

**Borough of Ho-Ho-Kus
Bergen County, New Jersey
Zoning Board Minutes
September 5, 2013**

Call to Order: Open Public Meetings Act Statement – In compliance with the Open Public Meetings Act of the State of New Jersey, notification of this meeting has been sent to the Ridgewood News, our official newspaper in the Borough of Ho-Ho-Kus and notice has been posted on the bulletin board at Town Hall. **Read Aloud by Board Secretary.**

Roll Call: Messrs. Tarantino (absent), Cox, Forst (absent), Ms. Metzger, Messrs. Ianelli, Pappas, Rodger (absent), Walberg, Chairman Barto

Mr. & Mrs. James Mathews, 100 Gilbert Road, Block 210, Lot 1: applicants seek a variance to install a generator in their front yard.

Chairman Barto: stated the Mathews were his neighbors and he would recuse himself from this application.

Mr. David Rutherford, Board Attorney: informed the Mathews that their appearance before the Board this evening was not to hear testimony, but to determine if the application was complete and, if so, schedule a public hearing; the Borough has not had a Board Secretary the past few months and because of this Mr. Rutherford did not believe the Board was in possession of a copy of this application; understanding of the application was the applicant's wanted to install a generator on their property at a location that would face Ackerman Avenue; notice hasn't been given, but is required; no form of notice in documents that were received; in the past, Mr. Rutherford has prepared a notice for applicants who do not have an attorney; the notice needs to be published in the newspapers ten days prior to the hearing, as well as, served to neighbors indicated on their 200' list; public hearing scheduled for October 3, 2013; if the application cannot be located, asked that another set of copies be provided to the Board.

Mr. & Mrs. Ryan Fox, 21 Duncan Road; Block 106, Lot 6: applicants seek to widen the bottom of their driveway; entire driveway will be 18' wide from house to street.

Mr. Rutherford: stated he did not see the applicants in the audience.

Acting Board Secretary: stated the applicants were aware that their application was on the agenda for this evening but were okay with waiting another month to be heard by the Board.

Mr. Rutherford: asked if the Board would like to carry this application to October for a completeness review and then a public hearing in November.

Chairman Barto: asked for confirmation that this application is just for a driveway widening.

Mr. Rutherford: stated the application was not detailed, but that was what the application was suggesting.

Chairman Barto: stated not much more needs to be done for the application to be complete.

Mr. Rutherford: stated he would obtain the information the Board needs and the application will be placed on the agenda for a public hearing on October 3rd.

Resolution: Mr. & Mrs. Michael Sparago, 8 Riverview Lane, Block 305, Lot 3: approval of front yard setback for applicants to construct a covered, open portico.

Mr. Rutherford: reviewed details of the application and the Resolution; members eligible to vote with regards to this application are Chairman Barto, Mr. Tarantino, Mr. Walberg and Mr. Rodger.

Motion to Approve: Chairman Barto, Walberg

Ayes: Chairman Barto, Walberg

Recused: Cox

Absent: Tarantino, Rodger

Mr. & Mrs. Will Layfield, 75 Elmwood Avenue, Block 702, Lot 8: applicant is seeking variances for side and rear yard setbacks; applicant seeks to construct a shed which will encroach into the required side and rear yard setbacks.

Mr. Rutherford: stated the application was heard in June; the application was not heard in July and the Board did not meet in August; after reviewing his notes, Mr. Rutherford confirmed that Mr. Walberg, Ms. Metzger, Mr. Cox and Chairman Barto are eligible to vote on this application; the applicant submitted a letter dated July 23, 2013 outlining certain changes they are wishing to make; Mr. Rutherford has recused himself from this application because Mrs. Layfield is a client of his.

Please Note: Mr. Rutherford has left the dais at this time.

Chairman Barto: read the applicant's letter aloud; stated the reduction in size of the shed is substantial; which is what the Board asked for.

Motion to Approve: Walberg, Cox

Ayes: Walberg, Metzger, Cox, Chairman Barto

Mr. & Mrs. Thomas Melone, 9 Boiling Springs Road, Block 403, Lot 21: applicant seeks a variance to install solar panels.

Mr. Christopher G. Weigl, Attorney for the Melone's; introduced himself to the Board.

Chairman Barto: stated the Board has administrative issues due to the fact the Board Secretary has been out for a substantial period of time; tapes of the last meeting at which Mr. Melone's expert installer appeared and gave testimony where not listened to by members who were not present; a head count was taken earlier and there are three members who were present at that meeting and no other members on the board tonight were and were not given the opportunity to listen to the tape; and the other two members who were present are not in attendance this evening; there is a lack of quorum to go forward; embarrassing and can't apologize enough but not sure what can be done about it.

Mr. Weigl: stated he has just been hired by the Melone's and was also not present at the last meeting; suggested the application be heard anew this evening and all prior testimony be wiped out.

Chairman Barto: stated he believed that was a perfect solution to this problem; instructed the members who were present at the last meeting to not take any of the information heard at that meeting into consideration with this application and start anew; Board agreed; complete consensus.

Mr. Weigl: stated he would give a broad overview of the Melone application; application is for a solar panel array in a side and rear yard.

Mr. Franklin Cox: stated that at the first meeting there was testimony from the public.

Mr. Rutherford: stated this was correct and informed Mr. Weigl that any comments from the public cannot be wiped off of the record.

Chairman Barto: asked if anyone had a solution to this problem or any ideas on how to handle.

Ms. Abigail Metzger: asked if it was possible for the Board to listen to the statement made by the neighbor from the last meeting.

Mr. Rutherford: stated that a portion of the meeting could not be considered; it would have to be all or none.

Mr. Weigl: stated his client has not been available for the last couple of meetings but he might be available for the next meeting; Mr. Weigl would prefer to have him present; asked if it was better to have someone that is a professional planner present to testify to the negative criteria or does the Board accept witnesses that are not professional planners.

Chairman Barto: stated there are issues of fact and if the right questions are asked the information should come through; his answer would be you do not need to bring a professional planner in, but it is always helpful if you do; as he understands this application, the issue was a very small one which is why the array is so close to the neighbor's property line; that was the Board's major issue; the array is a good idea but it is close to the neighbor's property.

Mr. Cox: stated that it would be in the applicant's best interest to be aware of the comments raised by the public at the last meeting; Mr. Melone should know what his neighbor's comments were because the comments are part of the record.

Acting Board Secretary: stated she could have the recording of the meeting available for Mr. Weigl to listen to in the Council Chambers during normal Town Hall hours.

Mr. Rutherford: asked if Mr. Weigl would consent to an extension of time for the Board to decide the matter through October 3rd.

Mr. Weigl: agreed.

Mr. Rutherford: stated that the matter of Mr. Thomas Melone will be carried and the public hearing continued on October 3, 2013 at this place and no further notice is required.

Chairman Barto: stated the disc needs to be copied and sent out as soon as possible.

Acting Board Secretary: stated the disc would be copied and sent out on the following Monday.

Chairman Barto: stated that if there are any problems with making the copies and sending them out, to please inform himself and Mr. Rutherford immediately.

Mr. Alan Walberg: stated he has tendered his resignation to the Board this evening due to the fact he is moving out of Ho-Ho-Kus; Mr. Walberg does this with considerable regret and thanks everyone for a great experience and it has been his pleasure serving on the Board.

Motion to Adjourn: Cox, Metzger

All Board Members present approve Motion to Adjourn.

Respectfully submitted by:

JoAnn Carroll
Zoning Board Secretary
January 2, 2014