

**BERNARDS TOWNSHIP
ZONING BOARD OF ADJUSTMENT
MINUTES^{v2}**

Re-organization Meeting and Regular Meeting
January 4, 2017

Steven K. Warner, Esq. called the meeting to order at 7:31 p.m.

OPEN MEETING STATEMENT

Counselor Warner read the following statement:

"In accordance with the requirements of the Open Public Meetings Law, notice of this regular meeting of the Board of Adjustment of the Township of Bernards was posted on the bulletin board in the reception hall of the Municipal Building, Collyer Lane, Basking Ridge, New Jersey; was mailed to the Bernardsville News, Bernardsville, New Jersey; the Courier News, Bridgewater, New Jersey; and was filed with the Township Clerk all on December 12, 2016, and was mailed electronically to all those people who have requested individual notice."

OATHS OF OFFICE

Counselor Warner swore in the following members:

- Jeanmarie Genirs, Regular Member, four-year term expiring 12/31/20
- Deborah Nungester, Regular Member, filling the unexpired four-year term of James Baldassare, Jr., expiring 12/31/17
- James Rhatican, Regular Member, four-year term expiring 12/31/20
- John Surano, Alternate #1, two-year term expiring 12/31/18

ROLL CALL:

Members Present: Breslin, Genirs, Lane, Mastrangelo, Nungester, Rhatican, Surano, Zaidel

Members Late: NONE

Members Absent: Bellows; on motion by Surano, seconded by Breslin, the absence of Ms. Bellows was excused.

Also Present: Counsel Steven K. Warner, Esq., Township Engineer Tom Timko, Township Planner David Schley, Retained Traffic Consultant Joe Fishinger, and Board Secretary Cyndi Kiefer.

CHAIRMAN OF THE BOARD

Counselor Warner called for nominations for the office of Chairman of the Board for the year 2017.

The motion was made by Mr. Breslin, seconded by Mr. Surano, that Mr. Rhatican be nominated for the position of Chairman of the Board, term to expire December, 31, 2017.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel.

Nay: NONE

Abstain: Rhatican.

Motion carried.

VICE-CHAIRMAN OF THE BOARD

Chairman Rhatican called for nominations for the office of Vice Chairman of the Board, term to expire 12/31/17.

The motion was made by Mr. Zaidel, seconded by Ms. Genirs, that Mr. Breslin be nominated for the position of Vice Chairman of the Board, term to expire December 31, 2017.

Roll Call:

Aye: Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel, Rhatican.

Nay: NONE.

Abstain: Breslin.

Motion carried

CHAIRMAN PRO TEMP OF THE BOARD

Chairman Rhatican called for nominations for the office of Chairman Pro Temp of the Board, term to expire 12/31/17.

The motion was made by Mr. Breslin, seconded by Ms. Mastrangelo that Mr. Zaidel be nominated for the position of Chairman Pro Temp, term to expire December 31, 2017.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Nungester, Surano, Rhatican.

Nay: NONE.

Abstain: Zaidel.

Motion carried.

ENGINEER

Chairman Rhatican called for appointments for Engineer for the Board for 2017.

The motion was made by Mr. Breslin and seconded by Mr. Surano that Thomas Timko be appointed as Engineer to the Board for the year 2017.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel, Rhatican.

Nay: NONE.

Abstain: NONE.

Motion carried.

PLANNER

Chairman Rhatican called for appointments for Planner for the Board for 2017. The motion was made by Mr. Zaidel and seconded by Ms. Nungester that David Schley be appointed as Planner to the Board for the year 2017.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel, Rhatican.

Nay: NONE.

Abstain: NONE.

Motion carried.

SECRETARY OF THE BOARD

Chairman Rhatican called for appointments for the office of Secretary of the Board for 2017. The motion was made by Mr. Breslin and seconded by Ms. Mastrangelo that Cyndi Kiefer be appointed to the office of Secretary of the Board for the year 2017.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel, Rhatican.
Nay: NONE.
Abstain: NONE.

Motion carried.

COUNSEL OF THE BOARD

Chairman Rhatican read the following resolution:

Resolution #17-01

BE IT RESOLVED, by the Board of Adjustment of the Township of Bernards (herein "Board"), Somerset County, New Jersey, as follows:

WHEREAS, the Board wishes to engage the services of an attorney to perform legal services as required for the year 2017, which is a "professional service" as defined by N.J.S.A. 40A:11-2(6), and which is permitted by N.J.S.A. 40A:11-5(1)(a) to be contracted for without public bidding; and

WHEREAS, the Board has special confidence in the firm of Ventura, Miesowitz, Keough & Warner by reason of the special knowledge and experience demonstrated by the firm and further by reason of the scope of services and schedule of compensation proposed by the firm;

NOW THEREFORE, BE IT RESOLVED that the Board engage the firm of Ventura, Miesowitz, Keough & Warner as its legal counsel for the year 2017, with Steven K. Warner, Esq., of that firm designated as the individual specifically authorized to act in the Board's behalf and, in his absence any other attorney in that firm as he may designate.

BE IT FURTHER RESOLVED, that the Chairman is authorized to execute a contract for the services of Ventura, Miesowitz, Keough & Warner, which contract shall be available for inspection at the Municipal Offices during regular business hours.

BE IT FURTHER RESOLVED, that Notice of this Resolution and the terms of the contract for services be published once in an official newspaper of the Board, as required by N.J.S.A. 40A:11-5(1)(a)(I).

Moved by Mr. Surano and seconded by Mr. Lane that the resolution be approved as read.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel, Rhatican.
Nay: NONE.
Abstain: NONE.

Motion carried.

ADOPTION OF RULES AND REGULATIONS OF THE BOARD

Counselor Warner read the following resolution:

Resolution #17-02

WHEREAS, N.J.S.A. 40:55D-8(1) requires each municipal agency to adopt reasonable rules and regulations for the administration of its functions, powers and duties; and

WHEREAS, N.J.S.A. 40:55D-8(a) further requires that the municipal agency furnish a copy of the adopted rules and regulations to any person upon request; and

WHEREAS, N.J.S.A. 40:55D-8(a) further requires that the municipal agency's rules and regulations thereto be maintained in the office of the administrative officer;

THEREFORE, BE IT RESOLVED, that the attached Rules and Regulations for the Zoning Board of Adjustment of the Township of Bernards be and the same are hereby adopted; and

BE IT FURTHER RESOLVED that copies of this resolution and copies of the attached said rules and regulations be maintained in the office of the Secretary of the Board of Adjustment and the clerk of the Township of Bernards.

Moved by Mr. Zaidel and seconded by Ms. Genirs that the resolution be approved as read.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel, Rhatican.
Nay: NONE.
Abstain: NONE.

Motion carried.

ADOPTION OF STATED MEETING DATES

The Bernards Township Board of Adjustment meets at 7:30 p.m. on the first Wednesday after the first Monday of every month on a regular basis in the Municipal Building, Collyer Lane, Basking Ridge. If necessary, the Board may schedule additional meetings on the second Thursday after the first Monday, except in July, August, and December.

Chairman Rhatican read the following resolution:

Resolution #17-03

PLEASE TAKE NOTICE that the Zoning Board of Adjustment of the Township of Bernards will meet to discuss or act upon public business at 7:30 p.m. on each of the dates in the year 2017 as set forth below, at the Municipal Building, Collyer Lane, Basking Ridge, New Jersey:

ORGANIZATION MEETING: January 4

REGULAR MEETING: January 4 July 5
February 8 August 9
March 8 September 6
April 5 October 4

May 3
June 7

November 8
December 6

SPECIAL MEETINGS:

January 12
February 16
March 16
April 13
May 11

June 15
September 14
October 12
November 16

Notice of any revisions to the above schedule will be posted, mailed to the newspapers and to those who have so requested as required by law. The motion was made by Ms. Genirs and seconded by Ms. Nungester that the foregoing schedule be adopted.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel, Rhatican.
Nay: NONE.
Abstain: NONE.

Motion carried.

ADOPTION OF OFFICIAL NEWSPAPERS

Chairman Rhatican called for designating official newspapers for the publication of all advertisements and notices required by law to be published by the Board.

The motion was made by Ms. Mastrangelo and seconded by Mr. Zaidel that the Bernardsville News, Bernardsville, NJ, and the Courier News, Bridgewater, NJ, be designated as the official newspapers for 2017. The Daily Record of Morristown, NJ, and the Star Ledger of Newark, NJ are designated as newspapers which may be given notice by the Board Secretary when the publication schedule of the Bernardsville News or Courier News does not enable it to publish advance notice of special, rescheduled, or emergency meetings.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel, Rhatican.
Nay: NONE.
Abstain: NONE.

Motion carried.

POLICY OF ADEQUATE NOTICE

Chairman Rhatican read the following resolution:

Resolution #17-04

WHEREAS, the Open Public Meeting Act, Chapter 231 of the Public Laws of the State of New Jersey requires that henceforth no Public Body shall hold a meeting unless adequate notice thereof has been provided to the public in the manner and under the circumstances therein set forth,

NOW THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Bernards that adequate notice, as defined in said Act, be:

1. Posted on the bulletin board in the reception hall of the Municipal Building, Collyer Lane, Basking Ridge,
2. Mailed, telephoned, telexed, hand delivered, or electronically delivered to the Bernardsville News, Bernardsville, and the Courier News, Bridgewater, being designated the official newspapers of the Township. The Daily Record of Morristown, NJ, and the Star Ledger of Newark, NJ are designated as newspapers which may be given notice by the Board Secretary when the publication schedule of the Bernardsville News or Courier News does not enable it to publish advance notice of special, rescheduled, or emergency meetings.
3. Filed with the Township Clerk.
4. Mailed to any person who has so requested such notice for the forthcoming year upon payment of ten dollars.

BE IT FURTHER RESOLVED, that the foregoing notice be posted, mailed and submitted in accordance with said Act.

On motion made by Mr. Surano and seconded by Mr. Lane, the foregoing resolution was adopted.

Roll call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel, Rhatican.
Nay: NONE.
Abstain: NONE.

Motion carried.

ADJOURNMENT

Moved by Ms. Genirs and seconded by Ms. Nungester that this re-organization meeting adjourn. By Voice Vote, all members were in favor of the motion. The re-organization portion of the meeting was adjourned at 7:49 p.m.

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APPROVAL OF RESOLUTIONS

RESOLUTION – Roti, Joseph S. & Lori S. (ZB-16-021); block 11102, Lot 1; 10 Pacer Court; Bulk Variance.

The motion was made by Ms. Genirs and seconded by Mr. Surano to approve the resolution as drafted.

Roll Call:

Aye: Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel, Rhatican.
Nay: NONE.
Abstain: NONE.
(Mr. Breslin was ineligible to vote.)

RESOLUTION – Thomson, Claire & Alexander (ZB-16-025); Block 6201, Lot 14; 45 Overlook Avenue; Bulk Variance.

The motion was made by Mr. Zaidel and seconded by Mr. Lane to approve the resolution as drafted.

Roll Call:

Aye: Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel, Rhatican.
Nay: NONE.
Abstain: NONE. (Mr. Breslin was ineligible to vote.)

Motion carried.

RESOLUTION – Barclay, Keith & Laura (ZB-16-022); Block 11002, Lot 10; 29 Fawn Lane; Bulk Variances.

The motion was made by Mr. Lane and seconded by Mr. Surano to approve the resolution as drafted.

Roll Call:

Aye: Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel, Rhatican.
Nay: NONE.
Abstain: NONE. (Mr. Breslin was ineligible to vote.)

Motion carried.

RESOLUTION – Q2 Properties LLC (ZB-16-023); Block 1603, Lot 4; 91 South Maple Avenue; Floor Area Ratio Variance, Bulk Variances, Preliminary & Final Site Plan.

The motion was made by Ms. Genirs and seconded by Ms. Mastrangelo to approve the resolution as drafted.

Roll Call:

Aye: Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel, Rhatican.
Nay: NONE.
Abstain: NONE. (Mr. Breslin was ineligible to vote.)

Motion carried.

COMPLETENESS HEARING

Verizon Corporate Services Group Inc. (ZB-16-026); Block 804, Lots 2.01 & 16; 295 North Maple Avenue; Floor Area Ratio Variance, Bulk Variances, Preliminary & Final Site Plan for Phase A and Preliminary Site Plan for Phase B.

Mr. Stephen E. Barcan, Esq., counsel for the applicant, advised the board members that the Letter of Interpretation (L.O.I.) had not been issued as of yet and asked for a checklist waiver. He added that the L.O.I. would be a condition of the resolution should the board act favorably on the application.

Mr. Timko, PE, Township Engineer and David Schley, AICP, PP, Township Planner agreed that this was a formality since the area of proposed development was nowhere near the wetlands.

The motion was made by Mr. Breslin and seconded by Mr. Lane to deem the application complete.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Nungester, Zaidel, Rhatican.
Nay: NONE
Abstain: NONE

Motion carried.

Public Hearing

Verizon Corporate Services Group Inc. (ZB-16-026); Block 804, Lots 2.01 & 16; 295 North Maple Avenue; Floor Area Ratio Variance, Bulk Variances, Preliminary & Final Site Plan for Phase A and Preliminary Site Plan for Phase B.

Stephan E. Barcan, Esq., attorney with *Wilentz, Goldman & Spitzer PC*, Woodbridge, NJ, and counsel for the applicant, addressed the Board and outlined the proposed development in Phase A and Phase B of the proposed project. Phase A primarily involved construction of a Parking Deck and Phase B involved construction of an Amenity Building. He also discussed the relief outlined in Mr. Schley's memo dated December 30, 2016 and stated that, in his opinion, the "catch all provision" in the public notice was sufficient to cover those variances called out in the memo. Counsel Warner and Chairman Rhatican agreed.

Robert C. Moschello, PE, engineer with *Gladstone Design Inc.*, Gladstone, NJ and engineer for the applicant, was sworn in and introduced a power point presentation. He reviewed the engineering issues that would be addressed by the proposed project. For a full discussion of the presentation, please refer to the transcript.

Mr. Moschello concluded his testimony however he assured the Board that he would be available for questioning as the application was presented.

Several residents questioned Mr. Moschello about potential noise issues associated with project construction and light spillage from the lights from the top level of the proposed parking deck. The placement of a temporary parking lot on the existing ball fields, landscaping and the request for three (3) internally illuminated Verizon logo signs were also discussed. For a full discussion of the concerns expressed by the residents and board members, please refer to the transcript.

As a result of the residents' concerns, the board members decided to schedule a site visit on January 14, 2017, 10:00 AM.

COMMENTS FROM MEMBERS OR STAFF

Hearing no comments from either board members or staff, Chairman Rhatican asked for a motion to adjourn. Ms. Mastrangelo moved, Mr. Surano seconded and by unanimous Voice Vote, the meeting was adjourned at 10:45 PM.

Respectfully submitted,

Cyndi Kiefer, Secretary
Bernards Township
Zoning Board of Adjustment