

**Minutes of the
Unified Planning/Zoning Board of Adjustment
Reorganization Meeting
January 2, 2013
7:00 PM**

The 2013 Reorganization 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 January 2, 2013. The meeting was called to order at 7:00 PM by Chairman Kenneth Cassidy presiding. Chairman Cassidy called the meeting to order, pursuant to Section 5 of the Open Public Meetings Act that adequate notice of this meeting has been provided in the notice which was published in the *Asbury Park Press* on January 17, 2013, by sending notice to *The Independent*, and by posting.

Michael A. Irene, Jr., Esq. administered the Oath of Office to the following board members:

Daniel Acquafredda as Alternate IV member of the Unified Planning/Zoning Board of Adjustments for a two-year term of office, said term to expire December 31, 2014.

Thomas Fitzsimmons as Class III Member of the Unified Planning/Zoning Board of Adjustments for a one-year term, said term to expire December 31, 2013.

Angelo Gallego, Jr as Class IV Member of the Unified Planning/Zoning Board of Adjustments for a four-year term, said term to expire December 31, 2016.

Andrew Lopez as Alternate II Member of the Unified Planning/Zoning Board of Adjustments for a two-year term, said term to expire December 31, 2014.

John McKenna as Class IV Member of the Unified Planning/Zoning Board of Adjustments for a four-year term, said term to expire December 31, 2016.

Robert Montfort as Class III Member of the Unified Planning/Zoning Board of Adjustments for a one-year term, said term to expire December 31, 2013.

Michael A. Irene, Jr., Esq. had Mr. Acquafredda and Mr. Fitzsimmons certify that as newly appointed members of the Unified Planning/Zoning Board of Adjustments, they agree to successfully complete the educational course requirements of P.L 2002, Ch. 133 within an eighteen month period from being seated as a member of the Board.

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

Chairman Cassidy requested a roll call.

On roll call the following members responded present:

Yes: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Thomas Fitzsimmons
Yes: Angelo Gallego, Jr.
Yes: John McKenna
Yes: Robert Montfort
Yes: Joseph Saporito
Yes: Joseph Urciuoli
Yes: Rochelle Malanga
Yes: Andrew Lopez
Yes: Daniel Acquafredda

Also present were Michael A. Irene, Jr., Esq., Planning Zoning Board Attorney

Chairman Cassidy requested a motion for nominations for Chairman. Mr. Butler made a motion to nominate Mr. Cassidy, seconded by Mr. McKenna. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato
Yes: Rickey Butler
Abstain: Kenneth Cassidy
Yes: Thomas Fitzsimmons
Yes: Angelo Gallego, Jr.
Yes: John McKenna
Yes: Robert Montfort
Yes: Joseph Saporito
Yes: Joseph Urciuoli
Yes: Rochelle Malanga

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Yes: Andrew Lopez
Yes: Daniel Acquafredda
Motion approved.

Chairman Cassidy requested a motion for nominations for Vice Chairman. Mr. Buccellato made a motion to nominate Mr. Butler, seconded by Mr. Cassidy. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato
Abstain: Rickey Butler
Yes: Kenneth Cassidy
Yes: Thomas Fitzsimmons
Yes: Angelo Gallego, Jr.
Yes: John McKenna
Yes: Robert Montfort
Yes: Joseph Saporito
Yes: Joseph Urciuoli
Yes: Rochelle Malanga
Yes: Andrew Lopez
Yes: Daniel Acquafredda
Motion approved.

Chairman Cassidy requested a motion for nominations for Secretary. Mr. Buccellato made a motion to nominate Mr. Gallego, seconded by Mr. McKenna. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Thomas Fitzsimmons
Abstain: Angelo Gallego, Jr.
Yes: John McKenna
Yes: Robert Montfort
Yes: Joseph Saporito
Yes: Joseph Urciuoli
Yes: Rochelle Malanga
Yes: Andrew Lopez
Yes: Daniel Acquafredda
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Chairman Cassidy requested a motion for nominations for Recording Secretary. Mr. Lopez made a motion to nominate Nancy Jo Palermo, seconded by Mr. Montfort. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Thomas Fitzsimmons
Yes: Angelo Gallego, Jr.
Yes: John McKenna
Yes: Robert Montfort
Yes: Joseph Saporito
Yes: Joseph Urciuoli
Yes: Rochelle Malanga
Yes: Andrew Lopez
Yes: Daniel Acquafredda

Motion approved.

Chairman Cassidy requested a motion to appoint the Attorney. Mr. Montfort made a motion to nominate Michael A. Irene, Esq, seconded by Mr. Saporito. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Thomas Fitzsimmons
Yes: Angelo Gallego, Jr.
Yes: John McKenna
Yes: Robert Montfort
Yes: Joseph Saporito
Yes: Joseph Urciuoli
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Chairman Cassidy requested a motion to appoint the Engineer. Mr. Gallego made a motion to appoint T&M Associates with Philip A. Haderer, PE, CME, as the designated representative, seconded by Mr. Fitzsimmons. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Thomas Fitzsimmons
Yes: Angelo Gallego, Jr.
Yes: John McKenna
Yes: Robert Montfort
Yes: Joseph Saporito
Yes: Joseph Urciuoli
Yes: Rochelle Malanga
Yes: Andrew Lopez
Yes: Daniel Acquafredda

Motion approved.

Chairman Cassidy requested a motion to approve the 2013 meeting calendar and the 2014 reorganization meeting date of the Unified Planning/Zoning Board of Adjustments as follows:

February 4, 2013
March 4, 2013
April 1, 2013
May 6, 2013
June 3, 2013
July 1, 2013
August 5, 2013
September 4, 2013*
October 7, 2013
November 4, 2013
December 2, 2013
January 6, 2014

** All regular Planning/Zoning Board of Adjustment meetings will begin at 7:00 PM on the first Monday of every month except where noted above.*

Mr. Urciuoli made the motion, seconded by Mr. Butler. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato

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Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Thomas Fitzsimmons
Yes: Angelo Gallego, Jr.
Yes: John McKenna
Yes: Robert Montfort
Yes: Joseph Saporito
Yes: Joseph Urciuoli
Yes: Rochelle Malanga
Yes: Andrew Lopez
Yes: Daniel Acquafredda

Motion approved.

Approval of Minutes

Chairman Cassidy requested a motion to approve the minutes of October 1, 2012. Mr. Montfort made the motion, seconded by Mr. McKenna. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: John McKenna
Yes: Robert Montfort
Yes: Joseph Urciuoli
Yes: Rochelle Malanga
Yes: Andrew Lopez

Motion approved.

Applicants:

1. Timothy Clifton – 23 Crescent Place – Block 110, Lot 7.05 (*Variance*)

Timothy Clifton filed an application with the Board of Adjustment of the Borough Matawan seeking a variance relief to permit installation of an in-ground pool and related fence in the rear yard of his property, at a distance less than 100 feet from a water course.

The premises are located in a single-family zone.

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The applicant submitted the following exhibits into evidence: Survey, prepared by Richard Karl Heuser, P.E. & L.S., dated 7/24/09, last revised 1/27/12 to show the location of the proposed pool (A-1); Two pages from the French & Parrello Associates review letter dated 10/27/03 pertaining to the "Clifton subdivision" (A-2); and Freshwater Wetlands report dated 8/1/03, prepared by Richard Karl Heuser, P.E. & L.S, pertaining to the "Clifton subdivision" (A-3).

Mr. Clifton testified in support of the application. He stated that the purpose of the application is to obtain relief to allow the installation of an in-ground pool in the rear yard of his property here at issue. He testified that the slope of his rear yard is "not steep", and he added that both of his neighbors have a pool in their respective backyards.

Richard Karl Heuser, P.E., the applicant's Professional Engineer and Professional Planner, also testified with regard to this matter. He advised that the subject property fronts on Crescent Place, and borders Lake Lefferts at the rear. He noted that the subject property is part of a subdivision approved by the Board in 2003. Mr. Heuser pointed out that exhibit A-1 shows the proposed pool being located 35 feet from the top of the bank at Lake Lefferts, but he added that the applicant will increase the proposed setback of the pool to 45 feet from the top of the bank. He amplified this to indicate that the pool will be located no less than 85 feet from the waterline of the Lake, and the fence will also be set back no less than 85 feet from the waterline. He confirmed that the area behind the house is relatively flat, and he added that the bank of the Lake is stable with large tree growth. Mr. Heuser stated that the area in which the pool will be located is not a flood hazard area, and that no Freshwater Wetlands are associated with the area in question. He further testified that the proposed location of the pool is consistent with the setback of the existing pool on adjacent Lot 7.04. As a result of all of the circumstances here at issue, Mr. Heuser opined that granting the relief in question will cause no adverse impact to neighboring properties or to the zone plan. He further stipulated on behalf of the applicant, that the applicant will comply with items 4.2, 4.3, and 4.4 of the Board Engineer's review letter dated December 6, 2012.

Mr. Irene asked if there were any objections to this matter. No one objected.

The Board finds that the applicant desires to install an in-ground pool and related fence in the rear yard of the subject residential property. The Board finds that Ordinance section 34-35c, among other things, provides that "no structure shall be constructed closer than one hundred (100) feet to the bank of any stream as determined at normal flow". The Board finds that the in-ground pool and related fence are each proposed to be located no less than 45 feet from the top of the bank of Lake Lefferts and no less than 85 feet from the Lake Lefferts waterline.

The Board finds that the applicant has demonstrated "hardship" (C(1) criteria) sufficient to support granting relief with regard to this matter. The relief at issue is rooted in the shape of the subject property, and the location of the existing dwelling thereon. The Board finds that the property is pie-shaped, with the house located essentially in the center of the lot.

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The Board finds that because of the location of the dwelling on the site, there is insufficient room to locate the proposed pool in the rear yard without running afoul of Ordinance section 34-35c. The Board further finds that the applicant initially proposed the pool to be set back 35 feet from the top of the bank of Lake Lefferts, but during the proceedings, the applicant revised the proposal to increase the proposed setback to 45 feet from the top of the bank. The Board further finds that granting the relief here at issue will have no adverse impact upon neighboring properties, and the Board finds that this relief can be granted without causing substantial detriment to the public good and without causing substantial impairment of the intent and purpose of the zone plan and zoning ordinance. The Board finds that both of the properties adjacent to the subject site have pools located in their respective rear yards, and the Board further finds that the proposed location of the pool is consistent with the location of the pool on neighboring Lot 7.04. In addition, the Board notes the testimony of the applicant's engineer that the rear yard of the subject property is relatively flat, the bank of the Lake is stable with large tree growth, the pool will not be located in a flood hazard area, and the area in question is not associated with Freshwater Wetlands.

Mr. Saporito made a motion to approve the bulk variance relief to Mr. Clifton for the installation of an in-ground pool and related fence. The motion was seconded by Mr. Cassidy. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Thomas Fitzsimmons
Yes: Angelo Gallego, Jr.
Yes: John McKenna
Yes: Robert Montfort
Yes: Joseph Saporito
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Motion approved.

Discussion:

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Mr. Buccellato addressed the Board. He said that he and Mr. Fitzsimmons would like the Board to review the "Train Station Redevelopment Area Planning Report" dated July 2012 and prepared by BPM Engineering. This document is the required base document needed to designate the area in need of redevelopment. This matter had been discussed at the Borough Council's reorganization meeting and it was decided to send it to the Planning/Zoning Board for their comments. It has been twelve years since the initial process of designation was approved and adopted for the train station redevelopment. Since then the state laws have changed. The current law requires that each individual property in the proposed zone be evaluated against specific state criteria. This current document was prepared to meet the current state laws.

Mayor Buccellato also wants the Board to consider changing the Downtown Preservation Ordinance to expand the permitted uses to not only include professional and residential, but to also include general office. This is because the Borough appears to be losing potential new businesses because of a need for going for a use variance for general business in the district. This will be discussed at next month's meeting.

Adjournment

Chairman Cassidy requested a motion to adjourn. Mr. Fitzsimmons made the motion, seconded by Mr. Urciuoli.

The board voted with all members in favor and the meeting was adjourned at 8:00 PM.

Respectfully submitted
Nancy Jo Palermo
Recording Secretary