

Borough of River Edge/ Municipal Land Use Board

Meeting Minutes

May 25, 2017

PRESENT:

Chair	James Arakelian
Vice-Chair	Richard Mehrman
Secretary	Dr. Jeffrey Gewirtz
Board Member	Eileen Boland
Board Member	Councilman Vito Acquafredda
Board Member	Lou Grasso
Alt. Board Member	Michael Krey
Attorney	Nylema Nabbie (For Brian Chewcaskie)
Zoning Official	Mark Skerbetz – 8:05 PM

ABSENT:

Mayor	Edward J. Mignone
Board Member	Chris Caslin
Board Member	John Monroe
Planner	Tom Behrens
Engineer	Robert Costa

Meeting began at 7:35pm with Chair James Arakelian calling the meeting to order and welcoming everyone to the first ever Municipal Land Use Board Meeting. He informed everyone that he was going directly to our Professional Attorney Nylema Nabbie who is going to explain what a Municipal Land Use Board is.

Attorney Nabbie explained that she also represents the Hillsdale Joint Land Use Board, and has since 2014. A Joint Land Use Board is able to hear matters involving both “C” and “D” variances. One of the major differences in working with a Joint Land Use Board is quorums. When you have a “D” variance matter, certain class members can’t vote.....these members would be the Mayor & any Class 3 members. For the River Edge MLU Board Mayor Mignone and Councilman Acquafredda would not be allowed to vote on “D” variances, and are not allowed to sit on the dais when they are being heard. Attorney Nabbie stated that in Hillsdale when there are “D” variances that need to be heard these members don’t show up for these meetings. She further stated that for a “D” Variance to be passed, because it is a 7 member board, quorum would be 4 members. However, the issue with that is that in order to get a “D” variance passed with D1 or D2

(D3-D6) you need 5 affirmative votes. If you're the applicant that's great because you have a quorum of 4, but most attorney's won't go forward unless they have 6 or 7 eligible members present and ready to vote. If it's less than that the application does not get approved. As far as "C" variances, bulk variance, lot coverage and the like, 9 members can vote (Mayor Mignone and Councilman Acquafredda can vote). In order to have a quorum it would be 5 members and that is simple majority. It can be 3 members if there are 5 members eligible and present to vote on that particular application. Attorney Nabbie gave written information on what "D" variances are from a handout passed out at a Bergen County Bar Symposium held last March 2016. Attorney Nabbie went through the various "D" variances and what they mean.

Councilman Acquafredda asked who determines whether a variance is "C" or "D". Attorney Nabbie said that in Hillsdale the Board is the approving authority. Plans go to the Board Engineer first, then he presents it to the Board who then determines whether or not the application is complete or incomplete. The Board Engineer is the first to review and make that initial determine. After that it goes to the Board Attorney who reviews it to determine from a legal perspective whether it triggers a "D" variance.

Chair Arakelian stated that he has had many conversations over the past few weeks with the Mayor, Attorney Chewcaskie and Alan. They discussed when the Board will have our Professionals reviewing the applications as opposed to when they will have our Zoning Officer reviewing them. For now, our Zoning Officer, Mark Skerbetz, will be present at all MLU meetings. He will help the Board through the "C" variances, and if a "D" variance is triggered it will automatically require an escrow by the applicant and then our Professionals will kick in. We will have both the Borough Planner and Borough Engineer involved on any "D" variances moving forward.

Board Secretary Dr. Gewirtz asked what if there was a "D" variance on the agenda and also something that came under the Planning Board, where you would need the Mayor and Councilman at the meeting, would they show up for only a part of the meeting. Chair Arakelian stated that they were going to try and split it up. On the nights where the "C" variances would be heard that would be the Regular Meeting and on the nights that the "D" variances would be heard that would be where the Work Session Meetings would be heard (which will now become Regular Meetings). If we have to slip something in then we will do that ("C" would be on separate nights from "D"). The schedule for meetings for the MLU Board will remain the same as the previous "Planning Board" dates.

Work Session

Roll call by Attorney Nabbie.

4 applications ready for completeness.

**A. Talty – Application #2017-04
199 Greenway Terrace
704/12 Application for Completeness**

Applicant came forward. Chair Arakelian stated that he spoke with Attorney Chewcaskie and he approved it for completeness.

Motion to deem complete by Vice-Chair Mehrman, second by Dr. Gewirtz.

All in favor 7-0

**B. MacRae – Application 2017-06
773 5th Avenue
303/12 – Application for completeness**

Applicant came forward. Chair Arakelian stated that he spoke with Attorney Chewcaskie and he approved it for completeness.

Motion to deem complete by Vice-Chair Mehrman, second by Dr. Gewirtz.

All in favor 7-0

**C. MCG Realty – Application #2017-05
620 Kinderkamack Road
617/17 – Application Completeness**

Applicant came forward with Attorney Neil A. Tortora, and Mark Mahoney, MCG Realty. Chair Arakelian stated that he spoke to the Borough Attorney and he said that both the Borough Engineer and the Borough Planner stated that because this application triggered a “D” variance, it is not complete. It needs a site plan, a parking layout, and a few other smaller items. Chair Arakelian said that once these items are submitted they will be put back on the schedule. He also stated that they should contact the Borough Engineer who will give them more of an exact answer as to what they need to provide now that it needs a “D” variance.

Motion by Mr. Krey, second by Dr. Gewirtz to deem this application incomplete.

All in favor 6-0 Councilmen Acquafredda could not vote because it’s a “D” variance.

**D. Horn – Application #2017-07
830-32 Kinderkamack Road
212/23 – Application Completeness**

Mr. Grasso recused himself from this vote because he has property less than 250 feet from said property.

Attorney Andrew Kohut from Wells, Jaworski & Liebman (12 Route 17 North, Paramus, NJ) the attorney for Hole in The Wall Tattoo came forward. Chair Arakelian stated that he spoke to the Borough Attorney, Borough Planner and Borough Engineer and they all agreed that this application is incomplete. There are also some questions about parking. Chair Arakelian stated that he would like to see, with this application, a confirmation from the Borough that the landlord has been keeping up with the payments. He also said that there are some conditions (guardrails and such) that he would also like to see confirmation that these items have been taken care of.

Motion by Ms. Boland, second by Mr. Mehrman to deem this application incomplete.

All in favor 5-0 - Councilmen Acquafredda could not vote because it's a "D" variance; Mr. Grasso recused himself.

Motion to close the Work Session Meeting. Motion by Dr. Gewirtz, second by Mr. Grasso.

All in favor 7-0

Opening

The Regular Meeting of the Borough of River Edge/ Municipal Land Use Board was called to order at 8:00PM on May 25, 2017 by Chair James Arakelian.

Salute to Flag – Councilmen Acquafredda

Sunshine Law (Open Public Meetings Act)

Adequate notice of this meeting has been provided by sending notices on December 23, 2016 to The Record and The Ridgewood News, by posting on the bulletin board in the lobby of the Borough Hall, and filing a notice of the same with the Municipal Clerk.

Roll Call by Attorney Nabbie

New Business

Approval of Minutes from various meetings:

Approve the Minutes of February 23, 2017 – Motion by Vice-Chair Mehrman, second by Chair Arakelian to accept these minutes.

All in favor 3-0 Dr. Gewirtz, Ms. Boland, Mr. Krey & Councilmen Acquafredda abstained – They were not at this meeting.

Approve the Minutes of March 10, 2016 – Motion by Dr. Gewirtz, second by Mr. Krey to accept these minutes.

All in favor 5-0 Richard Mehrman & Councilmen Acquafredda abstained – Mr. Mehrman was not on the Planning Board at that time and Councilmen Acquafredda was not at this meeting.

Approve the Minutes of April 14, 2016 – Motion by Mr. Grasso, second by Ms. Boland to accept these minutes.

All in favor 5-0 Richard Mehrman & Councilmen Acquafredda abstained – Mr. Mehrman was not on the Planning Board at that time and Councilmen Acquafredda was not at this meeting.

Let the record show that Zoning Officer Mark Skerbetz is now present at this meeting – 8:05PM.

There were some housekeeping issues, as far as escrows, which the Board has followed up with and the applicants have sent their checks – The Zoning and Planning Board Secretary is staying on top of it.

**A. Talty – Application #2017-04
199 Greenway Terrace
704/12 Application for completeness**

Applicant came forward and stated his name – Michael Talty, Jr. who currently lives at 17 Central Avenue, Apt. D., Tenafly, NJ; but bought and will be moving to 199 Greenway Terrace with his wife. Mr. Talty was sworn in and stated that he was at this meeting seeking to put a porch on his house and seeking a variance for the front yard

setback. He stated that he has a corner property and where the stoop is now is the same line where the porch is going to be.

Mr. Arakelian asked Mr. Skerbetz in his experience did he see any reason why this shouldn't be grant.

Mr. Skerbetz stated, that in his experience, he sees no reason why this shouldn't be granted and that it enhances the neighborhood in general. He also said that he sees no sightline issues.

Motion by Dr. Gewirtz, second by Vice-Chair Mehrman to open meeting to the public.

All in favor 7-0

No one came forward

Motion by Dr. Gewirtz, second by Vice-Chair Mehrman to close meeting to the public.

All in favor 7-0

Motion by Mr. Krey, second by Mr. Grasso to approve this application.

All in favor 7-0

**B. MacRae – Application 2017-06
773 5th Avenue
303/12 – Application for completeness**

Applicants came forward and stated their names (John MacRae, Heather MacRae – 773 5th Avenue) & their architect Tom Haggerty (850 Summit Ave, River Edge, NJ & business address is 194 Kinderkamack Road, Oradell, NJ). Applicants were sworn in. John MacRae stated that they were looking to expand out the back kitchen and add a room upstairs and downstairs. They are expecting their third child and looking to expand.

Mr. Skerbetz stated that they were before the Board because of lot coverage and impervious coverage.

Vice-Chair Mehrman said as he reviews the plans he sees that they have an existing deck and it looks like it will be removed and that they will be replacing roughly half with a building addition and the other half of the deck will be reinstalled. Mr. MacRae said that was correct. He also asked about the basement and asked if it was a crawl space. Chair Arakelian said there was no crawl space because it is a raised ranch. Mr. Haggerty said that there is no basement, and as far as heating in the lower level there is an option for the

MacRae's to talk with the contactors about putting in on-slab radiant heat as opposed to duct heat. Mr. Skerbetz stated that he sees no reason why this application should not be approved.

Motion by Mr. Mehrman, second by Mr. Krey to open to the public.

All in favor 7-0

Chair Arakelian asked if anyone from the public wanted to set forward and speak.

Mr. Glen Luddino (who lives at 777 5th Avenue, River Edge, NJ) came forward, and was sworn in. He stated that he and his wife have lived at this address for almost 30 years and that they are opposed to building over and above what the current zoning allows because it will take away from the open feeling they get when using their deck. He further stated that he has a soil erosion issue and that the applicant's northeast leader pipes drain close to his property and the applicants northwest leader pipes is presently piped into his underground drainage system. He also mentioned that his drainage system has been clogged for some time. He asked if the Board does approve the variance that they have them scale down the size of the addition, and have the applicants collect their roof water in question in a drywell.

Mr. Haggerty said that the plans do include stormwater retention as part of state code for the addition. The addition has its own seepage pit.

Mr. Luddino stated that he has pictures of the erosion.

Chair Arakelian stated that with the existing situation Mr. Luddino should contact the Borough Engineer and have him do a site inspection.

Mr. Luddino stated that the previous owner gave him permission to run their leader pipe on the northwest side into his drainage system.

Chair Arakelian asked him to bring the photos forward and Attorney Nabbie marked the photos with today's date and marked them as 01 and 02. Chair Arakelian asked Mr. Luddino if he thought about having the pipes repaired and Mr. Luddino responded that he has to have them repaired, but he doesn't think he should be responsible for taking the neighbors water. Chair Arakelian said but you agreed to it originally.

Mr. Luddino stated that now that there is a problem something has to be done.

Chair Arakelian said but what you said was that the pipe was on your property and that it was your problem and that you have to get it fixed.

Mr. Luddino asked why their roof water should go into his system.

Chair Arakelian said because you allowed it.

Mr. Luddino said ok, but now I changed my mind.

Dr. Gewirtz said for the record - that for their addition (their plans and their variance) that are before the Board, the MacRae's are only responsible for the water collection for the additional roof space because they are not addressing their current existing structure; therefore, they are not required to change or modify their current structure.

Attorney Nabbie said that there is a seepage pit being produced that will collect 100% of the runoff for the new addition and it doesn't sound like the issue the neighbor is experiencing has anything to do with the bulk variances before the Board. This is an existing issue and would still exist without the addition.

Chair Arakelian suggested that the two neighbors get together after this and discuss how to correct this situation and if they can't come to a conclusion then they should have the Borough Engineer come.

Motion by Vice-Chair Mehrman, second by Dr. Gewirtz to close the meeting to the public.

All in favor 7-0

Motion by Vice-Chair Mehrman, second by Dr. Gewirtz to approve this application.

All in favor 7-0

Mr. Haggerty asked when can they apply for the permit.

Attorney Nabbie said that once the resolution gets adopted someone has to put it in the paper and then there is 45 day appeal period. The applicant can certainly go to the Building Department, but they do require a copy of the adopted resolution.

Mr. Haggerty asked if they would be allowed to "go at risk" with the permit because the previous Zoning Board would sometimes allow it.

Attorney Nabbie said that it is highly doubtful that they would be able to get a permit before the adoption of the resolution.

Chair Arakelian stated that he would talk to Attorney Chewcaskie and the Board Secretary and have her call them concerning this. He stated he would follow up on it.

Dr. Gewirtz said he wanted to ask Mr. Skerbetz if it is correct that it is 25% dwelling coverage and 35% impervious coverage. Mr. Skerbetz said that the 35% impervious includes the 25% dwelling with additions. Mr. Skerbetz explained what he doesn't consider impervious coverage.

Chair Arakelian asked Mr. Skerbetz to please come to all the meetings, unless he is told not to come.

Meeting was adjourned at 8:45 PM by Councilmen Acquafredda, second by Mr. Grasso.

All in favor 7-0

Minutes submitted by: Carol Byrne

Approved on: Thursday, June 8, 2017