way. Mary Definis was sworn in. She had received approval by the Council and the Resolution was marked Exhibit A-1. She had provided a more detailed survey per the Board's request. The deck was constructed over an existing patio but extended a little further out.

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 front yard variance was made by Kracht, seconded by Hawkins.

Kracht – yes, Rahill – yes, Rehe – yes, Hawkins – yes, Malanga – yes, Balzac – abs., Ken Trimpore – yes

A motion to approve waiver of the memorialization because the patio had already been built was made by Rehe, seconded by Kracht.

Kracht – yes, Rahill – yes, Rehe – yes, Hawkins – yes, Malanga – yes, Balzac – abs., Ken Trimpore – yes

She will get her building permits immediately.

**RJ INVESTORS, LLC. BLOCK 30102, LOT 17 7 Lawless Place**

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

Applicant wants to build a single-family home on a vacant lot. This was continued from the January 9<sup>th</sup> meeting with no further notice. Judy Kracht recused herself. Larry Kron, Esq. represented the applicant. The lot is 8162 sf and, as required, abutting property owners had been sent notices to buy or sell property to make this lot conforming ("Nash" notice). These letters were marked Exhibits A-1 through A-6. Three had replied saying they were not interested and responses were marked Exhibits 7 through 9. The front yard setback of 24.5' included a covered stoop and moving the house back to eliminate the front yard variance would disturb more of the steep slope on the property.

Engineer Darren Phil was sworn in and qualified. This is one of the larger lots in the neighborhood; it was not a contrary zoning scheme. The proposed front yard setback matched existing ones in the neighborhood. The size of the house was also similar to others in the neighborhood; the building coverage was 14%.

Atty. Kron said they would satisfy the conditions of Ruschke's report of January 31, 2008. They had also revised the plan to conform with Planner Nelson's report of 12/7/07. They agreed to adequately protect the all trees to be saved and their intention was not to disturb the steep slope so plantings wouldn't be required. They also agreed to use pervious pavers to further reduce runoff.

The Board Members were not comfortable with the well location because it was approximately 7-10' away from the neighbor's well. They agreed to move the well so it was no closer than 28 feet from the neighbor's well and they would negotiate with the State for approval and revise the plan according.

The meeting was open to the public. Don Pouliot, 133 Idaroy Trail, was sworn in and reviewed the history of the lot. Starting in 1992 the property had been filled from nearby excavations with the previous owner's permission because there were no plans at that time to build on this lot and, if they had dug more test holes, they would have learned this. He estimated the depth of the fill to be 20-30' and the house would settle. He was also concerned about runoff.

Mr. Phil said the stormwater design was very conservative and oversized because the applicant did not want to adversely impact the neighbors or a buyer. Ruschke said they would have to excavate to the original soil. Mr. Phil submitted a photo of some trees marked A-12 that he felt demonstrated that the grade had not been changed that drastically. They will address the issues of the fill properly.

Don Pouliot said he had trouble with his well and had to get emergency approval from the Borough to tie into public water. He said there is no offsite parking but the applicant had met the parking requirement onsite. Pouliot had previously submitted an offer to purchase the property in the past and assumed from the notice purchasing this lot at a buildable lot price was not feasible.

Kathryn and Richard Smith, 8 Dale Trail, were sworn in. They own the property behind this lot and have always had water problems that are worse as a result of construction on 5 & 7 Lawless Place. She is concerned about runoff and submitted photos marked Exhibits O-1 through O-5. Also they will lose their privacy but that was not an issue for this Board and that was explained. Her yard is very wet now and wondered what her recourse is if there is a problem after construction.

Mr. Phil said there will be a decrease in stormwater discharge from the property because of the seepage tank design. They had gone beyond what the codes required with the design and would further reduce runoff with the pervious pavers.

Mr. Wolski was sworn in and had the same problems with water and concerns about runoff and was assured the engineering would address this.

Approval will be conditioned on compliance with the following conditions: all excavation material is to be removed from the site; and to prevent erosion the drywells will be installed when the excavation for the foundation is done; the drywells will be connected as soon as the roof is done; the well will be moved and be no closer than 28 feet from the neighbor's well; pervious asphalt will be installed in the driveway; they will comply with Ruschke's January 31<sup>st</sup> letter and the applicant's engineer will certify that the saved trees are properly protected.

A motion to approve with these conditions was made by Hawkins, seconded by Rehe.

Rahill – yes, Rehe – yes, Hawkins – yes, Malanga – yes, Balzac – yes, Ken Trumppore – yes

**SALMON, PETER & GWENDOLYN BLOCK 10712, LOT 72 & 73 120-122 Randolph Ave.**

Applicant is seeking relief from 242-38D(1), minimum lot size 242-38D(2), lot width; 242-38D(4), front yard setback; 242-18A, structure within 50' of lake; 242-11C, steep/critical slope; 242-21F, frontage on an approved, improved road and any variances required by the Zoning Board

Applicant wants to build a single-family home on a vacant lot. Atty. Kron represented Mr. Salmon who was sworn in. Mr. Salmon is under contract with the Borough to buy Lot 72 and will combine Lot 71 and 72 to create an 8716 sf. lot. The "Nash" letter was sent to all abutting neighbors as was required and marked as Exhibits and no response was received. Engineer Jeff Careaga was sworn in and qualified. There was an old foundation on the property. He explained that the design with an attached garage was used because of the slope of the property and this triggered a front yard setback variance. The house is tilted to be visible from the road. The existing right of way will be widened to 12' extended with their driveway that will be pervious pavement. A drywell design, stormwater report and landscape plan including replacing existing trees had been submitted. They had contacted the DEP for flood hazard approval because the house is 36.5' from the Lake. The landscaping should address their concerns.

Attorney Kron addressed all the conditions of Ruschke's letter of January 30, 2008, and agreed to them. They have a sewer allotment and the letter was marked as Exhibit A-1. The letter dated February 11, 2008 from the Lake Commission was read into the record and recommended soil erosion controls.

No walkway or stairway was shown to the Lake. If they were going to the DEP for approval anyway, they should show this as the DEP might ask to have the rest of the property deed restricted. They sketched in a walkway and will revise the plans.

The meeting was open to the public. Eddie and Iris Frontany were sworn in. They were concerned about access to their property that is also at the end of this unimproved right of way and would like to pave a parking area. They should talk to the Town and request the right of way be vacated and they could get one half. The wall in the right of way was there when they bought the house. They want to share the access and they should talk to the applicant. They should address the electric cable issue with the Power Company. No one else from the public commented. The meeting was closed to the public.

The applicant agreed to provide revised plans that addressed the engineering and also construct the drywell prior to construction and connect the roof leaders as soon as possible.

A motion to approve with the conditions set forth was made by Rahill, seconded by Hawkins.

Kracht – yes, Rahill – yes, Rehe – yes, Hawkins – yes, Malanga – yes, Balzac – yes, Ken Trumppore – yes

**GALLAGHER, BRIAN, POA MATHEW WERNICK BLOCK 30608, LOT 11  
423 Lakeside Boulevard**

Applicant is seeking relief from expansion of non-conforming use (2 primary structures on one lot) and any variances required by the Zoning Board. Pre-existing non-conforming 242-38D(1), lot size; 242-38D(2), lot width; 242-38D(4), front yard setback, 242-38D(6), rear yard setback; 242-18A, distance from the lake; 242-38D(5), sideyard setback; 242-28C(1), retaining wall setback.

Applicant wants to build an addition and renovate an existing residence. Bob Rehe stepped down for this matter. Brian Gallagher and NJ Architect Carolyn Young were sworn in. This property had been in the family since 1940. Matthew Wernick, his cousin, owns the property, was present and uses the small house by the lake and Gallagher uses the house on the road side. Now that the family has grown and sewers are available, Gallagher needs more room for his children. A condition of this approval will be that it would never become a rental property. It was never rented in the past.

The architect explained the addition that expanded the footprint on the Lake side, road side and one side of the house with an addition above the space and showed elevations. A proposed deck created the side yard variance. The house has one bath and two bedrooms and after the addition would have 3 ½ baths and 3 bedrooms.

Approving this addition will make increasing the other home on the lot very difficult. Three parking spaces are provided but they will need a technical variance for parking spaces. There is lots of parking across the street.

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

The owner of the property was here and had authorized the applicant to make the application.

A motion to approve was made by Balzac, seconded by Hawkins.

Kracht – yes, Rahill – yes, Rehe – yes, Hawkins – yes, Malanga – yes, Balzac – yes, Ken Trumpore – yes

**WHITEHEAD, ROBERT BLOCK 30501, LOT 61 401 Lakeside Boulevard**

Applicant is seeking relief from 242-38D(8), lot coverage; 242-11C, steep/critical slope; 242-28C(1) retaining wall setback and any variances required by the Zoning Board. Pre existing non-conforming 242-38D(2), lot width; 242-38D(4), front yard setback; 242-18A, structure within 50' of the Lake.

Applicant wants to construct a driveway and two-car garage. Mr. Whitehead and Engineer Careaga were sworn in. The driveway on this property is very steep and he wants to make it safer and Careaga had engineered a design. Ruschke had written a report dated January 31, 2008 and had comments on the drywell calculations and stormwater report and felt it was important to specify a 90 day completion deadline and that extraordinary Soil Erosion precaution be exercised.

Whitehead wants to build a garage in the future and will then remove the existing garage. The construction of the garage (770 sf) will be Phase II and the calculations on the plan include the garage. The stormwater calculations included the roof drains.

He purchased the home 1 ½ years ago and the house had a lot of problems and he hoped to be able to move in toward the end of the summer. He will not start the driveway until he is in the house so he expects to need an extension. He will hire a contractor to construct the driveway.

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

If he needs an extension in nine months, he will have to renotice.

A motion to approve the application was made by Rahill, seconded by Malanga.

Kracht – yes, Rahill – yes, Rehe – yes, Hawkins – yes, Malanga – yes, Balzac – yes, Ken Trumpore – yes

**DISTEFANO, PHILIP & MARIA BLOCK 50509, LOT 18 512 Lakeside Avenue**

Applicant is seeking relief from 242-38D(4), front yard setback; 242-38D(5), sideyard setback; 242-38D(7), building height (acc.); 242-38D(9), footprint; 242-18A, structure within 50' of the lake; 242-11C, steep and critical slope; 242-15B(1); human habitation in accessory building; 242-31C(5); home occupation to be located in principal structure; 242-22E, driveway width and any variances required by the Zoning Board. Preexisting non-conforming: 242-38D(8), lot coverage; 242-28C(1), wall setback; 242-30C(3), dock length; 242-30C(6), one dock 100' width.

Applicant wants to knock down one house, construct a 1½ story addition to an existing 1½ story house and a garage. Philip Distefano and his engineer Dave Fantina were sworn in. Mr. Distefano owns 510 and 512 Lakeside Avenue and plans to renovate the home on 512 and demolish 510 and build a garage with an office beneath and combine the lots that would result in a significant upgrade of the property. The driveway to 512 will be eliminated and a new driveway will be constructed. Architect Joe Gates was sworn in. The additions of 1181 sf will result in a 2929 sf home. The proposed garage is slightly larger than the house that is going to be demolished.

Trumpore was concerned that if an office was put in the garage, it could become a business or an apartment in the future. He could put water in the garage area but no bathroom or use that area for storage and put an office in the house. He wanted a private office and the convenience of having a bathroom there. The waste water would be probably pumped to the other septic.

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

The garage was situated in that location because of the grade of the property and it could be a loft type garage and the dormers were for aesthetics. Trumpore was not opposed to storage in the attic or basement but was opposed to human habitation.

Ruschke needed to review the revised plans and stormwater report. They should obtain jurisdiction of determination from the DEP or at least something in writing. Mr. Fantina had met with the DEP.

A motion to postpone this application to the April 9, 2008 meeting with no further notice to resolve some of the engineering issues was made by Rehe, seconded by Hawkins.

Kracht – yes, Rahill – yes, Rehe – yes, Hawkins – yes, Malanga – yes, Balzac – yes, Ken Trumpore – yes

**NEW APPLICATIONS:**

**CHAPLIN, JOHN BLOCK 40108, LOT 28 300 Elmira Trail**

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

Applicant wants to build a single-family house. This application was carried to the April 9, 2008 meeting with no further notice because of the late hour.

**LOPEZ, LOIS BLOCK 30608, LOT 12 421 Lakeside Blvd.**

Applicant is seeking relief from 242-38D(5), side yard setback; 242-26B & C, off –street parking requirements and any variances required by the Zoning Board. Preexisting non-

conforming: 242-38D(1), lot size; 242-38D(2), lot width; 242-38D(4), front yard setback  
242-28C(1), wall setback

Applicant wants to put a one-story addition over and existing deck with a new deck on the roof. This application was carried to the April 9, 2008 meeting with no further notice because of the late hour.

**RESOLUTIONS:**                      **Dolan & Conroy      30408/22**

A motion to approve the escrow refund was made by Kracht, seconded by Malanga.  
Kracht – yes, Rahill – yes, Rehe – yes, Hawkins – yes, Malanga – yes, Balzac – yes, Ken Trumpore – yes

**BILLS:**                                      **Hatch Mott MacDonald**

Cahn	10810/8	\$320.00
Lessig	30804/13	\$451.04
Designer Hm	31103/2	\$440.00
Leka	70221/6.02	\$110.00
Designer Hm.	31102/2	\$133.28
Designer Hm.	20206/5	\$55.00
Lessig	30804/13	\$55.00
Ghans	40106/20	\$157.50
Gen.	12/07 mtg.	\$220.00

A motion to pay the bills was made by Malanga, seconded by Rahill  
Kracht – yes, Rahill – yes, Rehe – yes, Hawkins – yes, Malanga – yes, Balzac – yes, Ken Trumpore – yes

**Dolan & Dolan**

Bautz	11003/15	\$234.00
Ghans	40106/20	\$26.00
Hellum	30501/52	\$32.50
On My Way Homes	10809/10	\$143.00
Quinn	11018/2	\$234.00
RJ Investors	30102/17	\$26.00
Ruschke	30805/11	\$45.50
Seal	30703/4	\$292.50
Takvorian	31603/3	\$234.00
Vasarhelyi	31304/36	\$58.50
Cahn	10810/9	\$78.00
Dolan	30408/22	\$247.00
On My Way Hm.	10809/10	\$169.00
Seal	30703/4	\$52.00
General	12/12 mtg.	\$260.00
General	1/9 mtg.	\$260.00

A motion to pay the bills was made by Rehe, seconded by Kracht.  
Kracht – yes, Rahill – yes, Rehe – yes, Hawkins – yes, Malanga – yes, Balzac – yes, Ken Trumpore – yes

**ESCROW REFUNDS:**

Connell	3120225	\$359.50
Rehe	40211/6	\$420.00
Rehe	50202/1	\$437.50
Bartley	50505/16	\$366.00
Hernandez	30506/9	\$240.50
Smith	11101/21	\$385.50
Compitello	11017/15	\$312.00

A motion to approve the refunds was made by Kracht, seconded by Malanga.  
Kracht – yes, Rahill – yes, Rehe – yes, Hawkins – yes, Malanga – yes, Balzac – yes, Ken Trumpore – yes

**MEETING OPEN TO THE PUBLIC:**

Rebecca Marcal of 40 Coolidge Trail and John Acelta of 46 Coolidge Trail have water problems at their homes and felt the three-bedroom home that is being constructed at 38 Coolidge Trail had accelerated their water problems. The Board had previously approved a demolition of an old cottage and reconstruction at this site.

Ruschke said in the 10 years he has been an engineer in Hopatcong, this area has historically had water problems. There is a groundwater seepage problem and we need to determine if the conditions have changed and caused an increase of water in this area.

The contractor wants to try and resolve it with a pipe to divert the water. They don't need a permit to do this. The Board felt this was not the proper Board to resolve this problem, they should contact the Administrator or the Mayor and Council.

They said they had never had this much water or damage to their property in the past.

**OLD BUSINESS:** None

**NEW BUSINESS:**

**West, Elizabeth Block 11305, Lot 15 1 Naritcong Avenue**

Request for waiver of Extension fees and discussion of Extension limit. Elizabeth West was sworn in. She had received variance approval in April of 2007 for a second-story addition but the builder, Roberts Homes Design, is now defunct and she lost her deposit. She would like to proceed with the addition if she ever gets her money back. The Board said she could have an extension to protect her investment. She could come back in another nine months if necessary.

A motion to grant the extension was made by Rehe, seconded by Kracht.

Kracht – yes, Rahill – yes, Rehe – yes, Hawkins – yes, Malanga – yes, Balzac – yes, Ken Trumpore – yes

She thanked Mr. Donegan for all his help.

**Green Croft Block 30501, Lot 66 411 Lakeside Boulevard**

Discussion on Extension. This matter was not discussed.

**ADJOURNMENT:**

A motion to adjourn was made by Rehe, seconded by Rahill

ALL IN FAVOR, MOTION CARRIED.

The meeting was adjourned at 11:21 p.m.

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Eugenia Wiss, Secretary