

**Minutes of the  
Unified Planning/Zoning Board of Adjustment  
October 2, 2017  
7:00 PM**

A regular meeting of the Unified Planning Zoning Board of Adjustment of the Borough of Matawan, New Jersey, was held at the Matawan Municipal Community Center, 201 Broad Street, Matawan, New Jersey on October 2, 2017 with Chairman Rickey Butler presiding. Pursuant to Section 5 of the Open Public Meetings Act, adequate notice of this meeting has been provided by publishing notification in *The Independent* on January 26, 2017, by sending notice to the *Asbury Park Press*, and by posting. A copy of said Notice is and has been available to the public and is on file in the Office of the Borough Clerk. A copy of said Notice has also been sent to such members of the public as have requested such information in accordance with the statute. Chairman Butler called the meeting to order at 7:00 PM.

Chairman Butler requested everyone to stand for the Salute to the Flag.

Chairman Butler requested a roll call. On roll call the following members responded present:

Yes:            Joseph Altomonte  
                  Kurtis Roinestad  
                  Brett Cannon  
                  Joseph Urciuoli  
                  Rickey Butler  
                  Guy Buckel  
                  Paul Kelahan  
                  Justin J. Dapolito  
                  Deana Gunn  
                  John Lazar

Timothy Moran, Jerry Martin and Kenneth Cassidy were absent.

Also present Micheal A. Irene, Jr., Esq., Planning Zoning Board Attorney and Robert W. Bucco, PE, Planning Zoning Board Engineer.

**Applicant(s)**

James & Susan Murphy – 13 Lakeside Drive – Block 115, Lot 30  
(Variance Application)

Mr. Irene swears in Mr. Bucco

Mr. Schwartz introduces himself as representation on behalf of the applicant

Mr. Gaziorowski introduces himself as representation on behalf of the defendant, Linda Geran.

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Mr. Schwartz states that this is an application which involves a site plan originally improved in 2012.

Mr. Irene updates the board that Mr. Murphy was before the board in 2010 to receive certain bulk variances. Litigation ensued, brought by the neighbor Mrs. Geran. The parties, Mr. Murphy and Mrs. Geran settled the matter and a consent order was entered by the court on 7/7/17 where the matter would be remanded back to the Unified Planning/Zoning Board of Adjustments for consideration of the plan as was revised between the parties and mutually approved by them. The board was not part of to the settlement and conducted what was known as a Whispering Woods hearing to consider and potentially approve the settlement and revised plan. The Whispering Woods hearing was dated 6/4/12. The board at that time approved the revised plan. The revised plan, marked as exhibit A-1 was prepared by William P Peck plan and dated 2/11/17, revised through 12/14/17. Mr. Irene also states that this plan is the baseline plan. This plan has been resubmitted today 10/2/17 and is being marked as Exhibit A-1. Each board member has a copy of the baseline plan in front of them today. He also stated that the plan presently marked as exhibit A-1 is not necessarily what has been constructed as per the defendant Mrs. Geran. The plan that has been submitted with conjunction to this new application, seeking amended prior approvals, is a survey prepared by James B Goddard dated 9/26/16. Mr. Irene marks this new plan as Exhibit A-2. Mr. Irene also marks the resolution from the Whispering Woods hearing, adopted by the board on 7/2/12, amending the prior approvals, as Exhibit A-3. Also marked is the consent order for remand dated 6/7/11 as Exhibit A-4.

Mr. Gaziorowski states, in reference to Mr. Bucco's review letter dated October 2016, the drainage problem along the North East side of Mr. Murphy's property line is directed toward the neighboring property, block 115, lot 29 and Mr. Murphy has yet to comply with Mr. Bucco's findings. He also states there has been no revised plan submitted to Mr. Bucco or engineer data showing how this will be corrected. As of this date it is both uncorrected and continuing to drain onto Mrs. Geran's property, he and his client understood that this issue was to be addressed and corrected prior to this meeting.

Mr. Bucco states that when he got involved with this project the court order had already been heard. He reviewed the court order and sent an associate out to the site. Mr. Murphy met with the associate and they discussed and reviewed the site. Part of the review was the discovery of site run off going into the neighboring property. Under the ordinance this is not allowed in the Borough of Matawan. The improvements that were done on the property are adversely affecting the neighboring property. Mr. Irene adds that the improvements that have been done do not conform to the plan that was approved by the board as a result of the settlement.

Mr. Schwartz states the reason they are here tonight is to revise the plan to reflect the movement of the stairs that have been relocated from one side to the other and is on the opposite side of the neighboring property. This change has been made and signed off on by Mr. Quinn who visited the property.

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Mr. Irene addresses the board asking if the materials submitted is sufficient enough to proceed at this time or do they need or want any addition information. The board decides they need to hear from both parties involved to help them figure out the problems.

Mr. Irene informs the board that the original approvals were from 2010, then litigation endues, one of the specific conditions from the resolution, condition #5, states that subject prior to any issue of building permits for the property, submitting of drainage/grading plans to demonstrate that surface flow will not impact the neighboring properties. Mr. Irene states that this seems to be a dangling condition that has been part of this entire project since 2010.

Mr. Irene swears in Mr. Murphy. Mr. Murphy testifies before the board that no alternations have been done to the side of the property in question. They proposed to build a retaining wall to replace the existing wood retaining wall to match the one being installed on the opposite side of the house, simply for aesthetics, but the cost was too exorbitant so they decided not to proceed. In the process, Mr. Murphy removed 3 courses of the existing wood wall in anticipation to replace with a stone wall. When they decided not to replace the wall, due to the cost, they replaced the 3 courses. He believes that the run off existed before he moved into the house. He explains that his property is on a slope that dramatically drops off so when it rains the water runs down towards the lake. He states that he is here tonight to ask the board if he could move the stairs from one side of his patio to the other, which he has a permit for. He was told when he received a summons in the mail, that the summons was for moving the stairs, even though he has a permit to do so, it was also inspected with a final sign off.

Mr. Urciuoli questions what has been done that may have affected the neighboring property? Mr. Murphy replies that the work done was the addition of brick pavers that were also approved. There was an existing concrete slab that was removed, which he has pictures of, and pavers where put where the concrete pad existed. He explains that his property does not slope towards the neighboring property, it is level ground. The elevation of the property was not changed. He explains that when it rains there is no puddling or water flow. He also explains that Mr. Quinn visited his property to address a compliant regarding water flow. Mr. Quinn suggested he plant some plants between the properties so the roots would stabilize the ground along with a ditch along the property line. Mr. Murphy stated that he planted twenty-four (24) Hosta's and dug the ditch as suggested. He was told the issue was resolved.

Mr. Irene questions if there is any difference between exhibit A-1, which is the plan that was approved by the board during the Whispering Woods hearing and exhibit A-2, which is the proposed/existing plan. Mr. Murphy replies that the stairs are the only difference. Mr. Irene asks if a drainage and grading plan was ever submitted to the board engineer for review and approval? Mr. Murphy replies yes, it was submitted to the building department, there was a permit issued, inspections were done then final approval was granted.

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Mr. Swartz submits, for identification, a proposed planning bid by R&R Home Improvements, the contractor retained by Mr. Murphy to construct the wall and stairs on the right side of his property, dated 5/23/17 for the work to be done. Mr. Irene marks this as exhibit A-5.

Mr. Swartz also submits the Grading Plan dated 6/6/13. This plan was submitted to the Borough of Matawan by the contractor. Mr. Irene marks this as exhibit A-6

Also submitted is the construction permit notice dated 9/1/13 that was submitted to the contractor to construct the wall and stairs in the new location. Mr. Irene marks this as exhibit A-7.

Mr. Gaziorowski objects that there are no surveyors or engineers being called, to authenticate or speak in terms of compliance with the approved plan. What is being shown is an as built plan which only shows how the work was done.

Mayor Altomonte questions both parties on the need of a professional engineer, architect or surveyor to put this to rest. Mr. Schwartz responds that he has in his hand a certificate of approval showing Mr. Quinn's inspection of the property/project and approvals. Mr. Schwartz submits this certificate of approval dated 9/17/13. Mr. Irene marks this as exhibit A-8.

Mr. Bocco reviews the certificate and states the approvals were for the construction of the retaining wall only. Nothing is mentioned in regards to the drainage.

Ms. Gunn questions if it would be prudent for the board to get copies of the files submitted to Mr. Quinn. Mr. Irene responds, yes.

Mr. Urciuoli questions if Mr. Murphy is willing to take steps to redirect the water or regrade the property. Mr. Murphy agrees to contact an engineer to come out to the property and look at the drainage problem, come up with a solution and also address what Mr. Bucco has listed on his review letter. He will have his engineer prepare a review proposal and send it to Mr. Bucco as well as sending a copy to Mr. Gaziorowski to review with his clients. Mr. Schwartz requests a 2 month time frame, to return before the board, for his client to address all issues.

Mr. Urciuoli made a motion to carry this matter to the December 4, 2017 Planning/Zoning meeting seconded by Mr. Buckel. Chairman Butler requested a roll call vote. A roll call vote was taken.

Yes:            Joseph Altomonte  
                  Kurtis Roinestad  
                  Brett Cannon  
                  Joseph Urciuoli  
                  Rickey Butler  
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                  Paul Kelahan  
                  Justin Dapolito

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Deana Gunn  
John Lazar

Motion Passed.

**Discussion**

Mr. Butler addresses the board regarding setting up a sub-committee of 2-3 volunteers willing to review/revise the Planning/Zoning application packets with Mr. Bucco and Mrs. Wynne.

Mr. Buckel made a motion to elect himself, Justin Dapolito and Kurtis Roinestad to the Sub-committee, seconded by Ms. Gunn. Chairman Butler requested a roll call vote. A roll call vote was taken.

Yes:            Joseph Altomonte  
                 Kurtis Roinestad  
                 Brett Cannon  
                 Joseph Urciuoli  
                 Rickey Butler  
                 Guy Buckel  
                 Paul Kelahan  
                 Justin Dapolito  
                 Deana Gunn  
                 John Lazar

Motion passed.


**Approval of Minutes**

Chairman Butler requested a motion to approve the October 2, 2017 meeting minutes. Mr. Lazar made the motion, seconded by Mr. Cannon. Board agreed. Motion passed.

**Adjournment**

Chairman Butler requested a motion to adjourn. Mayor Altomonte made the motion, seconded by Ms. Gunn. Motion Passed.

The meeting was adjourned at 8:40 PM.

  
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Cheryl Adamski  
Recording Secretary