

August 21st, 2017
Hawthorne, NJ

The Regular Meeting of the Zoning Board of Adjustment of the Borough of Hawthorne was held on the above date at 6:50 p.m. in the Board of Education Meeting Room on the Second floor of the of the Municipal Building, 445 Lafayette Avenue, Hawthorne, New Jersey, with the following present:

Chair.....	Raymond Hallock
Board Member.....	Jack B. De Ritter
Board Member.....	David A. Schroter
Board Member.....	Kevin Duffy
Board Member	AnnaMarie Sasso
Temporary Board Member.....	Walt Garner
Board Member (Alternate #1).....	Victor Cuttitta
Board Member (Alternate #2).....	Eleanor C. Wenzke
Zoning Board Attorney.....	James Delia. Esq.
Zoning Board Secretary.....	Joan Hervé
Board Planner – Burgis Associates....	Edward Snieckus
<u>ABSENT:</u>	
Vice Chair.....	John F. Gallagher
Board Member.....	Scott Chamberlin
Board Engineer.....	Mike Kelly

FLAG SALUTE

Chairman Hallock invited all present to join him in the Pledge of Allegiance.

Adequate Notice of this meeting has been posted on the Municipal Bulletin Board, published in the legal newspaper of the Borough and a schedule, including date and time, provided to all persons entitled by law to same.

Chairman Hallock stated Mr. Curtis Leininger has resigned and introduced Mr. Victor Cuttitta who was recently sworn in at Wednesday night council meeting as alternate member #1.

APPROVAL OF MINUTES

Chairman Hallock entertained a motion to approve the minutes of the Regular Meeting of June 19th, 2017, moved by De Ritter, seconded by Schroter. On roll call, all present voted yes. Motion carried.

BILLS:

Chairman Hallock entertained a motion to approve the bill list and forward it to the Treasurer for payment, moved by De Ritter, seconded by a Cuttitta. On roll call, all present voted yes. Motion carried.

Hawthorne Press for Legal Notices: \$32.76

RESOLUTIONS

Dina & Paul Murphy – 70 Van Winkle Avenue (Block 262, Lot 8)

Chairman Hallock entertained a motion to adopted Memorialize Resolution for applicant approved for an installation of a pool. Moved by De Ritter, seconded by Schroter, on roll call vote all voted yes. Motion Carried.

NEW BUSINESSs

Luppino – 35 Cider Mill Rd. (Block 293.04, Lot 6)

Attorney Delia sworn in applicant and was represented by architect Mr. Easse who stated his credentials. The applicant proposes the demolition of a detached 2 car garage and the construction of a new detached 2 car garage requiring the following variances: Roof height for accessory building in R-1 zone where 15 ft is required – 18 ft. provided and a 1story required – 2 stories provided.

Chairman Hallock asked if anyone from the audience would like to be heard on this application.

Seeing none, Chairman Hallock entertained a motion to approve the above applicant. Moved by De Ritter, seconded by Sasso, on a roll call vote all voted yes. Motion Carried.

Castillo, 163 Forest Avenue (Block 129 Lot 11)

Attorney Delia sworn in applicant who was represented by architect Mr. Easse, the applicant proposes to expand existing one family dwelling in the R-2 residential zone, will include one car garage to two car garage. Providing for a 2nd floor add a level over new ground floor foot print with a partial 2nd floor cantilever over first floor on driveway side. The two car garage will be attached to a kitchen, dining room & living room and the upstairs will include (4) bedrooms, (2) bathrooms, a small study for the children & a laundry area. Variances created by this expansion: minimum side yard (one) 10ft. required-4.1 ft. provided, minimum side yard (both) 20ft. required-14.2 ft. provided, minimum rear yard setback 25ft. required-4.0ft provided. The following are variances prior to zoning ordinance: Minimum lot width: 50ft required 38; 17-11” provided. Minimum lot depth 100ft. required – 93ft. provided, minimum front yard setback 20” required -10” provided, minimum east center line street to dwelling 50ft. required – 47.5ft exists.

Chairman Hallock asked if anyone from the audience would like to be heard on this application.

Seeing none, Chairman Hallock entertained a motion to approve the above applicant. Moved by De Ritter, seconded by Cuttitta, on a roll call vote all voted yes. Motion Carried.

Chairman Hallock explained for the next applicant Royal Avenue a few board members need to recuse themselves from hearing the application. Board Member Sasso who has business dealings with the applicant and Board Members Hallock & Gallagher who are both involved in a civic organization with the applicant. Mr. Hallock got involved seeking Planning Board permission to have Board Member Walter Garner who will sitting in for this application. Attorney Delia explained in the Municipal land Use Law, when there is not enough members to vote you are able to borrow from another board. In this case it needs to be a Class IV member and the most time served on the Board.

Mr. Walter Gardner was sworn in as a Board Member appointed as necessity.

Attorney Delia added since Chairman Hallock & Vice Chairman Gallagher cannot hear this application the board needs to appoint a Chairman for this application.

De Ritter entertained a motion to appoint Board Member Schroter as the chairman for this application, seconded by Cuttitta, on roll call all voted yes. Motion carried.

Meeting was turned over to Mr. Schroter.

Royal Avenue LLC; (Block 29 lots 4, 5, 6 &7)

Attorney Vogel representative for the Royal Avenue application is Proposing Development Use – 32 Unit multifamily residential. Variances being sought: (i) Partial screen where total required (sec. 540-22, (ii) Exceed no. of 2 bedroom units 10% (Sec. 540-18). (iii) Bulk storage 500 cu. Ft. per unit required (Sec. 540-23, (iv) 2 way aisle – 30’ – 24’ provided (Sec. 540-20) (v) steep slopes (sec. 540-15B, (vi) parking spaces 9x18 (Sec. 540-21), (vii) Number of stories (Sec. 540-7, Schedule of Bulk and Coverage Controls), (viii) structure is 3 stories where 2-1/2 required, (v) Number of units 32 where 31.94 are calculated pursuant to ordinance (Sec. 540-175 Schedule of Bulk Coverage Control(s).

Attorney Susan Rubright Representative of the “Citizens of Hawthorne” stated “The legal notice” under the law is to give common sense description and in her opinion the notice does not do that for a number of reasons. In the first paragraph, the application has use & bulk variances which are a function of this application to provide a use that is consistent with the zoning Ordinances of the Borough of Hawthorne and in furtherance of the goals of its Master Plan, including (i) partial screening where total screening is the standard, (ii) exceed the number of two bedroom units limited to 10% of units, (iii) bulk storage each unit where 500 sf. Required, (iv) two-way circulation aisle 24ft where 30 ft is required, (v) steep slope exceeded, (vi) parking space 9x18, (vii) number of stories, (viii) structure is 3 stories where 2 ½ required, (ix), number of units 32 where 31.94 are calculated. She stated it’s not clear what those conditions are that she just read. Secondly, Ms. Rubright stated her client went to review the plans and was informed she could not take a picture of the plans and she needed to complete an OPRA request, which she did unfortunately we did not allow enough time to get the plans before this meeting. Attorney Vogel responded, he disagrees with Ms. Rubright, the notice sent out only has to reasonable inform the recipients as to what the content is of the application that is going to be pursuant before any given board. That is common sense rule, the notice was fair, and the notice was timely. Discussion ensued.

Acting Chair Schroter stated we do not have our engineers report as Mr. Kelly is on vacation and asked Mr. Vogel is he would like to make an opening statement, however we can’t go much further than that without our engineers report. It would be to the applicants benefit to have all 7 members present.

Attorney Delia added regarding the legal notice, his advice to the board was you read notices as plain language. He can pick of this notice and know what this application is about. Everything seems to be spelled out. There is an argument that it is not properly stated, however everything in terms that has been requested, in terms of a variances, in terms of other relief from what he can see has been listed with the possible exception of coverage and that remains an open item. Therefore, it is the applications risk whether to proceed behind the confidence of their notice. If the matter goes on appeal and it determined by the court of law that there is some defect of the notice due to some plain language or some other reason that is the risk of the applicant takes. In his view, there is enough here to say, for jurisdiction

purposes you have enough to proceed. Whether a court disagrees with that in the future and he cannot to you.

Mr. Vogel decided to make an opening statement at next month's meeting.

Acting Chairman Schroter entertained a motion to carry the above applicant to the September 18th meeting. Moved by De Ritter, seconded by Wenske, on a roll call vote all voted yes. Motion Carried.

ADJOURNMENT

At 7:50p.m. Acting Chairman Schroter entertained a motion to adjourn the regular meeting, moved by De Ritter, seconded by Wenske. All in favor, "Aye".

**THE NEXT REGULAR MEETING OF THE ZONING BOARD OF ADJUSTMENT
WILL BE ON
~MONDAY, SEPTEMBER 18th, 2017 ~
THE WORK SESSION WILL BEGIN AT 6:45P.M. WITH THE REGULAR
MEETING IMMEDIATELY FOLLOWING**

Respectfully Submitted,
Joan Herve, Secretary