

January 25<sup>th</sup>, 2021  
Hawthorne, NJ

The Reorganization Meeting of the Zoning Board of Adjustment of the Borough of Hawthorne was held on the above date at 7:00 p.m. Via GoToMeeting with the following present:

**FLAG SALUTE**

Chairman Hallock invited all present to join him in the Pledge of Allegiance and join in a moment of Silence for Board Member Kevin Duffy who passed away.

“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. “

**ROLL CALL**

Chair.....	Raymond Hallock
Vice Chair.....	John F. Gallagher
Board Member.....	David A. Schroter
Board Member.....	Scott Chamberlin
Board Member.....	AnnaMarie Sasso
Board Member .....	Jack B. De Ritter
Board Member.....	Victor Cuttitta
Board Member (Alternate #1) .....	Eleanor C. Wenzke
Board Member (Alternate #2) .....	Lyle Hatch

Also present was Board Attorney, James Delia, Board Engineer Mike Kelly and Board Secretary Joan Herve.

**REORGANIZATION**

Meeting is turned over to Secretary to accept nominations for office:

Board Secretary asked for nominations for Chairman. Motion by Gallagher to nominated Mr. Hallock as Chairman, seconded by De Ritter, on a roll call vote, all voted yes, with the except of Hallock who abstained. Motion Carried.

Board Secretary asked for nominations for Vice Chairman. Motion by De Ritter to nominated Mr. Gallagher as Vice Chairman, seconded by Schroter, on a roll call vote, all voted yes, with the exception of Gallagher who abstained. Motion Carried.

Meeting is turned over to Chairman Hallock who calls for nominations for Secretary.

Chairman Hallock entertained a motion to appoint Joan Herve as Board Secretary; Moved by Gallagher seconded by Sasso, on a roll call vote, all voted yes. Motion Carried.

Chairman Hallock entertained a motion to appoint Jim Delia as Board Attorney; Moved by Gallagher, seconded by Chamberlin, on a roll call vote, all voted yes. Motion Carried.

Board Secretary administered the Oath to Jim Delia, Board Attorney

The following members were re-appointed by Mayor Goldberg:

- Raymond Hallock – for a 4-year term expiring 12/31/2024
- Annamarie Sasso – for a 4-year term expiring 12/31/2024
- Victor Cuttitta – for an unexpired 12/31/2021
- Lyle Hatch – Alt #2 Member for a 2-year term expiring 12/31/22

### **BILLS:**

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

Herald News: Notice of Reorganization Meeting	\$41.63
Herald News: Notice of Action Taken:	\$19.78
Herald News: ZBA 2021 Meet Schedule:	\$17.63

### **APPROVAL OF MINUTES**

Chairman Hallock entertained a motion to approve the minutes of the Regular Meeting of December 21<sup>st</sup>, 2020 moved by De Ritter, seconded by Chamberlin. On a roll call vote, all voted yes. Motion Carried.

### **OFF-RESOLUTIONS**

#### **Resolution #2021-01 – Adoption of 2020 ZBA Annual Report**

WHEREAS, the Municipal Land Use Law requires that the Zoning Board of Adjustment, shall, at least once per year, review its decisions on applications and appeals for variances and prepare and adopt by resolution a report on its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendments or revisions, if any; and

WHEREAS, the Board has prepared its Annual Report in this regard for the calendar year **2020**, and said report reviews the decisions of the Board on applications and appeals as required by the Municipal Land Use Law, and further sets forth findings of the Board on zoning ordinance provisions which were the subject of variance requests as well as the recommendation of the Board, if any, as may be set forth in said report, regarding zoning ordinance amendments and/or revisions;

WHEREAS, said Report was considered and approved by the Board at the time of its public meeting on **January 25, 2021;**

NOW, THEREFORE, the Board hereby adopts said Annual Report, and the Board hereby further respectfully submits said Annual Report along with this resolution adopting same, to the Mayor and Council and the Planning Board of the Borough of Hawthorne

#### **ZBA 2020 Annual Report**

This memorandum sets forth a brief summary of the Board’s formal action in 2020. There was a total of Four resolutions were adopted as follows:

- 2020-001 – Verrengia, 43 Sunrise Drive, Lot 6, Block 276.01 – Approving side yard and combined side yard setbacks in the R-1 Zone.

- 2020-002 – Cannata, 101 Bamford Avenue, Lot 7, Block 143 - Approving Lot Coverage/Impervious Coverage Variances, Minimum Lot Area, Minimum Lot Area Per Dwelling Unit, Minimum Lot Width, Front Yard and Side Yard Setbacks and Expansion of a Two Family Home in the R-1 Single Family district.
- 2020-003 – Bushoven, 52 Brookside Avenue, Lot 7, Block 143 – Approving Side Yard Setback, Rear Yard Setback, Building Coverage and Maximum Impervious Lot Coverage in the R-1 Single Family district.
- 2020-004 – 53 Braen Avenue, LLC, 10 Sotnick Street, Lot 81, Block 287 – DENYING Use Variance to permit a two family home in the R-1 Single Family district and Variance from requirement to depict trees greater than 8 inches in diameter.

Chairman Hallock entertained a motion to adopt the 2020 ZBA Annual Report Resolution #2021-01, moved by Gallagher, seconded by De Ritter. On a roll call vote, all voted yes. Motion Carried.

Resolution #2021-01 – A Resolution of the Hawthorne ZBA adopting emergency remote meeting protocols, procedures and requirements for public participation at remote and restricted capacity meeting

WHEREAS, the purpose of N.J.A.C. 5:39-1 et seq., Emergency Remote Meeting Protocol for Local Public Bodies, is to ensure that local public bodies can continue to conduct official business in an open and transparent manner whenever a declared emergency exists that prohibits physical attendance by members of the public body or members of the public; and

WHEREAS, a “declared emergency” means a public health emergency pursuant to the Health Powers Act, N.J.S.A. 26:13-1 et seq., or a state of emergency, pursuant to P.L. 1942, c. 251 or both, or a state of local disaster emergency which has been declared by the Governor and is in effect; and

WHEREAS, N.J.A.C. 5:39-1.3 permits a local public body to hold a remote public meeting to conduct public business during a declared emergency if the emergency reasonably prevents a local public body from safely conducting public business at a physical location with members of the public present; and

WHEREAS, N.J.A.C. 5:39-1 et. seq. also sets forth protocols to be followed if during a declared emergency a public body holds a physical meeting where, pursuant to State or Federal guidelines meant to mitigate risk, capacity restrictions are required to reduce the number of individuals that can be present in a meeting; and

WHEREAS, N.J.A.C. 5:39-1.4(h) requires a public body to adopt resolutions setting forth protocols for the conduct of a remote meeting or a meeting held in-person where attendance by members of the public is limited due to public health guidelines, including specifically protocols for the making of public comment during such meeting;

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Hawthorne that the following standards and procedures for emergency remote and limited capacity meetings, as set forth in this resolution and as codified in N.J.A.C. 5:39-1 et seq., are hereby established and adopted:

1. Adequate notice of a remote public meeting shall include, in addition to the Open Public Meeting Act requirements of N.J.S.A. 10:4-8, clear and concise instructions for accessing the remote public meeting.

2. The content of the notice shall be posted on the main access door of the building where the public would routinely attend public meetings of the local public body in person, viewable from the outside.

3. Prior to the commencement of a remote public meeting, the Board or Body shall make a copy of the agenda available to the public for download on the Borough’s website and shall post a copy of same at the building where the meeting would otherwise be held, including posting of same at any designated and clearly delineated handicap accessible entrance to the building, by no later than 3:00 PM on the date of the meeting.

4. Instructions shall be posted on the Borough’s website setting forth the means for making public comment and how to access any public documents on the Borough’s website in the manner set forth at N.J.A.C. 5:39-1.5.

5. At the commencement of a remote public meeting the Chair or the Chair’s designee shall announce publicly and shall cause to be entered into the minutes an accurate statement regarding adequate and electronic notice as set forth in N.J.A.C. 5:39-1.5(g).

6. The electronic communications used for a remote public meeting shall have a function that allows the Board or Body to mute the audio of all members of the public, as well as allow members of the public to mute

themselves, and the same shall be announced at the beginning of every remote public meeting. If the Board or Body holds a remote meeting to conduct public business, it shall use electronic communication technology routinely used in business settings that can be accessed by the public at no cost and with participant capacity consistent with the reasonable expectations of the Board or Body for the type of public meeting being held, and such participant capacity shall, at minimum, not be limited to fewer than 50 public participants, not including persons required to be present to conduct business at the meeting, including members of the Board or Body and professional staff.

7. Remote public meetings may be held by the Board or Body in a format as selected by the Board or Body, by means including, but not limited to, electronic communications platforms with video and audio or live streaming via the internet and shall, additionally, provide a telephonic conference line to allow members of the public to dial in by telephone to listen and ask questions. In order to provide public comment, members of the public must join both video and audio.

8. Whenever the Board or Body holds a remote public meeting, it shall allow members of the public to make public comment by audio, or by audio and video if the meeting is being held over both, at such times during the course of the meeting where public comment may be made. Members of the public wishing to make comment shall indicate a desire to make such comment by the raising of a hand, if participating by way of video, by signifying a desire to speak by use of the “chat feature,” if enabled, or by making oral request where no other means of communicating is available. Any person wishing to speak shall wait to be recognized by the Chair. All members of the public shall remain muted until called upon by the Chair. Any person speaking shall identify himself or herself by name and address prior to making any comment. Persons wishing to speak shall be limited to five (5) minutes which shall be cumulative during each public portion of the meeting. Comments may also be made by electronic means by way of email to the Board Secretary during the time frame established for public comment. The chat feature, where enabled, shall not be deemed part of the record of the meeting but solely a means by which a speaker indicates a desire to speak. Notwithstanding the same, the Chair may, in his or her discretion, permit use of the chat feature as a means of communicating where verbal or email communication is not possible.

9. In addition to making public comments at any remote public meeting, the Board or Body, in advance of the remote meeting, shall allow public comments to be submitted to the Secretary by electronic mail and in written letter form to be read aloud and addressed during the remote public meeting, except that such written public comments shall not be treated as testimony where testimony is to be given. Public comments shall be submitted in accordance with the following requirements:

- a. Written public comments may be submitted by email to [joanherve@yahoo.com](mailto:joanherve@yahoo.com) with the subject line “Written Public Comment”, or by regular mail to Joan Herve, Secretary, 445 Lafayette Avenue, Hawthorne, New Jersey, 07506.
- b. All written public comments must be received at least twenty-four (24) hours prior to the beginning of the meeting to be read aloud.
- c. A time limit of five (5) minutes shall be allotted to the reading of each written public comment to ensure that all public comments have a fair opportunity to be heard.
- d. Written public comments that are duplicative may be summarized by the Presiding Officer, in his or her discretion, rather than read in full. In such event, all of the duplicative comments, and not just some of the comments, shall be summarized.

10. Where sworn testimony is being taken, any individual giving sworn testimony, including members of the public making comments that constitute sworn testimony, shall appear by video. Any presentation or documents that would otherwise be viewed by, or made available to, members of the public physically attending an in-person public meeting shall be made available on the internet website of the Borough or made visible during the video broadcast of the remote public meeting.

11. The Board recognizes that civil, respectful and courteous discourse and behavior are conducive to the democratic and harmonious airing of concerns and decision making. In an effort to preserve the intent of open government and maintain a positive environment for citizen input, policies and rules shall be established to

promote civility and maintain decorum at in-person public meetings and remote public meetings in accordance with N.J.A.C. 5:39-1.4 (f)-(h). These include at a minimum conduct at remote meetings consistent with that which would be permitted at an in-person meeting. As such, if a member of the public becomes disruptive during a remote public meeting, including during any period for public comment, the Chair or the Chair's designee shall mute or continue muting, or direct appropriate staff to mute or continue muting, the disruptive member of the public and warn that continued disruption may result in the member of the public being prevented from speaking during the remote public meeting or removed from the remote public meeting. Where such disruptive conduct at an in-person public meeting or remote public meeting includes sustained inappropriate behaviors including, but not necessarily limited to, shouting, interruption, inappropriate dress or physical gestures, and use of profanity, the member of the public may be removed from the meeting.

Chairman Hallock entertained a motion to adopt Resolution #2021-02, moved by Gallagher, seconded by Cuttitta. On a roll call vote, all voted yes. Motion Carried.

Attorney Delia explained any board member who recused themselves from the application of Braen Avenue cannot enter into this close session. Members who recused: Hallock, Schroter, & Wenzke. Also newly appointed Hatch was not in attendance as he was not a board member at the time of this application

**CLOSED SESSION** - On a motion by Chamberlin, seconded by De Ritter, the Board entering into Executive Session closed to the public. Motion Carried by voice vote – all present voting “Aye”.

A Resolution - providing for a meeting not open to the public in accordance with the provisions of the New Jersey Open Public Meetings Act. NJSA 10:4-12

Whereas, the Zoning Board of Adjustment of the Borough of Hawthorne is subject to certain requirements of the Open Public Meetings Act, NJSA 10:4-6; and

Whereas, the Open Public Meetings Act, NJSA 10:4-12 provides that an Executive Session not open to the public may be held for certain specified purposes when authorized by resolution; and

Whereas, it is necessary for the Zoning Board of Adjustment of the Borough of Hawthorne to discuss in a session not open to the public certain matters relating to the item or items authorized by NJSA 10:4-12 (b) as follows:

- 7- Matters relating to litigation, negotiations and attorney-client privilege  
Braen Avenue, LLC

Now therefore, be it resolved by the Zoning Board of Adjustment of the Borough of Hawthorne assembled in public session on January 25, 2021 that an Executive Session closed to the public be and the same is hereby authorized for discussion of matters relating to the specified items designated above.

Closed Session began at 7:30 p.m. and ended at 7:34 p.m.

## **ADJOURNMENT**

At 7:35p.m. Vice Chairman Gallagher entertained a motion to adjourn the regular meeting, moved by Chamberlin, seconded by De Ritter. All in favor, “Aye”.

THE NEXT REGULAR MEETING OF THE ZONING BOARD OF ADJUSTMENT WILL BE ON  
**~MONDAY, FEBRUARY 22<sup>th</sup>, 2021 ~**  
THE WORK SESSION WILL BEGIN AT 6:45P.M. WITH THE REGULAR MEETING IMMEDIATELY  
FOLLOWING

Respectfully Submitted,  
*Joan Herve, Secretary*