

**REGULAR MEETING MINUTES OF THE BOROUGH OF OGDENSBURG  
LAND USE BOARD FOR  
November 26, 2024, AT THE OGDENSBURG  
MUNICIPAL BUILDING, 14 HIGHLAND AVE.  
OGDENSBURG, AT 7:00pm**

Chairman Elliott Honig called the meeting to order at 7:00pm.

Chairman Honig led the Pledge of Allegiance.

**STATEMENT OF COMPLIANCE**

The notice requirement of P.L. 1975, Chapter 231, Sections 4 and 13 have been satisfied with a schedule of all meetings together with the time, location and agenda of same being sent to the NEW JERSEY HERALD and the NEW JERSEY SUNDAY HERALD and posted on the bulletin board at the Borough Hall on January 24, 2024.

**ROLL CALL:** Andrews, Cahill, Connolly, Fierro, Fitzgibbons, Honig, Mayor Hutnick, Marceau, Poyer

Absent: Nasisi

Also present: Roger Thomas, Board Attorney and Mike Vreeland, Board Engineer

**Upon Roll call Vote:**

Yeas: Andrews, Cahill, Connolly, Fierro, Fitzgibbons, Honig, Hutnick, Marceau, Poyer

Nays: None Absent: Nasisi Abstain: None

**APPROVAL OF THE MINUTES**

Mr. Fierro made a motion to approve the meeting minutes for October 22, 2024. Seconded by Mayor Hutnick.

**Upon Roll call Vote:**

Yeas: Andrews, Cahill, Connolly, Fierro, Fitzgibbons, Honig, Hutnick, Marceau

Nays: None Absent: Nasisi Abstain: Poyer

**APPROVAL OF RESOLUTION**

Chairman Honig commented we have a lengthy agenda tonight; we are going to move the order of things around a little in order to accommodate what will be lengthy in time.

Chairman Honig commented we are going to move up the resolution that is [on the agenda.] This application was approved at the September meeting.

Mr. Fierro made a motion to approve resolution in the matter of Paul and Emily Anderson, Bulk Variance, Block 3.01 Lot 22. Seconded by Councilman Poyer.

**Upon Roll call Vote:**

Yeas: Andrews, Connolly, Fierro, Fitzgibbons, Honig, Hutnick, Marceau, Poyer

Nays: None Absent: Nasisi Abstain: none

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**(Voting eligibility members voted in favor of the application: Andrews, Connolly, Fierro, Fitzgibbons, Honig, Hutnick, Marceau, Poyer)**

Chairman Honig commented he is going to open the meeting to the public for none related agenda items. If you have a general question this would be the appropriate time to ask.

**Mr. Fierro made a motion to open to the public for non-agenda related items. Seconded by Mr. Poyer. All were in favor.**

Carlos Travaros, Atlantic Manor, commented he has several questions for the board. Mr. Travaros thanked the Board; he explained his attorney could not be here. He has a request for his business Atlantic Manor on Main Street. Mr. Travaris explained an expiration date that is coming up; the extension of premises is being worked on everything has been submitted; he is also working on the application to the Land Use Board and is requesting an extension.

Mr. Thomas commented he doesn't know if this Board has the ability to grant an extension of an executive order by the Governor of the State of New Jersey. However, it he would be happy to speak to your attorney about possibilities. If you can get the application in prior to the extension expiring he would be happy to talk to your attorney about possibilities. You need to get the application in to Robin in advance of that extension.

Mr. Travaros explained the application is about ninety percent completed.

Mr. Thomas explained what he suggests is to get that application in as soon as possible to Robin along with the application fees. Once he knows the application is submitted he will reach out to your Attorney with some thoughts that he has.

**Mayor Hutnick made a motion to close to the public for non-agenda related items. Seconded by Mr. Fitzgibbons. All were in favor.**

**APPLICATIONS FOR COMPLETENESS**

**LUB 06-2024 Ramos, Bulk Variance front porch block 3.04 Lot 32.**

**(Voting eligibility: All members present and alternates as needed.)**

Mike Vreeland, Board Engineer explained he reviewed the application and visited the site upon our initial review he had a little concern about completeness at that point because the application package did not include a sketch, photo or exhibit of what the front porch/deck was going to look like. We reached out to Robin with our concern and subsequently an exhibit was provided as part of the application. So, based on the nature of the application and the application submitted we believe there is sufficient information for us to do a technical review; he has no objection to deem this application complete.

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Mr. Thomas commented if the Board is comfortable with this information make a motion to confirm the application to be deemed complete.

Mayor Hutnick made a motion to deem complete application LUB 06-2024 Ramos, Bulk Variance Block 3.04 Lot 32. Seconded by Mr. Fitzgibbons.

**Upon Roll call Vote:**

Yeas: Andrews, Connolly, Fierro, Fitzgibbons, Honig, Hutnick, Marceau, Poyer

Nays: None Absent: Nasisi Abstain: Cahill

**APPLICATIONS TO BE HEARD**

**LUB 01-2024 Kamel Yassin, Minor Site Plan, Bulk Variance, Use Variance, Block 3.01 Lot 61.**

Chairman Honig explained this application has been asked to be tabled. They requested an extension until December 31, 2024.

Mr. Thomas commented you need to carry this matter; you need to carry to a certain date otherwise they will be required to renotece.

Chairman Honig asked an extension was until December 31, 2024 our next official meeting will be in January.

Mr. Thomas commented this application will be carried to January 28, 2025 at 7:00pm no further notice will be provided.

**LUB 04-2024 John Mulcahey, Variance “shed” Block 11 Lot 27.**

**(Voting eligibility: All members that are present and alternates as needed.)**

Chairman Honig commented the board has also be asked to carry application LUB 04-2024 Block 11 Lot 27 until that time.

Mr. Thomas commented is sounds like the same thing; it is a variance.

Ms. Hough commented they have not noticed.

Mr. Vreeland commented the application was deemed complete.

Mr. Thomas commented: correct. Mr. Vreeland commented that we are well within the 180 days so we still have time.

Chairman Honig commented at this point this application will be carried to the January 28, 2025 meeting.

**LUB 05-2024 Greg and Katarzyna Stanislawczyk, Bulk Variance, Certificate of Non-Conformity or variance if required. Block 11 Lot 26.**

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Chairman Honig commented this next application we have members here as well as representation.

Mr. Fitzgibbons, Vice Chairman of the Land Use Board and Class IV member recused himself and left the dais as he is a resident on the 200-foot list for this application.

Mr. Thomas asked the applicant's attorney to step forward.

Mr. Eric Wood, Attorney for the applicant stepped forward.

Mr. Thomas explained he has had conversations with the applicant's attorney; the only thing that will be before the Board at this time is going to be the C Variance application. There are currently two residents on this lot; therefore, that potentially is a D Variance or a pre-existing condition of a non-conforming use. Mr. Thomas explained if there is a D Variance the Mayor and Council member has to step down.

Mr. Thomas asked Mr. Wood is your plan ultimately to proceed with a D Variance or are you stipulating that the other house will be eliminated as a residence?

Mr. Wood commented his client is going to testify if the C -1 Variance is approved his intent is to abandon the second residence within 30 days of getting the CO on the first residence which would be part of the record and stipulation he would waive his right to that being a non-conforming certificate and he won't be applying for a D Variance for two residents on the same lot.

Mr. Wood explained the application before you is for a C variance, hardship variance, and explained the hardship in applying for the variance.

Mr. Wood called the applicant for his first witness Mr. Greg Stanislawczyk.

Mr. Stanislawczyk, 47 Edison Ave., Ogdensburg NJ 07439 was sworn in at this time.

Mr. Wood asked the applicant questions and the applicant answered as follows.

Mr. Stanislawczyk explained he lives at this residence with his son, daughter, and his wife. His son was present. Mr. Stanislawczyk explained his son is wheelchair-bound.

Mr. Thomas commented you explained he is wheelchair bound but with regard to going into detail of his illness at this point, the Board doesn't need to know this.

Mr. Wood commented he would like to ask one more question because it does have [to do] with one room in the structure. Is it correct your son is supervised 24/7 including at night.

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Mr. Stanislawczyk commented yes.

Mr. Wood asked and the reason being if he were to vomit or something he doesn't have the ability to survive if somebody wasn't there, he can't turn his head, correct?

Mr. Stanislawczyk commented he can't turn his head.

Mr. Wood asked and as such your son requires a handicapped bathroom, shower, bed, ramps, and lifts. Mr. Stanislawczyk agreed yes.

The property was purchased by Mr. Stanislawczyk on September 18, 2021, which is known as 45-47 Edison Road. Mr. Wood asked do you know why it had two street addresses. Prior to purchasing the property did you visit it.

Mr. Stanislawczyk commented no. Mr. Stanislawczyk didn't get a home inspection.

When questioned Mr. Stanislawczyk agreed to the property having two residents, with their own septic, two meters [town water], separate utilities. Mr. Stanislawczyk was aware of someone living in both residences at the time he bought the property.

Mr. Wood asked Mr. Stanislawczyk the resident that resided there refuse the town to allow them to do the CCO inspections. Mr. Stanislawczyk replied yes.

Mr. Wood continued and the town had to seek administrative remedies to get into those residencies. Mr. Stanislawczyk replied yes.

Mr. Wood presented exhibits marked A -1 and A-2, the tax cards for the property. It was determined they were part of the packets and therefore did not need to be marked. Mr. Wood explained take notice the property record card shows that there is an argument for two residents on the same [property] specifically the first structure made reference to two bedrooms, one bath, half bath, kitchen, living room, dining room, and family. The second structure the applicant is being taxed on also makes reference to a full bath, kitchen, and living room. The second part of the card also has the wrong name on it. Mr. Wood commented for the Board to take notice that the last evaluation was in 2010.

Mr. Wood asked Mr. Stanislawczyk as part of the application were you going to originally seek a non-conforming certificate for the two resident structures. Is that correct. Mr. Stanislawczyk commented yes. If you were denied that you were going to seek D variance to permit the two residents on one lot. Mr. Stanislawczyk commented yes. Today are you withdrawing your request to seek that request of non-conformity. Mr. Stanislawczyk commented yes. You are also withdrawing your request for a D Variance at this point with the intent of a stipulation which is

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already part of the record that should you be approved you will not be seeking to have two residents approved on this one lot. Mr. Stanislawczyk commented yes.

Mr. Wood asked which house do you live in now the lower or the upper. Mr. Stanislawczyk commented the lower. The intent is if you are approved for the upper you will abandon the use on the lower house. Mr. Stanislawczyk replied yes.

Mr. Wood asked when did he decide to renovate the upper house. Mr. Stanislawczyk explained that he needed a wheelchair assessable house. Mr. Stanislawczyk hired Tomasz Bona R.A. as the architect. Mr. Stanislawczyk supplied Mr. Bona with the Caffery Survey. The architect's plans were completed based on the Caffery Survey which was supplied with a copy of the plans when he applied for the building permit. At the time the plans were submitted Mr. Stanislawczyk had no knowledge that the Caffery Survey was wrong.

Mr. Wood marked the architectural plans A-1 through A-6. Mr. Wood explained the plans consisted of six pages. The first page has a picture of what the house will look like when it is finished.

Mr. Stanislawczyk explained the house will have siding, and on the side yard variance there will not be lighting. The existing septic was sufficient for the design of the house being built. There is an email from the health department.

Mr. Thomas commented there is an email dated August 3, 2023 from Candice Morgan, Senior Registered Environmental Health Specialist, Sussex County Department of Health and Human Services indicating the supporting documentation attached not to exceed two bedrooms. Mr. Thomas marked this A-1.

Mr. Stanislawczyk testified the house to be constructed is to be a two-bedroom house and that is what the plans call for. After he obtained the architectural plan he applied for a building permit, there were several building permits applied for, the Caffery plans were part of the building permits. Mr. Stanislawczyk testified at the time he submitted the building permits he was not aware that the Caffery survey was inaccurate and everything that was submitted was submitted in good faith.

Mr. Stanislawczyk testified that after he received the building permit he started building.

Mr. Wood asked at some point in time you received a stop work order.

Mr. Stanislawczyk testified yes, the dated he received that stop work order was on or about December 14, 2023. At that point the foundation was already in, the heating was already installed in the foundation wall, the slabs were already poured, the plumbing was already

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installed in the slabs, the exterior wall was constructed for the right side of the structure and the ceiling joist was installed for the right side of the structure.

Mr. Wood asked at some point in time did your neighbor approach you and what was discussed.

Mr. Stanislawczyk testified that he was too close to the property line; he brought out his survey and the neighbor said it was wrong and he asked the neighbor to show him a copy of his survey so he could figure out what was wrong. He was never given a copy of that survey.

Mr. Wood asked up to today's date have you ever seen a copy of your neighbor's survey that he claimed to have prior to the Pilny survey.

Mr. Wood asked on or about December 7, 2023 Mr. McGovern came into the file as the attorney for your neighbor, correct and is it also accurate in his letter that he requested a copy of your survey. Mr. Stanislawczyk commented yes.

Mr. Stanislawczyk explained as a result of the letter he called the town, spoke to the inspector and the zoning officer.

Mr. Wood explained on December 14, 2023 we sent a letter to Mr. McGovern regarding his client's position and provided a copy of your survey and plans. Did your neighbor obtain a survey dated December 12, 2023 from Pilny. Mr. Stanislawczyk replied yes. Mr. Wood explained the survey showed the structure to close to the property line; on the next day which was eight days after the attorneys got involved, he sent an email to Mr. McGovern acknowledging the fact there is an error in one of the two surveys. As a result of that error, Kenneth Wentick was hired to review the two surveys. Mr. Wentick found that the Pilmy survey was accurate. As a result of that finding Mr. Stanislawczyk realized he needed a variance in regards to the setback.

Chairman Honig asked what was the date you found out that the Pilny survey was correct.

Mr. Wood commented he didn't have that. Mr. Wood asked Mr. Stanislawczyk if you didn't know the Pilny Survey was correct until well after the stop work order. Mr. Stanislawczyk replied yes. Mr. Wood explained as a result of that on December 15, 2023 we acknowledged that there was a dispute in the two surveys; that you were willing be have a professional determine which survey was correct. In the event that the Caffery Survey was wrong, you were going to apply for a variance to permit the structure to remain where it was presently built. Mr. Stanislawczyk replied yes.

Mr. Thomas informed Mr. Wood that the questions were beginning to be over the line.

Mr. Wood presented pictures to the Board which were marked as A-5 through A-31.

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Mr. Wood started with the exhibit and had Mr. Stanislawczyk explain each picture. Chairman Honig commented we can certainly go through these he would like to acknowledge that we can see that there is construction that has been done, and everything that you stated as far as heating the slab has been done. For the sake of time, it is safe to say do we do not need to go through 30 pages of pictures.

There was a brief discussion on the pictures, Mr. Stanislawczyk explained A-14, then A-15, it was decided by the Board to move forward with Mr. Stanislawczyk explaining pictures A-16 to A-31.

The Architect's plans were displayed on an easel. There was a discussion on the plans, Mr. Stanislawczyk explained the layout of the property, the property line, the neighbor's property, and drainage.

Mr. Wood marked exhibits A-32 footing, foundation and slab, A-33 Receptacles fixtures etc. A-34 show slab etc. and A-35 all are under general construction.

Mr. Stanislawczyk explained the additional exhibits.

Chairman Honig commented to clarify he has permits, the building permits were issued and at this point, we understand permits were issued that is not the question because the building department will issue permits based on the approval of zoning and that was done based on what was submitted so let's move forward passed that.

Mr. Stanislawczyk explained A-36 was a copy of all the approval of building permits.

Chairman Honig commented to clarify because they were approved by the building department doesn't change anything with the survey itself and the question of the survey. This is all based on the original survey which is the Caffery Survey. It was sometime after December 15, 2023 was determined to be an inaccurate survey and he wanted to clarify that for the record.

Mr. Stanislawczyk explained what he would have to do to take down this building structure that has been done so far. Mr. Stanislawczyk also explained he had asked his architect to design the house based on his handicap with ramps, not steps, rooms being big enough to accommodate a wheelchair, and other equipment.

Mr. Wood referenced page 3 of the plans. Mr. Stanislawczyk explained the layout on page 3.

Mr. Thomas asked if there were any additional questions for the Board. Mr. Thomas asked if there were any questions from members of the public.

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Mr. Sean Breslin, Esq. stated he was here to represent the Mulcahey's. Mr. Breslin asked if he could cross-examine Mr. Stanislawczyk.

Mr. Breslin asked when was the first time you had a discussion with your next-door neighbor the Mulcahey's about you wanting to build a new house. Mr. Stanislawczyk replied when he first bought the property, that was the original plan to renovate it.

Mr. Breslin asked when at any time did you have a conversation with them that you were going to start construction. Mr. Stanislawczyk replied he can't remember.

Mr. Breslin asked sometime in November, 2023 did you meet with Mr. and Mrs. Mulcahey and you discussed the property line. Mr. Stanislawczyk replied yes around that time. Mr. Breslin asked they told you that you were to close to the property line and go to the property marker and to take a string to the front of the property.

Mr. Stanislawczyk replied yes, he asked them for a copy of their survey, and they walked up to him with a piece of paper flashed it in front of him, and said we have a survey you are on our property. That evening he asked Mr. Mulcahey for a copy of his survey when he get a chance because he wanted to go to the zoning officer because we have to figure this out.

Mr. Breslin asked did you take trees down that were on their property. Mr. Stanislawczyk replied no.

Mr. Breslin asked did you have an agreement with the Mulcahey's that you two would figure out where exactly is the property line.

Mr. Stanislawczyk replied he asked them for a copy of their survey and the next thing he received was an attorney letter. He spoke to the zoning officer and he said he had no reason to stop you until he had proof. So, he kept working until he had proof. He stopped once he received the stop work order.

Mr. Wood asked Mr. Stanislawczyk on November, 2023 were you notified the neighbor disputed the property line do you recall the date, when the neighbor approached you in the dispute of the property line. Mr. Wood commented he would like the Board to take notice of the permit approvals were in October and November for the foundation.

Mr. Wentink was sworn in at this time. Mr. Wentink stated his name is Kenneth Wentink, 30 Old Clove Road, Wantage, NJ and gave his credentials.

Mr. Wood asked Mr. Wentink if he was familiar with what the application is for. Mr. Wentink replied yes, the application is for a D Variance which was two structure which we are discussing not having the front structure to eliminate the D Variance. Basically, it is for the sideyard.

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Mr. Wood asked Mr. Wentink if he prepared the variance plan dated July 30, 2024. Mr. Wentink commented yes, this plan right here.

Mr. Wood asked if prior to doing the plan if he went out to visit the property. Mr. Wentink replied he did over the weekend. Mr. Wood asked prior to drafting that plan did you visit the property. Mr. Wentink replied not personally his survey crew did. Mr. Wentink explained what his crew did and he first started on this property in 1969. Mr. Wentink explained he did a lot of surveys up and down that street.

Mr. Wood asked Mr. Wentink if he reviewed the Caffery survey and the Pilny survey. Mr. Wentink replied the Pilny survey was closer to his. The Pilny survey agreed with his.

Mr. Wood asked what is the side yard setback as depicted on your plan. Mr. Wentink replied 12.3 feet. Mr. Wood asked is there a portion of the structure that also sticks out and makes it a little further away. Mr. Wentink replied yes. Mr. Wood asked what is the distance from that section. Mr. Wentink is 5 feet it is not parallel with the property line. Mr. Wood asked if the Caffery survey had been accurate we wouldn't be here today. Mr. Wentink replied yes.

Mr. Wood asked because the Caffery survey used different controls the architectural plans that relied upon that survey for the plan is also wrong. Mr. Wentink replied yes.

Mr. Wood asked Mr. Wentink is there anyway the parties would know that the Caffery survey was wrong. Mr. Wentink replied no.

Mr. Wentink testified he prepared the plan and explained the structure that was partially complete pertaining to the foundation and old foundation.

Mr. Wood asked Mr. Wentink about the septic. Mr. Wentink replied if the Health Department says it is satisfactory then it is satisfactory.

Mr. Wentink testified he didn't see any drainage issues; he was there Thursday it was raining so hard he never got out of the car; then he went back on Sunday and walked around and didn't see any drainage issues.

Mr. Wood referred to the plans by Mr. Wentink. Mr. Wentink explained the location of Block 11 and the resident is right on the line on the south side. Mr. Wood asked does that property have two sheds that are on the property line on the north side. Mr. Wentink replied yes. Mr. Wood asked do you agree that there is a side yard setback on that lot as well as the principle structure and the two sheds. Mr. Wentink replied yes sir.

Mr. Thomas commented that is a side yard issue between Lot 27 and 28 not lot 27 and this lot.

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Mr. Wood commented except for the sheds.

Mr. Thomas asked Mr. Wentink what is the side yard setback for an accessory structure. Mr. Wentink said ten feet. Mr. Thomas asked you are saying the neighbor's shed is not ten feet.

Mr. Wentink replied the shed opposite scales about four or five feet and the one opposite the neighbor's house scales two to three feet

Chairman Honig commented to clarify for accessory structures the setback is 5 feet.

There was a brief discussion on other properties in the neighborhood not meeting side yard setbacks. Mr. Wood commented would it be accurate to say that with the number of side yard setback violations that this specific property is in conformance with those other properties. Mr. Wentink replied it's a neighborhood plan you can say that.

Mr. Wood asked Mr. Wentink in order to have this structure comply with the side yard setback what would have to be done.

Mr. Wentink replied they would have to do whatever is necessary to remove part of the building or move it over it's a big job.

Mr. Wentink testified they would have to tear apart the foundation, tear down a wall, rip up the radiant heat, move the plumbing, move the ceiling joist, and possibly redesign the roof. Mr. Wentink testified they would probably have to redesign your whole house.

Mr. Wood referenced pictures 16 through 20. There were back and forth questions on the pictures.

Mr. Thomas explained there are two elements to the negative criteria, one is in regard to the fact that there has to be a showing that there is no substantial detriment to the public good. The second element is what you already outlined which there is no substantial detriment. You [Mr. Wentink] testified that the structure was so far from the front street that it would not have an impact on the intent purpose of the zone plan and zoning ordinances. Mr. Wentink replied correct.

Mr. Wood asked Mr. Wentink if before today he reviewed the 2018 Master Plan Reexamination report. Mr. Wentink replied yes; it didn't really address the issue as this.

Mr. Wood referred to the 2018 Master Plan Reexamination Plan and read part of page 3.

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Mr. Wood asked Mr. Wentink if he would agree the plan does have a goal of rehabilitation. Mr. Wentink replied yes. Mr. Wood commented would you consider this construction is a rehabilitation of an older home. Mr. Wentink replied absolutely.

Mr. Wood read into the record page 6 section Major Objectives identified in the prior reexamination report. Based on that section Mr. Wentink testified the Master Plan has a goal of meeting the housing needs of the community and this house as built would meet the applicant's need for a handicapped house.

Mr. Wood referred to page 8 section extend to such problems have been reduced or have increased substance since the last reexamination report. Mr. Wood read page 8 about the fifth line down.

There was a discussion on surveys and the survey process, controls a surveyor uses and stacks that go in the ground which are placed only if they are requested.

Tomasz Bona, from Bonarch Architecture Design, Woodridge NJ. was sworn in at this time and gave his credentials.

Mr. Bona referred to the architectural plans that he drafted. Mr. Bona testified that when he prepared the plans there was no knowledge or evidence the survey was wrong, the first thing he asked the property owner is for his survey to analyze the design, make sure we didn't have any violations make sure we are in conformance with the setbacks. Mr. Bona testified that he relied on the survey that was provided to him by the owner, he had discussed the needs of the owner handicapped son, the design process so he could translate that into the drawings. Mr. Bona explained how he addressed the applicant's concerns referring to the plans and explained the layout of the house to tailor to the applicant's son's needs.

Mr. Wood asked Mr. Bona what would have to be done to have this in compliant with the 10-foot side yard setback. Mr. Bona explained how he would have to redesign the house and the process of what would have to be done. It would be a major undertaking.

Chairman Honig asked Mr. Bona, when you ask the applicant for a copy of the survey in order to check it complies with local zoning, do you require a certain time frame for those to be updated, is there a time span when you will ask for a new survey.

Mr. Bona replied based on his expertise and what building and zoning departments ask for they like for the survey's not to be older than ten years. If he sees the owner produces a 1968 survey or 1980 or especially if he sees there are differences on the property say it is within ten years and say there is a structure added but doesn't show up on the copy of the survey he would ask for an update and explain.

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Chairman Honig asked based on what you say this is a 2014 Caffery Survey and you didn't see anything major which would have flagged you to ask for an update. Mr. Bona replied it is accurate to what was on the property at that time.

Mr. Vreeland commented Mr. Wentink had gone out there and at that point of time there were some walls that were constructed, he is assuming that the setback on the plan is to the wall; is there a roof overhead?

Mr. Bona commented yes, the overhangs allowable projections.

Mr. Vreeland asked will they be maintained on the applicant's property. Mr. Bona commented they are going to be projecting towards the property line. Mr. Vreeland asked how far. Mr. Bona commented he thinks we have 12 inches. Mr. Vreeland commented on the roof angle we are looking at a foot closer. Mr. Vreeland commented he wanted clarification so the board understood that what was illustrated on the plan may not be the closest physical point of the structure. Mr. Bona commented we based the plans on what was submitted to him and explained.

Mr. Thomas asked Mr. Stanislawczyk when did you start working on this addition. Mr. Stanislawczyk replied over a year ago. September 26, 2023 when the permits were issued.

Mr. Thomas asked when did you stop working on the property. Mr. Stanislawczyk replied when the stop work order was issued. Mr. Thomas asked around December 15, that was the day you stopped work. Mr. Stanislawczyk replied he probably stopped a few days before that.

Mr. Thomas commented his notes reflect there was a stop work order on December 14, 2023 and you stopped work a few days before roughly around the 11<sup>th</sup>.

Mr. Breslin called Victoria Mulcahey forward for testimony. Mrs. Mulcahey 49 Edison Ave. was sworn in at this time.

Mr. Breslin asked questions to Mrs. Mulcahey. Mrs. Mulcahey testified she bought the house in 2000, Mr. Stanislawczyk moved in around 2022, there were no issues at first, they got along pretty well, she was aware he had a handicapped son, they were living in the garage at that time, which is the property down below which is still where they are living.

Mr. Breslin marked exhibits O-1 photo. Mrs. Mulcahey explained the photo which was two owners ago and the types of bushes on the side.

Mrs. Mulcahey testified that November 11, 2023 at 10:00am was her last conversation with Mr. Stanislawczyk. Mrs. Mulcahey explained the conversation she had with him regarding the location of his house, she went out with her survey with her husband and son. She explained you

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are building right on top of them and we need to get this straightened out. Both neighbors had their own survey. Mrs. Mulcahey explained we agreed at that time, we need to be neighborly please let's straighten this out before things go any further. Let's agree that whoever's survey is wrong they will move. Mrs. Mulcahey commented he [Mr. Stanislawczyk] looked her in the face and he agreed to it. Mrs. Mulcahey explained she was going to go to Borough Hall. Mrs. Mulcahey explained she saw them take a green string run the line and smack their heads in disbelief. They being the owner Mr. Stanislawczyk and whoever he had working with him that day.

Mr. Breslin asked Mrs. Mulcahey what was done at this point [referring to the construction started]. Mrs. Mulcahey explained he dug the hole for the footing and filled it, she wasn't sure if the slab was poured at that time, there were no walls up, no header, no joist, no nothing it was just a flat surface.

Mr. Breslin asked so at that time Mr. Stanislawczyk could have stopped and waited. Mrs. Mulcahey replied he agreed that he would. Mrs. Mulcahey testified she hasn't talked to him since then was at work the following week. Mrs. Mulcahey explained she sent Mr. Dixon an email and the survey she had from 2000, his work hours are limited so by time he got back to her it was the 20<sup>th</sup> of November, she then needed to get a survey of her property, she obtained a lawyer at that time it was a week after Thanksgiving it was very hard for her to find a lawyer that was not associated with anyone in the town. Mr. McGovern sent a letter to she thinks to the attorney, Mr. Dixon and Mr. Stanislawczyk advising them there is an issue with the property; that was on December 7<sup>th</sup>.

Mr. Breslin asked is it safe to say the property owner knew beginning November 11, 2023 that Mr. Stanislawczyk knew there was an issue with the property line. Mrs. Mulcahey commented one hundred percent.

Mr. Breslin marked exhibit O-2 a photo. Mrs. Mulcahey explained the photograph which she had taken and answered questions regarding the photo.

Mr. Breslin marked exhibit O-3 a photo. Mrs. Mulcahey explained that a photograph she had taken during the snowstorm showing her bushes leaning over touching the neighbor's structure.

Mr. Breslin marked exhibit O-4 a photo. Mrs. Mulcahey explained the photo which she had recently taken showing the damage to her bushes.

Mr. Breslin marked exhibit O-5 photo. Mrs. Mulcahey explained the photo she had taken within the last month showing a window that will be adjacent to the viewing of her pool.

Mr. Breslin marked exhibit O-6 photo. Mrs. Mulcahey explained the photo she took looking over at the structure.

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Mr. Breslin marked exhibit O-7 photo. Mrs. Mulcahey explained the photo she took showing the view from her deck off of her dining room.

Mr. Breslin marked exhibit O-8 photo. Mrs. Mulcahey explained the photo she took last Tuesday showing the space between her house and the house on the opposite side of her house.

Mrs. Mulcahey explained how she has no peace in her own backyard. Mrs. Mulcahey explained her bushes were destroyed and how they were destroyed.

Mr. Breslin commented for the record he found the letter dated December 7, 2023. Mr. Thomas commented that is the McGovern letter.

Mr. Breslin asked Mrs. Mulcahey if she would like to say anything further. Mrs. Mulcahey commented she would like to make a notation to everybody that the day the work order was issued which was December 14<sup>th</sup> her lawyer had advised her to take pictures the day the stop work order was issued. She has those pictures of his crew trying to hurry up and put the plywood up because they were ready to put a roof on so his comment that he stopped a few days prior is not correct. He stopped that day and she has a picture to prove it.

Mr. Wood asked Mrs. Mulcahey you testified your survey was the year 2000. Mrs. Mulcahey replied yes. Mr. Wood commented Mr. Stanislawczyk's survey date 2014. Is it safe to assume that Mr. Stanislawczyk was adamant that his survey was correct and you were adamant your survey was correct? Mrs. Mulcahey commented yes, we agreed that we would figure it out and whoever was right the other would move.

Mr. Thomas commented to clarify you mean he would move his structure. Mrs. Mulcahey replied that is what he said.

Mr. Wood commented the Pilny Survey was dated December 12, 2023. Mr. Wood asked when that was provided to Mr. McGovern. Mrs. Mulcahey replied her son took it [the survey] to his office she is not aware of what Mr. McGovern did in his office because she was not there.

Mr. Wood asked Mrs. Mulcahey to explain exhibit A-16 which were cars in her yard. Mrs. Mulcahey explained the vehicles.

Mr. Wood referred to exhibits A-18, A-19 and A-20 asking Mrs. Mulcahey to explain what she sees in each picture.

Mr. Wood asked Mrs. Mulcahey if her son runs a business from her house. Mrs. Mulcahey explained he cuts lawns for three of their neighbors, for the neighbor up the road and on the other side which he gets paid for.

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Mr. Thomas asked if anyone had any further questions for Mrs. Mulcahey.

Mr. Breslin called John Mulcahey, 49 Edison Drive to be sworn in at this time.

Mr. Breslin asked Mr. Mulcahey if he had any conversations with Mr. Stanislawczyk about his plans to build his home on his property.

Mr. Mulcahey testified he had, he explained the conversation and asked him where the footprint would be, he had told him he was going to be close to the property line, and he would hate to see him put all this time and effort in and have to move it. Mr. Mulcahey explained the markers on his property and where they were. Mr. Mulcahey explained Mr. Stanislawczyk came out one night and showed him the plans, the footprint and he said the same thing again he would hate to see you put in all this effort and have to move it. Mr. Mulcahey commented Mr. Stanislawczyk said to him that's not my problem that is your problem.

Mr. Mulcahey commented his original conversation with Mr. Stanislawczyk was in August, 2023 when he took the existing house down. That conversation was about the property line and driveway.

Mr. Mulcahey testified around 10:00am on November 11<sup>th</sup> he had a conversation with Mr. Stanislawczyk, Mrs. Mulcahey and their son was also present and one of the gentlemen that was working with Mr. Stanislawczyk. Mr. Mulcahey testified they had the original survey from when they purchased the house. We have to figure this out who's survey is right and who will move their stuff that is what we agreed. After the conversation on November 11<sup>th</sup> he showed him the marker that was in the back and suggested to take a string go to the one in the front and you will know exactly where you are. Mr. Mulcahey testified Mr. Stanislawczyk called him around two O'clock and asked him where the front marker was he explained to take the marking off the pine trees. He did do that; him and his workers. We observed them do this. Mr. Mulcahey testified he observed him pull the string, he realized where the string was falling into his structure then he sat down on the pile of lumber going ok what do I do. Mr. Mulcahey commented ok he finally realized but never had a conversation with him. The last conversation he had was on that morning of the 11<sup>th</sup>.

Then on Wednesday he continued building. Mr. Mulcahey explained how he felt and he doesn't understand why he had to build so close to his property line.

Mr. Wood crossed examined Mr. Mulcahey. Mr. Mulcahey testified he believed his survey was good, which was his opinion. Mr. Wood asked why would your survey be fact and his wasn't. Mr. Mulcahey explained why he thought his was correct. There was back and forth on the survey's and the pins in the ground.

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Mr. Wood asked Mr. Mulcahey would you agree up to December 12<sup>th</sup> there was a dispute as to who's survey was correct. Mr. Mulcahey commented no there was a dispute going back to August.

Mr. Wood asked would you agree that the property line dispute was based on two competing surveys. Mr. Mulcahey commented no. Mr. Wood asked why would you not agree to that. Mr. Mulcahey commented because he can't agree to that. Mr. Wood asked what is not true about the two survey's not agreeing.

Mr. Wood asked Mr. Mulcahey is there anything the applicant can do short of taking that structure down. Mr. Mulcahey replied no. Mr. Wood asked he can't plant trees. Mr. Mulcahey replied no.

Mr. Thomas asked if anyone had additional questions for Mr. Mulcahey.  
Mr. Thomas asked Chairman Honig when did he want to cut this testimony off for the evening.

Chairman Honig commented he thinks both sides have made their case, if you truly think there is something to be added, he thinks we heard everything we need to hear at this point a lot of what we are hearing is property line disputes and emotions are high.

Mr. Thomas commented we need to be in the position for you to decide if you want to keep on going; if you would like to hear another five minutes of testimony the board needs to rule that. If Mr. Wood feels it will go further then you should carry the matter. The question is do you want to end up making a decision tonight.

Chairman Honig explained personally he doesn't feel the Board is in a place to make that decision tonight. At this point for the sake of time, we still have more on our agenda that we have to do. This was not the only item.

Mr. Thomas suggested you give five minutes to Mr. Wood to have whatever rebuttal he has for Mr. Stanislawczyk then cut it off. Since there is a neighbor dispute if the attorneys would like to submit some type of brief that would be ok with him. That would be his suggestion to go on with the next five minutes of testimony if that is what the board chooses.

Mr. Wood called Mr. Stanislawczyk forward to continue testifying. Mr. Wood commented you heard the testimonies from Mr. and Mrs. Mulcahey. Mr. Stanislawczyk commented yes. Mr. Stanislawczyk explained the trees that were taken down. A tree in the back he let him cut it down that was on Mr. Mulcahey property because it was a dead ash tree. The only bushes that got destroyed were the bushes that were destroyed by his tree falling onto his property after being cut down. Mr. Stanislawczyk testified that up to December 12<sup>th</sup> he believed his survey was correct.

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Mr. Thomas commented this matter will be carried to January 28, 2025 no further notice will be required.

**OLD BUSINESS/NEW BUSINESS**

Local Planning Services Grant

Ms. Hough gave a brief update on a letter from Mr. Tessier.

Chairman Honig commented at this point everything on the agenda is tabled.

Chairman Honig commented let the record show Mr. Fitzgibbons has returned to the dais.

Zoning Map & zoning ordinance review

Professional Services for 2025

Budget 2025

Land Use Board Special Meeting December 10, 2024

**CORRESPONDENCE**

There was no discussion on the correspondence.

- CCO and zoning permit report
- Land Use Board Finance Report
- Letter dated November 20, 2024 from Robert Tessier, PP, AICP regarding areas in need of Redevelopment.

**BILLS/VOUCHERS**

Mayor Hutnick made a motion to approve the bills and vouchers. Seconded by Mr. Fierro.

**Upon Roll call Vote:**

Yeas: Andrews, Cahill, Connolly, Fierro, Fitzgibbons, Honig, Hutnick, Marceau, Poyer

Nays: None Absent: Nasisi Abstain: none

- Invoice No. 6290022-2 Van Cleef Engineering, Mike Vreeland, Board Engineer in the amount of \$441.00 charged to escrow account from application LUB 03-2024 Anderson.
- Statement #951594 Dolan and Dolan, Roger Thomas, Board Attorney in the amount of \$366.25 charged to escrow account from application LUB 01-2024 Yassin.
- Statement #951595 Dolan and Dolan, Roger Thomas, Board Attorney in the amount of \$450.25 charged to escrow account from application LUB 03-2024 Anderson.
- Statement #951596 Dolan and Dolan, Roger Thomas, Board Attorney in the amount of \$300.89 charged to escrow account from application LUB 04-2024 Mulcahey.
- Statement #951597 Dolan and Dolan, Roger Thomas, Board Attorney in the amount of \$300.89 charged to escrow account from application LUB 05-2024 Stanislawczyk.

**PUBLIC PORTION**

Mayor Hutnick made a motion to open the meeting to the public. Seconded by Mr. Fitzgibbons.

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All were in favor.

No one stepped forward.

Mr. Fitzgibbons made a motion to close the meeting to the public. Seconded by Mr. Poyer.

All were in favor.

Chairman Honig commented before we close he wish everyone a Happy Thanksgiving and thanked the Board. Chairman Honig commented we do have a special meeting for December 10, 2024 which has been noticed.

**ADJOURN**

Mr. Fitzgibbons made a motion to adjourn. Seconded by Mr. Fierro. All were in favor.

Chairman Honig adjourned the meeting approximately 10:44pm.

Prepared by

Robin Hough, RMC/CMR