

MINUTES OF THE WORK SESSION MEETING
OF THE HAWTHORNE ZONING BOARD OF ADJUSTMENT
AUGUST 17, 2009

The August 17, 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 bill of the Hawthorne Press was reviewed.

The Board discussed the following matters: Scheduling for the resumption of the Puddingstone (7-11) application set for September 21, 28 and October 5; Requested bifurcation of the Patriot Development application deemed inappropriate; the status of the Luddy appeal; disclosure of the principals of Patriot Development and correspondence from the County regarding the Puddingstone application.

Mr. Collins advised Mr. Silvestri that the escrow deposit for Patriot Development had been made.

The Chairman reported to the Board that the Christian Health Care Center application would probably not come before the Board until sometime in 2010.

Respectfully submitted,

Charles C. Collins, Jr.

Attorney/Secretary

**MINUTES OF THE REGULAR MEETING OF THE
HAWTHORNE ZONING BOARD OF ADJUSTMENT
AUGUST 17, 2009**

The August 17, 2009, regular public meeting of the Hawthorne Zoning Board of Adjustment was called to order at 7:30 by Chairman Hallock. 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 Silvestri, the bill of the Hawthorne Press in the amount of \$60.06 was approved for payment.

Old Business
Resolutions

1. **Scott and Kathleen Riker**. 1 Prospect Street, Lot 1, Block 71. On motion by DeRitter with second by Terraglia, the Board adopted a memorializing resolution granting an application to enclose an existing front porch requiring front yard, centerline setback and combined side yards variances in the R-2 Residence zone.

2. **Shari and William Riker**. 206 Westervelt Avenue, Lot 4, Block 68. On motion by Silvestri with second by Joustra, the Board adopted a memorializing resolution granting an application to erect a 16' x 20' rear yard deck requiring a coverage variance in the R-2 Residence zone.

1. The Chairman then called for the hearing on the application of Patriot Development Corp., Goffle Road at Warburton Avenue, Block 89, Lot 6, Block 90, Lots 1, 2, 2.01, 2.02, 11, 12, & 13. The applicant was represented by Jerome A. Vogel, Esq.,

Jeffer, Hopkinson & Vogel, Esqs., 1600 208 North, Hawthorne, New Jersey who described the history of development applications for the property in question dating back to 1989. The property is located in the R-5 Planned Unit Development Zone whose proposed development was at one time 16 townhouses and 4 single family houses and then 26 townhouses and 5 single family houses and then again, 28 townhouses. The last effort to develop the property was dismissed by the Board without prejudice in 2001.

The present application concerns 6.64 acres and includes property owned by John and Rosalind Minicozzi, 570 Goffle Road, which is proposed to be subdivided into 4 single family lots labeled A, B, C & D. The remainder of the property, owned by Patriot, would be developed by 20 townhouses and 3 single family houses. The combination of the proposed developments results in a density of 4.07 units per acre while the maximum permitted density is 3 units per acre thus creating the need for a "d" variance. Mr. Vogel described the variances as minor and asserted that the problems lay in the proposed design and not the uses which are permitted.

A discussion followed on the applicant's request to bifurcate the application but the Board rejected the request finding that site plan issues will be critical to its determinations of the "d" variance request.

The first witness to testify was Michael McGowan, McGowan Engineering, 645 Westwood Avenue, River Vale, New Jersey. Sworn, he was accepted as an expert in civil engineering and testified that he had prepared the site plan before the Board consisting of 10 sheets. He described the property and existing structures. The

Minicozzi property should be considered as part of the application although a formal subdivision application would be submitted only after favorable reaction to the Patriot application. The topography of the property is its most salient feature rising 140 feet from Goffle Road over the 650 foot depth of the property to its western property line. He described the serpentine 1,050 foot private road with a 30 foot cart way which would serve the project with curbing and 4 foot wide sidewalks. An "access" road, 18 feet in width, would be created from Lynack road on the north, through the Minicozzi property and into the Patriot development for the purposes of providing street frontage for one of the proposed Minicozzi lots and "emergency" access to the Patriot property.

The proposed town houses would be 2.5 stories in height with a one car garage underneath. The single family lots would all comply with the applicable zoning regulations and have an attached two car garage. The required parking is 64 spaces while 61 are being provided thus requiring a variance.

McGowan then divided his testimony into seven issues as follows:

Drainage. The current regulations require not only control of storm water runoff but treatment as well. Road runoff would be handled by catch basins emptying into two concrete chambers for treatment and then into a detention pond at Goffle Road. The detention pond would be fenced in and, at times, could have a depth of 8 feet. From there it would be fed into the Goffle Brook. A State permit would be needed. Roof runoff would be directed into seepage pits but this and other matters are still in the discussion stage with the Borough Engineer.

Sanitary sewer. Sanitary sewage would be handled by an 8" pipe running from the top of the private road down to a 10" pipe in Goffle Road. A question was raised whether the down stream system of the 10" pipe could handle the increased capacity and the applicant agreed to investigate and report back.

Water Service. Flow tests have indicated two systems are needed, one for the upper tier and one for the lower tier. One service will originate at Goffle Road while the other will enter through the Lynack Road access.

Utilities, (gas, electric and phone). All will come in off Goffle Road.

Grading. In order to provide plateaus for the townhouse buildings and road, the steep slopes would be carved out and retaining walls ranging from 4.5 feet in height to 19 feet would be erected with 4 foot high fences on top. No development of the property can be made without steep slope variances.

Landscape and Lighting. These issues are still in the conceptual stage but the evidentiary sheet for these matters shows the allocation of uses to space as follows: Townhouses use 19.7% where 25% is the maximum permitted; Single family use is 32.6% where the minimum required is 40% (variance needed); Recreation space is 2.5% where 2.5% is permitted and Open space is 28% where 25% is the minimum required.

At this point Mr. Vogel called his professional planner to testify. Joseph J. Layton, P.P., 53 Frontage Road, Clinton, New Jersey, of Maser Engineering was sworn and his credentials accepted. His written report was submitted with the application. He described the property and offered his opinion that no development could take place

without steep slope variances. He described the variances sought and stated that the “d” variances was supported by both the MLUL and the Borough ordinance. He mentioned that denial might result in “economic inutility” which could be argued as a special reason. He couldn’t see any adverse impact to the public good because there would be no adverse traffic impact, (relying on the yet to be introduced traffic report) and the unlikelihood of substantial increase to the school population. He justified the steep slope variances on the grounds that the Borough ordinances would be complied with and soil erosion controlled and stated that 7 townhouse units would be set aside to meet the expected COAH requirements.

At this time the public was invited to ask questions. Frank Matthews, 584 Lincoln Avenue, asked about the number of variances being sought, the application of RSIS standards, the proposed access drive from Lynack Road, flag lots, COAH and the purpose of the recreation space.

Donald Snyder, 12 Brockhuizon Lane, questioned the detention pond proximity to sidewalks and fencing atop the retaining walls.

Megan Touhey Kay, 25 Beverly Road, questioned tree removal and the expected duration of construction.

Alex Vetlov, 750 Goffle Road, raised questions about tree removal, Lynack Road, County jurisdiction and a ground water discharge area.

Mr. Vogel was advised that the next hearing date would be October 19 and he granted an extension of time through October 31.

On motion by Gallagher with second by Silvestri, the matter was adjourned to October 19, 2009.

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 August 17, 2009 was adjourned at 10:06 PM.

Respectfully Submitted,

Charles C. Collins, Jr.

Attorney/Secretary