

ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
DECEMBER 15, 2014

A **REGULAR MEETING** of the Zoning Board of Adjustment was held on Monday, December 15, 2014, in the Dorothy E. Harrington Municipal Council Chambers, 630 Avenue C, Bayonne, New Jersey.

Chairman Urban called the meeting to order at 6:15 p.m. and Secretary Egan called the roll. Present at the meeting were Chairman Urban and Commissioners, Egan, Ferrante, LeFante Adams, Quintela, Weicker, Lombardi, Coletta, Calcaterra and Rivera.

Also present were Richard N. Campisano, Esq., Board Counsel, Robert Russo, P.E., Consulting City Engineer and Lillian Glazewski, Land Use Administrator.

After the Pledge of Allegiance to the Flag, Chairman Urban declared a quorum and advised that the Board had complied with the Open Public Meetings Act/Sunshine Law.

Adoption of Minutes:

Commissioner Adams made a motion to adopt the minutes from the regular meeting held on October 20, 2014. Commissioner Lombardi seconded the motion and a unanimous vote of eligible members followed.

Communications:

None

Board Reorganization

- **Election of officers (unanimously voted in):**
 - Mark Urban, Chairman
 - Clifford Adams, Vice-Chairman
 - Jan Patrick Egan, Secretary

- **Appointment of Support Personnel**

- Richard N. Campisano, Esq., Board Attorney
- Suzanne Mack, P.P., City Planner
- Jennifer Beahm, P.P., Consulting City Planner
- Robert Russo, P.E. Consulting City Engineer
- Lillian Glazewski, Land Use Administrator
- Susan Bischoff, Certified Shorthand Reporter

- **Adoption of 2015 Calendar**

The following dates for the regular meeting dates to be held in 2015 were read by Commissioner Egan and unanimously adopted.

January 26, 2015 (Alternate date)
February 23, 2015 (Alternate date)
March 16, 2015
April 20, 2015
May 18, 2015
June 15, 2015
July 20, 2015
August 17, 2015
September 21, 2015
October 19, 2015
November 16, 2015
December 21, 2015

The regular meeting dates for 2015 will be published in the Jersey Journal and Star Ledger as required under the Open Public Meetings Act Municipal Land Use Law, N.J.S. 40:55D-9.

Public Hearing:

Z-14-014 JUDY DeJESUS – Site: 440-442 Kennedy Boulevard in City Block 238, Lot 50. *[For dismissal for lack of prosecution]*

Board attorney Campisano advised that no action will be taken on this matter because the applicant has responded to completeness.

Public Hearing:

Z-14-023 NABIL MAXIMOS – Site: 661 Kennedy Boulevard in City Block 181, Lot 16. *[The applicant is seeking site plan approval and a use variance to allow the construction of a new sunroom at the rear of the home.]*

The applicant, Zarrin Maximos, appeared before the Board pro se along with a representative from the company that manufactures the prefabricated sunroom. Ms. Maximos was sworn as a factual witness and explained her proposal to the Board. She said that she wanted to have the sunroom constructed to provide more room for her growing family. She moved the pre-marked exhibits into evidence.

Commissioner Adams advised Ms. Maximos that the Zoning Board deals on the rule of law not on emotion. He said further that certain criteria and proofs are to be put forth that would enable the Board to consider granting a variance. In addition, Commissioner Adams pointed out that it did not appear that the applicant brought with her an expert witness who could provide planning testimony for a use variance, which for her is a difficult burden to bear. After providing Ms. Maximos with this information, she was asked if she would like to seek legal representation or retain a professional planner, or if she wished to proceed without the required expertise. Ms. Maximos said that she wished to move forward with the hearing.

Witness:

Brian Adams, head of the design department of Total Exteriors, the manufacturers of the prefabricated sunroom, was called by Ms. Maximos to provide testimony in support of this application. Board attorney Richard Campisano asked Mr. Adams for his educational background and experience. Since Mr. Adams had no professional degrees, Mr. Campisano said that he could only be sworn in as a factual witness. Mr. Adams said that he has worked in the industry for over 30 years. He said that he was retained by the applicant to design the sunroom.

This sunroom was designed for the Florida market and it is substantial. Mr. Adams described the exterior finish, windows, panels and roof. He said that the sunroom would replace the existing deck and it would not encroach any farther than what presently exists there. The sunroom will be built to a super standard with heat and electricity. This is a permanent structure that is affixed to the house.

Board questions:

Commissioners Adams, Urban, Ferrante and Egan questioned Mr. Adams, as did Consulting City Engineer Rob Russo.

Audience question

Residents Michael Gray and Antonio Dellaserra questioned Mr. Adams.

Closing Remarks:

Resident Michael Gray properties said that the structure would be detrimental because all of the houses are attached. He said that an eleven-foot addition to the house would negatively affect the aesthetics of the neighborhood and it would block off views from the adjacent neighbors.

Resident Antonio Dellaserra said that construction of the proposed sunroom would block the air from adjacent properties. They will be all closed in.

Applicant, Zarrin Maximos said that the eleven-foot sunroom will not cause a detriment to the surrounding neighborhood. Other homes have double decks and sheds in their backyards. She said they would not encroach on their neighbor's property. They are at least 6 feet from each side yard. Ms. Maximos said that she is looking to make it a better investment and improve the area and she asked the Board to approve the application.

Caucus:

Chairman Urban said that he has heard no expert testimony from professionals to grant this application. He has many questions that could only be answered by a professional.

Commissioner Adams concurred with Commissioner Urban. He said that this was his fear from start. The positive and negative criteria have not been addressed and this is crucial for the Board in order to grant the requested variances.

Commissioner Ferrante said that it is unfortunate that the applicant did not take a moment to listen to the advice offered by the Board at the beginning of this application. This Board is designed to enforce the zoning laws and there is a heavy burden on the applicant to meet. The applicant was given an opportunity at the beginning of the hearing to consider having a professional to provide expert testimony in support of this application, but the applicant decided to move forward without expert testimony. Because there was no expert testimony given, it is difficult for the Board to grant the variances.

Commissioner Quintela said that he also had a concern with the gutters and water runoff. No proof has been given to show where the water is going.

Commissioners Lombari, LeFante, Egan, Weicker and Rivera concurred with their fellow commissioners.

Commissioner Adams made a motion to approve the application and Commissioner Lombari seconded the motion. All commissioners voted against the application. The application was unanimously **denied**.

Adoption of Resolutions:

- **Z-14-022 BOULEVARD WEST, LLC – Site: 657 Kennedy Boulevard in City Block 181, Lot 14**
 - Commissioner Adams made a motion to approval the resolution and Commissioner Adams seconded the motion. A unanimous vote followed.
- **Z-14-020 QUICK CHEK CORPORATION – Site: 26-38 East 53rd Street in City Block 41, Lots 13.01 & 7**
 - Commissioner Egan made a motion to approval the resolution and Commissioner LeFante seconded the motion. A unanimous vote followed.
- **Z-14-021 DIANE FRIMMEL – Site: 95 West 35th Street in City Block 125, Lots 13.01 & 8**
 - Commissioner Adams made a motion to approval the resolution and Commissioner Coletta seconded the motion. A unanimous vote followed.

A motion was made to close the meeting at 7:20 p.m.

Susan Bischoff, Certified Shorthand Reporter, took a transcript of the meeting.

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