



**ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
FEBRUARY 28, 2022**

A virtual meeting of the City of Bayonne Zoning Board of Adjustment was conducted by electronic means on Monday, February 28, 2022 as permitted during this State of Emergency due to the COVID 19 pandemic.

Chairman Adams called the meeting to order at 6:03 p.m. and led all in the Pledge of Allegiance to the Flag. Chairman Adams declared a quorum and advised that the Board has complied with the Open Public Meetings Act/Sunshine Law.

Secretary Lombardi called the roll. Present at the meeting were Chairman Adams, Vice-Chairman DiLullo, Secretary Lombardi, Commissioners Pineiro, DeRos, Gamal, Sisk-Galvin, Blake, Contey, McCourt and Fares.

Also present were Richard Campisano, Esq., Board Counsel, Robert Russo, PE, City Engineer, Malvika Apte, PP, consulting City Planner, Suzanne Mack, PP, and Alicia Losonczy, Zoning Board of Adjustment Administrator.

Adoption of Minutes:

Chairman Adams called for the adoption of the minutes from the December 20, 2021 regular meeting.

Commissioner DiLullo made the motion to adopt the minutes and Commissioner Blake seconded the motion. A unanimous vote of eligible members followed.

Communications:

- Correspondence from Peter Cecinini, Esq., attorney for application Z-21-014 STS. PETER AND PAUL GREEK CHURCH at 93-95 West 27th Street and 94-96 West 28th Street; Block 170, Lots 2 and 24 requesting the application be carried to the March 21, 2022 meeting. A unanimous vote of eligible Commissioners followed.
- Letter from Paul Weeks, Esq., attorney for application Z-21-011 EMMA LOUISE CAMPBELL O'NEILL at 23 Cottage Street; Block 319, Lot 6.01 requesting the application be carried to the April 18, 2022 meeting. A unanimous vote of eligible Commissioners followed.
 - Commissioner DiLullo made the motion to carry the matter to the April 18, 2022 regular meeting with no further notice on the part of the applicant and Commissioner DeRos seconded the motion. A unanimous vote followed.
- REPORT OF ZONING BOARD OF ADJUSTMENT ANNUAL REPORT FOR CALENDAR YEAR 2021 TO THE PLANNING BOARD
 - Commissioner DiLullo made the motion to adopt the annual report for Calendar Year 2021 and provide to the Planning Board. Commissioner DeRos seconded the motion. A unanimous vote followed.

Item VII - Public Hearing:

Z-21-008 – FLY JET SKI, LLC – Site: 50 Marina Drive in City Block 47, Lot 8 *[The applicant is requesting an appeal of the Zoning Officer's Determination and an Interpretation of the Zoning Ordinance as they were denied use of the Marina at Boatworks for a Jet-Ski Rental Business.]*

Z-21-015 – ELCO FISHERMAN'S MARINA, LLC – Site: 50 Marina Drive in City Block 47, Lot 8 *[The applicant is requesting an appeal of the Zoning Officer's Determination and an Interpretation of the Zoning Ordinance as they were denied use of the Marina at Boatworks for a Jet-Ski Rental Business.]*

Edward Purcell, Esq. reintroduced himself and continued the dual application that was started at the meeting on December 20, 2021. Mr. Purcell reintroduced his additional exhibits to assure proper exhibit numbering for the record and called upon his first witness.

Witness:

Elizabeth McManus, PP was made aware that she is still under oath since the last meeting. Ms. McManus referred to many portions of the 2002 resolution of approval Planning Board application Resolution of Approval. She also referred to the Master Deed for Boatworks and cited CAFRA – Coastal Area Facility Review Act to define a marina which included Jet Ski slips. She further researched Jet Ski Marinas and utilized Trip Advisor to view their top ten Jet Ski locations and explained that it is her opinion the Jet Ski use is part of the existing facility.

Board questions:

Clifford Adams questioned Ms. McManus. Richard Schneider, Esq. and Commissioners Gamal and Pineiro questioned Ms. McManus.

Audience questions:

Gail Godesky questioned Ms. McManus. Keith Marchese raised his hand on the virtual meeting, however, said that he would not ask a question since he was on the Board at Boatworks.

Cross Examination:

Donald Onorato, Esq. questioned Ms. McManus. Ms. McManus responded that she did not conduct a zoning survey to the details Mr. Purcell made an objection. Mr. Campisano noted the objection for the record. Mr. Onorato referenced Section 7:7-15.3 of the New Jersey Statute that she referenced refers to boating but it is not until Section 7:7-12.5 that it refers to Jet Skis.

Mr. Onorato introduced his witness, Michael J. Pessolano, PP, and Richard Campisano swore Mr. Pessolano in. Chairman Adams recognized Mr. Pessolano as an expert in his field and

explained how he reviewed the site and all exhibits relative to this application. Mr. Pessolano found that the marina use is a non-conforming use in the R-3 Zone and the Jet Ski business is an addition which constitutes an expansion of a non-conforming use, thus requiring a variance. He testified that the 2002 site plan approval mentions to renovate the marina properly but advised that there were no comments from any professionals at the time other than the marina is an accessory use. Mr. Pessolano referred to the 1997 Harvey Moskowitz book which read that the definition of a marina is identical to the Bayonne regulations definition except for the word of “pleasure boats” is added to the Bayonne definition. Mr. Onorato opined that other Jet Ski and Marinas’ operations throughout the State of New Jersey do not dictate what is permitted here in Bayonne, but that he agrees with the Zoning Officer’s decision that it is not a permitted use according to the evidence. Mr. Pessolano testified that it is his belief that a d(2) variance for expansion of non-conforming use or a d(1) use variance would be required.

Board questions:

Commissioner Gamal and McCourt questioned Mr. Pessolano.

A short break was taken at 7:34 p.m. and the meeting resumed at 7:36 p.m. but the only two participants who left the meeting were Mr. Purcell and Mr. Schneider, therefore, roll was not taken.

Mr. Purcell cross examined Mr. Onorato.

Public Comments:

Gail Godesky made comment requesting that the Board side with the Zoning Officer’s decision.

Closing remarks:

Mr. Onorato gave a closing remark and asked the Board to understand that the use of a Jet Ski Rental Business would require a variance and asked that the Board not approve the appeal.

Mr. Schneider reiterated Ms. McManus' testimony regarding the use of the marina in the 2002 resolution of approval and requested the Board overturn the Zoning Officer's decision as it was not justified with the evidence presented.

Mr. Purcell stated that the 2002 resolution of approval governs the approval of the Jet Ski Rental Business use and infers it is a permitted use. He asked that the Board vote in favor of their appeal.

Closed Caucus:

Chairman Adams stated that the essence of this matter is to reverse the decision of the Zoning Officer, whereby looking to have the Zoning Officer approve something that is not listed as a permitted use. Vice-Chairman DiLullo does not see a Jet Ski business as a permitted use and most of the other Commissioners agreed except Ehab Gamal who suggested Suzanne Mack the City Planner and Andrew Raichle, consulting City Engineer review the matter and make the decision.

Motion:

Commissioner DiLullo made a motion in the affirmative to approve the appeal of the Zoning Officer's decision for both applications Z-21-008 Fly Jet Ski, LLC and Z-21-015 Elco Fisherman's Marina, LLC. Commissioner DeRos seconded the motion.

RECORDED VOTE:

<i>Commissioners</i>	<i>Aye</i>	<i>Nay</i>	<i>Abstain</i>	<i>Recuse</i>	<i>Absent</i>	<i>Not voting</i>
Clifford Adams	[]	[X]	[]	[]	[]	[]
Nicholas DiLullo	[]	[X]	[]	[]	[]	[]
Louis Lombardi	[]	[X]	[]	[]	[]	[]
Joseph Pineiro	[]	[X]	[]	[]	[]	[]
Arrigo DeRos, Jr.	[]	[X]	[]	[]	[]	[]
Ehab Gamal	[]	[]	[X]	[]	[]	[]
Cindi Sisk-Galvin	[]	[X]	[]	[]	[]	[]
Ryan Blake	[]	[]	[]	[]	[]	[X]
Susan Contey	[]	[]	[]	[]	[]	[X]
Mahmoud Fares	[]	[]	[]	[]	[]	[X]
Joseph McCourt	[]	[]	[]	[]	[]	[X]

Adoption of Resolutions:

- **RESOLUTION ADOPTING THE ANNUAL REPORT ON VARIANCE APPLICATIONS AND APPEALS FOR VARIANCES FOR CALENDAR YEAR 2021**
 - Commissioner DiLullo made a motion to adopt the resolution Commissioner DeRos seconded the motion.

RECORDED VOTE:

<i>Commissioners</i>	<i>Aye</i>	<i>Nay</i>	<i>Abstain</i>	<i>Recuse</i>	<i>Absent</i>	<i>Not voting</i>
Clifford Adams	[X]	[]	[]	[]	[]	[]
Nicholas DiLullo	[X]	[]	[]	[]	[]	[]
Louis Lombardi	[X]	[]	[]	[]	[]	[]
Joseph Pineiro	[X]	[]	[]	[]	[]	[]
Arrigo DeRos, Jr.	[X]	[]	[]	[]	[]	[]
Ehab Gamal	[X]	[]	[]	[]	[]	[]
Cindi Sisk-Galvin	[X]	[]	[]	[]	[]	[]
Ryan Blake	[]	[]	[]	[]	[]	[X]
Susan Contey	[]	[]	[]	[]	[]	[X]
Mahmoud Fares	[]	[]	[]	[]	[]	[X]
Joseph McCourt	[]	[]	[]	[]	[]	[X]

• **Z-20-013 – RAAFAT IKLADOUS – Site: 53-55 Broadway in City Block 369, Lot 24**

- Commissioner DiLullo made a motion to adopt the resolution Commissioner DeRos seconded the motion.

RECORDED VOTE:

<i>Commissioners</i>	<i>Aye</i>	<i>Nay</i>	<i>Abstain</i>	<i>Recuse</i>	<i>Absent</i>	<i>Not voting</i>
Clifford Adams	[X]	[]	[]	[]	[]	[]
Nicholas DiLullo	[X]	[]	[]	[]	[]	[]
Louis Lombardi	[X]	[]	[]	[]	[]	[]
Joseph Pineiro	[X]	[]	[]	[]	[]	[]
Arrigo DeRos, Jr.	[X]	[]	[]	[]	[]	[]
Ehab Gamal	[X]	[]	[]	[]	[]	[]
Cindi Sisk-Galvin	[X]	[]	[]	[]	[]	[]
Ryan Blake	[]	[]	[]	[]	[]	[X]
Susan Contey	[]	[]	[]	[]	[]	[X]
Mahmoud Fares	[]	[]	[]	[]	[]	[X]
Joseph McCourt	[]	[]	[]	[]	[]	[X]

• **Z-21-005 – SHWETA NATASHA SHARMA – Site: 14 West 49th Street in City Block 64, Lot 32**

- Commissioner DiLullo made a motion to adopt the resolution Commissioner Gamal seconded the motion.

RECORDED VOTE:

<i>Commissioners</i>	<i>Aye</i>	<i>Nay</i>	<i>Abstain</i>	<i>Recuse</i>	<i>Absent</i>	<i>Not voting</i>
Clifford Adams	[X]	[]	[]	[]	[]	[]
Nicholas DiLullo	[X]	[]	[]	[]	[]	[]
Louis Lombardi	[X]	[]	[]	[]	[]	[]
Joseph Pineiro	[X]	[]	[]	[]	[]	[]
Arrigo DeRos, Jr.	[X]	[]	[]	[]	[]	[]
Ehab Gamal	[X]	[]	[]	[]	[]	[]
Cindi Sisk-Galvin	[X]	[]	[]	[]	[]	[]
Ryan Blake	[]	[]	[]	[]	[]	[X]
Susan Contey	[]	[]	[]	[]	[]	[X]
Mahmoud Fares	[]	[]	[]	[]	[]	[X]
Joseph McCourt	[]	[]	[]	[]	[]	[X]

- **Z-21-009 – REMINO BAYONNE, LLC--Site: 120-122 West 33rd Street in City Block 143, Lot 28**
 - Commissioner DiLullo made a motion to adopt the resolution Commissioner DeRos seconded the motion.

RECORDED VOTE:

<i>Commissioners</i>	<i>Aye</i>	<i>Nay</i>	<i>Abstain</i>	<i>Recuse</i>	<i>Absent</i>	<i>Not voting</i>
Clifford Adams	[X]	[]	[]	[]	[]	[]
Nicholas DiLullo	[X]	[]	[]	[]	[]	[]
Louis Lombardi	[X]	[]	[]	[]	[]	[]
Joseph Pineiro	[X]	[]	[]	[]	[]	[]
Arrigo DeRos, Jr.	[X]	[]	[]	[]	[]	[]
Ehab Gamal	[X]	[]	[]	[]	[]	[]
Cindi Sisk-Galvin	[X]	[]	[]	[]	[]	[]
Ryan Blake	[]	[]	[]	[]	[]	[X]
Susan Contey	[]	[]	[]	[]	[]	[X]
Mahmoud Fares	[]	[]	[]	[]	[]	[X]
Joseph McCourt	[]	[]	[]	[]	[]	[X]

The meeting adjourned at 8:20 pm.

Susan Bischoff, Certified Shorthand Reporter, 449 Columbia Boulevard, Wood-Ridge,
NJ 07075 took a transcript of the meeting.

/akl