

MINUTES
BOROUGH OF MADISON ZONING BOARD OF ADJUSTMENT
Regular Meeting, March 12, 2020 at 7:30 P.M.,
Hartley Dodge Memorial Building, 50 Kings Road, Madison, New Jersey.

1. CALL TO ORDER BY CHAIRPERSON

2. ANNOUNCEMENT OF NOTICE (STATEMENT OF COMPLIANCE)

Let the minutes reflect that adequate notice of this meeting has been provided in the following manner:

At the Reorganization Meeting of the Board held on January 9, 2020, the Board by Resolution adopted a schedule of meetings.

On January 10, 2020, a copy of the schedule of meetings was posted at the bulletin board at the main entrance of the Hartley Dodge Memorial Building, was sent to the Madison Eagle and the Daily Record and filed with the Borough Clerk, all in accordance with the *Open Public Meetings Act*.

3. ROLL CALL

EXCUSED: None

ALSO PRESENT: Gary Hall, ZBA Attorney
Russell Stern, Board Planner
Frances Boardman, Board Secretary

5. MINUTES FOR APPROVAL – Regular Meeting of 2-13-2020

Distributed to all Board members for their review were the above referenced minutes. Several corrections were made to the minutes by Board member, Foster and DeRosa. A voice vote of aye was heard from all eligible voting Board members in approval of the corrected minutes.

6. RESOLUTIONS FOR MEMORIALIZATION –

The following Resolutions were distributed to all Board members for their review. Corrections were made to Resolutions Z 19-039 and Z 14-006 A. A voice vote of aye was heard from all eligible voting Board members in approval of the Resolutions with the corrections as noted.

CASE NO. Z 19-032

Resolution granting variance application to 59 Central Ave, LLC, Block: 1702, Lot: 1
59 Central Avenue to Construct a New 2-Family Dwelling with (2) Front Open Porches, (1 Facing Central Avenue, 1 Facing Brittin Street), Side by Side Front Loading Garages (facing Brittin Street), 2 Rear Patios with Sitting Wall and Drywell in an R-4 (One or Two Family Residential) Zone requiring relief from Required Lot Width, Minimum Front Yard Set Back (Brittin Street), Minimum Front Facing Garage Setback (Brittin Street) and Minimum Side Yard Patio Setback.

CASE NO. Z 19-040

Resolution granting variance application to Nancy Forrester, Block: 503, Lot: 21, 20 Buckingham Drive for the Removal of Rear Existing Enclosed Porch, and the Construction of a Rear Enclosed Sun Porch and Two (2) Rear Stairs in an R-3 (Single-Family Residential) Zone requiring relief from Maximum Principal Building Coverage.

CASE NO. Z 19-039

ZBA Regular Meeting 3-12-2020

Resolution granting variance application to Seth Glasser & Joseph Owen, Block: 4801, Lot: 16 29 Winding Way to construct a Decorative Dormer over Existing Garage, Portico Roof Over Existing Front Stoop, Raised Roof with Cantilever over Existing 1 ½ Story Portion of Home, and Altered Roof with Dormer in an R-2 (Single-Family Residential) Zone requiring relief from Minimum Side Yard Setback (Right), Maximum Principal Building Coverage and Maximum Impervious Lot Coverage.

CASE NO Z 14-006A Resolution granting variance application to HQM Properties, Inc., Block: 1203, Lot: 23, 24 Central Avenue to amend the previously approved Zoning Board Application Case No. Z 14-006 for Use Variance, Off-Street Parking, Setback, Height, Impervious Lot Coverage and Principal Building Coverage ratio to construct a two-family residence on a lot in the R-5 (Multi Family Residential) Zone.

7. SCHEDULING AND PROCEDURAL MATTERS

8. OLD BUSINESS –

CASE NO. Z 19-020

Lathrop Avenue, LLC

Block: 4302, Lot: 17

17 Lathrop Avenue

Applicant is seeking permission for an Unpermitted Change of Use from a 1-Family to a 2- Family, Construction of a Rear 1 Story Addition, and Installation of a Gravel Rear Yard. The applicant is proposing to Remove a Portion of the Existing Impervious Lot Coverage, and Install a Drywell in an R-4 (Single-Family or Two-Family Residential) Zone requiring relief from Minimum Lot Width, Minimum Side Yard Setback (Right), Maximum Principal Building Coverage and Maximum Impervious Lot Coverage. **This application was started at the September 12, 2019 meeting but not concluded. This application is being revised and will be placed on a future Zoning Board of Adjustment Meeting agenda for further proceedings when plans are received.**

Mr. Hall gave a brief synopsis on the status of this application. He has had conversations with both the applicant and the Attorney Mr. Joseph Bock. This application is still up in the air and there is no easy resolution to this issue. Mr. Hall will speak with Mr. Danny Buckelew, Deputy Zoning Officer, as well as reach out to the applicant and attorney again. It seems as if this application should be withdrawn without prejudice.

CASE NO.Z19-027

Heller Property Partners

Block: 2001, Lots: 19 through 23

176, 178 & 180 Main Street

Applicant is seeking Preliminary and Final Site Plan with Variances along with Lot Consolidation to construct a 2-Story Office Building in the Community Commercial Zone requiring relief from Maximum Floor Area Ratio, Minimum Front Yard Setback, Maximum Principal Building Coverage, Minimum Number of Parking Spaces, Steep Slope Disturbance, Signage and other bulk variances. **This application was started at the Regular Meeting held on December 12, 2019 and continued at the meeting of January 9th, but not concluded. This application is now carried to the next meeting scheduled for April 9, 2020.**

9. NEW BUSINESS

ZBA Regular Meeting 3-12-2020

CASE NO. Z 19-023**Madison Movie Development, LLC****Block: 2702, Lot: 24****14 Lincoln Place**

Applicant is seeking an Appeal of the Administrative Officer decision for demolition and new construction at 14 Lincoln Place. **This application was carried to the March 12, 2020 Zoning Board of Adjustment agenda.**

Alison Gulino, Certified Court Reporter

At this time, Mrs. Kaar and Mr. Foster being recused from this application stepped down from the dais and joined the audience.

Mr. Peter Wolfson, Attorney representing the applicant was present. Mr. Hall began by giving a brief background on this application. As noted in a memorandum sent to the Board members from Mr. Hall dated February 28, 2020 the purpose of this evenings meeting is to hear and decide the appeal by the Madison Movie Development, LLC on 3 of the 13 conditions included in a resolution adopted by the Madison Historic Preservation Commission (“HPC”) in response to a proposal to demolish the Lyons Madison Theater in order to construct a replacement building on the property.

The three conditions being appeals are as follows:

Condition # 4: Demolition shall not commence until after all State, County and local land use approvals have been secured. Referred to as the “Development Approvals Condition”.

Condition # 9: Continuation of a public theater. Referred to as the “Public Theater Condition”.

Condition # 10: All new construction on the site of the Lyons Theater property shall be in the character of the Madison

Mr. Wolfson proceeded to give the Zoning Board the background regarding this site. He stated that the applicant is looking to build 24 residential units; four of which will be affordable units along with a 4,526 square foot retail space. The applicant attended six formal and two informal reviews by the Historic Preservation Commission. 13 conditions were imposed in the HPC resolution. The applicant has owned this site for three years, followed all procedures necessary, and has lost a considerable amount of money. The applicant is appealing the three conditions in the HPC resolution as stated above by Mr. Hall.

The Zoning Board will address each condition separately. Mr. Hall instructed the Zoning Board members that the Land Use Board is the only board that can impose conditions and that all positive/negative criteria must be meet at the Planning Board not with the HPC nor the Zoning Board of Adjustment.

The demands placed by the HPC resolution have created obstacles for the applicant. The structure is unsound and has been vacant for a prolonged period. The applicant has filed an appeal with the County Board of Construction but is pending following the decision of the Zoning Board of Adjustment.

Mr. Santoro, Board Chairman stated that he feels that the restrictions placed on the applicant are too much to ask and that the HPC has exceeded their scope of authority.

At this time, the public was given an opportunity to speak.

Ms. Sandy Kolakowski – Save the Madison Theater stated that their lawyer Ms. Michelle Donato was not able to attend and asked to speak on the groups behalf. Mr. Wolfson had no objection.

Ms. Kolakowski stated that the Engineering reports received state that the theater can be saved. Mr. Hall stated that whether the theater can or cannot be saved was not an issue being addressed this evening.

Mr. Jonathan Testa, Esq. representing the Madison historic Preservation Commission stated that the objective of the HPC is to preserve historic sites. The property in question is on the National Historic Registry. He stated that all site plans that were presented at the HPC meetings had a public theater on them. A discussion pursued with Mr. Testa and the Zoning Board. Mr. Wolfson stated that the property is not a key contributor as a historic site.

Mr. Joseph Falco, Dellwood Drive, Madison stated that this site is the beginning of the Historic District and that this application should go to the County Board of Construction and the Planning Board.

Mrs. Claire Whitcomb, 12 Fairwood Road, Madison stated that the applicant had not completed the environmental checklist and has requested a waiver. Mr. Hall stated that issued should be addressed at the Planning Board.

Dorothy O'Brien, Crestwood Drive, Madison stated that the Zoning Board should uphold all conditions in the HPC resolution and that this site should be protected as a Historic Building.

John Morris, Bedford Court, Madison stated that in fairness to the applicant and to all residents although the HPC resolution conditions were well intended they need to be removed.

Seeing no further public wishing to speak the public portion was closed.

Mr. Wolfson provided his closing statement and the Board begin its deliberation. . The consensus of the Board was to remove the conditions of the HPC resolution as discussed this evening. Motion was made by Mrs. Driscoll and seconded by Mr. Fitzsimmons. A roll call vote was requested and recorded as follows:

AYES: Mrs. DeRosa, Mrs. Driscoll, Mr. Fitzsimmons, Dr. Paetzell, Ms. Salko, Mr. Santoro and Mr. Di Ionno

A five-minute recess was taken at 9:28 pm. The Board resumed with all members present at 9:35pm.

Ms. Kaar and Mr. Foster returned to their seats on the dais.

CASE NO. Z-20-001

David & Jennifer Stone

Block: 3502, Lot: 7

31 Green Hill Road

Applicants are seeking permission to construct a Rear One-Story Addition and Rear Deck in an R-2 (Single-Family Residential) Zone requiring relief from Maximum Principal Building Coverage and Maximum Impervious Lot Coverage.

This application was not reached at the February 13, 2020 Zoning Board Meeting and carried to this evening.

Sworn in to testify were Mr. & Mrs. Stone along with Mr. Nick Bensley, Architect and the following exhibits were marked:

- B – 1 Letter of Denial from the Deputy Zoning Official Daniel Buckelew, dated 1-16-2020
- B – 2 Prior Resolution Adopted October 8, 2009
- A – 1 Plans prepared by Mr. Nick Bensley, Architect, consisting of (2) sheets, dated 1-6-2020
- A – 2 Color Photo array, consisting of (5) photos

Mr. Stone gave a brief background as to the need of the addition. He stated that they have a dysfunctional room layout and the small addition that is being requested and will make the rear of the home functional.

Mr. Nick Bensley stated that the home is located in the R-2 Zone and the lot is undersized for that zone creating a hardship for the Stone's. They are only requesting a small 379 square foot addition to the rear of the home as well as a rear deck. The prior 2009 resolution approved a two story addition as well as the installation of a drywell.

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The Stones have removed three storage sheds in the rear of the property and have reduced the impervious by .4%. Mr. Bensley stated that the proposed addition is in the back and will enhance the aesthetics of the rear of the home. The deck will create outdoor space without increasing the impervious coverage. The color photos marked as exhibit A – 2 were discussed. Mr. Bensley specified that evergreen trees would be planted in the rear of the property for privacy screening, along with additional landscaping.

Mrs. Driscoll asked why the impervious coverage is 4 % higher than was approved by resolution in 2009. Mr. Bensley stated that he could not opine on that issue. Mr. Bensley was asked what runoff is being directed into the current drywell. Mr. Bensley could not respond. Mrs. Driscoll asked if the impervious coverage could be reduced.

Mr. Santoro stated that he did not have an issue with the application as presented however he would like to see a detailed landscape plan. It was also discussed that the leaders from the new addition should be directed to the existing drywell, however, if the drywell capacity is not adequate a new seepage pit will need to be provided. The positive criteria outweighs the negative in this application. Mr. Bensley will confer with the Borough Engineer regarding the drywell capacity. Except for the connecting stones to the walkway, the stones in the rear will be removed.

The public was given the opportunity to question this witness, there being none, Mr. Santoro asked the Board to deliberate. The consensus of the Board was to approve the application with the conditions as discussed this evening. A motion to approve the application was made by Mrs. DeRosa and seconded by Mrs. Driscoll. A roll call vote was requested and recorded as follows:

AYES: Mrs. DeRosa, Mrs. Driscoll, Mr. Fitzsimmons, Ms. Kaar, Dr. Paetzell, Ms. Salko and Mr. Santoro

CASE NO. Z 20-002

Eric Chu

Block: 4805, Lot: 12

58 Union Hill Road

Applicant is seeking permission for the Unpermitted Installation of a Shed, Patio and (2) Two Pillars installed in the Borough Right of Way in an R-2 (Single-Family Residential) Zone requiring relief from Maximum Impervious Lot Coverage, Side Yard Setback and Encroachment in Borough Right-of-Way.

Sworn in to testify were Mr. Eric Chu and Mr. Andrew Clark, of ABC Surveying. The following exhibits were marked:

- B – 1 Letter of Denial from the Borough Zoning Official Frank Russo, dated 12-3-2019
- A – 1 Boundary Survey prepared by ABC Surveys, LLC, dated November 21, 2019
- A – 2 Plot Plan prepared by ABC Surveys, LLC, dated December 9, 2019
- A – 3 Stormwater Management Details, prepared by ABC Surveys, LLC, dated December 9, 2019
- A – 4 13 Color Photos (Collectively) of the unpermitted installation of the shed, patio and pillars.

Mr. Chu provided an explanation to the Board as to how the work to his home unfolded without the proper permits.

Mr. Chu stated that a 10-month interior renovation took place due to carpenter ants and he believed that the contractor had applied for and received all permits necessary.

Mr. Clark stated that the pillars in the Borough Right of Way would be removed and placed directly on Mr. Chu's property. The impervious lot coverage was discussed and how the storm-water would be managed. It was decided that an infiltration drain would be provided at the end of the driveway. Mr. Hall also noted that the shed and the patio are too close to the property line as well as the driveway. The impervious lot coverage is 10% over what is permitted and needs to be reduced.

Mr. Clark stated that the driveway was widened to 17 ft. It was determined that 285 square feet of the driveway would be pavers. The board felt that this was not enough and wants to know what more can be done to reduce the coverage.

Mr. Santoro opened the floor to the public.

Mr. John Loughran, 56 Union Hill Road, Madison resides next door and has water issues caused by this application. He stated that the patio is right on the property line and there is a serious surface runoff water issue.

Several suggestions were provided to Mr. Chu and Mr. Clark in how to alleviate the water issues and decrease the impervious lot coverage. It was recommended that the applicant think about what amendments to this application can be made and return. It was noted that no vote would be taken this evening and the applicant will return at the next Zoning Board of Adjustment meeting to be held on Thursday, April 9, 2020 with revised plans.

CASE NO. Z 20-003

Paul & Erin Kibbe

Block: 4402, Lot: 19

9 Colonial Way

Applicants are seeking permission to construct a Rear Yard Brick Paver Patio with Fire Pit and Seat Wall in an R-1 (Single-Family Residential) Zone requiring relief from Maximum Impervious Lot Coverage. **This application was not reached this evening and is being carried without further notice to the April 9, 2020 Zoning Board of Adjustment agenda.**

11. ADJOURNMENT – The meeting was adjourned at 10:45 pm with motions made by Mrs. Driscoll and seconded by Mr. Paetzell.

Respectfully submitted,

Frances Boardman
Board Secretary