

**REORGANIZATIONAL AND REGULAR MINUTES OF
PLANNING BOARD/BOARD OF ADJUSTMENT
OF HIGH BRIDGE BOROUGH**

Meeting Date: January 6, 2020

Meeting Time: 7:00 P.M.

Meeting Location: High Bridge Rescue Squad, 95 West Main St, High Bridge, NJ 08829

1. CALL TO ORDER:

This is a reorganizational meeting of the Planning/Zoning Board of the Borough of High Bridge. Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act in that a Notice was published in the Hunterdon County Democrat and the Express times on December 19, 2019 and the notice of and agenda for this meeting were posted on the bulletin board in the Borough Hall.

2. FLAG SALUTE: Led by presiding officer, Barbara Kinsky

3. 2020 BOARD MEMBERS AND OATHS OF OFFICE (* appointed this year)

- a. Michele Lee-Mayor- Class I - term expiring 12/31/2022
 - b. Christopher Zappa- Class III – term expiring 12/31/2020
 - c. Coleen Conroy- Class II - Environmental Commission Liaison-term expiring 12/31/2021
 - d. Steve Dhein - Class IV – term expiring 12/31/2021
 - e. Tom Wescoe-Class IV- term expiring 12/31/2021
 - f. Willian Giordano- Class IV -term expiring 12/31/2020
 - g. Don Howell - Class- IV - term expiring 12/31/2020
 - * h. John Musnuff – Class IV – term expiring 12/31/2023
 - * i. Pablo Delgado-ClassIV- term expiring 12/31/2023
 - * j. John Moskway- Alt 2 -term expiring 12/31/2021
- Mr. Musnuff took his oath for office.

4. ROLL CALL: P = Present, A=Absent

Coleen Conroy, present; Pablo Delgado, absent; William Giordano, present; Don Howell, absent; John Musnuff, present Tom Wescoe, present; Chris Zappa, present: Steve Dhein present: Michele Lee, present.

Pablo Delgado and Don Howell arrived at 7:30pm. Also present was Borough Planner, Darlene Green, Borough engineer, John Ruschke, Board Attorney, William Caldwell, Board Secretary Barbara Kinsky and four members of the public including press.

5. NOMINATIONS AND ELECTIONS:

a. Election of Chairperson

Motion to nominate Steve Dhein and approve Resolution PB01-2020:

Motion: Zappa, Second: Giordano

Voice Vote: Six ayes, two absent and Dhein abstained. Motion passed.

Chairman now presiding.

b. Election of Vice-chairperson

Motion to nominate Don Howell and approve Resolution PB02-2020:

Motion: Zappa; Second: Giordano

Voice Vote: Seven ayes, two absent. Motion passed.

6. It is the policy of the Planning Board that all public comments on an issue shall be limited to five (5) minute per person and no person may make more than one (1) comment per subject. Comments may be made on any subject pertaining to Board issues. Comments pertaining to Public Hearings should be saved for that section of the agenda. No debating between residents. Comments should be addressed to the Chairman and Board members at the public microphone. NONE

7. CONSENT AGENDA:

a. Resolution PB03-2020 – Selection of contract professionals

- Board Engineer, Mott-MacDonald
- Planner, Maser Consulting
- Planning Board / Board of Adjustment Attorney, Carter, Van Rensselaer, Caldwell,
- Princeton Hydro

b. Resolution PB04-2020: Selection of newspaper(s) for publications of legal notice-

The Express Times and Hunterdon Democrat be designated as the official newspapers.

c. Resolution PB05-2020: Selection of Board Secretary and Deputy Board Secretary

- Board Secretary, Barbara Kinsky
- Deputy Board Secretary, Adam Young

d. Resolution PB06-2020: Meeting dates for 2020

Motion to adopt **Resolutions PB03-2020 through PB06-2020**

Motion: Giordano; Second: Zappa

Coleen Conroy, aye; Pablo Delgado, absent; William Giordano, aye; Don Howell, absent; John Musnuff, aye; Tom Wescoe, aye; Chris Zappa, aye; Steve Dhein, aye; Michele Lee, aye. Seven ayes, two absent, motion passed.

8. ADJOURNMENT: Motion to adjourn reorganizational portion of meeting: Giordano, Second: Zappa
Voice vote: Seven ayes, two absent. Motion passed.

THIS CONCLUDES THE REORGANIZATION PORTION AND BEGINS THE REGULAR MEETING.

Chairman Dhein called the Regular meeting to order.

9. ROLL CALL: P = Present, A=Absent

Coleen Conroy, present; Pablo Delgado, present, William Giordano, present; Don Howell, present; John Musnuff, present Tom Wescoe, present; Chris Zappa, present: Steve Dhein, present: Michele Lee, present.

10. READING AND APPROVAL OF MINUTES: December 16, 2019

Motion to dispense with the reading of prior meetings minutes:

Motion: Howell, second: Giordano Voice vote: Eight ayes, Musnuff abstained. Motion passed.

Motion to approve the December 16, 2019 meetings minutes:

Motion: Zappa; second: Howell Voice vote: Six ayes, Musnuff, abstained from all and Zappa and Lee abstained from the Board of Adjustment portion of the minutes. Motion passed.

11. DISCUSSION: Ordinance #2019-038. Chairman Dhein reopened the discussion of Ordinance # 2019-038, to Amend the Land Use Ordinance for Nonconforming Lots, with all members present, including Mayor Lee and Councilman Zappa. Mr. Dhein then asked for comments and or questions regarding this Ordinance and a discussion with the Board ensued.

12. ADJOURNMENT: Motion to adjourn the Regular Planning Board meeting: Zappa,
Second: Giordano Voice vote: Nine ayes, motion passed.

Board of Adjustment Meeting Begins-Mayor Lee and Councilman Zappa depart.

Chairman Dhein called the Board of Adjustment meeting to order.

13. ROLL CALL: P = Present, A=Absent

Coleen Conroy, present; Pablo Delgado, present, William Giordano, present; Don Howell, present; John Musnuff, present Tom Wescoe, present: Steve Dhein, present.

14. NEW BUSINESS: Motion to open the Public Hearing for PB-app-03-2019, 38

Main Street, Block 8, Lot 7: Giordano, Second: Howell.

Voice vote: Seven ayes, Motion passed.

Mr. Howell asked a question regarding the fact that the applicant is a tenant and not an owner of the property. It was confirmed that the owner, Robert Fernandes, signed off on then application allowing the tenant to apply for the variance. Mr. Howell also inquired whether the variance applied only to the tenant or to the building. Mr. Caldwell explained that the variance runs with the property not with the tenant. Mr. Howell also inquired about the waiver not to have to submit a site plan. Planning Board Secretary explained that Mr. Angstadt paid the necessary application and escrow fees for a C variance. She explained that since it is a requirement to submit a site plan, Mr. Angstadt needed to request relief from this requirement and therefore a variance was needed.

Mr. Jeffrey Angstadt was sworn in. Mr. Angstadt confirmed that he is not part of a corporation or LLC. He then gave a brief personal background. He explained that he has been looking for a space to open his own chiropractic practice. He stated that he feels that the space on 38 Main Street would suit his needs. He mentioned that the location on Main Street appealed to him. He stated that because of the muscular needs of his patients having direct access and no steps to climb at the entry of the building was a factor that appealed to him. Mr. Darmstadt also informed the Board what his anticipated patient volume would be. He explained that he is only employing himself and as the only physician he can only treat one patient at a time. He explained to the Board the different types of appointments he would have and the approximate length of each one. He stated that a typical adjustment is about 10 minutes in duration as compared to a new patient visit that would have a 45-minute duration. Mr. Darmstadt also spoke to the number of employees he anticipated working in the practice. He stated that initially he would likely hire an office manager and then possibly one additional employee. Mr. Angstadt informed the Board that he only intended on occupying the left unit of the building and his variance application only applied to that rental property. Mr. Angstadt also informed the Board of his intended hours of operation. He stated that he will have morning hours with a midday break and afternoon hours. He also stated that he will be open a few days a week as early as 6:00am and as late as 8:00pm in order to accommodate patients' needs prior to and after work. Mr. Angstadt also stated that he will not require signage that does not conform to the town's ordinances and he will not make any changes to the exterior of the building.

Comment/Questions:

Mr. Howell asked Mr. Angstadt to elaborate as to why the fact that the building having no stairs is advantageous. Mr. Angstadt explained that due to the muscular and skeletal issues that his patients suffer from, not having them walk upstairs to get into his office would be beneficial. He also explained that walking up a flight of stairs could put a patient in jeopardy.

Mr. Howell also asked Mr. Angstadt where he anticipated that his patients would be parking. Mr. Angstadt replied that he anticipates seeing a total of six patients per hour, however due to the length of the visits and accounting for check in and check out times he does not think that there would be six cars present at the same time. He also stated that the building does have two parking spots directly in the front and that overflow would most likely park in the municipal lot on McDonald street.

Chairman Dhein asked if there was any member of the public present that would like to ask questions or cross examine the witness. Let the record show that no members of the public ask to speak.

Mr. Christopher Nusser was sworn in.

Motion to accept Mr. Nusser as an expert witness in this hearing: Howell Second: Giordano
Voice vote: Seven ayes. Motion passed.

Mr. Nusser gave a detailed description of the location of the property and stated that the application is specific to the left lower unit on 38 Main Street. Mr. Nusser stated that is in the downtown DB zone and is surrounded to the north and to the west by commercial uses. There are residential uses to the east, behind the building and a parking lot across the street to the south. Mr. Nusser stated that the existing uses of this building are commercial uses on the first floor and residential uses on the upper floors. The proposed use is a chiropractic office. Mr. Nusser stated that the application is for a D-1 variance and not a conditional use, even though this use is permitted on the upper floors of the building. Mr. Nusser also spoke to the suitability of the property. He stated that the accessibility of the space and the fact that the entrance is directly into the building is a benefit. This is so because it will not require patients that may have mobility or muscular skeletal issues to go up a flight of stairs. This fact makes this property suitable for this particular use. Mr. Nusser also spoke to the purposes of zoning that this would further

as a use. According to the Municipal Land use Law an applicant must demonstrate certain positive and negative criteria. for a D variance. Mr. Nusser stated that there were two purposes supporting the positive criteria of zoning that he felt were applicable to this application. The first is Purpose A which asks if this change to zoning would promote general welfare and public safety. Mr. Nusser referred to the reasons he gave regarding the suitability of the unit. The second is purpose G which refers to sufficient space and appropriate location. Mr. Nusser spoke to the fact that this is a zone which does already have this use permitted even if not in the exact location where it is being proposed. He then stated the negative criteria that he felt applied to this application. Mr. Nusser referred to purpose A under the negative criteria which questions the impact on parking, noise, traffic lighting, etc. Mr. Nusser explained that because this use is permitted on the upper floors of this building, the affect on the impacts listed would not change whether the use is on the first or second floor. He stated that there is no significant impact by allowing this use on the first floor as compared to having it on upper floors. He also spoke to the impact of the aesthetics and noise. He stated that noise will not be an issue and that there will not be any significant changes to the building. He stated that window blinds will be left open to add to the atmosphere on Main Street. Mr. Nusser also spoke to the fact that this use does not necessarily lend itself to the required retail required. He addressed this issue by explaining that this use would draw people to Main Street which could increase the patronage to other retail businesses on Main Street. Mr. Nusser then addressed the C variance. This variance was necessary because the applicant did not provide a site plan. Mr. Nusser explained that the only change to the exterior of the site is the signage. He stated that the storm water management, bulk standards and setbacks are not affected in any way. Because this is an otherwise approved use on another floor of the same building, Mr. Nusser stated that his testimony is that there would be no significant impact by granting the relief from submitting a site plan.

Comments/questions:

Chairman Dhein asked if this use would just apply to the left unit of the building. Mr. Nusser confirmed that it would only apply to the left unit.

Board member John Musnuff asked how the volume of parking would be affected since this would not be a retail business but a chiropractic office. Mr. Nusser replied that typically medical uses do have a slightly higher demand for parking, but he did not feel the difference would be significant.

Board member Don Howell asked if this estimation was based on daily parking or overall. Mr. Nusser explained that this was an overall estimation, but due to the hours Mr. Angstadt proposed he would be open this would have less of an effect on parking.

Board member Coleen Conroy asked if the business would ever be considering expanding to the other unit on the right side. Mr. Nusser answered that there is potential for that and that if so the applicant is aware that it would require a return trip to the Board of Adjustment.

Darlene Green commented and informed the Board that there is no parking requirement for a non-residential use in that building per the ordinance.

Mr. Musnuff asked if the two spots behind the building could be used for parking. Mr. Fernandes explained that these are for residents.

Mr. Caldwell explained that although the Ordinance does not require parking for nonresidential uses, once the applicant applies for a use variance then the Board can consider all the factors including parking as evidence to support reasons to grant or not grant the variance.

Mr. Nusser then gave an analysis of how certain uses affect parking and concluded that although medical uses do typically require more parking the difference it is a fraction of a space different.

Mr. Howell asked if the site is particularly suited for this use. Mr. Nusser replied that it is currently the only available space that has direct access without stairs.

Board member Tom Wescoe asked for clarification reading the first-floor restrictions as per the ordinance and asked what the purpose of the restriction was. Mr. Caldwell answered that the restriction requires retail on the first floor.

Mr. Howell asked if there is a residence on the first floor of the building. Mr. Fernandes confirmed that there is a residence on the first floor.

Mr. Robert Fernandes was sworn in to testify.

Mr. Fernandes spoke to the purpose of the restriction regarding first floor having retail. He stated his opinion that the first-floor retail requirement was meant to create a downtown ambiance of retail. He also opined that because of online shopping this has changed. He feels that this use would be a benefit to the town and bring more patrons to the town.

Mr. Musnuff asked Mr. Fernandes if there were any other past tenants in that building other than the Pilates studio. Mr. Fernandes answered that it has been vacant for two years since the Pilates Studio vacated, and that yes, they were the only tenants to rent that space.

Mr. Angstadt spoke to the retail concerns. He stated that there are certain chiropractic-oriented materials that he could choose to sell and that this would fulfill the retail requirement. He also spoke to the question regarding expanding over to the right unit, as of now he only planned to rent the left unit, but possibly could foresee expanding in the future.

Engineer John Ruschke asked for clarification of the square footage. The square footage is 783 square feet. Mr. Ruschke also asked that regarding the waiver regarding site plan approval, he wanted to make sure that the applicant was planning to comply with all prior conditions of the prior site plan approval. Mr. Nusser stated that they would comply.

Chairman Dhein asked if any member of the public had questions or comments for the applicant.

Donna Exley was sworn in and commented that she would like the Board to approve this application. Ms. Exley stated that she is a lifelong resident of High Bridge and feels that this would be great for High Bridge. She also stated that she is treated by a chiropractor and has not had issues with parking due to the nature of the appointments being of a short duration. Ms. Exley did question the Board as to the current restriction regarding what businesses can be in certain buildings on Main Street. She commented that many of the businesses make it difficult for persons with disabilities to enter, and she feels that this will need to change. Chairman Dhein responded that this is a current zoning ordinance in High Bridge.

At this time the applicant rested.

Borough Planner Darlene Green commented on the application. She began her testimony with an explanation of the Ordinance that the applicant was seeking relief from. Mrs. Green stated that she does think the argument proposed by the applicant regarding having patients with muscular skeletal ailments walk up stairs for treatment is valid and does make this site suitable for what they are seeking to do. Mrs. Green also requested that if the Board did find in favor of the applicant that they consider requiring restrictions on window coverings in order to promote walking traffic and create an area of retail and foot traffic. She also asked that the Board ensure that the applicant comply with the sign ordinance and obtain any permits necessary for signage.

Board member John Musnuff asked a question regarding the type and placement of signage that the applicant could utilize. Mrs. Green replied that the placement, size and types of signs are all outlined in the sign ordinance and that there several choices available.

Board member Don Howell asked Mrs. Green if she felt that approving this use would be detrimental to the land use law and possibly impact possible future applications. Mrs. Green stated that each case has its own individual merits and the Board could decide accordingly. She also stated that the proofs given tonight were specific to this application.

Board member Pablo Delgado commented on the current ordinance and feels that it may need to be discussed and modified.

Board member Coleen Conroy questioned why an optometrist office was different from a chiropractic. She feels it is beneficial to not have vacant buildings. Mrs. Conroy asked the applicant if the area by the windows was going to be an examination room or reception area. Mr. Angstadt stated that it would be the reception area.

Mr. Musnuff asked the applicant if not having window coverings would be a hardship. Mr. Angstadt said he had no issue with the window covering restriction.

Mr. Nusser asked for clarification regarding the window covering restriction. Mr. Angstadt stated that all the private examination rooms are in the back and have no external windows. He ensured the Board that he will keep blinds open. Planner Darlene Green recommended no window coverings of any kind.

Board member Tom Wescoe asked for clarification regarding retail space percentages.

Motion to close the Public Hearing for PB-app-03-2019, 38Main Street: Musnuff
Block 8, Lot 7: Second: Wescoe.

Voice Vote: Seven ayes, motion passed.

Motion to approve for preliminary approval PB-app-03-2019, 38 Main Street, Block 8, Lot7 for a D-1 variance to allow the left unit to be used as a chiropractic office, and a C-2 variance for the nonproduction of a site plan. Approval also includes the conditions that there be no window coverings, compliance with the sign ordinance and compliance with all prior conditions of the prior site plan approval.: Giordano Second: Howell

Mr. Howell asked Board attorney Caldwell if granting this variance would put the Borough at risk. Mr. Caldwell stated that just because this variance is granted does not have any bearing on future variances. Every variance is a detriment because it deviates from the ordinance. It is a question about whether the benefits outweigh the detriments.

Conroy: Aye, feels that this is an appropriate use for the space and beneficial for Main Street.

Delgado: Aye, similar reasons, and having an empty building is detrimental to the town and this use brings customers to Main Street and because the use is different and does not compete with other businesses,

Giordano: Aye, better than having an empty store and agrees that having no steps to climb for a chiropractic office is appropriate.

Howell, Aye: does think the site is particularly suited for the application and feels no site plan is needed.

Musnuff, Aye, approves both variances and feels the impact on parking is negligible and that the applicant's business demands first floor access.

Wescoe: Aye, votes yes on both variances and feels occupied space is better, agrees accessibility is needed for the type of business and agrees that will not compete with other businesses.

Dhein: Aye, Votes yes on both variances, feels parking is not an issue and the fact that the applicant will potentially see six people per hour will bring more business to Main Street.

Seven ayes, motion passed.

15. It is the policy of the Planning Board that all public comments on an issue shall be limited to one (1) minute per person and no person may make more than one (1) comment per subject. Comments may be made on any subject pertaining to Board issues. Comments pertaining to Public Hearings should be saved for that section of the agenda. No debating between residents. Comments should be addressed to the Chairman and Board members at the public microphone. NONE

16. **ADJOURNMENT:** Motion to adjourn: Conroy Second: Giordano Voice vote: Seven ayes, motion passed.

Next Meeting Date: Regular meeting February 10, 2020

Meeting Location: High Bridge Rescue Squad, 95 West Main St, High Bridge, NJ 08829

Meeting Time: 7:30 P.M.