

Township of South Hackensack
BOARD OF ADJUSTMENT
July 26, 2010

MINUTES

At 7:40 p.m. the meeting was Called to Order. Pursuant to the Open Public Meetings Act, adequate notice of this meeting was advertised in The Record and the Herald News and by posting a copy of the meeting notice on the bulletin board in the clerk's office where notices are customarily posted.

The Chairman led the flag salute.
The Secretary called the roll.

Member Present

Brian Veprek, Sr. Lou LoPiccolo
John Falato Angelo Marrella
Kevin T. Tichacek (Boswell Engineering)

Members Absent

James Diraimondo Lou LoPiccolo
Luis Perdomo Bill Regan
Victor Santos

MINUTES:

LoPiccolo **motioned**; Falato seconded to approve the **Minutes** of the May 22, 2010 and June 28, 2010 meetings. All in favor.

CORRESPONDENCE:

Letter from Upper Main Alliance was held until next meeting, August 23, 2010 when applicant will be heard.

OLD BUSINESS

BOA 2010-02

Collaborative Support Programs of NJ, Inc.

240 South Main Street

Block: 25 Lot: 1

Use variance

Padovano advised the Board that a quorum of five members is required to hear a Use Variance. Since the Board consisted of only four members, no action could be taken.

Padovano announced to the public that if anyone was here tonight for this hearing, that it will be adjourned to August 23, 2010 without further notice.

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BOA 2010-01

Marianinfa Zito

77 Calicooneck Road

Block: 7.05 Lot: 29

REVISED ARCHITECTURAL DRAWINGS - New two (2) dwelling units and variances

Matt Demaria, Esq., representing Ms. Zito, asked for an adjournment until next month's meeting without further notice since there were only four Board Members present.

Vepek motioned; LoPiccolo seconded to adjourn this hearing to the August 23, 2010 meeting. Roll Call Vote: 4 Yes – LoPiccolo; Falato; Vepek; Marrella.

Padovano announced to the public that if anyone was here tonight for this hearing, that it will be adjourned to August 23, 2010 without further notice.

NEW BUSINESS

BOA 2010-03

Francesco & Maria Competiello

16 Park Street

Block: 13.04 Lot: 18

Simple Variance – Construct a roof over an existing front porch and steps.

Padovano **swore in:** Maria Competiello, 16 Park Street, So. Hackensack, NJ.

Competiello stated that she would like to erect an open roof with two simple posts over the existing porch and steps.

Padovano **swore in:** Ray DeRiso, Zoning Officer Township of South Hackensack. DeRiso stated because the house is located in a cul-de-sac, the front façade of the home is at the required set-back. The proposed overhang is approximately 5 feet from the front facade with 2 columns supporting the front with side railing. The front porch is not an exempted item. He stated that the porch is in accordance with the rest of the neighborhood.

LoPiccolo motioned; Falato seconded to grant a variance. Roll Call Vote: 4 Yes – LoPiccolo; Falato; Vepek; Marrella.

Padovano advised the applicant that there is an appeal period of 45 days from the date of publication of notice. Any work done prior to the expiration of the appeal period is at the sole risk of the applicant.

Meeting Open to the Public

Diosa Super Club

370 Route 46 West

Mr. Migliorino, Esq. Representing Diosa Super Club

384 Liberty Street

Little Ferry, NJ

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Migliorino stated that his client, Diosa Supper Club, is currently in the process of purchasing the property of 370 Route 46 West. He also represented the previous owner of this location, Athena. Athena was granted a use variance with limited live DJ for catered or private events only. He is requesting a minor change in the Resolution from "private events" to "public events".

Angelo Karos
Dios Mas Partnership, LLP
115 Unio Avenue
Little Ferry, NJ

Karlos, owner of Diosa Super Club corrected his attorney, Migliorino, stating that the name of the establishment is, "Super Club" not "Supper Club".

Migliorino corrected himself and stated that it is going to be a dance club. He stated that at present time they are allowed a live band every night but not a live DJ; if they charge a cover charge they could then circumvent the ordinance. He stated that he is not here to request a use variance because they were already granted one with Athena. He recited from the Resolution; Application of GM 360, LLC (Athena); Application No. 2009-10; Page 9, Section b: Section B: "Accessory Live Entertainment: The Applicant shall be entitled to utilize the Property in accordance with the restaurant use with limited accessory live entertainment which includes a dance floor available for patrons of the restaurant."

Karlos stated that he has already been granted live entertainment. He has been booking bands that have a sound guy with the digital board. Can the sound guy then be called a DJ? A DJ can help his business; he does not see any difference. He stated that he was asking for a downgrade by asking for a DJ; and by asking for the resolution to be modified.

Padovano stated that the restaurant use was the primary use permitted under the resolution. The resolution states the entertainment as accessory.

Veprek stated that The Board spent a lot of time on this application going over all the particulars. He stated that if the applicant wanted to change the ordinance for this establishment, an application should be made for a variance permitting a live DJ for public use.

Migliorino stated that if we cannot make this modification tonight, then he must decide what he is going to do; if he is going to superior court. He stated that they are requesting a modification of one simple thing for the DJ from private to public. He also stated, if we charge \$5, then it would be considered a private party.

Padovano stated that a live DJ brings volumes of people with no other intent than to listen to a DJ. The board limited the Resolution to private parties where there would be better control of the number of people attending.

LoPiccolo stated that the Applicant's intent is to make a dance club with a restaurant not a restaurant with dance. There were will be alot more patrons and cars and that is going to be a major issue.

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Migliorino stated that parking is a police issue. This is a dance club not Hell

Karlos stated that the promoters of the DJ are private event because patrons will be only invited by text message.

DeRiso, Zoning Official, stated that he would issue a summons under that circumstance.

Karlos stated that live entertainment costs approximately \$10,000 a day while hiring a DJ is less expensive thus creating a larger margin of profit.

Migliorino stated that they would go to superior court to challenge the resolution.

Veprek stated that by your own statement you said it makes no difference if you have a band or a DJ.

Karlos stated that the difference is it will give me more chance for business.

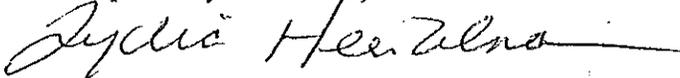
DeRiso stated that both the owner and this attorney have referred to this place as a dance club not as a restaurant. A dance club is not a permitted use in this zone. He will be in violation if he opens as a dance club.

Migliorino stated that it is a hybrid. He did not have to defend his point, if its 50% food or 50% dancing. He stated that he did not believe it to be a problem.

Veprek stated that the Board has been more than fair to all that comes before them and try to do the best for all businesses. He stated that applicant needs to come before The Board for a new variance.

At 9:26 p.m. the meeting was adjourned. Veprek motioned to adjourn the meeting; second by Falato.

Respectfully Submitted,



Lydia Heinzelman
Planning/Zoning Board Secretary

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