

**MINUTES OF THE WORK SESSION MEETING**  
**OF THE HAWTHORNE ZONING BOARD OF ADJUSTMENT**  
**JULY 20, 2009**

The July 20, 2009, work session meeting of the Hawthorne Zoning Board of Adjustment was called to order at 7:00 p.m. by the Chairman. All members were present. In addition, Charles C. Collins, Jr., Attorney/Secretary, and John Pacholek, representing the Borough Engineer, were present.

The bills of the Hawthorne Press and the Board attorney were reviewed.

Mr. Collins described the status of the current litigation involving the Board and noted that the Luddy matter was not yet scheduled for hearing since the Judge had asked for an enhanced resolution.

Mr. Collins advised that the escrow deposit for Patriot Development had been made and the matter would be on the agenda for the August meeting.

The Board next reviewed the evening's applications, noting that the Puddingstone 7-11 application for Goffle Road and Watchung Drive was a "d" variance issue and five affirmative votes would be required for approval. Mr. Collins described a possible procedure for addressing the questions of interpretation/use variance.

The Chairman and Mr. Terraglia announced that they would recusing themselves from the application.

Respectfully submitted,

*Charles C. Collins, Jr.*

Attorney/Secretary

**MINUTES OF THE REGULAR MEETING OF THE  
HAWTHORNE ZONING BOARD OF ADJUSTMENT  
JULY 20, 2009**

The July 20, 2009, regular public meeting of the Hawthorne Zoning Board of Adjustment was called to order at 7:40 by Chairman Hallock, the delay caused by the unavailability of the recording system. All members were present. In addition, Charles C. Collins, Jr., Attorney/Secretary, and John Pacholek, representing the Borough Engineer, were present.

The Chairman announced that notice of the meeting had been published and posted in accordance with the requirements of the Open Public Meetings Act.

**Bills** On motion by Terraglia with second by Gallagher, the bills of the Hawthorne Press in the amount of \$43.68 and the Board attorney in the amounts of \$435.00 and \$412.50 were approved.

**Minutes** On motion by Silvestri with second by DeRitter, the Board voted approval of the minutes of the work and regular sessions of the Board for June 15, 2009.

**Annual Report** On motion by Gallagher with second by Silvestri, the Board adopted its annual report for the year 2008.

**Old Business**

**Resolutions**

1. **Robert and Shirley Maggio**. 45 Franklin Avenue, Lot 14, Block 38. On motion by DeRitter with second by Duffy, Joustra, Terraglia and Hallock abstaining, the Board adopted a memorializing resolution granting, on conditions, an application to convert a single family home in the R-2 Residence Zone to two family use requiring density ("d") and single and combined side yard ("c") variances.

2. **Art and Toni Elman.** 135 Seventh Avenue, Lot 4, Block 218. On motion by Silvestri with second by DeRitter, Joustra and Hallock abstaining, the Board adopted a memorializing resolution granting an application to make a front yard addition to a two family home in the R-2 Residence Zone requiring single and combined side yard (“c”) variances.

3. **Bradley and Kristen McErlean.** 29 Buena Vista Avenue, Lot 5, Block 99. On motion by Terraglia with second by Gallagher, Joustra abstaining, the Board adopted a memorializing resolution granting an application to erect a 19’ by 22’ rear yard deck in the R-1 Residence Zone requiring single and combined side yard (“c”) variances.

1. The Chairman then called for the hearing on the application of **Scott and Kathleen Riker**, 1 Prospect Street, Lot 1, Block 71. Scott Riker appeared and was sworn. He testified to the ownership of his home with his wife which was built around 1954 and their desire to enclose an existing front porch to provide a play area for their young daughter. If approved, because of the location of the non-conforming home on the lot it would require front yard, centerline setback and combined side yards variances in the R-2 Residence zone. Similar improvements were noted in the neighborhood. No member of the audience wished to be heard on the matter and, on motion by Terraglia with second by Joustra, the application was granted.

2. The next matter to be heard was the application of **Shari and William Riker**, 206 Westervelt Avenue, Lot 4, Block 68. William Riker was sworn and testified to the ownership of the 60+ year home in the R-2 Zone with his wife. He explained their wish to erect a 16' x 20' rear yard deck requiring a coverage variance. The deck would follow and not exceed the lines of the existing non-conforming building. No member of the audience spoke on the matter and on motion by Terraglia with second by DeRitter, the application was approved.

3. The Chairman then called for the hearing of the application of **Puddingstone Goffle Holdings, LLC**, 896 Goffle Road, Lots 10 & 11, Block 267. The Chairman and Mr. Terraglia recused themselves because of prior affiliations with the applicant and its attorney. The applicant was represented by Harold P. Cook, III, Esq., Perconti & Cook, Esqs., 886 Belmont Avenue, North Haledon, New Jersey 07508. He advised the Board that his application is to convert the present inactive Shell Oil service station use of the property to a 7-11 Convenience Store in the R-1 Residence Zone. The application is brought in the alternative, i.e., (1) under N.J.S.A 40:55D-70 (b), seeking an interpretation that a proposed 7-11 Convenience Store is a permitted continuation of a legal non-conforming gasoline service station use, or, (2) under N.J.S.A 40:55D-70 (d) 2, seeking a use variance for its operation. He proposed to postpone the planning testimony supporting the requested interpretation until after all witnesses describing the proposed use had testified whereupon his professional planner could proceed with

the use variance testimony immediately if the interpretation were to be denied. He indicated he would have five or six witnesses excluding the planner.

The application seeks site plan approval and bulk variances for front yard and rear yard setbacks as well as various signs and a wall to screen the waste collection area. At this point Mr. Cook called as his first witness, Alex Zepponi, Engineering and Technical Resources, Inc. (ENTEC) 535 High Mountain Road, North Haledon, New Jersey 07508. Mr. Zepponi was qualified as an expert in the field of engineering and testified to having prepared three exhibits which were offered to the Board. He described the present site with a service/office building and large canopy and indicated that, although inactive as a service station at this time, the building still had its lifts, grease pumps and compressors. The gasoline tanks and pumps had been removed and some kind of remediation was taking place. He described the proposed plan showing the canopy removed and the building increased by some 840 sq. ft. More green area would be added, one curb cut on Watchung Drive would be removed. New drainage service, lighting and landscaping would be provided. In his opinion the proposal represented a 100% improvement over the current situation.

John Pacholek, representative from the Borough Engineer, was sworn and raised questions regarding the proposed drainage, lighting and possible site contamination.

For the rest of the evening there followed members of the audience with questions of the witness as follows:

Don Ferguson, 177 Pasadena Place, raised questions regarding traffic, lighting and noise.

Ed McGuirk, 241 Pasadena Place, raised questions regarding impervious coverage and, later in the evening, repairs to wall screening the waste enclosure.

Alex Vetlov, 750 Goffle Road, raised issues of drainage and truck traffic.

Mary Frezzolini, 237 Lafayette Avenue, asked about lighting and crime.

Richard Shortway, 27 Nixon Court, questioned the application of the 100 year flood plain and, later, traffic access to and from the site.

Griff Ace, 872 Goffle Road, asked questions about traffic.

Suzanne Korpics, 242 Pasadena Place, questioned signage, screening, on-site parking and lighting.

Gary Sinning, 200 Watchung Drive, asked about lighting and traffic patterns.

E. Vickiaris, 169 First Street, questioned proposed landscaping and availability of safety studies.

Michael Mairani, 890 Goffle Road, questioned the proposed lighting and signage.

Peter Debbas, 237 Pasadena Place, raised issues of traffic, crime and noise.

Steve Retkwa, 828 Goffle Road, questioned the noise from mechanicals on the building.

Michelle Joustra, 134 Watchung Drive, questioned the availability of other expert witnesses.

Robert Lucibello, 75 Cider Mill Road, asked why the interpretation issue wasn't decided first.

Lois Larro, 233 Pasadena Place, asked about traffic access to and from the site.

Richard Aman, 190 Pasadena Place, questioned the condition of other holdings of the applicant's principals.

Jeff Gardner, 124 Highview Terrace, asked about traffic, lighting and the issue of abandonment.

Ernie Stuber, 155 Watchung Drive, raised issues of child safety.

John Bertollo, 162 Washington Place, questioned the proposed drainage plan.

This concluded the evening activity. Mr. Cook, at the urging of the audience agreed to carry his presentation to September 21, 2009 and on motion by DeRitter with second by Silvestri, the Board granted the adjournment.

There being no further business to come before the Board, on motion by Joustra with acceptance by acclamation, the regular public meeting of the Hawthorne Zoning Board of Adjustment for July 20, 2009 was adjourned at 10:10 PM.

Respectfully Submitted,

*Charles C. Collins, Jr.*

Attorney/Secretary