

Virtual Reorganization meeting of the  
Haworth Zoning Board of Adjustment on  
January 4, 2022, via Zoom.

PRESENT: Dennis Posen, Chairman  
Jeffrey Lester, Vice Chairman  
Richard Ehrenberg  
Joseph Panzella  
Michael Pilsbury  
Alexander Vierheilig  
Jennifer Eby, Alternate 1  
Lawrence Weiss, Alternate 2

Alexander West, Board Attorney  
Andrew Rosenberg, Council Liaison

ABSENT: Lawrence Ross

Councilman Rosenberg took the Chair and called the meeting to order. Upon roll call, the above Members were present.

Mr. Ross gave notice that he would not be able to attend this meeting.

Due notice of this meeting was given in accordance with the New Jersey Open Public Meetings Act.

In essence, the following transpired.

### **2022 REORGANIZATION**

Councilman Rosenberg entertained a motion for 2022 officer nominations.

#### **Chairman**

Mr. Pilsbury moved to nominate Mr. Posen as Chairman.

Seconded by Mr. Panzella and unanimously carried.

Mr. Posen took the Chair.

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Vice Chairman

Mr. Vierheilg moved to nominate Mr. Lester as Vice Chairman.

Seconded by Mr. Ehrenberg and unanimously carried.

Secretary/Treasurer

Mr. Lester moved to nominate Mr. Panzella as Secretary/Treasurer.

Seconded by Mr. Ehrenberg and unanimously carried.

Attorney

Mr. Ehrenberg moved to reappoint Mr. West Board Attorney.

Seconded by Ms. Eby and unanimously carried.

Mr. West thanked the Board.

Recording Secretary

Mr. Lester moved to reappoint Mrs. O'Dowd as Recording Secretary.

Seconded by Mr. Vierheilg and unanimously carried.

Mrs. O'Dowd thanked the Board.

Notices

Ms. Eby moved to continue to use the same publications to give notice.

Seconded by Mr. Pilsbury and unanimously carried.

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Meeting Date and Time

Mr. Lester moved to continue to meet on the first Tuesday of each month at 7:30 p.m. via Zoom until it is determined that the meeting could be conducted in the Borough Hall.

Seconded by Mr. Panzella and unanimously carried.

There being no further business, Mr. Ehrenberg moved to adjourn.

Seconded by Mr. Panzella and unanimously carried.

Respectfully submitted,

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Dolores Fazio O'Dowd

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ABSENT: Lawrence Ross

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In essence, the following transpired.

### **ACCEPTANCE OF THE MINUTES**

The minutes of the December 2021 Zoning Board meeting were reviewed.

Mr. Posen asked that page 65, third paragraph, first sentence be amended to say, "It was noted that the Buckner Memorializing Resolution was going to be adjoined so that the alternate version of the Resolution could be presented."

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Mr. Posen asked that page 66, first paragraph, be amended to read, "...were neighbors of the subject property so they recused themselves and did not participate in the hearing of this Application."

Mr. Posen asked that page 67, third paragraph from the bottom, be amended to say, "...why haven't the applicants looked at pervious pavers and similar materials."

Mr. Posen also asked that page 71, second paragraph and all other instances where he is mentioned, be amended to, "Joseph Mayer, of 585 Beech Street, was sworn in."

Mr. Ehrenberg asked that page 68, last paragraph, be amended to say, "He asked if they were willing to do what was necessary - to sway the use for pervious pavers,

Mr. Ehrenberg asked that page 71, 4<sup>th</sup> paragraph be added to say, "Did they feel that if this Plan was adopted, it would be a piece of property which was over-developed?"

Mr. Lester asked that page 65, 8<sup>th</sup> paragraph, be amended to show that Mr. Lester did not vote on this matter.

Mr. Ehrenberg moved to approve the minutes as amended, subject to absent members to correct statements directly attributed to them.

Seconded by Mr. Panzella and unanimously carried by voice vote by those members who were eligible to vote.

### **BUCKNER APPLICATION (continuation)**

The attorney for the Buckners sent a notice that there was a death in his family and asked that this matter be adjourned for an additional month.

There were no objections to this request.

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### **TAYLOR APPLICATION (continuation)**

Mr. Lester took the Chair because Mr. Posen had recused himself from participating in this application.

The following Exhibits were marked into evidence:

- A-7 Supplemental Environmental Report
- A-8 Amended Pool Site Plan
- A-9 Property Survey

It was noted that based upon a conversation with the engineer, numbers 1,5,12, 17, and 27 were either completed or revised from the original assessment.

Mr. Lester asked for an answer to number 12. He said that the original was changed from, "not this time" to "No."

Mr. McClellan then went into screen share and referred to Exhibit A-8. It was revised on 12/14/21 and the changes were reviewed.

There was discussion about possibly using permeable pavers on the 3-foot area near the driveway, the previous pavers with the white spaces which allowed water to go through as well as some other issues.

They went over the square footage of the pervious and impervious areas, permeable pavers, changes – if any – to the pool and the surrounding area.

Reference was made to the Plat Plan and the topography was reviewed. Upon questioning, Mr. McClellan explained that the water would go into the top 7 ft. 6 in. of the pool and also into chambers if it rained.

Mr. Taylor stated that they had given a lot of thought to everything that was done in order to make it better. He then went over the percentages which several of the surrounding towns required.

Mr. Lester pointed out that the requirement was 15% and it was currently at 17.7%. There was discussion on alternative ways to reduce the pavement coverage on the property – including the driveway area.

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Mr. McClellan explained that the driveway backup area was only 23 ft. and a minimum of usually 24 or 25 ft. are needed for backup. He said it would be very difficult to get out of the garage.

Mr. Taylor stated that the cost would be significant.

Mr. Lester opened the meeting to the public for questions.

Mr. Leeds asked if there would be any maintenance required in any of the pits on his property. He also asked if his property should be required to be regularly maintained.

Mr. McClellan said that the property should be maintained twice a year and also after 2 inches of rainfall.

Mr. Mayer asked if when all of this happens and the water level in his place gets water damage, whom should he talk to, or would he have to absorb the cost.

Mr. Lester advised that he would have to contact his attorney.

Mr. McClellan said that he did not know to whom Mr. Mayer should speak. He reminded Mr. Mayer that the first 6 or 7 inches would go into the pool and he did not see how the water would roll off.

There was discussion about liability issues and it was noted that they were not before the Board to consider legal opinions.

Mr. Mayer said that the applicants were trying to get a variance for 100% of the project and there was nothing to absorb the water. He said that they have never had water in their basement and he did not want water from his neighbor's pool.

There was discussion about impervious coverage allowance.

Mr. Barret said that they had to take into account the driveway, which had been approved by the Borough. He noted that the house had been built in 2006 and they have not done anything to the property to increase the impervious coverage. Mr. Barrett said that the best thing to do was to change the pavers into impervious pavers. He said that the hardship was the size of the driveway. There would be a benefit from the improvement by the capture of water.

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Mr. Barrett said that the applicants wanted to do everything in a way so that there would be no adverse effects to the neighbors.

Mr. Lester said that on the negative side, other property was not available. He said he believed that one criterion was that the building lawfully exists on the property. The driveway causes the hardship that would be a ground for a variance.

There being no further discussion, Mr. Lester entertained a motion.

Mr. Vierheilg moved to approve the variance because the water issue would be improved. He said that adding impervious pavers and reducing the size size would bring it closer to conformity.

Mr. Panzella said that he seconded the motion based on the new Plans.

There was discussion about how they would legalize it.

Mr. Lester asked about what would happen since it has been approved in the past and was a legal building with legal non-conformities.

Mr. Barrett said that they knew it existed, but did not know what would happen in the future.

Mr. Lester asked them if they felt the permit was improperly issued.

Mr. Barrett responded that they did not know what had happened.

Mr. West said he believed that since the issue was in other notes, they could not have a discussion of the existing non-conformity so he did not think the Board had jurisdiction this time.

There was discussion.

Mr. West stated that this was a pre-existing non-conforming lot. Building coverage was at the limit.

There was additional discussion.



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The roll call went as follows with the eligible members: Yes - Mr. Vierheilig, Mr. Panzella; No – Mr. Ehrenberg, Mr. Lester, Mr. Pilsbury, and Mr. Weiss. Motion failed.

Mr. Lester said he was sympathetic as to all the Board determined was necessary, and also that they revised the Plan.

Mr. Barrett stated that if anyone had any interest, they would have been in attendance.

Mr. West said that they could have waited to the end and could have asked during the Application.

Mr. Barrett replied that he understood.

Mr. Posen took the Chair.

### **COUNCIL REPORT**

Councilman Rosenberg reported on the following:

- The sanitation contracts were renewed and there is a change in the service. That is, there will be no front-yard pick up, re-cycling needs to be brought to the curb. They worked very hard to keep the service as is, however, none of the contractors would agree to doing this.

Mr. Lester asked about what the seniors were going to do to get their trash to the curb when the area was icy.

### **BUILDING DEPARTMENT REPORT**

There was no Building Department Report this evening.

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**ADMINISTRATIVE**

Mr. Posen said that it was hard to believe that there was no programs and no advance knowledge of any applications in February – only the Buckner Resolution.

There being no further business, Mr. Ehrenberg moved to adjourn.

Seconded by Mr. Pilsbury, and upon voice vote was unanimously carried.

Respectfully submitted,

/s/

Dolores Fazio O'Dowd