

**MEETING MINUTES OF  
PLANNING BOARD/BOARD OF ADJUSTMENT  
OF HIGH BRIDGE BOROUGH**

**Meeting Date:** February 8, 2021 - **Meeting Time:** 7:30 P.M.

**Meeting Location:** Zoom virtual meeting

**1. CALL TO ORDER:**

This is a regular 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 Star Ledger and the Express Times on January 21, 2021 and the notice of and agenda for this meeting was posted on the bulletin board in the Borough Hall.

**2. FLAG SALUTE:** Led by presiding officer.

**3. ROLL CALL:**

Coleen Conroy, present; Pablo Delgado, present; William Giordano, present; Joseph Suozzo, John Musnuff, present; Tom Wescoe, present; Natalie Ferry, present; Steve Dhein, present; Michele Lee, present.

Also present were six members of the public, Board Attorney Caldwell, Board Planner Darlene Green, Board Engineer, John Ruschke and Board Secretary, Barbara Kinsky.

**4. PUBLIC COMMENTS:** It is the policy of the Planning Board/Board of Adjustment that all public comments on an issue shall be limited to five (5) minutes 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.

**5. READING AND APPROVAL OF MINUTES:** January 25, 2021

Motion to dispense with the reading of the prior meeting's minutes:

Motion: Giordano, Second: Ferry. Voice vote: Eight ayes, Mayor Lee abstained. Motion passed.

Motion to approve the January 25, 2021 meeting's minutes.

Motion: Giordano, Second: Ferry Voice Vote: Eight ayes, Mayor Lee abstained. Motion passed.

**6. PLANNING BOARD NEW BUSINESS:**

a. Swearing in of Board Alternate #1, Benjamin Yu, term expiring 12/31/2023 by Mayor Lee.

b. Resolution PB-08-2021 for PBapp-04-2020, Block 19, Lots 16 and 18, 95 and 97 Cregar Road. Motion to approve Resolution PB-08-2021 as corrected regarding the spelling of Mr. Edleston's name on page 3, and on page 5, correcting that lot 18 becomes larger and lot 16 becomes smaller: Giordano, Second; Ferry Coleen Conroy, aye; Pablo Delgado, aye; William Giordano, aye; Joseph Suozzo, aye; John Musnuff, aye; Tom Wescoe, aye Natalie Ferry, aye; Steve Dhein, aye; Michele Lee, abstain. Eight Ayes, Motion passed.

c. A review of Ordinance #2021-006 ORDINANCE TO ADOPT THE REVISED ZONING MAP, for consistency with the Master Plan.

Darlene Green gave a brief overview of the ordinance.

Motion to accept Ordinance #2021-006 as being consistent with the Master Plan: Motion: Giordano  
Second: Ferry

Coleen Conroy, aye; **Pablo** Delgado, aye; William Giordano, aye; Joseph Suozzo, aye;  
John Musnuff, aye; Tom Wescoe, aye ; Natalie Ferry, aye; Steve Dhein, aye; Michele Lee, aye.  
Eight ayes, motion passed.

**Mayor Lee and Councilperson Ferry left the meeting at this point**

**Board of Adjustment Meeting Begins at this point.**

**7. BOARD OF ADJUSTMENT NEW BUSINESS:**

a. Public Hearing for PBapp-03-2020: 22-24 East Main Street, Block33 Lot 45 Owner/applicant: Drew Elsaesser.

Motion to open Public Hearing for PBapp-03-2021: Giordano Second: Musnuff  
Voice vote: seven ayes, motion passed.

The applicant's attorney, Kathryn Kopp of the law firm Post Pollack, was asked by Board Attorney Caldwell, to give her attorney ID number because she was not able to get her video working. Ms. Kopp's ID number is: 036462009. Ms. Kopp then gave an overview of the application. She explained that this is an application for a minor subdivision with a conditional use variance along with a few bulk variances. Ms. Kopp stated that she would present testimony from three parties, one of the homeowners, one of the property residents, and Wayne Ingram who is the engineer and planner for the project.

Attorney Caldwell swore in the first witness, homeowner Drew Elsaesser. Mr. Elsaesser confirmed that he currently resides at 22-24 Main Street and he purchased the property in July of 2020. He confirmed that there are currently two buildings on the property with a total of three residential units. Mr. Elsaesser stated that one building consists of two residential units and each with three bedrooms per unit. He then stated that the single-family unit contains two bedrooms and has a two-car attached garage. Mr. Elsaesser also confirmed that all three units are served by public water and that the duplex has public sewer. He then stated that the single family currently has a cesspool, but if the subdivision is granted, he intends to connect to the public sewer system. Mr. Elsaesser confirmed that an engineer has already prepared the sewer connection plans. Mr. Elsaesser explained that he has done some repairs to the duplex since he moved there. He had replaced the siding, fixed the porch and done interior repairs. Ms. Kopp asked if the subdivision is granted would he make similar renovations to the single-family house? Mr. Elsaesser stated that yes this was his intent should the subdivision be granted.

Ms. Kopp then asked Mr. Elsaesser if prior to purchasing the property he obtained the continuing certificates of occupancy and smoke certifications for all three residential units. Mr. Elsaesser confirmed that he did and that he had no indication that the single-family building was not permitted on the lot. He stated that he found this out when he applied for the permits to connect to the sewer through the easement which is what prompted filing an application with the Board of Adjustment. Ms. Kopp asked Mr. Elsaesser where residents of the duplex park their cars? He answered that they park on the street and have not had any trouble finding a place to park. Ms. Kopp inquired that if the subdivision were granted where would residents of the duplex be able to park in the event of a snowstorm. Mr. Elsaesser answered that occupants of the duplex would have the ability to park in the driveway to keep cars off the street for plowing purposes, but when there is not a snow emergency they would park on the street. Mr. Elsaesser also stated that he would provide an easement so that the occupants of the duplex would have the ability to park in the driveway to load and unload items into their vehicles.

At this point Board Attorney Caldwell asked Ms. Kopp the reasoning as to why the single-family house is considered a non-permitted use. Ms. Kopp explained that having two primary structures on the property is not permitted in this zone. She stated that according to the tax card the duplex was built in the 1800's and the single-family dwelling in 1950. She explained that she submitted an OPRA request looking for a Certificate of Occupancy for the single-family dwelling, but there was not one on record. Mr. Caldwell asked if the information regarding the non-permitted structure had come up during closing. Ms. Kopp explained that she did not represent the applicant during sale and asked Mr. Elsaesser to respond to this question. Mr. Elsaesser stated that he is not sure how it was overlooked but this information was not discovered during closing. Ms. Kopp also clarified that the subdivision would remove the non-conformance. She stated that granting the subdivision would make the single-family home conforming, as single-family homes are permitted in the zone. Ms. Kopp clarified that duplex structures are conditionally permitted, and as they do not meet all of the bulk variances, they needed to apply for a conditional use variance along with the other bulk variances.

Board Attorney Caldwell then opined that if there is not a Certificate of Occupancy on record the structure would be illegal. At this point Ms. Kopp spoke to her client, Mr. Elsaesser off record.

Mr. Caldwell then asked Board planner, Darlene Green what her thoughts were regarding the situation. Ms. Green stated that she was intrigued at how this situation had come to exist. Mr. Caldwell stated that his fundamental issue is that approval cannot be given for something that does not lawfully exist. Chairman Dhein stated that he was surprised that the title company did not have information regarding this dwelling. Board Engineer, Ruschke then asked if building permits even existed in High Bridge in 1950, and if they did, maybe they were just never closed out. Planning Board Secretary, Barbara Kinsky stated that she assisted in the OPRA

request that searched for the permits and was not able to locate any for that dwelling. Mr. Caldwell stated that he feels that the structure should be inspected and should get a Certificate of Occupancy. Ms. Kopp stated that she spoke to her client and they would be willing to make it a condition of approval to have the building department inspect the dwelling to ensure that it is safe and habitable before moving into the dwelling. Mr. Ruschke asked if the building had been lived in yet and Mr. Elsaesser answered that he believes that no one has occupied the dwelling in about seven years, but prior to that it was occupied with residents consistently. Mr. Caldwell expressed concerns as to abandonment of the dwelling. Ms. Kopp replied that the applicant is willing to get inspections done and explained that a continuing certificate of occupancy was issued for the dwelling prior to sale. Mr. Caldwell replied that if the inspections reveal that improvements or changes need to be done the applicant will need to comply with. Ms. Kopp stated that the applicant agrees to this.

Board member Delgado asked if the single-family dwelling is currently connected to sewer and water with its own water meter. Mr. Elsaesser answered that it is connected to town water with a meter but is not connected to sewer as it currently has a cesspool. He stated that they do intend to connect to sewer. Ms., Kopp explained that sewer connection is not a part of this application. They do have the sewer plans in for review with the Borough engineer. The Board then discussed specifically where the sewer connection would occur. Ms. Kopp explained that they have acquired an easement from a neighboring lot for sewer connection.

Board member Musnuff asked Mr. Caldwell if they would be able to grant the subdivision if there is no sewer connection? Mr. Caldwell stated that the Board can make it a condition of approval to obtain a sewer connection for the lot. Ms. Kopp stated that she has no objection to making the connection to the sewer line a condition of approval. She stated that the applicant is ready to submit paperwork for the sewer line as soon as the subdivision is granted. Ms. Kopp stated that she had just received an email from Patrick Brennan, the Borough engineer regarding confirmation of sewer capacity.

Board Member Delgado asked a question regarding whether the back part of the existing lot is in a flood plain. Ms. Kopp stated that the applicant's engineer will be speaking to this point.

Chairman Dhein then asked if there was any member of the public present that would like to question this witness. The record reflects no member of the public came forward to speak.

Ms. Kopp called her next witness, Mr. James Whitman. Mr. Whitman testified that he has resided at 22 East Main Street and has lived in one of the duplex dwellings for the last six years. Ms. Kopp asked Mr. Whitman how many residents occupy the unit where he lives. Mr. Whitman answered that three people occupy the residence and each possess a vehicle. Ms. Kopp asked where they park their vehicles and if they have ever had difficulty finding parking. Mr. Whitman stated that he has not ever had difficulty finding parking, even on holidays or weekends. He also confirmed that when there is snow, they park in the driveway to allow for plowing.

Let the record reflect that no Board members or members of the public had any questions for this witness.

Ms. Kopp called certified engineer and Planner, Wayne Ingram, to testify. Since he has testified in front of this Board before the Board accepted his credentials. Mr. Ingram began his testimony with a description of the existing conditions of the property. Mr. Ingram stated that the duplex is located to the front of the property along East Main Street. To the north of the structure is the gravel driveway which is approximately nine to ten feet wide along the side of the house where it extends to a bridge which accesses the rear structure. The rear structure has a larger gravel parking area in front of it. The single-family dwelling has a first-floor garage space with the primary living space located above on the upper floor. Bisecting the site is a stream, which basically separates the way that this property has always functioned. Mr. Ingram stated that from the looks of it, it is clear that the front structure operates on the front half of the property, and everything to the rear of the stream operates as the as part of the second dwelling. Mr. Ingram then spoke to the previous inquiry regarding flood plains. The plan shows the riparian zone that we have calculated for the site. But FEMA maps do not show a floodplain. We did try to look at it in terms of what DEP methods are available, and the DEP has no maps of the stream. Using what they consider the approximate method, which is a gross overestimation of floodplains, it does show that there is a significant flood plain on the property. But the primary floor of the rear structure is the second floor, so it is basically just garage and storage space on the first floor, which would put the primary portion of the structure above the floodplain.

There are separate water connections for both buildings. The front building has a sewer connection of its own. Our proposal was to create a few easements to the property so that they can function independently while providing proper protections that ensure that they can both operate in that fashion without detriment. There will

be an access and maintenance easement along the existing driveway and the purpose being so that during snowfall events, the duplex would get vehicles off the street for plowing. It would also give access to the rear of the building with a vehicle should it be needed. Mr. Ingram added that they are proposing a utility easement along the overhead utility poles in the front of the structure for maintenance purposes. Another easement proposed is a maintenance easement along the length of the stream should any repairs be needed on the bridge or retaining walls along the stream. A right of way is also being proposed on East Main street because the property line extends to the centerline of the road. Mr. Ingram reiterated that there is sufficient parking along East Main Street for residents of the duplex. He stated that there really are no site disturbances or changes to how the site operated in the past. There are no changes that will occur to the site, other than the connection of the rear structure to the sewer system and the abandonment of the cesspool to the site. His intention is, with revised plans, to have already complied with the Board engineer's comments on the application, and any that are not satisfied, he would intend to comply as part of revisions.

Attorney Caldwell asked that Mr. Ingram state the lot requirements for the record. Mr. Ingram stated that the areas are required to be 7500 square feet in size in this zone. He explained that the property is 23,588 feet, essentially three times the size of what is required. If the subdivision is granted, one lot will be 15,073 square feet, and the other will be 8485 square feet. Therefore, both lots will remain conforming to area. In terms of frontage, there is a 50-foot requirement, the lot has 98.36 so basically 1.7 feet short of sufficient width to be fully conforming to have frontage for two lots. The proposal is to give the rear lot a 10-foot frontage, which is essentially the width of the driveway, and the remaining 88 feet would be left with the lot in the front.

Mr. Caldwell asked if the 10-foot driveway will require site easements for the adjoining properties. Mr. Ingram replied explaining that the driveway is located on the property line now. Mr. Caldwell also inquired as to how close the on-street parking would be to the property. Mr. Ingram explained that it is approximately eight feet south of the of the driveway access point. Parking could also be on the north side as well. Mr. Caldwell also inquired if Mr. Ingram was considering petitioning the Borough to install "no parking beyond this point" signs to protect the distance between the street parking in the driveway access? Mr. Ingram replied that he was not planning to suggest any changes to striping or signage.

Chairman Dhein asked Mr. Ingram to speak to the flood zone and if there was potential for water to affect the single-family dwelling in the back of the property. Mr. Ingram answered that the first floor is not living space and explained that there is no flood plain on the map. The only information they had is the over conservative DEP estimate. There is no FEMA flood plain located here. Mr. Ingram also stated that he is not aware of any plans to change the occupiable space on the first floor. Mr. Dhein asked if a stipulation could be added that there would be no net usable space on the ground level and Attorney Caldwell agreed that this would be an appropriate restriction.

Board Engineer, Ruschke asked if they had considered putting parking in the southern side yard of the property. Mr. Ingram responded that it created an issue because once off the road, the property slopes downward and because it is considered a flood plain it would not be able to be filled or made flat for parking. Mr. Ruschke then asked for clarification regarding the maintenance agreement along the stream. Mr. Ingram explained that the proposed property line will split the property down the middle of the stream. The existing retaining wall is on the side with the duplex and that owner would be responsible for its maintenance. Should the rear building ever need to replace or repair the bridge there is access granted through the easements. Mr. Ruschke asked that this be made clear in the documents for approval. Mr. Caldwell asked about the current condition of the bridge and its life expectancy. Mr. Ingram replied that it is serviceable, but he has not done a full engineering inspection of it and the life expectancy would be 50-75 years and it is probably two thirds to three quarters into its life expectancy.

Board Member Musnuff asked for confirmation that a firetruck would have access from block 37 in lieu of crossing the bridge.

Board Member Conroy asked if the bridge was constructed with concrete and Mr. Ingram confirmed that it is all concrete.

Board Member Wescoe asked for clarification of the elevation of the back building. Mr., Ingram replied that the elevation increases as it leads up to the second floor. He explained that there is a staircase that leads to a porch and a wood deck on the upper floor.

Ms. Kopp asked that Mr. Ingram explain the other variances that have been applied for. Mr. Ingram stated that he already explained the variance that affected the lot frontage. Another variance is a side yard setback, He stated that currently the setback from the property line is 11.3 feet which is deficient from the 15 foot minimum requirement. With the creation of the 10-foot-wide flagpole in the rear of the plot that line will shorten the setback to 1.3 feet. He feels they have accounted for any deviation by allowing access for maintenance through the proposed easement. Mr. Ingram opined that there is no detriment to the public or to the intent of the Borough ordinances because there is no outward appearance change, and the mechanisms are in place making sure that it

will still function as the necessary side yard. The third bulk variance refers to the need for RSIS compliant parking. Mr. Ingram stated that currently the site has 2 compliant parking stalls. As previously testified to, the on-street parking remains the more convenient option for the residents of the duplex. Mr. Ingram then spoke to the other pre-existing nonconforming conditions. The first being the front yard setback of the duplex. A 15-foot setback is required but it is currently 8.6 feet from the road and a side yard for the rear building of 3.6 feet where 15 feet is also required. There is also the issue of having two dwellings on the property. This non-conforming condition would be eliminated if the subdivision were granted.

Let the record reflect that there were no members of the public that had questions for Mr. Ingram.

Planner Darlene Green stated that so far Mr. Ingram has addressed all the points in her February 4, 2021 letter. Mr. Ingram next gave testimony regarding the D-3 variance. He stated that the applicant is requesting a D-3 variance for the front lot for the two-family home. While two-family homes are conditionally permitted in the zone, but to be permitted all the conditions must be met. There are three conditions that must be met for the two-family home to be permitted in the zone. The first is that the structure meet all area yard requirements for the single-family dwelling in the zone. The second is that adequate parking must be provided and the third is that the Board of Health must approve all water and sewer treatment at the site. The two-family home is compliant with zoning requirements in either scenario except for the pre-existing front and side yards which have been reduced from 11.3 feet to 1.3 feet. Mr. Ingram went on to say that this dwelling has been in existence for approximately 200 years and there will be no movement of that dwelling or changes to the visual conditions. None of the deviation regarding the setbacks are making the location any less suitable for the use. The change in side yard is not a physical change, it is simply a change to provide frontage to the rear building and allow continued access. Mr. Ingram opined that by installing the proposed easements protection of the remaining side yard is created in terms of a setback to neighboring structures. In terms of parking, Mr. Ingram opined that the testimony given is sufficient regarding on street parking. Regarding the existing water and sewer, the front duplex property has both and therefore this condition is satisfied. Mr. Ingram opined that a subdivision created the need for a D-3 variance as opposed to a D-1 variance that would be needed if the owner chose to keep the two primary dwellings on the same lot. He further believes that the conditions of the use imposed by the Borough in normal situations are reasonable, but in this case, there are adequate protections in place so that the requested deviations do not create a substantial impairment of the zone plan should the application be approved.

Board Member Delgado asked if the easement is for water and electricity. Mr. Ingram stated that it is a general utility easement and should anything be needed in that vicinity it is a blanket easement. Mr. Ingram clarified that the rear of the lot has a separate easement to access through lot 37. The homeowner had another engineer to do that project. Mr. Ingram stated that he is aware that as a condition of approval the single-family residence would have to have adequate sewage and demolish the cesspool.

Mr. Delgado asked if the bridge were to collapse what kind of approvals would it take to rebuild. Mr. Ingram state that there is a permit to repair or rebuild at the same cross section and same footprint. No additional permits would be needed from the DEP.

Ms. Green stated that her previous questions from her report had been answered through subsequent submissions. She stated that she does agree that seeking a D-3 variance is preferable because duplexes are permitted in the zone.

Let the record show that no Board members of public had any questions for Ms. Green.

Ms. Kopp asked previous witness, Mr. Whitman to testify regarding times of heavy rain. Mr. Whitman stated that he has lived at the property during several hurricanes, such as Floyd, Irene and Sandy. Mr. Whitman started that there has not been any significant flooding and a little water came up one time in the backyard.

Ms. Kopp asked Mr. Ingram to testify regarding the elevations on the property. Mr. Ingram explained that the duplex is at an elevation of 279 feet, and the garage in the single-family home is at 276 feet. The livable space in the single-family dwelling is 8-9 feet above the elevation of the duplex which is well above the flood plain.

Ms. Kopp asked if the homeowner chose to renovate the garage or basement to add living space are there steps and measures that they could take to remedy the water concerns. Mr. Ingram stated that he feels if the homeowner decided to do that then requiring them to obtain all the necessary NJ DEP approvals as opposed to outright denying them the ability to do that.

Chairman Dhein asked Mr. Ruschke if he felt it would be more appropriate to obtain NJ DEP approvals or to limit habitable space to the second floor. Mr. Ruschke stated that because there is no Certificate of approval for this building, they would need to do the appropriate analysis to demonstrate that it the building is not in a

floodplain. He suggested that if the homeowner wanted to develop that first floor, they should have to return to the Board to demonstrate that this analysis was done.

Mr. Caldwell explained to MS Kopp and her client that in addition to the conditions already stated the Board will require that there be a re-recording of the deed with the Resolution of approval so that any prospective purchaser is fully informed to what the restrictions are.

Motion to close Public hearing for PBapp-03-2021: Giordano Second: Suozzo  
Voice vote: Seven ayes, motion passed.

Motion to approve PBapp-03-2021 with the variances requested and with the following conditions

- Easement clarification regarding the retaining wall and the bridge
- The cesspool must be decommissioned in accordance with the rules and regulations of the Health Department.
- Sewer must be connected to the rear dwelling
- A certificate of occupancy be obtained from the construction department for the back dwelling.
- The back dwelling will have no net habitable space on the first floor.
- All easements will be re-recorded with the Deed.

Motion: Giordano Second: Musnuff

**Conroy:** Yes, if all the conditions that we started are met.

**Delgado:** Yes, if the conditions are met, and he feels that the approval makes a better condition for this lot and use of the property.

**Giordano:** Yes if all conditions are met and taken care of.

**Suozzo:** Yes, the testimony was credible, persuasive, and forthright. The engineer/ planner, Mr. Ingram met all the requirements and suggestions that our professionals stated in their technical reviews. With respect to the easements that the Board has required for conditional approval. And based on the testimony, the D-3 variance is the appropriate one for this application.

**Musnuff:** yes, this subdivision does not create any hardship for the town. Having these variances reduces the number of non-conformities including the D-3 Variance which is better than requesting a D-1.

**Wescocoe:** yes, agreed with Mr. Musnuff but he does have hesitation regarding the bridge and retaining wall, as well as regarding the sanitary cesspool/sewer situation and would like to have seen a "will-serve" letter from the DPW. He feels the overall effect of the proposed action is an improvement and a good, intended use.

**Dhein:** Yes, he does have concerns but feels the D-3 is the best way to deal with the this. He complemented the applicants for trying to make right an illegal dwelling.

Seven ayes: Motion passed.

b. Darlene Green reminded the Board that the Master Plan reexamination will be ready for review at the March meeting.

c. Chairman Dhein requested that all members sign on by 7:25 in order to begin meetings on time. Mr. Caldwell added that cameras should be on during the meeting to prove that they were in attendance the entire time. This also applies to all any attorney that would be representing an applicant. The suggestion was made to add this to the call to order.

**8. PUBLIC COMMENTS:** It is the policy of the Planning Board/Board of Adjustment 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

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

**Next Meeting Date:** March 15, 2021

**Meeting Location:** Zoom virtual meeting

**Meeting Time:** 7:30 P.M.