

**ZONING BOARD OF ADJUSTMENT
RARITAN TOWNSHIP, NEW JERSEY**

JANUARY 16, 2020

MINUTES

1. CALL TO ORDER:

The meeting was called to order at 7:30 p.m. by Secretary Amy Fleming.

2. NOTICE REQUIREMENTS:

Secretary Amy Fleming read the notice requirements of the Open Public Meetings Act into the record.

3. ROLL CALL:

Board Members Present:

John Gudelis
Kevin Kuhl
Cynthia Schaefer
Randy Block
Roger Ahrens
Jeff Anclien

Members Absent:

Alicia Dominguez
Steve Farsiou
Jim Ferraro

Kevin Kuhl made a motion to approve the members' absenteeism, seconded by Randy Block.

(On roll call, all members voted in the affirmative.)

4. ALSO PRESENT:

Antoine Hajjar, Township Engineer
Jessica Caldwell, Planner
John Morgan Thomas, Township Landscape Architect

5. APPEARANCES:

MESSRS. STICKEL, KOENIG, SULLIVAN & DRILL, LLC
571 Pompton Avenue
Cedar Grove, New Jersey 07009
Attorneys for the Zoning Board of Adjustment
BY: JONATHAN E. DRILL, ESQ.

STEVEN P. GRUENBERG, ESQ.
151 Main Street
Flemington, New Jersey 08822
Attorney for the Lusters

MESSRS. WATTS, TICE & SKOWRONEK
171 Main Street
Flemington, New Jersey 08822
Attorneys for Penn Partners, LLC
BY: C. GREGORY WATTS, ESQ.

6. BOARD MEMBERS AND COUNCIL:

- a. **Comments:** None
- b. **Announcements:** None
- c. **Election of Officers for 2020**

The Secretary called for nominations for Board Chairman. Kevin Kuhl nominated Cynthia Schaefer, seconded by John Gudelis. There were no other nominations.

(On roll call, all members voted in the affirmative.)

Chairman Schaefer called for nominations for Vice Chairman. Kevin Kuhl made a motion to nominate John Gudelis, seconded by Jeff Anclien.

(On roll call, all members voted in the affirmative.)

Randy Block nominated Roger Ahrens as Chairman Pro Tem, seconded by Kevin Kuhl.

(On roll call, all members voted in the affirmative.)

Appointments for 2020:

Attorney Drill indicated if anyone wanted to pull out any of the proposed names from the appointments, they should do so.

(No members responded.)

Appointments for 2020 would be:

1. Board of Adjustment Attorney: Jonathan Drill
2. Board of Adjustment Planner: Jessica Caldwell
3. Board of Adjustment Engineer: Antoine Hajjar
4. Board of Adjustment Traffic Engineering Expert:
Jay Troutman
5. Board of Adjustment Landscape Architect:
John Morgan Thomas
6. Board of Adjustment Radio Frequency Expert:
Charles Heck
7. Board of Adjustment Secretary/Assistant
Secretary: Amy Fleming/Antoine Hajjar
8. Board of Adjustment Stenographer:
Jacqueline Klapp
9. Board of Adjustment Conflict Engineer:
Cathleen Marcelli
10. Board of Adjustment Geotechnical and Structural
Engineers: Gerald Adelsohn and Richard
Adelsohn

A motion was made for approval of all appointments by Kevin Kuhl, seconded by John Gudelis.

(On roll call, all members voted in the affirmative.)

d. Distribution and Correspondence:

Attorney Drill indicated that there was a pending application filed by Mr. Riccioni but a hearing never commenced. The Board Rules indicate that an applicant can unilaterally withdraw an application without the Board having to do anything. The applicant requested that this application be withdrawn.

e. Minutes:

December 5, 2019

Kevin Kuhl made a motion that the minutes of December 5, 2019 be approved, seconded by Randy Block.

(On roll call, all members voted in the affirmative with the exception of Jeff Anclien who abstained.)

7. RESOLUTIONS:

(1) ANNUAL NOTICE OF MEETINGS

Meetings are scheduled to take place today, January 16, 2020, February 20, 2020, March 5, 2020, March 19, 2020, April 2, 2020, April 16, 2020, May 7, 2020, May 21, 2020, June 4, 2020, June 18, 2020, July 2, 2020, July 16, 2020, August 6, 2020, August 20, 2020, September 3, 2020, September 17, 2020, October 1, 2020, October 15, 2020, November 5, 2020, December 3, 2020, December 17, 2020.

Attorney Drill indicated it is the first and third Thursday of the month, except for January and November where it is only the first Thursday.

(2) RESOLUTION ADOPTING RULES OF PROCEDURE

The Rules of Procedure were adopted with corrections by Roger Ahrens and moved by Kevin Kuhl, seconded by Randy Block.

(On roll call, all members voted in the affirmative.)

(3) RESOLUTION ADOPTING OFFICIAL NEWSPAPERS INCLUDING THE HUNTERDON COUNTY DEMOCRAT, THE COURIER NEWS AND THE STAR LEDGER

A motion was made to approve the Resolution for the official newspapers by Kevin Kuhl, seconded by Randy Block.

(On roll call, all members voted in the affirmative.)

8. APPLICATIONS:

- (A) Board of Adjustment Case No. 12-2019**
APPLICANT: Penn Partners, LLC
LOCATION: Block 71, Lot 8.01
APPLICATION: Completeness Review

Attorney Gregory Watts from the Law Firm of Watts, Tice & Skowronek, 171 Main Street, Flemington, New Jersey, appeared on behalf of Penn Partners, LLC, along with Wayne Ingram, an engineer. This application is seeking permission to add an additional use to the existing Nissan Dealership on Route 202 which is Block 71, Lot 8.01. It is in the B-2 Commercial Zone.

Attorney Drill indicated that the Board does not determine completeness, but will hear the request for a waiver.

If the applicant complies with all of the other ordinance requirements, and prove they have adequate sewer, water, drainage and meet the traffic conditions, the matter can be approved.

After hearing testimony, John Gudelis made a motion to approve the application, seconded by Randy Block.

(On roll call, all members voted in the affirmative.)

- (B) Board of Adjustment Case No. 16-2019**
APPLICANT: Karen Batista
LOCATION: Block 16, Lot 6
APPLICATION: C-1 and D-2 Variances

Karen Batista appeared pro se indicating she needed a D-2 Variance and C-1 Variance.

Karen Batista, Antoine Hajjar, Jessica Caldwell and Jeffrey Vaccarella as well as John Morgan Thomas were all sworn as witnesses. The property is at 18 Bartles Corner Road in Flemington and has 1.05 acreage.

The lot is in an industrial zone with a non-conforming residential use and a structure that is within the front yard setback. The applicant is proposing a master bedroom and bathroom to the north of the main portion of the structure. Expanding an existing residential use in an industrial zone is not permitted.

The shed and the deck have approved zoning permits, however the attached garage does not. Zoning permits were not required for structures built before 1979.

After reviewing the prior permits and hearing the testimony, Kevin Kuhl made a motion to approve application, seconded by Randy Block.

(On roll call, all members voted in the affirmative.)

(C) Board of Adjustment Case No. 21-2019
APPLICANT: Richard and Lynn Luster
LOCATION: Block 1, Lot 8
APPLICATION: Appeal and Determination

Attorney Steven Gruenberg, 151 Main Street, Flemington, New Jersey, appeared on behalf of the Lusters. He indicated that this is an application for an appeal of the Zoning Office's issuance of notices of violation.

Attorney Drill questioned Attorney Gruenberg as to whether the original violation was made moot because it was indicated that there is no such thing as a multi-family use. Also, the second notice of violation says there is more than one single-family dwelling.

Attorney Gruenberg indicated he is appealing and seeking a certification of a pre-existing non-conforming use.

Richard Luster, George Paieta, Jeff Vaccarella, Antoine Hajjar and Jessica Caldwell were all sworn as witnesses.

During legal argument, Attorney Gruenberg indicated that the 2008 Ordinance was amended to include the prohibition of having a detached accessory apartment. Attorney Drill stated that there was a requirement added that it could not be converted and detached, which would make it a D-1 application and not a D-3.

Attorney Gruenberg stated that the two accessory apartments have been there for decades, over half a century. He indicated the zoning officer pointed out that in 2008 the minor subdivision application was made when the issue first came up, and the issue was that he is subdividing the property, and if he subdivides the property, that there would be a non-conforming use. Therefore, he would need either a D-1 or D-2 variance relief, and the applicant at that point decided not to subdivide.

Richard Luster testified about his previous appearances before the Board of Adjustment in 2008 where he was represented by Donald Scholl, Esq., and it was for minor subdivision relief.

After hearing Mr. Luster's testimony and reviewing the exhibits, Attorney Gruenberg called George Paieta as his witness who testified that he was 70 years old and had been at the farm 60 years previously. The apartments were there then. Attorney Drill as well as Board members questioned Mr. Paieta as to his testimony. The matter was adjourned until the February 20th hearing.

(D) Board of Adjustment Case No. 22-2019
APPLICANT: Linda Matos et al
LOCATION: Block 75, Lot 6
APPLICATION: Non-Conforming Use Certificate

Attorney Drill indicated that Ms. Matos had advertised properly in the newspaper but did not notice the other people involved, and therefore the matter would be continued to February 20th if notice is given to the property owners.

(E) **Board of Adjustment Case No. 07-2018**
 APPLICANT: Raritan Partners, LLC (Wawa)
 LOCATION: Block 15, Lots 20 and 20.01
 Route 31 and New Castle Way

Attorney Drill indicated that after he arrived at the Board of Adjustment meeting he discovered a lawsuit was filed on behalf of Wawa challenging the Board's denial of said application.

Cynthia Schaefer made a motion, based upon NJSA 10:4-12 (the Open Public Meetings Act) that they would be excluding the public from that portion of the meeting in which the Board discussed pending litigation entitled Raritan Partners, LLC versus the Raritan Township Board of Adjustment, challenges the Board's denial of the Wawa application.

Therefore, the Board went into closed session to have such discussion.

(An off the record discussion was held.)

The meeting was called back to order thereafter and the Board indicated that they were authorizing their attorney, Jonathan E. Drill, Esq., to file an answer defending the Board in the Wawa litigation, which challenged the Board's denial of the Wawa application.

9. NEXT BOARD MEETINGS:

The next Board meetings will be held on February 20, 2020, and March 5, 2020.

Respectfully submitted,

Jacqueline Klapp

JACQUELINE KLAPP