

MINUTES
BOROUGH OF MADISON ZONING BOARD OF ADJUSTMENT
Regular (Virtual Zoom) Meeting, June 10, 2021 at 7:30 P.M.,
Hartley Dodge Memorial Building, 50 Kings Road, Madison, New Jersey.

1. CALL TO ORDER BY CHAIRPERSON

2. ANNOUNCEMENT OF NOTICE (STATEMENT OF COMPLIANCE)

Let the minutes reflect that adequate notice of this meeting has been provided in the following manner:

At the Reorganization Meeting of the Board held on January 14, 2021, the Board by Resolution adopted a schedule of meetings.

On January 15, 2021 a copy of the schedule of meetings was posted at the bulletin board at the main entrance of the Hartley Dodge Memorial Building, was sent to the Madison Eagle and the Daily Record and filed with the Borough Clerk, all in accordance with the *Open Public Meetings Act*.

Beginning in **April 2020**, in response to public safety considerations and legal authorization, the Board of Adjustment began conducting its monthly meetings on the previously noticed dates remotely using the Zoom platform, and subsequently separate notices have been published each month advising of this change and indicating that the procedures and requirements for monitoring such meetings and for making public comment, along with an explanation of the audio muting function of the electronic communications platform being utilized, is provided with detailed information on “How to Use Zoom and Participate” found on the Rosenet Webpage Communications / Virtual Meetings at [HTTP://www.rosenet.org/1273/Virtual-Meetings](http://www.rosenet.org/1273/Virtual-Meetings).

3. ROLL CALL

PRESENT: Mr. DiIunno Mrs. Driscoll, Mr. Fitzsimmons, Ms. Kaar, Dr. Paetzell, Ms. Salko, Mr. Santoro, Mr. Foster, and Ms. Tiritilli

EXCUSED: None

ALSO PRESENT: Gary Hall, ZBA Attorney
Dennis Harrington, Board Engineer
Russell Stern, Board Planner
Frances Boardman, Board Secretary

4. PLEDGE OF ALLEGIANCE

5. MINUTES FOR APPROVAL – Regular Meeting of May 13, 2021.

The above referenced minutes were distributed to all Board members for their review. A voice vote of aye was heard from all eligible voting Board members in approval of the minutes as presented.

6. RESOLUTIONS FOR MEMORIALIZATION –

Distributed to all Board members for their review were the following resolutions. Several corrections were noted and a voice vote of “Aye” was heard from all eligible voting Board members in approval of the Resolutions.

CASE NO. Z 21-006

Resolution granting variance application to Ben & Jamie Seeley, Block: 4601, Lot: 61, 8 Olde Greenhouse Lane to construct a Rear Yard Deck with Outdoor Fireplace (A portion of the Deck Covered, and a portion Uncovered) in an R-1 (Single-Family Residential) Zone requiring relief from Maximum Principal Building Coverage and Maximum Impervious Lot Coverage.

CASE NO. Z 21-011

Resolution granting variance application to Matt & Jen Sandberg, Block: 3802, Lot: 45, 104 Pomeroy Road to construct a 1 Story Front Addition, and the Removal of an Existing Front Block Patio in an R-2 (Single-Family Residential) Zone requiring relief from Maximum Impervious Lot Coverage.

CASE NO. Z 21-012

Resolution granting variance application to Gian Paoletta, Block: 3403, Lot: 51, 152 Loantaka Way for the Paving of Existing Gravel Parking Area, Removal and Reconstruction of Existing Front Walkway, Rear to Front Paver Walkway, (7'x7') Shed, 4' Open Fence, Flag Pole and Decorative House Number Post in an R-3 (Single-Family Residential) Zone requiring relief from Maximum Impervious Lot Coverage and Minimum Side and Rear Yards Walkway Setbacks.

CASE NO Z 21-013

Resolution granting variance application to Kurt Schleck, Block: 506, Lot: 31, 14 Oxford Lane to construct a 2nd Story Addition and New Air Conditioner Compressor in an R-3 (Single-Family Residential) Zone requiring relief from Maximum Impervious Lot Coverage.

CASE NO. Z 21-015

Resolution granting variance application to Steven & Beth Krawczuk, Block: 3803, Lot: 46, 7 Belmont Avenue to Convert an Existing Permitted 2 Family Use to a 1 Family Use, Roofed Front Stoop with Steps, Rear 2 Story Addition, Rear Deck, Rear Driveway Expansion "Turn-Around", Vertical Expansion of Existing Detached Garage/Accessory Structure in an R-4 (Single-Family or Two Family Residential) Zone requiring relief from Minimum Front Yard Setback, Minimum Side Yard Setback (Addition) and Maximum Height of Accessory Structure.

7. SCHEDULING AND PROCEDURAL MATTERS – It was announced that the following applications would be carried to the July 8, 2021 agenda of the Zoning Board of Adjustment.

CASE NO. Z 21-004

Christopher & Stephanie Donato

Block: 4001, Lot: 45

241 Woodland Road

Applicants are seeking permission to Re-Align and Expand the Existing Front Paver Driveway and Walkway, construct a Rear 2 Story Enclosed Porch Addition, Rear Blue Stone Patio with Fire Pit around Existing In-Ground Pool, Rear Stepping Stone Walkway and Retaining Wall, (4) Driveway Entrance Light Pillars in an R-1 (Single-Family Residential) Zone requiring relief from Maximum Principal Building Coverage and Maximum Impervious Lot Coverage. **This application was started at the Special Zoning Board Meeting held on April 29, 2021 but not concluded. It was carried to the regular scheduled meeting of the Zoning Board on June 10, 2021 with revised plans but without further notice.**

CASE NO. Z 21-014

Herman & Ann Huber

Block: 3702, Lot: 5

54 Maple Avenue

Applicants are seeking permission to construct a Rear 1 Story Addition, (1) Relocated Air Conditioning Unit, (1) New Air Conditioning Unit and the Removal of 890 Square Feet of Asphalt Driveway in an R-3 (Single-Family Residential) Zone requiring relief from Maximum Principal Building Coverage and Maximum Impervious Lot Coverage.

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CASE NO. Z 21-016

**Jeffrey Friedel
Block: 1104, Lot: 14
62 Ridgedale Avenue**

Applicant is seeking permission to construct a Rear 2nd Story Addition, (2) Front Dormers, Removal of and Replacement of Existing Shed, and the Partial Removal of Existing Asphalt Driveway in an R-3 (Single Family Residential) Zone requiring relief from Minimum Front Yard Setback and Minimum Side Yard Setback (Right).

CASE NO. Z 21-018

**Carson Lu
Block: 4702, Lot: 4
39 Noe Avenue**

Applicant is seeking permission to construct a Rear Paver Patio with Fire Pit, an Expansion of Existing Paved Driveway and Steps from Proposed Paver Patio to Proposed Expanded Driveway in an R-2 (Single-Family Residential) Zone requiring relief from Maximum Impervious Lot Coverage.

CASE NO. Z 21-019

**Kevin & Julie Trapp
Block: 4004, Lot: 2
83 Pomeroy Road**

Applicants are seeking permission to construct an In-Ground Pool with Hot Tub and Pool Equipment, Paver Patio with Seat Walls, Outdoor Gas Grill with Seating, Gas Fire Pit, Stepping Stone Walk Way, Pool Compliant Pool Fence with gates, Drywell, and 2 Areas of Existing Bluestone Walkways to be Removed in an R-2 (Single-Family Residential) Zone requiring relief from Maximum Impervious Lot Coverage.

8. OLD BUSINESS –

CASE NO. Z 20-018

**Madison Movie Development, LLC
Block: 2702, Lot: 24
14 Lincoln Place**

Applicant is seeking Preliminary and Final Site Plan Approval, for Construct of a Multi-Story Mixed-Use Building requiring Use Variance and Bulk Variance Approval on property located at 14 Lincoln Place, Block: 2702, Lot: 24 in the Central Business District Zone 1 (CBD-1). **Application was started on January 28, 2021 and continued on February 25, 2021, March 4, 2021, March 11, 2021, April 8, 2021, May 6, 2021 and May 13, 2021. This application was carried for continued hearing this evening.**

A transcript of this hearing was prepared by Ms. Diane DiTizii.

Ms. Helen Kaar and Mr. Jim Foster was excused from this hearing.

Mr. Santoro began by stating that this evening’s meeting would begin by Mr. Simon with the cross-examination of the Applicant’s Planner, Mr. Wolfson agreed.

Mr. Simon began his cross-examination of Mr. Paul Phillips previously sworn and remains under oath.

Mr. Simon asked Mr. Phillips if he was aware a demolition permit had been issued for the movie theater. Mr. Phillips stated that he was.

Mr. Simon asked if a code compliant building could now be built since the building is down. Mr. Phillips replied “Yes”.

Questioning continued with several questions about the proposed tenant on the first floor, if the space would function for one tenant or two. The January 6, 2021 Historic Preservation Commission memorandum was discussed at length.

The question of affordable housing on this project was discussed. Mr. Phillips stated that this application has an affordable housing component. The 2020 Land Use Element of the Master Plan was discussed.

Mr. Simon asked Mr. Phillips what the square footage of the building was. Mr. Phillips had no reply for this question. Questioning of Mr. Phillips continued regarding the density of the building, what the percentage of retail was to residential, building depth and market demand.

After repeatedly asking several of the same questions over and over of Mr. Phillips, Mr. Wolfson objected to this line of questioning of Mr. Phillips. Mr. Wolfson stated that several questions being asked were irrelevant to Mr. Phillips previous testimony. Mr. Hall told Mr. Simon that his line of questioning was becoming repetitive and to please move along.

Mr. Simon asked how many four-story buildings were in the CBD1 Zone; Mr. Phillips answered he is aware of two. Mr. Simon asked about the shared driveway easement; Mr. Phillips responded that there was a driveway easement in place to be used by the applicant and the other lots mentioned in the application.

Mr. Simon had no further questions for Mr. Phillips. Mr. Wolfson had an opportunity to redirect Mr. Phillips.

Mr. Wolfson asked Mr. Phillips that since demolition has commenced, does that change any of your testimony. Mr. Phillips stated that it did not. Mr. Wolfson asked about the Affordable Housing Element of the project along with the Floor Area Ratio. Mr. Phillips stated that his testimony on these subjects did not need to be modified in any way after the questions presented from Mr. Simon.

A five-minute break was taken at 9:00pm. The meeting resumed at 9:10pm with all members present.

Mr. Michael Pessolano, MJP 140 Elmwood Avenue, Bogata, NJ will testify as a Professional Planner for Mr. Simon. Mr. Hall swore in Mr. Pessolano, he provided his qualifications and accepted as an expert witness.

Mr. Pessolano stated that he had been retained at the end of February 2021, by Mr. Simon and has been present for the last four meetings. The purpose of the CBD-1 Zone was discussed at length. Mr. Pessolano stated that the applicant has an opportunity to conform to the Borough Ordinance. He stated that the massing of this building is excessive and is not an appropriate location for the number of residential units proposed. This building will create limited light and air to the surrounding buildings. He testified that the oversized lot in the CBD-1 zone could be developed without variances. He stated that there is substantial detriment to the public good with this applicant and is an impairment to the intent and purpose of the zoning plan and zoning ordinance of the Borough of Madison.

Mr. Simon asked Mr. Pessolano if the applicant had failed to meet the burden of proof with this application. Mr. Pessolano answered "Yes".

Mr. Simon had no further questions of Mr. Pessolano. Mr. Santoro opened the meeting to the Board members and professionals for questions of Mr. Pessolano's testimony.

Mrs. Driscoll asked why he feels the entire first floor should be commercial. Mr. Pessolano stated that in his experience the depth of the retail space is not unusual.

Mr. Hall asked if Mr. Pessolano had conducted an evaluation in retail space size in the CBD-1 District. Mr. Pessolano stated that he had not and that the burden of proof was on the applicant.

Mr. Stern questioned Mr. Pessolano regarding his testimony. He asked Mr. Pessolano if he had looked at the Ergonomic Study that was addressed by the Downtown Development Commission representative. Mr. Stern stated that the 2017 study showed that bringing more residential population into the downtown core helps promote a thriving downtown. Mr. Stern continued his questioning of the witness, which included traffic and shared parking access.

Mr. Wolfson began his cross-examination of Mr. Pessolano’s testimony.

The meeting was then open to the public for questions of Mr. Pessolano.

David Steketee, 2 Ferndale Avenue. Mr. Steketee wished to make a comment and was told that he was only able to ask questions at this time.

Dorothy O’Brien, 38 Crestwood Drive, asked if any study had been done on the viability of the storefront. Mr. Wolfson stated that the cross-examination of the public from Mr. Phillips is closed.

Dr. & Mrs. Fennelly, 1 Pomeroy Road asked where we go from here. Mr. Hall stated that the Zoning Board will deliberate and vote on the application before them.

Due to the late hour, Mr. Hall suggested that each Attorney provide closing statements in writing for the Board to read prior to deliberating and voting. Mr. Wolfson stated that he would like to move forward this evening with comments from the public.

Mr. Santoro opened the meeting for public comment/statements.

Ms. Dorothy O’Brien, 38 Crestwood Drive was sworn in. She stated that she is not in support of this application and is concerned with the height.

Dr. Fennelly, 1 Pomeroy Road stated that the proposed four-story building was an eyesore and is overwhelming and doesn’t go with the architecture of the Community.

Mr. Chris Kellogg, 3 Walnut Street, stated that the Urban Design Aspect is a shift from the Urban Planning that was heard this evening.

The public portion of this meeting was closed. Closing statements from the two attorney’s, deliberation, and vote at a special meeting to be scheduled on June 29, 2021.

On a motion by Mrs. Driscoll, seconded by Ms. Tiritilli a special meeting of the Zoning board of Adjustment was scheduled for Tuesday, June 29, 2021.

9. NEW BUSINESS –

All new business scheduled for this evening was carried to the July 8, 2021 Zoning Board of Adjustment meeting as announced earlier in the evening.

10. OTHER BUSINESS –

11. ADJOURNMENT – The meeting was adjourned at 11:35pm with a motion made by Mrs. Driscoll and seconded by Mr. Fitzsimmons.

Respectfully submitted,

Frances Boardman
Board Secretary