

**Borough of Ho-Ho-Kus
Bergen County, New Jersey
Zoning Board Minutes
October 1, 2015**

Meeting Called to Order at 8:00PM by Chairman Barto.

Open Public Meetings Statement: Read into the record by the Board Secretary.

Roll Call: Messrs. Tarantino, Cox (absent), Forst, Ms. Metzger (absent; arrived at 8:05pm), Messrs. Deegan, Pappas, Rodger, Chairman Barto

Also in attendance: David Rutherford Esq., Board Attorney; JoAnn Carroll, Board Secretary.

Ho-Ho-Kus Crossing, Jonathan L. Mechanic, 619 N. Maple Avenue, 217 First Street, 239 First Street, Block 1016, Lots 3, 5 & 11: mixed use project consisting of new residential units and retail; letter received requesting adjournment to November 5, 2015.

Chairman Barto: stated the HHK Crossing application was adjourned until November 5, 2015.

Mr. William T. Lucca, 524 Eastgate Road, Block 1301, Lot 17: appeal of Zoning Officer's determination that the proposed renovation and addition will result in the creation of a two-family residence; variance sought for the renovation and addition to the existing one-story residence; Section #85-9A(1) and Section #83-9I(1).

Please note: Ms. Metzger arrived at this point of the meeting: 8:05PM.

Christopher Botta, Esq., Botta and Associates: attorney for the applicant; introduced himself to the Board and gave an overview of the application; stated he would have three witnesses this evening; Mr. William Lucca, his father-in-law and the applicant's architect; exhibits will be presented to the Board this evening; notice has been served on the 200' list; certification of notice has been submitted to the Board Secretary.

Mr. Rutherford: stated the matter was listed for September; re-noticed for this evening's meeting; September meeting was cancelled due to a deficient notice and a bare quorum; notice placed on bulletin board and Borough website

stating that all matters on the agenda for September would be heard this evening.

Robert Inglima, Esq., 1 Deerhill Drive, HHK: stated he is representing himself and his wife, Megan Inglima; not raising an objection to the notice, but there are some parts in the notice that seem to be inconsistent with the plans that were submitted to the Board, which he respectfully reserves the right to raise later on in the hearing.

Chairman Barto: asked Mr. Inglima if he was reserving the right to object later on in regards to the notice or the plans.

Mr. Inglima: stated he would point out parts of the notice that are not accurate in respect to the plans.

Chairman Barto: asked if Mr. Inglima had any objections to the application going forward.

Mr. Inglima: stated, no; in addition, Mr. Inglima stated the notice states the application is an appeal of the decision of the Zoning Officer, Ms. Lisa Phillips; asked if Ms. Phillips would be appearing at the meeting and would testify.

Mr. Rutherford: stated Ms. Phillips was not available for this evening's meeting; Mr. Botta was advised of this approximately 2 weeks ago; the Board Secretary is in possession of Ms. Phillip's file and Ms. Phillips is available to offer testimony at the November meeting; suggested to the Chairman and Vice Chairman that the matter get started this evening since it had been on the agenda for a few months; recognizing that Ms. Phillips could not be present and also recognizing that Ms. Phillips' testimony may well be sought by the Board, interested parties and/or the applicant.

Mr. Inglima: stated there is an appeal of the Zoning Officer's determination pursuant to subsection A:40:55d-7; there is apparently a variance requested with respect to subsection c, bulk variance, for the distance between the garage and the new addition of the house; asked if there were any other variances being sought.

Mr. Botta: stated, no.

Mr. Inglima: asked for clarification that if the Zoning Officer's appeal is determined in favor of the Zoning Officer then we will not hear the merits of the C variance application.

Chairman Barto: stated that was correct.

Mr. Botta: stated the application was primarily an appeal of the Zoning Officer's decision that the proposed renovation would create a two family house which is not permitted in the R1 zone; will argue that the renovation will not create a two family house; there will be no exclusive entrances; no separate meters; no dividing walls; internal layout will be free flowing; second kitchen in basement will be removed and will be relocated to the first floor; common basement area created; renovation will provide suitable living arrangements for the Lucca's and Mrs. Lucca's parents; renovation is an example of true multi-generational living; architectural details will be discussed; will not be able to be converted to a two family residence in the future; will not be detrimental to the neighborhood; looking to solve a problem for the Lucca family; they want to move into this renovated house so Mrs. Lucca will be able to care for her parents in the future.

Mr. William Lucca: sworn in by Mr. Rutherford; stated he lives in Midland Park at this time; home in Ho-Ho-Kus to be renovated is his childhood home; looking to plan for the future to be able to take care of his in-laws; renovation to provide multi-generational housing; will not be a two family house; will move the existing kitchen in the basement to the first floor; property is up for sale because he is seeking a fair buy out price; Mr. Lucca is the executor of his father's estate; his father used to run his dental practice out of the home.

Chairman Barto: asked if it was right to assume that if the variance is not granted, Mr. Lucca will not be moving into the house.

Mr. Lucca: stated that was correct; would then pursue selling the house.

Chairman Barto: asked how long the house had been on the market.

Mr. Lucca: stated since June of 2015.

Mr. Lucca: stated his father was the original owner of the home which was built in 1958; Mr. Lucca wants to live in the home; not many upgrades recently; not prudent to do any cosmetic work to the home when his father was alive; if the application is approved, Mr. Lucca plans to live in the house with his wife, children and in-laws; renovations would be major; parts of the house are in disrepair; dental office to be removed; no trees along the border of the property to be removed; only trees that would be in the way of construction; no written contract with his in-laws, only verbal; there would be no separate provisions for utilities.

Exhibit A1: sheet 1 of plans; existing survey, plot plan and specifications

Exhibit A2: sheet 2 of plans; first floor plan

Exhibit A3: sheet 3 of plans; second floor plan

Exhibit A4: sheet 4 of plans; building elevations

Mr. Rutherford: stated there are a few questions of fact that need to be decided; the appeal is a question of law and interpretation of the ordinance; the background information Mr. Lucca provided is appreciated; the Board is aware that much of that information is not relevant to the Board's consideration of the matter because it is a question of fact and law; the testimony will still be part of the record.

Meeting opened to questions from the public.

Mr. Robert Inglima, 1 Deerhill Drive: discussed with Mr. Lucca the kitchen in the basement; if there were other families besides Mr. Lucca's immediate family who might have occupied the home during the time Mr. Lucca's father lived in the house; basement kitchen has not been upgraded; master bedroom, master bathroom and office would be constructed where the attic currently is on the second floor; full basement in the house; no bedrooms in the basement; ½ bathroom in the basement; Mr. Lucca is not planning to change the structure of the basement; there will not be a basement below the addition shown on the plans; Mr. Inglima stated that in the notice and testimony, there was an indication that there were no separate entrances for the two living spaces devoted to Mr. Lucca and his in-laws.

Mr. Botta: objected; stated the term used was "exclusive" not "separate."

Mr. Inglima: stated the notice did use the word "separate."

Mr. Lucca: stated he would not say the space is exclusive; basically one house with three entrances to the house.

Mr. Inglima: discussed with Mr. Lucca the entrances to the house; clarified which areas of the house would be occupied by Mr. Lucca and his wife and his in-laws; discussed the layout and specific rooms; the second floor addition would be for Mr. Lucca's family; Mr. Inglima asked if the single door that is located in the SW corner of the northerly dining room were to be closed, would there then be no connections between the two areas of the home.

Mr. Botta: objected; the architect is present this evening to testify to the plans; Mr. Lucca is testifying as to the living arrangements.

Chairman Botta: overruled the objection; believes the question can be answered by any common person.

Mr. Lucca: stated you would still be able to get from the garage to any part of the house, but believes Mr. Inglima's statement would be true.

Mr. Inglima: discussed with Mr. Lucca ceiling heights; existing detached garage in the NW corner of the property; will not be connected to the existing

home; no plans to connect the existing garage to the existing home or the addition; discussed exterior look of the garage; brick on exterior of the garage will be covered up; garage will match the look of the house; no changes to be made to the garage in order to accommodate the addition and garage being so close together; seeking a 3 ft. variance; view of Mr. Lucca's property from Mr. Inglima's property; trees to be removed; macadam area in back of the garage; area encroaches on Mr. Inglima's property approximately 3.1 ft.; Mr. Lucca will remove the macadam on Mr. Inglima's property; macadam in NW corner by the detached garage was recently added; landscaping; driveway repaved approximately 15 years ago; Mr. Inglima respectfully reserved the right to direct a question to Mr. Lucca at a future meeting.

Chairman Barto: stated that would be acceptable.

Mr. Botta: discussed with Mr. Lucca the detached garage and that it will remain on the property; the garage to be added to the front of the house will be added where the dental office is currently located; both Mr. Lucca and his in-laws will use the new garage.

Ms. Xiomara Paredes, architect for the applicant: sworn in by Mr. Rutherford; gave her expertise and educational background; qualified as an expert in the field of architecture; discussed her meeting with the applicant and their goals for the renovation of the house; kitchen in basement to be relocated on the first floor for Mr. Lucca's in-laws; Ms. Paredes has had experience with multi-generational homes; did site evaluation.

Exhibit A5: aerial photo of property taken from Bing Maps.

Mr. Paredes: described the photo; blue dot on photo shows property; house is a ranch built in the 1950s; has a detached garage; pool in rear; large, deep lot; Mr. Inglima's property shown on photo.

Exhibit A6: 2 photos taken by Ms. Paredes office; top photo shows front facade and to the right the existing ramp and garage; bottom photo shows the side elevation of the existing house with the detached garage; both photos taken in the spring of 2015.

Ms. Paredes: described property and plans; property is located in the R1 zone; gave lot dimensions; house conforms except for the side of the garage; existing non-conformity; discussed present house; maintaining the porch and front entry at similar location; the intent is to preserve as much of the structure as possible; the Lucca's kitchen is to be updated; the Lucca's want access from the backyard to the pool; the dining room will connect with the proposed area for Mr. Lucca's in-laws; there are two bedrooms on the right side that are to be removed and replaced with a garage; converting the present dining room into

the in-laws dining room and the dental office will become the vestibule that both families will use as common space.

Chairman Barto: asked if you would have to go through both dining rooms to get to the Lucca's kitchen.

Ms. Paredes: stated yes, if parking in the existing garage.

Mr. Tarantino: asked if there would be only one entrance from the attached garage which would be the dining room entrance of Mr. Lucca's in-laws.

Ms. Paredes: stated, yes; there is another entrance from the garage to the porch; there are two doors from the Lucca's home and two doors from the in-laws' home to go to the rear deck and the patio.

Chairman Barto: asked if it was fair to say that the primary pathway between the two sides of the house is through the dining room.

Ms. Paredes: stated, yes; the in-laws requested to have their own full kitchen.

Chairman Barto: asked if there would be any appliances in the basement.

Ms. Paredes: stated, no; a new kitchen is being built on the first floor.

Ms. Paredes: stated Mr. Lucca's in-laws requested a family room, craft room, master suite with a bathroom with two sinks; dressing area, closet, guest room, bathroom along the hallway, laundry room, utility room; also requested stairs to the basement; design of house will be a cape look; updating house to today's standards; maintaining height of first floor and adding a ½ story above; cape style; adding architectural elements to make the house more appealing; planning to remove the brick and use siding; gabled dormers; square windows; renovating the porch; updating columns; front will have two large windows; would not look like a two family house; carriage style doors for garage.

Exhibit A7: last page of plans; duplicate of A4; used to show cut out of garage on plans.

Exhibit A8: Cut out of garage overlaid on Exhibit A7.

Ms. Paredes: placed cut out of garage on A7 to show what the neighbor will view; highlighted A7 to show the end of the existing house; if the garage wasn't present, the setbacks would be conforming; the roof slopes away and is one story.

Mr. Rutherford: confirmed with Mr. Botta that no variances are needed for any of the information Ms. Paredes just provided.

Ms. Paredes: discussed rear elevation where the porch is shown across the back and around the side of the house; will connect the Lucca's and their in-laws' areas; porch will be facing the pool; all French sliding doors are proposed; all doors open up to the common deck area; requirement/request was for one floor living for Mr. Lucca's in-laws; would not be able to be converted into a two family in the future unless the deck and the connection to the basement were removed.

Ms. Metzger: asked if the central air and water would be one unit for the entire house.

Ms. Paredes: stated it could not be one unit due to the size of the home, not because it is a two family; any large home would be divided into zones.

Chairman Barto: asked Ms. Paredes if she had designed multi-generational homes before.

Ms. Paredes: stated, yes, but not with two kitchens; has designed them with two dining rooms.

Chairman Barto: asked if the previous multi-generational homes Ms. Paredes had designed had such little flow as this one; essentially this plan has a very long wall with one door; this is a little different than other multi-generational applications which have been before the Board; looking at the plan and listening to the testimony, Chairman Barto fully understands why the Zoning Official disallowed this; typically you think of a multi-generational home as one in which there is an absolute flow for the entire family of each generation(s); in this case, it is quite plain that the older couple wishes to retain their privacy to a degree that is quite different from what Chairman Barto has seen before; asked Ms. Paredes if she had seen a plan such as this one before.

Ms. Paredes: stated not to this extent; this was the requirement of the applicant.

Chairman Barto: stated Ms. Paredes draws to the specifications she is given; the Board makes a decision based on what is presented.

Ms. Paredes: stated she, to the best of her ability, tried to make the house meet the needs of her clients without being a two family house.

Chairman Barto: stated that it seems to him that when you have to reach for things like the basement stairs and access to the porch, or access from outside from or through the garage as ways to show there is a common flow, that you are really reaching; there is only one place of flow and that is between the two dining rooms; stated to Mr. Botta that he has a hurdle.

Mr. Botta: asked Ms. Paredes if one side of the home could operate independently from the other side.

Ms. Paredes: stated, no; the utilities will be under one system with different zones; the backyard is a common area that cannot be separated.

Mr. Tarantino: asked, as an alternative, if the entire wall between the dining rooms could be removed.

Ms. Paredes: stated the client did not want to do that.

Mr. Tarantino: stated he is looking for one shared room; the dining room is the only connection there is; agrees with the Chairman; in his opinion it is a two family house; there has to be some commonality to join the two families.

Chairman Barto: stated the burden is on the applicant.

Mr. Botta: asked Ms. Paredes if there was ever a consideration to do anything with the external garage instead of leaving it where it is currently.

Ms. Paredes: stated any renovations to the garage would be cosmetic.

Mr. Botta: asked for the rational of have two dining areas; asked if there are typically more than one dining area in most homes.

Ms. Paredes: sated, yes; there is usually a dining room and a breakfast area in the kitchen; dining areas shown on plans.

Mr. Botta: asked Ms. Paredes to explain the variance which is being sought.

Ms. Paredes: stated the variance is for the distance between the principal structure to the accessory building; requirement is 10 ft. and proposed is 6.6 ft.; the existing non-conformity remains; will not have an impact to the surrounding area.

Mr. Rutherford: asked if the non-conformity would change.

Mr. Botta: stated, no.

Mr. Botta: asked if the renovations would have a visual impact on the surrounding neighborhood.

Ms. Paredes: stated not from the street.

Mr. Rodger: confirmed the distance between the garage and the new structure would be 6.6 ft.

Mr. Botta: stated that was correct; applying for a variance for the distance between the garage and the new structure.

Chairman Barto: stated the existing condition does not require a variance; with the addition there will be a non-conformance; the question at this time is why the 4 ft. wasn't cut off from the addition so the distance would be compliant.

Ms. Paredes: stated she tried to take the 4 ft. off the addition, but then the whole back area was shifted to the left and it would really impact the circulation in a negative way.

Chairman Barto: stated the property is very large; could still have maintained the 10 ft.; could get rid of the porch.

Ms. Paredes: stated there would be an issue with the pool and the porch; the porch is a link for the exterior living the applicant wanted to have.

Chairman Barto: stated the porch could be moved over 4 ft.; the only reason not to so far is that it stops the flow; historically, the position of the Board has always been that the 10 ft. setback between buildings is one that is required for fire safety; this is a big issue.

Mr. Tarantino: asked if the garage could be moved or eliminated.

Ms. Paredes: stated the applicants want to keep the garage.

Chairman Barto: stated there is enough room on the property to remove the garage and place it somewhere else that is conforming.

Mr. Tarantino: stated the design is beautiful, but the Chairman is correct; the Board has always been stringent on the distance between an accessory structure and a primary structure; the two family house is still an issue.

At this point of the meeting, Mr. Botta asked to confer with his client privately.

Mr. Botta: requested the application be carried until another meeting date.

Chairman Barto: stated that direct is not closed yet.

Mr. Botta: stated if the applicant were to return with modified plans then testimony would be heard regarding those plans.

Chairman Barto: stated amended/revised plans would have to be submitted 10 days in advance of the next meeting; as a courtesy, Chairman Barto requested Mr. Inglima be supplied with a copy of the revised plans.

Mr. Rutherford: stated the next meeting of the Board is November 5, 2015 at 8:00PM; the application would be carried to November 5, 2015 at 8:00PM in the court room of the Municipal Building of Ho-Ho-Kus; no further notice is required; for the record, an extension through November 6, 2015 is requested.

Mr. Botta: stated he consents to any extension.

Mr. Rutherford: stated the Board has an extension for the Lucca application through November 6, 2015; new plans need to be filed 10 days in advance of the November 5, 2015 meeting; Mr. Rutherford stated he will ensure that Ms. Phillips is present at the next meeting; it is not sure if she will be needed or not, but believes she should be present.

Mr. Botta: stated plans sometimes do take a bit of time to design; if there is a timing issue he will certainly contact Mr. Rutherford and consent to any further extension if they are not able to make a modification before November 5, 2015 meeting.

Mr. Inglima: stated this emanates from an A appeal; if the plans are modified in such a way to eliminate the basis of the A appeal, would need to know that so he can be prepared on how to proceed; it would be helpful if Ms. Phillips would have an opportunity to review the revised plans and give her determination to the Board.

Mr. Rutherford: stated he feels that is appropriate; given the sensitive nature of the matter, we should receive a revised denial or approval/ revised review by Ms. Phillips based on the plans that are submitted.

Approval of Minutes: Chairman Barto, Metzger
June 4, 2015

Ayes: Forst, Metzger, Deegan, Pappas, Rodger, Chairman Barto

Abstain: Tarantino

Motion to Adjourn: Chairman Barto, Metzger
All in Favor

Meeting adjourned at 9:50PM.

Respectfully submitted by:

JoAnn Carroll
Zoning Board Secretary