

**ZONING BOARD OF ADJUSTMENT MEETING**

Hopatcong Borough Hall, Hopatcong, NJ

October 13, 2004

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

CHAIRMAN'S STATEMENT: Chairman stated that this meeting is held in accordance with the Open Public Meetings Act N.J.S.A.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, Clifford Lundin, Robert Hastings, Robert Daddis, Kenneth Trumpore, Chairman Michael Francis  
Zoning Officer – William Donegan  
Board Attorney -William Haggerty, Esq.  
Board Engineer John Ruschke arrived at 10:00  
Board Planner Nelson - excused  
Absent: Stephen Wenz

**MINUTES:**

A motion to approve the minutes of September 8, 2004, with was made by Daddis, seconded by Trumpore

Roll Call: Winfield – yes, Collins – yes, Daddis – yes, Trumpore – yes, Lundin - abstained, Hastings – yes, Francis – yes.

**ADJOURNED APPLICATIONS:**

**ATTORNEY HEFELE FOR DESIGNER HOMES BLOCK 10712, LOT 64 104 Randolph Ave.**

Applicant is seeking relief from 242-38D(1), minimum lot size; 242-38D(2), minimum lot width; 242-38D(5), minimum side yard set back; 242-38D(6), minimum rear yard set back; 242-38D(8), maximum lot coverage; 242-18A, work within 50' of lake; 242-28C(1), retaining wall within 5' of property line.

Applicant wants to remodel an existing single-family home. This matter was continued from the August 11<sup>th</sup> meeting for redesign. Attorney Hefele appeared with Paul Chodniewicz of Designer Homes and Architect Yogesh Minstry who were reminded they were under oath. They want to add a 650 sq. foot floor to a dilapidated 1200 sq. ft. house increasing the size to 1858 sq. ft. They were asked to redesign and move the house back from the lake. They stepped the addition back from the lake and moved the house a foot back into the hill.

The houses on each side are single-story. This house was purchased recently by Designer Homes with knowledge of the zoning requirements. There is also a concern about the slope of the property on this 33' wide lot. The existing house is 20' wide. The basement area was not used in the calculations because the ceilings were less than 8 feet. The basement will be used for storage only. They board felt by lowering the ceiling height of the basement they were trying to circumvent zoning. This property is in an area that will be hooked up to the sewers soon.

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

The Board felt the floor area ratio was excessive at 44%, and a 1400 to 1500 square foot house was appropriate for this lot.

A motion to deny the application was made by Lundin, seconded by Winfield.

Roll Call: Winfield – yes, Collins – yes, Daddis – yes, Trumpore –no, Lundin – yes, Hastings – yes, Francis – no.

**WITTER, PHYLLIS BLOCK 10807, LOT 13 3 Walton Way**

Applicant is seeking relief from 242-38D(1), minimum lot size; 242-38D(2), minimum lot width; 242-38D(3), minimum lot depth; 242-38(4), minimum front-yard setback; 242-38D(5), minimum side yard set back; 242-38D(8), maximum lot coverage; 242-38D(9), maximum floor area

Applicant would like to add-a-level to a single-family home. This matter was continued from the July 22, 2004 and September 8, 2004 meeting for redesign. Michael and Kim Flippin from Roberts Home Designs appeared. They would like to add a level to a 797 sq. foot house that presently has no dining area. The bedrooms would be moved upstairs. To comply with the Board's recommendations, they reduced the size of the addition eliminating a computer room. They agreed to eliminate the tub and shower unit in the downstairs bathroom. The attached porch should not be used as a year round room and they agreed to a restriction on this.

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 providing there is a deed restriction that the covered porch not have plumbing or heating, the TV room have a 40" minimum opening either an archway or half wall and the shower and tub unit be removed from the downstairs bathroom was made by Daddis, seconded by Hastings.

Roll Call: Winfield – yes, Collins – yes, Daddis – yes, Trumpore –yes, Lundin – yes, Hastings – yes, Francis – yes.

**DIVITTORIO, JEFFREY BLOCK 50410, LOT 14 307 Squaw Trail**

Applicant is seeking relief from 242-38D(1), minimum lot size; 242-38D(2), minimum lot width; 242-38(6), minimum rear-yard setback; 242-38D(9), maximum floor area ratio; 242-18A, 50 feet from lake.

Applicant would like to remodel an existing single-family house. The application was carried for redesign. Mr. Divittorio was sworn and appeared with his attorney, John Ursin. He bought a dilapidated lakefront house and would like to renovate it. He redesigned the proposed addition to address the Board concerns to reduce the stacked affect and build no closer to the Lake. He has removed two sheds from the property and grassed more of the lot. Mr. Divittorio said he had shown the neighbor who objected at the last meeting the plans and the neighbor was not here to object.

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

The Board felt this project was an improvement to zoning. A condition of approval should be a landscaping plan to maximize the recharge. The applicant agreed to this.

A motion to approve the application with the requirement that a landscape design to address surface water management be submitted was made by Daddis, seconded by Hastings.

Roll Call: Winfield – yes, Collins – yes, Daddis – yes, Trumpore –yes, Lundin –present, Hastings – yes, Francis – yes.

**LUCIANI, VINCENT AND SHARON BLOCK 31206, LOT 25 14 Sutton Road**

Applicant is seeking relief from 242-38D(1), minimum lot size; 242-38D(2), minimum lot width; 242-38D(8), maximum lot coverage; 242-38D(9), maximum floor area; 242-28C,

retaining wall within 5' of the property; 242-12, steep and critical slope, 242-23A, driveway grade greater than 15%.

Applicant wants to build a single-family, three-bedroom residence on an undersized lot. John Ursin represented the applicant, Mr. Luciani, who was present. The lot is 1870 sq. ft. short of the 15,000 sq. ft. requirement. They were in receipt of Borough Engineer John Ruschke's letter of September 7, 2004, and will comply with all five recommendations. Proper notice had been sent to the adjoining property owners. One of the adjoining lots is owned by the Borough of Hopatcong and they had not responded to the offer to purchase additional property. The FAR would not be a factor if the Mayor and Council would sell them even part of the adjacent property.

The applicant agreed to lower the FAR by reducing the ceiling in the first floor to 7' with the exception of the garage area. This eliminated the need for a variance for FAR.

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

The letter to the Borough of Hopatcong was marked Exhibit A-1, and letters to the other adjoining neighbors were marked Exhibits A-2, A-3 and A-4. The Board would like the applicant to continue to pursue buying the property or part of the property from the Borough. The Board will make a strong recommendation that the Borough sell Lot 24 to the applicant as an adjoining lot owner.

A motion to grant relief for the lot size variance because the floor area ratio variance has been eliminated with the requirement that the applicant make another attempt to acquire the property from the Borough, the conditions of Ruschke's letter of September 7<sup>th</sup> be incorporated into an approvals, and that there be a reduction of the ceiling height in the basement was made by Lundin, seconded by Daddis.

Roll Call: Winfield – yes, Collins – yes, Daddis – yes, Trumpore –yes, Lundin –present, Hastings – yes, Francis – yes.

**MCMILLIN THOMAS AND MARION BLOCK 11210, LOT 11 109 Pahaquarry Road**

Applicant is seeking relief from 242-38D(1), minimum lot size; 242-38D(2), minimum lot width; 242-38(4), minimum front-yard setback; 242-38D(5), minimum side yard setback; 242-38D(8), maximum lot coverage

Applicant wants to build an addition to a single-family residence. Tom and Marion McMillin and Fred Hickey were sworn in. Mr. Lundin reclused himself from this application. The existing garage is too small, 15' wide with a 6 ½' x 12' door. They would also like to add a bedroom making this a three-bedroom house.

The meeting was open to the public. Attorney Ursin representing adjoining vacant property owner, George Lopez, was concerned about the side yard setback. It is currently 25' and the applicant agreed it would be no less than 10' from the side line, thereby, eliminating the side yard setback. His client would like to build on his lot someday and was concerned about the design of the side facing his property.

The applicant had tried to buy the lot from Mr. Lopez in the past and they could not agree upon a price.

Laura Ballas, 110 Papakating Road, lives behind the applicant and thinks this addition would enhance the neighborhood.

Paul Doleshal who lives across the street, felt this project would increase property values in the neighborhood.

A motion to grant relief from the variances on the condition that the side yard setback be no closer than 10' and that the opening to the den be not less than 5' and that the den not be used as a bedroom in the future was made by Hastings, seconded by Collins.

Roll Call: Winfield – yes, Collins – yes, Daddis – yes, Trumpore –yes, Lundin –abs., Hastings – yes, Francis – yes.

**NEW APPLICATIONS:**

**McCURRY, TOM & AMY BLOCK 31704, LOT 68 60 Ithanell Road**

Applicant is seeking relief from 242-38D(2), minimum front-yard setback; 242-38D(5), minimum rear yard set back; 242-38D(6), minimum rear yard; 242-38D(8), maximum lot coverage; 242-18(A), work 50 feet from lake.

The applicant wants to extend their upper deck two feet to be even with the lower deck. Tom McCurry was sworn in. The upper deck is cantilevered over the lower deck and is rotting. They would like to extend the deck to be even with the deck below and screen in the lower deck. They agreed to a deed restriction not to install heat, plumbing or insulation in the screen enclosed porch.

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

A motion to grant relief on the condition that the deck not be winterized was made by Hastings, seconded by Collins.

Roll Call: Winfield – yes, Collins – yes, Daddis – yes, Trumpore –yes, Lundin –abs., Hastings – yes, Francis – yes.

**JAROSINSKI, WILLIAM BLOCK 10810, LOT 22 3 Point Pleasant Road**

Applicant is seeking relief from 242-38D(1), minimum lot size; 242-38D(2), minimum lot width; 242-38(4), minimum front-yard setback; 242-38D(5), minimum side yard set back; 242-38D(8), maximum lot coverage; 242-38D(9), maximum floor area

Applicant would like to enclose a first floor porch and add a second floor above the porch. William and Lynn Jarosinski were sworn in. They submitted photos marked exhibit A-1 and A-2 of their home. They would like to add a half-bath to their house as presently there is no bathroom downstairs. The existing house is already over the property line and so is a sidewalk. They have an easement for this and the neighbor will extend the easement for the addition pending a survey. This neighbor has an easement for a driveway on the Jarosinki's property. The agreements were given to Mr. Haggerty to review.

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

The new agreement gave the Jarosinskis the right to do anything on the adjacent property and the neighbors were not at this meeting. The Jarosinskis would need a release of the neighbor's mortgage and the drafted agreement needs more detail. The Board also needed copies of the recorded documents.

A motion to postpone this application to the November 10<sup>th</sup> meeting was made by Hastings, seconded by Collins.

Roll Call: Winfield – yes, Collins – yes, Daddis – yes, Trumpore –yes, Lundin –abs., Hastings – yes, Francis – yes.

John Ruschke should look at this property for impervious coverage as there are patios on the property not shown on the survey.

**KUKAN, STEPHEN BLOCK 31102, Lot 6.01 75 Sutton Trail**

Applicant is seeking relief from 242-38D(7), maximum building height; 242-15E, maximum number of accessory structures

Applicant would like to build a detached garage. Stephen Kukan was sworn in. The height of the proposed garage is 23', 9' downstairs, 8' upstairs. He wants to match the height of the existing house. The architectural plan of his house was marked Exhibit A-1. The three accessory buildings are the pool, gazebo and garage.

The Board felt the garage was too high and the height needed to be lowered to the permitted height of an accessory building that is 18'. The applicant agreed.

A motion to approve the variance for the accessory structure with the caveat that the garage be no higher than 18' was made by Daddis, seconded by Trumpore.

Roll Call: Winfield – yes, Collins – yes, Daddis – yes, Trumpore –yes, Lundin –yes, Hastings – yes, Francis – yes.

A motion to waive the memorialization only if modified plans showing an 18' height are submitted to the construction office was made by Daddis, seconded by Hastings.

Roll Call: Winfield – yes, Collins – yes, Daddis – yes, Trumpore –yes, Lundin –abs., Hastings – yes, Francis – yes.

**LESSIG, KARLA BLOCK 30803, LOT 13 140 Dupont Avenue**

Applicant is seeking relief from 242-38(4), minimum front-yard setback; 242-11C, steep and critical slope

Applicant would like to build a two bedroom single-family house on a vacant lot. Attorney Larry Kron represented the applicant and Greg Yannaccone was qualified as an engineer and sworn in. The lot is 19,698 sq. feet and the front-yard setback is within the prevailing setbacks. This will be a modular home. They need to modify the drywell design according to Ruschke's recommendation and the grading needs to be addressed. They have approval to hook up to municipal water and the septic design had been approved and started. John Ruschke's letter of October 11<sup>th</sup> was read into the record. They will comply with all his comments. There cannot be any additional run off and they need to meet the total recharge requirement or they will be back to the Board.

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 if all the engineering requirements are met and landscaping plans submitted to address stormwater and recharge was made by Daddis, seconded by Trumpore.

Roll Call: Winfield – yes, Collins – yes, Daddis – yes, Trumpore –yes, Lundin –no, Hastings – yes, Francis – yes.

**CARNEY, THOMAS BLOCK 10416, LOT 12 52 Francis Avenue**

Applicant is seeking relief from 242-38D(1), minimum lot size; 242-38D(2), minimum lot width; 242-38D(3), minimum lot depth; 242-38D(4), minimum front yard set back; 242-18A, work within 50' of watercourse.

Applicant would like to construct an addition with a deck to a single-family residence. Mr. Carney was sworn in. The 12' x 14' addition would increase the size of the master bedroom and add more closet space. Wills Brook, a major drainage water course, is on the property and the Board wanted a conservation easement ten feet from the side of the house to Beverly Road side of the property.

A motion to approve the variance subject to a conservation easement being drawn up prior to the issuance of a certificate of occupancy was made by Lundin and seconded by Daddis.

Roll Call: Winfield – yes, Collins – yes, Daddis – yes, Trumpore –yes, Lundin –yes., Hastings – yes, Francis – yes.

**VOELKER, EDWARD E. BLOCK 31303, LOT 5 & 7 49 Maxim Dr.**

Applicant is seeking relief from 242-38D(5), minimum side yard set back; 242-38D(6), minimum rear yard set back; 242-38D(8), expansion of a non-conforming use

Applicant wants to add a level and remodel an existing single-family home. Edward and Joy Voelker’s home is in a B-1 zone. They started out putting on a new roof and ran into structural problems and ended up putting on a new level.

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

The basement is an open room. The height is similar to others in the area. Before the addition the floor area was 940 square feet, after 1,843, for a 8.8% total floor area ratio.

A motion to grant relief was made by Daddis, seconded by Hastings.

Roll Call: Winfield – yes, Collins – yes, Daddis – yes, Trumpore –yes, Lundin –yes, Hastings – yes, Francis – yes.

**MEMORIALIZATIONS:** Nieves 11209/28

A motion to approve the memorialization for Neives was made by Lundin, seconded by Collins.

Roll Call: Winfield – abs, Collins – yes, Daddis – yes, Trumpore –yes, Lundin –yes., Hastings – yes, Francis – yes.

Iurato	10905/10
Des. Homes	31503/21
Condon	30301/4
Steinbaum	11306/2
Mazalewski	31612/7
Zeiselman-Rosenzweig	11002/18

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

Roll Call: Winfield – yes, Collins – yes, Daddis – yes, Trumpore –yes, Lundin –abs., Hastings – yes, Francis – yes.

**BILLS:**

**Dolan & Dolan**

General	8/11/04 mtg.	\$385.00
Northwood	70111/1	\$269.50
Northwood	70111/1	\$22.00
Designer Homes	31503/21	\$22.00
Cunningham	503021,2	\$22.00
Edwards	31704/16	\$60.50
Quick Chek	10701/2	\$352.00
Sheldon	11104/8	\$137.50
Kasmedo	40208/39	\$137.50
O’Keefe	11304/14	\$137.50
Kelliher	11306/1	\$77.00
Camp	10601/9	\$137.50
Corregan	31005/1	\$170.50

**Hatch Mott MacDonald**

Meeting att.	6/9/04	\$409.00
Iurato	10905/10	\$48.62
Nardone	50305/6,7	\$166.88
Quick Chek	10701/2	\$300.00
Sowa	41414/35	50.00
Arminio	10103/16	\$245.86
Kelliher	11306/1	\$194.48

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

Roll Call: Winfield – yes, Collins – yes, Daddis – yes, Trumpore –yes, Lundin –yes, Hastings – yes, Francis – yes.

<b><u>ESCROW REFUNDS:</u></b>	Schooner	3051019	\$262.50
	Jaworski	31207/1	\$262.50

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

Roll Call: Winfield – yes, Collins – yes, Daddis – yes, Trumpore –yes, Lundin –yes, Hastings – yes, Francis – yes.

**OLD BUSINESS:** none

**NEW BUSINESS:**

As a result of discussion, a motion to have Cliff Lundin send a letter to the Mayor and Council to address the ceiling height with regard to the floor area ratio and recommend that the height be changed to 6’11” was made by Daddis, seconded by Lundin.

Roll Call: Winfield – yes, Collins – yes, Daddis – yes, Trumpore –yes, Lundin –yes, Hastings – yes, Francis – yes.

**CUNNINGHAM** – Clarification of the Deed Restriction & status of prior approval of the Soil Erosion Plan: Mr. and Mrs. Cunningham appeared and wanted to know exactly what else he needed to do to get his permits. Mr. Haggerty will review the deed with the conservation easement by next Monday and a new Soil and Sediment Control Plan needs to be done because the old one has expired. He has cleared the lot and controls need to be taken.

**LOGAN** – Mr. Logan would like to put a roof over his stoop to keep the rain off and the this was not shown on his approved plans. The Board said Mr. Donegan can approve this if it is within the average setback for the road. If not, it will be a new application.

**McCLOSKEY** - Car enclosure: The Board had previously directed Mr. McCloskey to remove a vinyl and aluminum carport. Mr. McCloskey showed the Board a clear, inflatable car cover he wants to put his car in. The Board does not feel this an accessory structure so Mr. Donegan can approve it.

**NORTHWOOD INN BLOCK 70111, LOT 1** - The applicant would like to modify his site plan with regard to the location of the propane tank and grease trap. The applicant noticed for this modification hearing.

John Ursin represented the Northwood Inn and appeared with William Gregor, their engineer. This is a minor variance that would normally be granted by the Construction Department but because of the pending litigation, it was brought before the Board. Mr. Gropper, owner of Lot 34, felt it was inappropriate for the Board to hear any modification of the site plan until the Court rules on the matter. He doesn’t feel the Board has jurisdiction in this matter. Mr. Haggerty felt this was a very minor modification and the applicant understands that he is proceeding at his own risk pending the outcome of the litigation.

Mr. Gregor said an additional tank was needed to heat the building. They have moved the grease trap indoors and the additional tank will be in the area where the other underground tank is. There is a guardrail there for safety reasons. They have also installed smaller, quieter air conditioning units. There are no more modifications.

The meeting was open to the public. Mike Kearny questioned if the construction was being inspected regularly to insure that they adhere to the requirements of their approval.

Mr. Gropper wanted to know what the decibel standard was and Mr. Ruschke will check on this.

A motion to approve the modification to the site plan according to the plans submitted was made by Daddis, seconded by Trumpore.

Roll Call: Winfield – yes, Collins – yes, Daddis – yes, Trumpore –yes, Lundin –yes, Hastings – yes, Francis – yes.

Discussion on approvals: if house needs to be taken down can:

1. Zoning Officer approve moving structure to a more conforming location
2. If structure cannot be moved, can the Zoning officer approve rebuild in same location

A motion to give Mr. Donegan permission to grant permission to improve variances without causing additional variances was made by Daddis, seconded by Hastings.

Roll Call: Winfield – yes, Collins – yes, Daddis – yes, Trumpore –yes, Lundin –yes, Hastings – yes, Francis – yes.

**ADJOURNMENT:**

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

ALL IN FAVOR, MOTION CARRIED.

The meeting was adjourned at 11:15 p.m

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Eugenia Wiss, Secretary