

**Borough of Ho-Ho-Kus  
Bergen County, New Jersey  
Zoning Board Minutes  
November 5, 2015**

**Meeting Called to Order at 8:10PM by Acting Chairman (Vice Chairman) Tarantino.**

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

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

**Also in attendance:** David Rutherford Esq., Board Attorney; Mr. David Hals, Borough Engineer; Mr. Ed Snieckus, Borough Planner; Ms. Lisa Phillips, Borough's Zoning Officer; Mr. Charles Olivo, Stonefield Engineering/Board's Traffic Expert for the HHK Crossing application; JoAnn Carroll, Board Secretary.

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**Completeness Review:**

**Mr. Thomas Fox, 100 Ackerman Avenue, Block 104, Lot 15:** applicant seeks variances to construct a one and two story addition; non-compliance with Section 85-10(G)1 building coverage and Section 85-10(K) second floor setback.

**Mr. Rutherford:** stated, for the record, Mr. Tarantino may be within 200' of the applicant's property and, if so, will have to recuse himself from the application; Mr. Rutherford recused himself from this application because he has had a professional relationship with the applicant's in the past; matter can still be deemed complete; scheduled for a public hearing on December 3, 2015; Mr. Rutherford asked the Board Secretary to poll the absent Board members regarding any further information they would like to receive from the applicants; if any requests are received, the applicant will be told in enough time to furnish that information at least ten days before the public hearing date.

**Vice Chairman Tarantino:** stated he would like the elevations to be on the plans and the views from the rear, the front and the side to be shown; further requested confirmation of the second floor setback calculations and that they be delineated on the plans.

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**Ongoing Business:**

**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 Section #85-9A(1); amended application and plans submitted.

**Christopher Botta, Esq., applicant's attorney:** gave an overview of the application and where they were currently at in the process; stated testimony had been given by Mr. Lucca and Ms. Paredes, the applicant's architect; amended plans had been submitted; addressed the removal of the initial variance requested for the setback from the accessory structure to the proposed addition; proceeding this evening in appeal of the Zoning Officer's determination that the application is for a two family home; several internal modifications have been made to the plan; the new plan represents a more free flowing dimensional unit and structure.

**Exhibit A9: amended plans with revision date of 10/16/15.**

**Mr. Rutherford:** stated that Ms. Lisa Phillips, the Borough's Zoning Officer, was in attendance this evening; Ms. Phillips was sworn in at this time by Mr. Rutherford.

**Ms. Xiomara Paredes, applicant's architect:** previously sworn in; approved by the Board as an expert in architecture; corner of existing building has been removed on plans so no variance is needed; reconfigured the interior of the addition; before there was a hallway to the master suite but now there is a turn and the addition has been shifted 3 ft. 5 inches to the side facing the pool; as a result, it turns the angle to the hallway but keeps the access to the common areas of the deck; creating a free flowing space in the area of the kitchen and the dining room; common dining room is proposed; large opening created that allows the families to go from all the areas of the parent's space to the kitchen and to the dining room; because of the "L" shape of the house, the only area that they were able to open was the dining room and the kitchen; couldn't change any features in the living room because of the garage.

**Ms. Metzger:** stated that a lofty feel had been created; asked for confirmation that the wall between the kitchen and the dining space was all open.

**Ms. Xiomara:** stated that was correct.

**Mr. Botta:** asked why there was a partition shown.

**Ms. Xiomara:** stated she tried to create as much open space as possible; if the wall was completely removed, the space would be too large; it would be out of proportion; wouldn't be an efficient way to use the space; no change to the

upstairs; all other areas are pretty much the same as the first plan submitted; the intent is to keep the utilities as one unit with different zones for the different areas of the house; no plans for separately metered utilities.

**Mr. Robert Inglima, 1 Deerhill Drive:** stated he was representing both he and his wife, Megan Inglima; his home abuts the property on the northerly property line; asked Ms. Paredes regarding all the changes made to the layout of the house; height of the overhang to the garage; zoning chart changes; asked if the applicant had withdrawn the old plans and substituting with the new plans.

**Mr. Botta:** objected; stated that was a legal determination; both plans are part of the record; appealing the decision of the Zoning Officer of the plans marked A9.

**Mr. Inglima:** continued asking questions regarding the use of the wording "Two Family Dwelling" on the plans; Ms. Paredes stated that was an error on her part; discussed the three season porch, kitchen, media room and dining room placement.

**Mr. Tarantino:** asked if the distance between the garage and the new addition should have been included in the denial since it is less than 10 ft.

**Ms. Lisa Phillips:** stated the applicant is allowed to have 2 foot eave overhangs.

**Ms. Metzger:** asked if Ms. Phillips had made the determination that the application was a two family dwelling due to the two kitchens shown and/or the amount of rooms.

**Ms. Phillips:** stated there were a multitude of reasons that she denied this application; there are no prohibitions in the ordinance that states you cannot have two kitchens; she looked at the accesses to the dwelling, shared living space and the kitchens; can easily see how this could become a two family dwelling; the wall in the dining room could be extended and closed off; referred to the floor plan; on the right side there is a staircase that goes into a vestibule; there is an access from the garage to the dwelling; there is an access point that goes into a foyer; there are access points on the exterior of the dwelling; combination of all those factors; it doesn't have to be labeled a two family but it has to be a one family; the way the Borough's ordinance is written there are certain permitted uses.

**Ms. Metzger:** stated there are many different houses that have different entrances; because of the "L" shape of the house the flow of the space is different; asked what made this house different from other large houses with different rooms and accesses.

**Ms. Phillips:** stated the issues are the kitchens and amount of living space; kitchens in the basement are a totally different subject; the plans have the access points, the kitchens and it has the totally separate living spaces; based on her determination of what the ordinance says; it is specifically spelled out what is permitted in an R1 zone; if it is not specifically permitted it is therefore prohibited; stated the permitted uses in the R1 zone; her denial was based on Section 85-8 (b).

**Mr. Forst:** stated he had a concern regarding the actual distance from the eaves between the garage and the addition.

**Ms. Phillips:** stated she measured at 10 ft. on the plan and 2 ft. eave overhangs are allowed; looking at it as a perspective more than a scaled elevation; it is not a scaled elevation; Ms. Paredes has worked in Ho-Ho-Kus a long time and has done a lot of houses; Ms. Phillips assumed she had known the 2 ft. overhangs were permitted; Ms. Phillips knew Ms. Paredes' intent was to; it was not a scaled dimensional drawing; that is why that part of the denial was removed.

**Ms. Paredes:** stated she scaled it quickly; it wasn't exact; if it is an issue, will scale back the overhang.

**Mr. Deegan:** stated the totally separate living space was mentioned; the door is wider than the first plan; believes if that door is closed off, it would constitute two separate living spaces.

**Ms. Phillips:** stated that was correct; that is the only access point.

**Mr. Botta:** asked Ms. Phillips if she had ever denied another application based on the creation of a two family house.

**Ms. Phillips:** stated no; nothing has been submitted that resembled this application.

**Mr. Botta:** reviewed the duties of a Zoning Officer.

**Ms. Phillips:** stated it is her job to enforce the code of the Borough;

**Mr. Botta:** asked Ms. Phillips if it was brought to her attention that a house was being used as a two family house if she would investigate.

**Ms. Phillips:** stated yes, she would take action.

**Mr. Inglima:** gave his closing statement.

**Mr. Botta:** gave his closing statement.

**Mr. Rutherford:** stated both Mr. Inglima and Mr. Botta addressed the issues which are before the Board; stated the Board needed to remember that this is an appeal of the decision of the Zoning Official; it is not an application for a variance; the factors that the Board would consider in a variance application do not apply; the impositions of conditions also do not apply; question of law and interpretation of the ordinance; the applicant has indicated that any variance with respect to the separation between the principal building and the accessory building is no longer being sought; the applicant is satisfied that it can comply; the Board needs to consider what Ms. Phillips had to say in her testimony and her denials are also part of the record; Ms. Phillips' position, which Mr. Rutherford agrees with, is that the principal use permitted in this zone are single family detached dwellings and the ordinance does talk about a family as well as a dwelling unit; believes it is not so much a question of is it a two family, the question is if it is a single family detached dwelling; that is the issue because that is what the ordinance permits in the zone; there are four Board members present; a tie vote would mean the appeal would be denied.

**Mr. Forst:** stated it is a nice plan but he is concerned about the flow; there are two kitchens; in his opinion, the plans show a two family house.

**Mr. Deegan:** stated he is inclined to agree; views it the way the Zoning Officer looked at it; sees several living spaces; not just one issue but a bunch of issues in totality; this could easily be looked at as a two family dwelling.

**Ms. Metzger:** stated she sees it as a one family dwelling allowing for independence for various members of the family; understands it to be creating two spaces for independent living of two aspects of a family.

**Vice Chairman Tarantino:** stated counsel for the applicant did a great job; Mr. Inglima presented his arguments very well; appreciates all the experts involved; concurred with the majority of the Board; personally believes it is a two family home based upon what the Zoning Official has put forth.

**Motion to uphold the denial rendered by the Zoning Officer of a proposed two family dwelling:** Vice Chairman Tarantino, Deegan

**Ayes:** Vice Chairman Tarantino, Forst, Deegan

**Nay:** Metzger

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**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; amended plans submitted.

**Transcript provided for this application.**

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**Discussion:** carried to the December 3, 2015 meeting.  
2016 Meeting Dates Review

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**Approval of Minutes:** carried to the December 3, 2015 meeting.  
October 1, 2015  
June 7, 2012  
September 6, 2012  
October 4, 2012  
December 6, 2012

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**Motion to Adjourn:** Tarantino, Metzger  
**All in Favor**

**Meeting adjourned at 11:25PM.**

Respectfully submitted by:

JoAnn Carroll  
Zoning Board Secretary  
November 6, 2015