

# Planning Board

January 26, 2023

Meeting  
Minutes



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**\*THESE PROCEEDINGS WERE HELD VIRTUALLY DUE TO THE COVID-19 PANDEMIC\***

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## **CALL TO ORDER**

8:00pm

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## **ATTENDANCE**

### **Present**

David Barad, MD- Class IV/Chairman  
Dean Paltos- Class IV/Vice Chairman  
John Glidden- Class I/Mayor  
Tsun-Yam Tam- Class II/Borough Historian  
Victoria Amitai- Class III/Councilperson/Council Liaison  
Robert Di Dio- Class IV/Full Member  
Ansar Batool- Class IV/Full Member  
Angela Ferullo- Class IV/Full Member  
Conway Wong- Class IV/Full Member/Environmental Commission Liaison  
Avia Blum- Class IV/Alternate #1  
Zachary Messinger- Class IV/Alternate #2  
Daniel Steinhagen, Esq.- Acting Board Attorney  
Jason Cherchia, Esq.- Acting Board Attorney  
Nicholas De Nicola, PE- Board Engineer  
Paul Demarest- Board Coordinator/Secretary (Incoming)  
Rose Mitchell- Board Coordinator/Secretary (Outgoing)

### **Absent**

n/a;

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## **CORRESPONDENCE**

Chairman Barad read mail received by the Board into the record.

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## **OPEN TO PUBLIC**



n/a;

## **MINUTES**

A motion was made by Mayor Glidden and seconded by Mr. Di Dio to approve the minutes for the January 4, 2023 Work Session and Meeting. The motion passed (10-0-0):

**Yes-** Messinger; Blum; Wong; Ferullo; Di Dio; Amitai; Tam; Glidden; Pialtos; Barad;

**No-** n/a;

**Abstain-** n/a;

**Early Dismissal-** Batool;

## **RESOLUTIONS**

n/a;

## **CASELOAD**

### **#1 CASE P-2022-09**

APPLICANT:	REDCO CONSTRUCTION CORP.
SUBJECT PROPERTY:	279 DEMAREST AVENUE
BLOCK/LOT:	907/27
ZONING DISTRICT:	2 (RESIDENTIAL B)
REPRESENTATION:	DONNA VELLEKAMP, ESQ.
REAL ESTATE TAX:	CURRENT THRU 2022/4 <sup>TH</sup> QUARTER
AFFIDAVIT OF SERVICE:	JANUARY 11, 2023
AFFIDAVIT OF PUBLICATION:	JANUARY 11, 2023

### **Synopsis**

The applicant is seeking Major Soil Movement Approval for the construction of a new 1-family house and associated appurtenances; the application was received December 19, 2022 and scheduled for the January 4, 2023 Work Session, at which time, it was deemed complete; pending the Board's receipt of requested items and public noticing requirements, the application was scheduled for the [January 26, 2023 Meeting](#).

### **Relief Sought**

- 1.) Soil Movement (<250 cy permitted/291 cy provided);

### **Witnesses**

- 1.) Sean Mc Clellan, PE, Lantelme, Kurens & Associates, PC, 101 West Street, Hillsdale, New Jersey;

### **Exhibits**

- A-1: pre-filed site plan with affixed stamp indicating approval by New Jersey Department of Environmental Protection, prepared by Witness #1, dated October 6, 2021 and last revised March 18, 2022;

### **Prior Completeness Review Requests**

- 1.) address all items in letter prepared by Board Engineer and dated December 27, 2022;
- 2.) revise site plan to indicate suggested backwater valve as part of proposed tie into Borough's storm drainage system located in Demarest Avenue will be installed on subject property instead of in Borough's right of way;
- 3.) revise site plan so that existing and proposed impervious coverage calculations include existing encroachment of driveway aisle accessing parking lot associated with 300 High Street (Saint Mary's School, Church & Convent) onto subject property (applicant indicated encroachment will remain);
- 4.) consider underground electric utility installation and revise site plan accordingly;
- 5.) revise site plan to identify material type of existing sanitary sewer pipe located beneath proposed driveway to gauge its condition and alleviate concern about potential need to break up driveway if pipe access is required;



- 6.) revise site plan to depict both new full-height curb in front of existing driveway to be removed and new drop curb for proposed driveway;
- 7.) revise site plan to delete all references to proposed swimming pool which is not in scope of work;

### New Board Requests

n/a;

### Public Questions

- 1.) Gregory Morss, 284 Demarest Avenue, Closter, New Jersey;

### Public Comments

n/a;

### Decision

A motion was made by Councilwoman Amitai and seconded by Ms. Ferullo to approve the application. The motion passed (9-0-0):

**Yes-** Wong; Ferullo; Batool; Di Dio; Amitai; Tam; Glidden; Paltos; Barad;

**No-** n/a;

**Abstain-** n/a;

### Conditions

- 1.) revise site plan to indicate installation of backwater valve as part of proposed tie into Borough's storm drainage system located in Demarest Avenue to be installed on subject property instead of in Borough's right of way and enter into Hold Harmless Agreement with Borough in event said system backs-up and discharges onto subject property via trench drain within driveway;
- 2.) revise site plan to relocate proposed manhole in westerly direction so it is not within canopy of nearby 24" - diameter oak;
- 3.) revise site plan to redesign and/or relocate storm drain located in Demarest Avenue to eliminate interference with curb cut of proposed driveway;
- 4.) revise site plan to regrade entrance of proposed driveway to slope which accommodates typical motor vehicles;
- 5.) revise site plan to correct rear yard setback requirement indicated on graphic (20' minimum is required as indicated on site plan's Limiting Schedule);
- 6.) revise site plan to both reduce width of proposed sidewalk from 5' to 4' and relocate it 1' towards subject property to accommodate 2'-wide grass buffer between sidewalk and curb along Demarest Avenue;
- 7.) revise site plan to indicate electric utility will be installed underground without installation of riser pole (Road Opening Permit will be required);
- 8.) obtain amended New Jersey Department of Environmental Protection approval if warranted;

## **#2** CASE P-2022-10

APPLICANT:	FERMANO BUILDERS, LLC
SUBJECT PROPERTY:	38 WILSON PLACE
BLOCK/LOT:	1905/7
ZONING DISTRICT:	1 (RESIDENTIAL A)
REPRESENTATION:	DONNA VELLEKAMP, ESQ.
REAL ESTATE TAX:	CURRENT THRU 2022/4 <sup>TH</sup> QUARTER
AFFIDAVIT OF SERVICE:	JANUARY 12, 2023
AFFIDAVIT OF PUBLICATION:	JANUARY 11, 2023

### Synopsis

The applicant is seeking Major Soil Movement Approval for the construction of a new 1-family house, swimming pool (in-ground) and associated appurtenances; the application was received December 19, 2022 and scheduled for the January 4, 2023 Work Session, at which time, it was deemed complete; pending the Board's receipt of requested items and public noticing requirements, the application was scheduled for the [January 26, 2023 Meeting](#).

### Relief Sought

- 1.) Soil Movement (<250 cy permitted/962 cy provided);



**Witnesses**

- 1.) Perry Frenzel, PE, Azzolina & Feury Engineering, Inc., 30 Madison Avenue, Paramus, New Jersey;
- 2.) Ronald Fermano, Fermano Builders, LLC, 700 Kinderkamack Road, Oradell, New Jersey;

**Exhibits**

n/a;

**Prior Completeness Review Requests**

- 1.) address all items in letter prepared by Board Engineer and dated December 29, 2022;
- 2.) reference NJAC 7:13-2.2 to determine any buffer requirements relating to existing channel/ditch associated with tributary of Category-One waterway (as classified by New Jersey Department of Environmental Protection) which is located east of subject property and revise site plan accordingly;
- 3.) consider underground electric utility installation and revise site plan accordingly;
- 4.) obtain administrative report from Borough's Tree Expert in response to filed tree removal permit application and consider retaining as many of 22 trees proposed for removal as possible given impact on soil erosion, drainage, etc. (ensure subject trees are identified with ribbon to allow for inspection);
- 5.) consider collecting water from proposed swale into proposed seepage pit(s) rather than allowing it to drain onto Wilson Place resulting in potential icing conditions;
- 6.) ensure proposed tree mitigation schedule is legible on all relevant submissions;
- 7.) revise site plan to include site cross-sections of existing and proposed grades given portions of subject property would be raised 2' to 3';

**New Board Requests**

- 1.) revise Board application to reflect increase in proposed soil movement from 805 cy to 962 cy;
- 2.) obtain New Jersey Department of Environmental Protection approval;
- 3.) post additional \$350.00 in engineering escrow;
- 4.) provide tree mitigation plan in response to administrative report prepared by Borough Tree Expert and dated January 10, 2023 ensuring 2 additional tree plantings (19 are proposed as opposed to 21 required) are deciduous;
- 5.) consider retaining larger-sized trees throughout subject property proposed for removal negating concern about loss of groundwater absorption and drainage towards neighboring properties as well as ensure trees proposed for removal are identified correctly on-site in response to administrative report prepared by Environmental Commission and dated January 15, 2023 and revise site plan accordingly;
- 6.) revise site plan to indicate electric utility will be installed underground without installation of riser pole (Road Opening Permit will be required);

**Public Questions**

n/a;

**Public Comments**

n/a;

**Decision**

A motion was made by Mr. Di Dio and seconded by Vice Chairman Paltos to adjourn the application and extend the time in which the Board must act to February 23, 2023. The motion passed (9-0-0):

**Yes-** Wong; Ferullo; Batool; Di Dio; Amitai; Tam; Glidden; Paltos; Barad;

**No-** n/a;

**Abstain-** n/a;

**Conditions**

n/a;

**LIAISON REPORTS**

n/a;



## MISCELLANEOUS

Chairman Barad informed Mr. Steinhagen that the Board has not adopted any standards and procedures for conducting its virtual proceedings, which it switched over from in-person as of its May 6, 2020 Meeting due to the COVID-19 Pandemic; Mr. Steinhagen assured he would prepare a document that mirrors the Zoning Board of Adjustment's standards and procedures.

Chairman Barad reminded that those Board members who have not yet submitted their signed 2023 Oaths of Office to Mr. Demarest should do so as soon as possible.

The Board voting members and its professionals introduced themselves and provide brief biographies.

Chairman Barad advised that he would like to implement a new order in which the Board's voting members are polled when conducting its votes (votes are currently conducted based on the seating of Board members at the dais when proceedings were held in-person at Borough Hall); he advised such stems from wanting to prevent lower ranking/junior members being unduly influenced by higher ranking/senior Board members during a vote. Vice Chairman Paltos suggested a vote order in which Mayor Glidden is called first, followed by the Board's officers, etc. to which Ms. Ferullo agreed. Mr. Messinger and Ms. Ferullo opined that junior members would not be dependent on those more senior when contemplating a vote. Mr. Steinhagen noted that Robert's Rules of Order, the widely-followed manual of parliamentary procedure, does not address voting order and the choice is therefore an administrative decision. He stressed that the Chairperson typically sets the agenda, however, in the event of a disagreement in protocol, a vote can be conducted. He noted that while the Board should take guidance from its professionals into consideration, case law is quite clear that by virtue of their positions, Board members have special and superior knowledge of the community which is weighed heavily and they have an obligation to make findings of fact and conclusions of law which include credibility determinations. Mr. Demarest informed that he approached Chairman Barad on voting order after reading the Board's By-Laws which do not provide guidance on such and suggested the Zoning Board of Adjustment's By-Laws be followed which dictate the Chairperson should be called last to vote. Mr. Steinhagen stressed that upon the conclusion of an applicant's presentation, the Board's deliberations before conducting a vote can occur organically without consideration of a Board member's rank/seniority. Mr. Di Dio mentioned that newly-appointed Board members naturally do not have their land use board certification from the onset, thus, them being called first on a vote may not be optimal.

A motion was made by Ms. Ferullo and seconded by Chairman Barad to poll the Board on whether it approves of amending the order in which the Board members cast their votes. In response to Mayor Glidden asking that deference be given to Chairman Barad on such procedural matters, Ms. Ferullo withdrew her motion.

Regarding Case P-2022-06 (259 Closter Dock Road/Hardino, LLC), Mr. Demarest reminded that Mr. De Nicola discovered the memorialized Resolution wrongly indicates that the subject parking lot shall be reconfigured to consist of 18 parking spaces; he said the Board-approved site plan correctly reflects 11 parking spaces. Mr. Steinhagen said he would revise the Resolution accordingly.

With respect to Case P-2021-03 (21 Pine Hill Road/Eleven 21 Properties, LLC), Mr. De Nicola informed that based on the conditions of 2 shade trees located in the Borough's right of way, which the Board required to be retained, both the Shade Tree Commission and Borough Tree Expert allowed for their removal in exchange for 2 shade trees and 2 private trees being planted to satisfy mitigation.

Mr. Steinhagen explained that the Zoning Board of Adjustment recently instructed him to transmit a letter to the Governing Body expressing its concern about conditions of its prior decisions not being upheld by the applicant nor were the Zoning Officer and/or Construction Official forwarding such changes to the Board for its determination as to whether the proposed deviations from a memorialized Resolution are de minimis in nature or warrant Amendment Approval. To illustrate such, Chairman Barad shared photographs verifying the removal of Board-required landscaping buffer(s) from an unnamed property which was previously granted Site Plan Approval. Mr. Steinhagen stated it is the Board's function to determine the impact of such environmental changes; he said having such power centralized by a lone administrator is not how the State of New Jersey set up its land use regulations. He stressed that Chapter 173-35C of the Borough Code allows for no leeway and states the Board's Site Plan Approval is binding and any deviation requires Amendment Approval; he advised that the Governing Body may wish to revise said ordinance to not be so restrictive, noting he could work with the Borough Attorney on such if instructed. At the Board's request, Mr. Steinhagen agreed to transmit a letter to the Governing Body highlighting its concerns.

**ADJOURNMENT**

11:03pm

