

MINUTES OF
ZONING BOARD OF ADJUSTMENT
Hopatcong Borough Hall, Hopatcong, NJ
October 10, 2007

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: Judith Kracht, Robert Rehe, Mike Rahill, Robert Daddis, Ken Trumpore, Ch. Mike Francis
Zoning Officer William Donegan
Board Attorney William Haggerty, Esq.
Zoning Board Engineer John Ruschke

SWORN IN: Alternate Member Luis Balzac

ABSENT: Board Planner Kenneth Nelson

MINUTES:

Motion to approve the minutes of September 12, 2007, was made by Daddis, seconded by Kracht

Roll call: Daddis – yes, Trumpore – abs., Kracht – yes, Rahill –yes, Rehe – yes, Balzac – abs., Francis – yes

CONTINUED APPLICATIONS:

KRAUS, MORGAN & NAYLOR, CARRIE BLOCK 30501, LOT 68 415 Lakeside Blvd.

Applicant is seeking relief from 242-38D(4) front yard setback; 242-38D(5), side yard setback; 242-38D(7), building height; 242-18A, structure within 50' of lake; 242-11C, steep/critical slope; 242-30D(4), water area coverage; 242-15B(5), accessory structure in front yard; 242-30D(2), dock side yard setback and any variances required by the Zoning Board. Pre-existing non-conforming: 242-38D(1), lot size, 242-38D(2), lot width

Applicant wants approval for walkways, docks, decks, stairs, walls and boathouse. This matter was continued from the April 11th, June 13th, August 8th and Sept. 12th meetings. Morgan Kraus and Carrie Naylor were sworn in. They had received approval for improvements in the Borough Right of Way from the Mayor and Council. Careaga Engineering had prepared a plan for the proposed wall. The new steps will be on their property but shared by the neighbor. Ruschke felt there was insufficient detail on the drawings and engineering details would have to be submitted and approved by the Code Official and engineer before permits are issued. There is a deteriorating railroad tie wall on an existing driveway that was not on the applicant's property. Kraus said he would repair this also as part of this project. This is Borough property so neither he nor his neighbor would have exclusive rights to it, but it needs to be approved by the Council and be safe.

Naylor did not receive any approvals from the State for his boathouse. The Board felt the lot was too narrow for a boathouse and was not in favor of more dock and wanted the 4'x4's cut off.

The meeting was open to the public. Mr. Elias, neighbor, wanted responsibility for any future drainage issued incorporated in the Resolution. He also wanted the wall that faces his property faced with stone to match his property improvements and that the wall is not higher than what exists. He and other neighbors are not in favor of a boathouse.

Ruschke will provide the Board with a report on the more detailed engineering plans after they are submitted.

A motion to approve the parking area, wall and walkway with engineering and Municipal approval with the condition that the wall will be stone faced on the neighbor's side and deny the boathouse and any new dock including the removal of the 4' x 4's and that future responsibility for drainage issues will be included in the Resolution was made by Trumpore, seconded by Kracht. The deck extension application is withdrawn. Roll call: Daddis – yes, Trumpore – yes, Kracht – yes, Rahill –yes, Rehe – yes, Balzac – abs., Francis – yes

HELDAK, VLADIMIR BLOCK 11202, LOT 16 409 Brooklyn Mtn. Road

Applicant is seeking relief from 242-11C, steep/critical slope and any variances required by the Zoning Board. Pre-existing non-conforming: 242-38D(1), lot size, 242-38D(2), lot width; 242-38D(3), lot depth; 242-38D(4) front yard setback; 242-28C(1), retaining wall setback

Applicant wants to level the back of property. This had been carried from the August 8th and Sept. 12th meeting. This matter no longer needs a variance and the applicant requests this matter be dismissed. Ruschke explained that serious excavating had been done that no longer required a variance but extensive engineering had been done and the project was being monitored.

A motion to dismiss this matter was made by Daddis, seconded by Rehe.

Roll call: Daddis – yes, Trumpore – yes, Kracht – yes, Rahill –yes, Rehe – yes, Balzac – abs., Francis – yes

CELLCO PARTNERSHIP. D/B/A VERIZON WIRELESS BLOCK 40005, LOT 16 Columbia Valley Road

Preliminary and Final Site Plan Approval. Applicant is seeking relief from 242-37C, wireless telecommunication antenna within 500' of residential property line; 242-37, use; 242-62A, expansion of nonconforming structure and 242-42C(a), antenna height

Applicant wants to install a telecommunications facility on the top of an existing transmission tower. This application was carried from the August 8th and Sept. 12th meeting. Richard Schneider, Esq. represented the applicant. Haggerty said there is a proposal for a cell tower pending and the applicant needs to demonstrate why this would not be adequate. Schneider said this is an application for a wireless facility on an existing Public Service and Electric transmission tower and doesn't involve construction of a new tower. The tower is 119' and they will extend the height to 125' and no easements are needed. Borough ordinances encourage using existing structures for this use. He felt the municipal site for a new cell tower is going nowhere; there has been no activity since April of 2005. No leases have been entered and no construction of a cell tower has been started.

David Stern, the applicant's radio frequency engineer, was qualified. He demonstrated why and how they determined there is a coverage gap in an area of Hopatcong and Byram for a number of years. Exhibit A-1 was an existing coverage map showing the present facilities and the gaps in reliable service particularly in the valley. Exhibit A-2 showed the coverage if they utilized the transmission tower. He demonstrated that this was the most suitable of all the towers for coverage as terrain features limit tower locations and would fill the entire gap. This tower is in a zone where it is permitted. Exhibit A-3 showed the photos of how the towers will look like after construction. The height was limited by PSE & G's requirements and tree interference.

Exhibit A-4 showed the Borough property that was being considered for a cell tower and Stern explained that a knoll interferes with reliable coverage and even if they used this site

they would still need to use the tower. A report marked A-5 was submitted that demonstrated they are in compliance with FCC regulations. The proposed facility will be in compliance with FAA regulations and the electromagnetic energy will not have an affect on their transmission. They have 50 similar facilities.

The meeting was open to the public for this witness only. Armond Jermakian was also concerned about the corona loss and its effects and thought the railroad bridge was a better site. He did appreciate the innocuous appearance on top of the power line. No one else from the public commented. The meeting was closed to the public.

Because of the heavy agenda, the applicant agreed to continue this matter to the November 14, 2007 meeting with no further notice and also agreed to an extension. The other experts will testify at this meeting and a shortened agenda will accommodate this application.

NEW APPLICATIONS:

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 home on a vacant lot. Applicant has requested a continuation to the December 12, 2007 meeting with no further notice.

A motion to continue this matter with no further notice to the Dec. 12, 2007, meeting was made by Rehe, seconded by Kracht.

Roll call: Daddis – yes, Trumpore – yes, Kracht – yes, Rahill –yes, Rehe – yes, Balzac – yes, Francis – yes

LANG, CHRIS BLOCK 50411, LOT 11 700 Lakeside Avenue

Applicant is seeking relief from 242-38D(4), front yard setback; 242-38D(5), side yard setback; 242-15B(6), distance between primary and accessory structure and any variances required by the Zoning Board. Preexisting non-conforming 242-38F(1), lot size; 242-38D(2), lot width; 242-38D(3), lot depth; 242-28C(1), retaining wall setback.

Applicant wants to add a level to a single-family home and put in a shed. Chris Lang was sworn in. The proposed addition will be cantilevered 2' in the front and back. The shed is in the front yard and also required a variance. There was a letter from the Health Department approving the septic for a two-bedroom home. One of the upstairs rooms could become a bedroom in the future so there will be a stipulation in the resolution that it remain a two-bedroom home. There is a drywell system put in by the previous owner and he has never had any trouble with it although it is not known where it drains. The shed is also too close to the house but there is nowhere to move it because of ledge rock in the back.

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 Kracht.

Roll call: Daddis – yes, Trumpore – yes, Kracht – yes, Rahill –yes, Rehe – yes, Balzac – yes, Francis – yes

MANEVAL, KIRK AND LEONA BLOCK 11209, LOT 28 309 Santa Fe Trail

Reconsideration of a Resolution limiting the number of bedrooms. Leona and Kirk Maneval were sworn in. This property now has sewers.

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 Rehe.

Roll call: Daddis – yes, Trumpore – yes, Kracht – yes, Rahill –yes, Rehe – yes, Balzac – abs., Francis – yes

CAPRIOLI / SOSA, BLOCK 30809, LOT 50 11 Rollins Trail

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

Applicant would like to build an addition. Betiana Caprioli and Luis Sosa were sworn in. There has been substantial excavation and walls on this property to put in a new septic. They had Board of Health approval to build this and they needed engineering also. Careaga had done the engineering for the wall and it was 5' off the property line. They got a building permit for the wall and it was taken apart a couple of times and rebuilt properly to address the Construction Official's concerns and steep slope was considered but the new code change eliminated the variance although it was close. Trumpore was concerned about the damage to trees and the need for wells and stabilization. Ruschke said an "asbuilt" for the wall be provided or certification by the engineer.

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

There was a room on the second floor labeled "office" that could become a bedroom making three-bedrooms on a two-bedroom approved septic.

A motion to approve the plan provided that the home remains two-bedroom was made by Daddis, seconded by Rehe.

Roll call: Daddis – yes, Trumpore – yes, Kracht – yes, Rahill –yes, Rehe – yes, Balzac – yes, Francis – yes

GANGPLANK LLC. BLOCK 31304, LOT 4 47-53 Maxim Drive

Applicant is seeking relief from 242-44D(5), side yard setback; 242-26B & C, parking; 242-62A expansion of building with non-conforming use; 242-44D(4), front yard setback and any variances required by the Zoning Board. Preexisting non-conforming 242-44D(1), lot size; 242-38D(8), lot coverage.

Applicant wants to establish pre-existing non-conforming use for two apartments and to move steps and enclose an existing structure. Paul Bogensberger, one of the owners, was sworn in and was represented by Attorney Erik A. Hassing. The steps or enclosure of the porch that needed repair was not the main issue, it was proving the pre-existing non-conforming use of the two apartments. They had no documentation to prove this but a 60 year old resident could be provided.

The meeting was open to the public. Estelle Klein was sworn in and said the building always had two apartments and she has lived in Hopatcong for 50 years. The Zoning Ordinance was established in 1957.

The meeting was closed to the public. They would also need to provide assessment cards for the file and any approval would be contingent on this supporting the application.

There is an easement on this property for emergency access to go to the back properties between the parking area and the building. They need to get an agreement for use of this easement. There is an oil tank in this easement that needs to be moved back one foot to get it out of the easement. The proposed stairway on the side of the bar will be the main entrance and will be safer. They have added handicapped parking and will keep the front entrance for access. They are not proposing any lighting or signage changes other than a name change. They are going to pave the parking area and an extension of the parking lot might be in the future. Frank Lepre, builder, explained that they are in the process of cleaning up the property and the oil tank is on an existing 8" high pad that would be difficult to remove. He doesn't have to move the pad. They would like eliminating all the

parking near the building and fencing in the tanks, condensers, etc. The fence also cannot be in the easement. A dumpster is not a permanent structure.

They were advised by the Board to get a long-term agreement with the owner of the easement or buy the easement property. There are stanchions in front of the tanks and they will also add a fence.

A motion to approve the pre-existing use provided documentation is received and the new entrance and enclosure was made Daddis, seconded by Kracht.

Roll call: Daddis – yes, Trumpore – yes, Kracht – yes, Rahill –yes, Rehe – yes, Balzac – yes, Francis – yes

A motion to waive the memorialization because the place needs to be cleaned up was made by Kracht, seconded by Balzac

Roll call: Daddis – no, Trumpore – yes, Kracht – yes, Rahill –yes, Rehe – no, Balzac – yes, Francis – yes

ATTAS, BRIAN & JILL BLOCK 10707, LOT 11 19 Rapalyea Road

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

Applicant wants to add a level and extend porch to end of house. Notice was not proper. A motion to continue this matter to the November 14, 2007 meeting with notice was made by Daddis, seconded by Trumpore

Roll call: Daddis – yes, Trumpore – yes, Kracht – yes, Rahill –yes, Rehe – yes, Balzac – yes, Francis – yes

ARICO, LEE BLOCK 30106, LOT 12 6 Lehigh Way

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

Applicant wants to build a carport. Lee Arico and Mathew Ott were sworn in The Board was concerned about how she was going to access the carport. She has small cars and didn't think it would be a problem. It will be open on all sides and she might put canvas up in the winter to keep the snow out. She is tired off shoveling out her car. She agreed not to blacktop the driveway, it will be gravel or pervious pavers.

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

A motion to grant the variance on the condition that the driveway remains pervious was made by Rehe, seconded by Balzac.

Roll call: Daddis –no, Trumpore – yes, Kracht – yes, Rahill –yes, Rehe – yes, Balzac – yes, Francis – yes

RUSCHKE, JOHN BLOCK 30805, LOT 11 122 Hudson Avenue

Applicant is seeking relief from 242-38D(4), front yard setback, 242-11C, step/critical slope and any variances required by the Zoning Board. Preexisting non-conforming 242-38D(2), lot width and any variances required by the Zoning Board.

Applicant wants to build a new home. Debra Nicholson, Esq. represented John Ruschke who was sworn in. The applicant had been before the Board previously for approval on this property and now wanted to proceed with building a new home since sewers are now available. The lot is 18,000 sf and he is seeking a front yard set back because the topography limits moving the project back on the property. He provided Exhibits marked A-1, 110 Hudson Ave., A-2 & A-2 126 and 128 Hudson Ave. that showed existing homes nearby with similar setbacks. The prevailing setback is 22' but the porch would put it closer than that. The architectural rendering shows the concrete walls for the approved

parking area would be built into the structure, the porch was a design feature. A drywell will be installed and the a Soil Erosion and Sediment Control permit is on file with Sussex County and will be amended to include the house. He agreed to comply with Nelson's letter regarding the landscaping, however, he prefers a flowering cherry to an oak that was recommended by Nelson. He agreed to his recommendation for a 9200 sf. conservation easement and had a diagram showing where this would be. No trees will be removed in this area. Exhibit A-4 showed the conservation easement marked in blue. One tree on the property was a safety concern and if he takes it down he will replace it with two others. He has approval from the DEP to put the well 20' from the 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 with compliance with Nelson's report including a 9200 sf. Conservation Easement was made by Trumpore, seconded by Rahill

Roll call: Daddis – abs., Trumpore – yes, Kracht – yes, Rahill –yes, Rehe – yes, Balzac – yes, Francis – yes

A motion to waive the memorialization period for the foundation only to establish some of the landscaping because of the season was made by Kracht, seconded by Balzac

Roll call: Daddis – no, Trumpore – yes, Kracht – yes, Rahill –yes, Rehe – yes, Balzac – yes, Francis – yes

RESOLUTIONS:

Clark	40209/28
Vanderbilt	20501/20
Meyers	50602/28
Gardenview	1110747
Perrin	50507/11
Ghans	40106/20,21 & 22
Everard	40504/46

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

Roll call: Daddis – yes, Trumpore – abs., Kracht – yes, Rahill –yes, Rehe – yes, Balzac – abs., Francis – yes

Rehe **50202/1**

A motion to approve the Resolution was made by Trumpore, seconded by Rahill.

Roll call: Daddis – yes, Trumpore – abs., Kracht – yes, Rahill –yes, Rehe – abs., Balzac – abs., Francis – yes

BILLS:

Dolan & Dolan		
PSE&G	40004/16	\$39.00
Hatch Mott MacDonald		
PSE&G	40005/16	\$157.50
Hellem	30501/52	\$220.00

A motion to approve the payment of bills was made by Daddis, seconded by Kracht.

Roll call: Daddis – yes, Trumpore – yes, Kracht – yes, Rahill –yes, Rehe – yes, Balzac – yes, Francis – yes

ESCROW REFUNDS:

OLD BUSINESS:

NEW BUSINESS:

Gabel, Dennis Block 30904, Lot 3 & 4 206 Hudson Avenue

Amendment of Resolution. The language in the resolution prohibits issuing a building permit until the lots are purchased and combined and bank funding isn't available until permits are issued. As what was suggested in Gabel's letter of October 1, 2007, it was agreed the Resolution could be amended so that permits could be issued but no footing inspection be made until the lots are combined.

A motion to approve the amendment accordingly was made by Rahill, seconded by Kracht.

Roll call: Daddis – yes, Trumpore – yes, Kracht – yes, Rahill –yes, Rehe – yes, Balzac – abs., Francis – yes

Caimano, Scott Block 31301, Lot 48 7 Bonaparte Point Drive

Amendment of previous approval. Mr. Caimano had been approved for a lakeside deck. He also redid his front entryway and the steps were in a different spot. He already had permission for a front yard setback and it was a design change. No motion was necessary. The Zoning Officer was told it was okay.

Trombley, Alexandra Block 10712, Lot 7 35 Shore Drive

Amendment of previous approval with regard to retaining walls and driveway. She was here a year ago for replacement of a home. The retaining walls on the engineered plans would require 6' versa-lock walls at an additional expense of \$7000. She wanted to know if she could go back to the preexisting driveway and parking arrangement instead and keep this as a future project. She was told she didn't have to build what was approved. Ruschke didn't see a problem since it was preexisting.

Gingerelli, Frank Block 31301, Lot 76 37 Lines Avenue

Donegan explained that Gingerelli overbuilt a little bit. He advised him he could cut the deck back or go back to the Board. The Board felt Donegan's approval of the steps was appropriate but would prefer that he cut the deck back.

ADJOURNMENT:

A motion to adjourn was made by Daddis, seconded by Rehe.

ALL IN FAVOR, MOTION CARRIED.

The meeting was adjourned at 10:53 p.m.

Eugenia Wiss, Secretary