

METUCHEN ZONING BOARD OF ADJUSTMENT

MINUTES

January 12, 2012

The meeting was called to order at 7:50 p.m. by Robert Renaud, Attorney, who chaired the meeting temporarily and read the statement in accordance with the Open Public Meetings Act.

Present:	Suzanne Andrews	Daniel Spiegel
	Robert Fair, Vice Chairperson	Brian Tobin, Alt. I
	Pat Lagay, Chairperson	Robert Renaud, Attorney
	Judith Sisko	Kathy Elliott, Engineer
	Byron Sondergard	Chris S. Cosenza, Zoning Officer

Late: (none)

Absent: Catherine McCartin
Jonathan Rabinowitz, Alt. II
Jim Constantine, Planner

ANNUAL REORGANIZATION OF THE BOARD

Chairperson: Pat Lagay

A motion to nominate Ms. Lagay as Chairperson was made by Ms. Sisko and seconded by Mr. Fair. A motion to close the nominations was made by Ms. Andrews and seconded by Mr. Fair. Voice vote taken. Motion carried unanimously. A motion to name Ms. Lagay as Chairperson was made by Ms. Sisko and seconded by Ms. Andrews. Voice vote taken. Motion carried unanimously.

Ms. Lagay relieved Mr. Renaud and chaired the remainder of the meeting. She expressed disappointment to have missed the conclusion of the Metuchen Inn application at the last meeting.

Vice Chairperson: Robert Fair

A motion to nominate Mr. Fair as Vice Chairperson was made by Mr. Spiegel and seconded by Mr. Sondergard. A motion to close the nominations was made by Mr. Sondergard and seconded by Mr. Spiegel. Voice vote taken. Motion carried unanimously. A motion to name Mr. Fair as Vice Chairperson was made by Mr. Spiegel and seconded by Mr. Sondergard. Voice vote taken. Motion carried unanimously.

Board Attorney: Robert Renaud

A motion to name Mr. Renaud as Board Attorney was made by Mr. Spiegel and seconded by Ms. Andrews. Voice vote taken. Motion carried unanimously.

Secretary: Sharon Hollis

A motion to name Ms. Hollis as Board Secretary was made by Mr. Spiegel and seconded by Mr. Fair. Voice vote taken. Motion carried unanimously.

Recording Secretary: Chris S. Cosenza

A motion to name Mr. Cosenza as Recording Secretary was made by Ms. Sisko and seconded by Mr. Fair. Voice vote taken. Motion carried unanimously.

Board Planner: James Constantine, LRK, Inc.

A motion to name James Constantine, LRK, Inc. as Board Planner was made by Mr. Spiegel and seconded by Mr. Sondergard. Voice vote taken. Motion carried unanimously.

Board Engineer: Katherine Elliott, Birdsall Engineering, Inc.

A motion to name Katherine Elliott, Birdsall Engineering, Inc. as Board Engineer was made by Ms. Sisko and seconded by Mr. Tobin. Voice vote taken. Motion carried unanimously.

Meeting Dates for 2012 at 7:45 p.m.

January 12, 2012	August 12, 2012
February 9, 2012	September 12, 2012
March 8, 2012	October 11, 2011
April 12, 2012	November 8, 2012
May 10, 2012	December 13, 2012
June 14, 2012	January 10, 2013
July 12, 2012	

Ms. Lagay noted that the dates for August and September were in error and should be August 9, 2012 and September 13, 2012, respectively. No other changes were proposed.

A motion to adopt the meeting schedule with minor corrections as noted above was made by Mr. Spiegel and seconded by Ms. Sisko. Voice vote taken. Motion carried unanimously.

Ms. Lagay stated that there were 10 meetings last year; two (2) meetings were cancelled due to a lack of applications. The number of applications has been the lowest in a while. There were four (4) site plan and use variance applications and four (4) bulk variance applications. The Metuchen Inn required five (5) meetings. The Metuchen Mower required two (2) meetings. In February, Hogan Automotive was heard. March was cancelled. In April, the Board heard Metuchen Mower. In May, Metuchen Mower was approved with the architectural changes. June was cancelled. In July, the Board heard a single-family home with a deck in the rear on Tulsa Avenue and the Metuchen Inn began its hearings. In August, the Board heard the continuation of Metuchen Inn and the cell tower on Middlesex Avenue.

Mr. Spiegel noted that the MetroPCS application and presentation was excellent, to which Board members agreed.

Ms. Lagay continued and stated that the September meeting had the continuation of the Metuchen Inn as well as a bulk variance for a shed on Clive Street. In October, Metuchen Inn

continued again and the Board also heard the beginning of bulk variances for 122 Hollywood Avenue, which was held over to November. In November, improvements were made to the 122 Hollywood Avenue application and it was approved. A bulk variance was approved for a second-story addition on Midland Avenue. In December, the Metuchen Inn was completed. She was not sure what the future will bring before the Board but was aware of an application for next month.

Mr. Cosenza stated that there would be an application for a request for bulk variance approval.

TRC Appointments

Ms. Lagay asked Board members if anyone else was interested in the position.

Mr. Spiegel expressed disappointment in that it was odd that he had not gone to a single meeting the entire year. He agreed to continue splitting the TRC Appointment with Ms. Lagay.

Ms. Lagay stated that she would chair the first TRC meeting of the month while Mr. Spiegel would chair the second TRC meeting of the month.

A motion to name Ms. Lagay and Mr. Spiegel to the TRC appointment was made by Mr. Fair, seconded by Ms. Andrews. Voice vote taken. Motion carried unanimously.

RESOLUTIONS

10-891 **Constantine Papanicolaou / Metuchen Inn** – (site plan amended regarding garbage shed and lighting – approved 12/8/2011)

424 Middlesex Avenue Block 104, Lots 24 & 23.03 R-1 Zoning District

Mr. Renaud noted a minor error to be corrected. He stated that he attempted to review what had transpired, at least the headlines of each of the meetings, and to outline what the original application was, what it morphed into and what it eventually became. He believes he captured all of the conditions. He asked Ms. Hollis to give him the disc of the final meeting to ensure that he had picked up all of the conditions as requested by the Board.

A motion to approve the resolution with minor corrections as noted was made by Mr. Fair and seconded by Mr. Sondergard. Roll call vote taken. Motion carried unanimously.

CORRESPONDENCE

Minutes from April 14, 2011 & May 12, 2011

A motion to approve two (2) sets of minutes as written was made by Ms. Sisko and seconded by Mr. Sondergard. Voice vote taken. Motion carried unanimously.

Ms. Lagay noted that drafting the minutes is a difficult task and that Ms. Hollis had explained to her the requirement for written minutes.

Mr. Renaud agreed and stated that, as per the Open Public Meetings Act, there always has to be written minutes. Under the Municipal Land Use Law, there has to be a verbatim record as well as written minutes under the Open Public Meetings Act.

Ms. Lagay noted that the minutes had to be fairly substantial.

Mr. Renaud agreed and stated that the minutes have to reflect what occurred at the meeting, but do not necessarily have to be quite so detailed. It is certainly handy to have the minutes as detailed as they are. They are supposed to be "reasonably comprehensible."

Ms. Lagay noted that the minutes, after approved by the Board, go to Borough Council for their review. After being accepted, it goes online to the Borough website.

Ms. Lagay requested Mr. Cosenza to talk about some of the changes being proposed by the Ordinance subcommittee at the following meeting and noted that he had prepared a new Application for Development.

Mr. Cosenza stated that it had to be updated. He had also provided a brief introduction, a summary of the guidelines and checklist to assist applicants. These instructions summarize how to put together a complete application, how to serve notice and the procedures of the actual Board hearing. Unfortunately, if the applicants do not know what to do, they should be consulting an attorney.

Mr. Renaud agreed.

Mr. Cosenza continued and stated that he hopes that by providing a brief synopsis of how the whole process works, it would help remove the fear of requesting approval from the Board.

Ms. Lagay asked if there were any other questions.

Mr. Spiegel raised his concern regarding signage at the automotive repair business at the corner of Prospect Street where the applicant had come before the Board a number of years ago. The sign basically was translated to "if you would like to rent some of the bays, come call us." He got the idea that what the applicant was now subleasing the bays to another business. As he drives by, he frequently sees vehicles parked on the street whereas the testimony was given that it would stop. He does not know what can be done about that. He wonders if applicants come before the Board and just lie to us.

Ms. Lagay recalled that there was another business there, named Cho's.

Mr. Cosenza noted that a new business now operates out of that space, called Phoenix Autoworks, but is the same use.

Mr. Renaud wanted to point out that what some Boards have done, not necessarily this one, is that too much emphasis is put on what the applicant says, in particular in terms with making statements such as "not that many people park here" or "that's not the type of business we have" because what the Board is approving is a use, not how a particular business runs that use. One of the problems he has with the Metuchen's Zoning Ordinance is the parking requirements is based on things like "number of employees" and "number of tables" which he does not agree with. If you have a restaurant, it should be based on square footage because who is going to monitor how many tables and chairs there are? What if a Board is going to grant

a variance or a waiver because the applicant says they are going to have two (2) employees? If next year they have four (4) employees, you can not bring them back before the Board because they have to have more parking spaces. Again, when you approve of something, you approve of its use regardless if it will be owner-occupied or leased.

Mr. Spiegel accepted those reasons but was primarily concerned with testimony that was given regarding parking in that there would be no parking on the street, particularly on weekends. If certain bays are leased, it may impact parking capacity.

Mr. Renaud stated that it depends on the resolution. If it says there would be no parking on the street, you could control that cars cannot be worked on in the street, but you will not be able to control where customers park. Enforcement is difficult because you would have to prove it.

Ms. Andrews asked if the approvals could be made conditional, from a legal standpoint.

Mr. Renaud stated, no, that it can not. There is no revocable variance. However, if an applicant's engineer stated that a particular site was one (1) acre and it was actually three-quarters (3/4) of an acre, then the approval could be revoked and brought back to the Board. Approvals run with the land; that's why the Board has to be careful of what the applicant says because the next person that owns it will not be bound by whatever is not a condition of approval.

Ms. Lagay agreed and wondered what happens with the mother-daughter situations where the mother dies. She asked if the unit could be rented to someone else.

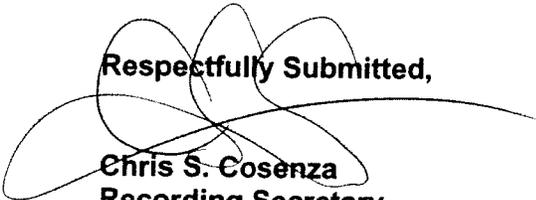
Mr. Renaud noted that there is no such thing as a mother-daughter; it is either a one-family residence or a two-family residence. However, he has sat on Boards that have heard those types of applications.

ADJOURNMENT

A motion to adjourn the meeting was made by Ms. Sisko and seconded by Mr. Tobin. Voice vote taken. Motion carried unanimously.

The meeting adjourned at 8:20 p.m.

Respectfully Submitted,



Chris S. Cosenza
Recording Secretary