

**Borough of Ho-Ho-Kus
Bergen County, New Jersey
Zoning Board Minutes
October 2, 2014**

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

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

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

***Ms. Metzger** arrived at 8:05PM; please note Ms. Metzger did not miss any testimony in regards to any applications on the agenda for this evening's meeting. **Mr. Pappas** arrived at 8:05PM; please note Mr. Pappas did not miss any testimony in regards to any application on the agenda for this evening's meeting.

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

Ongoing Business:

Mr. Thomas Fredericks, 305 Blauvelt Avenue, Block 211, Lot 4: applicants seek variances (front yard/rear yard) to construct an attached garage on the easterly side of the property and a second floor addition in the rear of the dwelling.

Chairman Barto: stated the Fredericks application has been carried to the November 6, 2014 meeting; assumes the Fredericks are in the process of putting together the information the Board had requested at the last meeting.

New Business:

Mr. Edward Decker, 201 Sheridan Avenue, Block 201, Lot 11: proposed driveway renovation and expansion.

Mr. Paul S. Doherty, III: introduced himself to the Board; present on behalf of the applicant, Linda Decker; **Mrs. Linda Decker** sworn in by Mr. Rutherford.

Mr. Rutherford: confirmed with the Board Secretary that appropriate proofs with respect to service and publication had been received.

Mr. Doherty: gave a brief background of the application; the Decker's live on Sheridan; have three cars that they need to park in the driveway; Mr. Decker applied for and was granted a permit to extend the driveway; effectively the driveway was already along the property line and it was extended because the Decker's believed they had the proper permit to do so; the driveway has already been extended; after the work was done it was realized by the Town Official that the driveway is less than 10 ft. from the side yard which is adjacent to the corner property; present tonight to ask for a fairly de minimus variance; driveway already pretty close to the property line; it has been extended slightly toward the property line; there is also a potential issue regarding lot coverage; noted in the public notice; no further structure built; simply blacktop and the extension of the driveway; asking for the variance to be granted; Mrs. Decker can speak on her own behalf as well.

Chairman Barto: asked if the driveway was extended with a permit or without.

Mr. Doherty: stated with a permit.

Chairman Barto: stated that apparently what happened was it was extended too much; beyond the limits of the permit.

Mr. Doherty: stated it was extended consistent with the permit; (Mr. Doherty approached Chairman Barto and showed him the drawing which was submitted with the permit application); a rough sketch was provided to the Town Official of what Mr. Decker was going to do; he proceeded in good faith and with no intent to violate the zoning laws.

Mr. Rutherford: Exhibit Decker 1, permit application marked which was received April 16, 2014 and was issued April 17, 2014; description states "to repave driveway"; attached to it is a copy of a survey dated March 19, 1997; the Board also has a site plan prepared by Mr. Irwin dated December of 1996.

Mr. Doherty: stated he had not seen Mr. Irwin's site plan.

Mr. Rutherford: stated it shows the outline of the driveway prior to the work that was just recently done more accurately than the survey that was submitted for the permit.

Mr. Doherty: agreed with that statement.

Mr. Rutherford: Exhibit Decker 2, Mr. Irwin's site plan; asked if Mr. Doherty's testimony is that the survey that was submitted as part of the permit application is the Doolittle survey and stated that the Board also

has the Irwin site plan which shows the driveway as it existed before the work was done; asked if Mrs. Decker could describe the changes to the driveway.

Mrs. Decker: stated basically the driveway's length was kept the same and the width was expanded at the bottom; the old driveway narrowed to the curb; it was changed so it is a uniform length from the driveway to the street; changed so 2 cars could be parked all the way down the driveway instead of lining them up; the driveway ends at the garage and as it proceeds towards the street it previously narrowed in from the garage; the portion of the driveway which narrowed has been extended; it was widened to fit two cars without having to shift cars; no curb cuts; lived at this address for 23 years.

Mr. Rutherford: stated the issue is the description on the permit was to repave; it turned out the driveway was widened.

Mrs. Decker: stated her husband misinterpreted what the actual work was to be; no mal intent.

Mr. Tarantino: stated that on the 1996 plan the set back from the end of the driveway to the side yard is 3 feet; asked if that was correct.

Mrs. Decker: stated she didn't know.

Mr. Doherty: stated that is what the plan shows.

Mr. Tarantino: confirmed the work had already been completed; asked what the setback was.

Mrs. Decker: stated she couldn't say; it might be a little less than 3 ft.; it is the same at the top where the existing driveway was; the top is the closest part of the garage; the top of the driveway has never been changed; if it was 3 ft. it is still 3 ft.; curb never cut; only one car can come in and out of the driveway width at one time.

Chairman Barto: asked what was the width of the driveway at the bottom; one of the problems that Chairman Barto has with the application is that the Board does not have a finished plan; the Board has a before and what was submitted with the permit; the Board does not know how much of a variance is needed and without knowing that, even though it may be de minimus, the Board can't be sure; the applicant needs to submit a survey to the Board; width not known; encroachment not known; doesn't know if it varies from the top to the bottom; it doesn't seem right to grant a blind variance considering what other applicants are required to do when they appear before the Board.

Mr. Deegan: added that someone did believe it was more than de minimus because the documents received by the Board indicate there was a complaint; he doesn't feel comfortable about granting a variance unless the Board knows what was done.

Mr. Doherty: stated, unfortunately, the application started without him; he does understand the proof problem; if appropriate, would like to continue the application; will take the existing survey and overlay it with a survey that shows the current work and come back before the Board.

Chairman Barto: stated a survey should be done and submitted to the Board so the Board can see exactly what was done.

Mr. Cox: requested photographs of the curb.

Mr. Rutherford: stated he doesn't believe there is a lot coverage issue; 35% is allowed; Mr. Irwin had the coverage at 20% with all of the improvements; suggested that enough of an analysis should be done to demonstrate that that variance is not needed; the Zoning Official presented this issue; if there was a neighborhood concern, which he believes there was, it is in everyone's best interest that it be done properly so any questions can be addressed.

Mr. Tarantino: stated he agrees with Chairman Barto and Mr. Rutherford; as a side note, he believes this variance is de minimus given the facts he has heard; if the 3 ft. in 1996 was there and already approved and what has been done is an extension of the non-conforming situation down further, then basically it has not been expanded into the drive; asked if the applicant had spoken to her neighbors regarding the driveway.

Mrs. Decker: stated she hasn't personally heard any complaints.

Mr. Doherty: stated he believes there was one letter that Mr. Deegan was referring to; believes that is what prompted post-permit, the Zoning Official to go out to look at the property; he is not in receipt of the letter; stated it might have been a phone call.

Chairman Barto: instructed the Board Secretary to check into the complaint and if it was via phone or letter.

Board Secretary: stated she would look into the matter and submit a copy of any complaint letter received by the Borough to both the Board and to Mr. Doherty.

Resolution:

Marie and Colin Moore, 406 Braeburn Road, Block 209, Lot 4:

resolution approving variances to construct a one story addition and a two story addition to an existing family residence.

Mr. Rutherford: reviewed the application and resolution in detail.

Approval of Moore Resolution: Cox, Metzger

Ayes: Tarantino, Cox, Metzger, Pappas, Rodger, Chairman Barto

Recused: Deegan

Approval of Minutes

September 4, 2014

Carried to November 6, 2014

Chairman Barto: stated that Mr. Tarantino had asked that there be an investigation regarding an odd looking structure constructed in the Borough.

Mr. Tarantino: stated that was correct; he had spoken with the Board Secretary regarding this issue; rather than have something formal or a presentation by the Building Official, he has asked the Board Secretary to set up an appointment for him to come one morning to review the plans that were submitted; it is an odd structure; there was a witness that presented himself during the Frederick's application that caused him to be over there and look at this structure; this is the first time he has made this type of inquiry in his 25 years on the Board.

Mr. Pappas: stated he noticed the same structure; saw that it had been put up.

Chairman Barto: stated he has seen it; would like Mr. Tarantino to be in charge of the investigation and report back to the Board; at a minimal, the height is peculiar.

Mr. Tarantino: asked, in light of this issue, should the resident have notice of the objection.

Chairman Barto: stated if the resident has the permit to build the structure as it is being built, then there is nothing that the resident need worry about; however, the Board does an Annual Report every year; recommendations are sent to the Borough Council; he was thinking that the Board might want to address that particular type of "shed"; the Board may want to be heard on it at the Council level; believes there is a consensus regarding the structure; odd piece of architecture in the middle of a yard; very visible from the street.

Mr. Tarantino: stated he will investigate and report back to the Board next month.

Chairman Barto: stated Mr. Tarantino will be Chairing next month as Chairman Barto will be away.

**Meeting adjourned at 8:20PM
(Adjourned without motion)**

Respectfully submitted by:
JoAnn Carroll
Zoning Board Secretary
October 6, 2014