

**MINUTES OF THE SPECIAL MEETING OF THE
HAWTHORNE ZONING BOARD OF ADJUSTMENT
FOR MARCH 3, 2014**

The March 3, 2014 Special meeting of the Hawthorne Zoning Board of Adjustment was called to order at 7:00 p.m. by Vice Chairman Gallagher. All members were present except Hallock and Terraglia. In addition, Michael Kelly, representing the Borough Engineer, Joseph Burgis, the Borough Planner and Charles C. Collins, Jr., Attorney/Secretary, were present.

Flag Salute

Bills

On motion by DeRitter with second by Agnello, the Board approved payment of the bill of the Hawthorne Press for legal notices in the amount of \$35.10.

Minutes

On motion by DeRitter with second by Duffy, the Board approved the minutes of its work and regular meetings of February 24, 2014.

Old Business

Resolutions

1. **Joseph Malanga.** 120 Frederick Avenue, Lot 8, Block 121. On motion by Schroter with second by Chamberlin, the Board adopted a memorializing resolution granting an application to expand a first floor bathroom at the rear of a two family house in the R-2 Residence Zone. Side yard and combined side yards variances required continuing but not aggravating existing deficient setbacks.

Old Business
Hearings

2. The Vice Chairman then called for the continuation of the hearing of the application of **1 Loretto Avenue Realty Associates, LTD.** Lots 12 and 25.01 in Block 17 and Lot 1.01 in Block 17.01. Appearing for the applicant were Thomas A. McKinney, Esq., Waldman, Renda & McKinney, P.A., 1107 Goffle Road, Hawthorne, NJ 07506 and Brian D. Schwartz, Esq., Craner, Satkin, Scheer, Schwartz & Hanna, P.C., 320 Park Avenue, Scotch Plains, NJ 07076.

Mr. Collins outlined the procedure for the evening's meeting. First, Mr. Schwartz would present any evidence/testimony then the Board members would report their observations of the height exhibit to be followed by the Borough Engineer, the public, the Borough Planner, the Applicant's summation and vote.

Mr. Schwartz stated that since the Board had requested a visual exhibit, the sight line chart offered at the first meeting would be withdrawn. The applicant's Planner, Brigette Bogart, then offered a new exhibit based upon her visits of January 20, February 1 and February 26. Her testimony and exhibit focused on the three vantage points from which the biggest visual impact would occur. She testified that trees in bloom would reduce any impact. When asked by the attorney she opined that the site can accommodate the problems associated with the height. There is no substantial detriment to the public good and the economic benefits to the Borough outweigh any detriments. She said there is no impact on the "quality

of life". Mr. Schwartz said the Owner has offered to paint the obtruding structure but the witness rejected that idea. She admitted there are other locations where the wall would be seen.

Michael Gagliardi, John Budesca, Linda Metzler, and Charmaine Gagliardi, all of Hawthorne Avenue, and Jerry Van Kouteren of Keith Court all questioned the witness about her conclusions.

Michael Kelly, the Borough Engineer representation then verified the location and dimensions of the exhibit and submitted five photos showing the exhibit's location on the roof.

The Board members then testified about their observations. Mr. DeRitter visited twice and stated he didn't see anything from Passaic Avenue but Hawthorne Avenue and Wagner Avenue offered views.

Mr. Duffy confirmed visibility from Wagner and Hawthorne.

Mr. Schroter was unable to visit the exhibit.

Mr. Chamberlin could see the exhibit from Passaic Avenue and Wagner. He agreed that the visibility from Hawthorne Avenue was substantial for four homes.

Mr. Melfi visited on an earlier date and walked the railroad tracks. He stated the Hawthorne Avenue residents would definitely be impacted by the building.

Mr. Gallagher visited the exhibit on February 26 and announced that while Hawthorne Avenue and Keith Court would get the brunt of the impact, the exhibit was also visible from Wagner and as far away as Washington Avenue.

The hearing was then opened to the public. Michael Gagliardi of Hawthorne Avenue offered photos he had taken just prior to the first snowfall and noted that the poles were only located on the westerly perimeter of the building foot print. When the easterly perimeter is built the wall will be readily visible from Passaic Avenue. He pointed out that the trees described as providing cover were only in bloom half a year with the other half allowing direct visibility.

John Budesca of Hawthorne Avenue pointed out that the proposed building would be visible from as far away as St. Anthony's Church providing a much greater impact than the applicant had suggested.

Jack Tonacio, of Keith Court, stated he would see the building walls, length and width from his backyard deck.

Charmaine Gagliardi finished by stating the structure would be "everywhere" for her in her backyard.

At this time, Joseph Burgis, the Borough Planner offered his report with photos showing visibility from Hawthorne Avenue (greatest impact), Passaic Avenue and Wagner Place. He instructed the Board that to deny the project it must find substantial impact on the public good but the impact on the neighbors is

just as important as the impact on the public at large. The impact should be measured considering whether there will be adequate light and air and a desirable visual environment. The test must be whether the site will function well with the adjustments made by the requested variance but also whether it will function well in the eyes of the neighboring properties.

In his summation, Mr. Schwartz argued that the building is already there and that an additional ten feet could be added to meet the permitted maximum height of 35 feet, consequently the additional 17.5 feet requested should not be deemed "substantial".

A motion to deny the application was offered by DeRitter and seconded by Chamberlin and after stating their reasons therefor, the Board voted 6 – 0 in favor of the denial.

On motion by Chamberlin with second by Agnello, the special public meeting of the Hawthorne Zoning Board of Adjustment for March 3, 2014 was adjourned at 10:06 PM.

Respectfully submitted,

Charles C. Collins, Jr.
Attorney/Secretary