

Stanhope Land Use Board  
February 10, 2020  
Regular Meeting  
Minutes

RECEIVED  
MAR 11 2020  
STANHOPE  
BOROUGH

CALL MEETING TO ORDER:

Chairman Maguire called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE:

STATEMENT:

Adequate notice for this meeting has been provided according to the Open Public Meetings Act, Assembly Bill #1030. Notice for this Reorganization Meeting was forwarded to the New Jersey Herald and Daily Record on January 14, 2020 and was placed on the municipal bulletin board.

In the event the Board has not addressed all the items on its agenda by 10:00 p.m., and it is of the opinion that it cannot complete the agenda in a reasonable period, the Board may exercise its option to continue this meeting at an agreed time and place.

At this time, please turn off all cell phones.

ROLL CALL:

Nicholas Bielanowski - present	John Rogalo - present
James Benson - absent	Joseph Torelli - present
Raymond Cipollini - present	Paula Zelif-Murphy - present
Rosemarie Maio - present	John Maguire - present
Thomas Pershouse - absent	

Others present: Board Attorney Glenn Gavan and Board Secretary Ellen Horak

MINUTES

**January 13, 2020 Reorganization Meeting** – On motion by Ms. Zelif-Murphy, seconded by Ms. Maio, the Minutes of the January 13, 2020 Meeting were approved on unanimous voice vote.

CORRESPONDENCE

- 01-21-20 Roger Thomas, Esq. – Section 68 Approval: preexisting non-conforming use as an Airbnb re: Ashton Thomas, 41-43 Lloyd Avenue
- 01-27-20 Houser Engineering – Revised plans re: 7<sup>th</sup> Heaven Market & Delta Gas, Blk 11703, Lot 1 and Blk 11703.01, Lot 1
- 01-27-20 Eric Keller – Resolution Compliance #1 re: Adam Lusardi Variance, 49 Linden Avenue
- 01-28-20 Leonard Goduto, Variance Application re: Blk 11104, Lot 1
- 02-03-20 Glenn Gavan – Resolution of Memorialization re: Kirk Variance Extension, Blk 11304 Lots 6 & 7

On motion by Mr. Torelli, seconded by Mr. Rogalo, and carried by unanimous voice vote, the Correspondence List was accepted and placed on file.

OPEN TO THE PUBLIC FOR NON-AGENDA ITEMS:

Chairman Maguire opened the meeting to the public for non-agenda items. Seeing no one from the public wishing to speak, Chairman Maguire closed the public portion of the meeting.

Chairman Maguire changed the order of the Agenda and moved Resolutions of Memorialization to after the New Hearing.

COMPLETENESS:

**20-01, Leonard Goduto**

Block 11104, Lot 1, Variance Application

Appl. Rec'd: 1/28/2020

45 days: 3/13/2020

Chairman Maguire stated the Completeness Review Committee has reviewed the application and recommends it be deemed complete. On motion by Mr. Torelli, seconded by Mr. Bielanowski and carried by unanimous voice vote, 20-01 Leonard Goduto's Variance Application for Block 11104 Lot 1 was deemed complete. The hearing will be scheduled for the next meeting. It was decision of the Board that the application does not need to be reviewed by the Board Engineer.

NEW HEARING:

**20-02, Ashton Thomas**

Block 10401, Lot 16, Section 68 Approval

(as valid preexisting non-conforming use as an Airbnb)

(Ms. Maio and Mr. Cipollini stepped down from the dais and left the room)

Roger Thomas, Esq. with the firm of Dolan & Dolan, representing the applicant came forward. Attorney Thomas explained this matter is a Section 68 application, meaning they are seeking to establish and obtain a certification that this is a pre-existing, non-conforming use. There is no "application" for a Section 68 matter so he submitted a letter to the Board. Attorney Thomas stated the Thomas' have owned the property for 18 years and purchased it from owners that owned it for 17 years. The property has been continuously used for rental purposes for the past 35 years. Since 2017, the Thomas' have utilized the property as an Airbnb and they will submit proof as to how the property has been utilized. Attorney Thomas noted the Borough of Stanhope's governing body adopted an ordinance in June of 2019 banning Airbnb's in the Borough. Attorney Thomas noted this is a pre-existing, non-conforming use and is permitted. They will provide documentation as well as testimony that will verify that fact.

Mary Ann McField Thomas and Ashton Thomas were sworn in. Attorney Thomas said he will ask his questions to both Mr. and Mrs. Thomas and for them to respond as applicable. Mr. and Mrs. Thomas gave the following responses to the questions of Attorney Thomas. Mr. Thomas said they purchased the property in 2002 from Mr. Frank Taito, who owned the property with three other relatives and during the time they owned it, they did not reside at the property. Mr. Thomas stated Unit 41 is separate from Unit 43. When they purchased the property, it was used for rental purposes and had been for 17 years (since the early 1980's). Mr. Thomas said when they purchased the property in 2002, they did not rent Unit 43, which is the unit closest to the lake; they used it for their own personal use. Mr. Thomas clarified that Unit 41 is the unit closest to the road. They made improvements and rehabilitated both units. Unit 41 was renovated to be rented and Unit 43, which sits on the lake, was renovated and furnished for their own use. They would bring their family to the home on weekends to go hiking, apple picking, pumpkin picking. It became their family's weekend trip. Mr. Thomas said the property abuts Lake Musconetcong, which is a beautiful lake with wildlife. Mrs. Thomas said she loved sitting on the deck looking at the lake, noting the peaceful and calming quality of the area. On the weekends she would sit outside to read and relax and sometimes just watch the lake. They would also cook outside with their children. Mr. and Mrs. Thomas said they are both attorneys in Union

County and the property provided a tranquil retreat from their law practices. Mr. Thomas said he renovated Unit 43 differently than Unit 41 because they were going to use it for their own personal use. He installed extra windows overlooking the lake and furnished it with antique furniture. The unit was not intended to be used as a rental. For the first 15 years, they used the unit for their family, but it changed as their young children grew older and became interested in other things and no longer wanted to go to the property weekends. Mr. Thomas said they still wanted to maintain the property for their own use on weekends and seasonally. When they no longer were having their weekend trips with the family, they started investigating other uses for the property. Mr. Thomas said he researched Airbnb's to understand what it was and to see if it would work for them. They did not want to leave the house empty. Mr. Thomas said the guests mostly come in on Friday and leave on Sunday. The property is being used basically the same way their family used it. Mr. Thomas stated they put restrictions on the property.

Attorney Thomas presented a document from the Borough's tax office for Lot 16, Block 10401, which reflects the property and makes referenced to the fact that the property is a Class 2 property which is a residential property, said document was marked Exhibit A-1. Attorney Thomas noted the property continues to be utilized as residential. Attorney Thomas asked what restrictions are put on the property. Mr. Thomas responded they do not permit parties or events on the property and they do not permit smoking, pets or children under 12 years old. They make it clear what the rules are for the property and they make it clear that the furniture is antique. Mr. Thomas said he greets the people when they arrive and show them the property, walking them through the house and he tells them the rules. When he lists the property on the Airbnb site, he describes the property as well as the restrictions. Mr. Thomas noted he has denied rental to people; most recently being a 17-year old who wanted to rent the property. Mr. Thomas stated they started using the property as an Airbnb in July of 2017 and had their first guest in August of 2017. Attorney Thomas presented a document from Airbnb, with the first page showing the Thomas' earnings summary for January to December 2018. The document also indicates the guests they have engaged from the time they started the Airbnb until the present time, which document was marked Exhibit A-2. The first Airbnb guest to use the property was on August 5, 2017. Attorney Thomas noted the document reflects the fact that the property has been continuously used as an Airbnb through the entirety of 2018 with rentals every month. Attorney Thomas noted this information from Airbnb is the last information available. The Thomas' have not received the final information for the year 2019. Attorney Thomas stated in 2019, Mr. and Mrs. Thomas continued utilizing the property as reflected in A-2. Mr. Gavan noted the letter submitted by Attorney Thomas includes paperwork showing use in 2019.

Mr. Thomas stated they still use the property for their own personal use. During the week they sometimes spend a day there and then go to a restaurant and they will spend some weekends in the summer at the house. Attorney Thomas noted testimony about when a guest arrives one of them are present to introduce the guest to the home and he asked the Thomas' to explain. Mr. Thomas stated he or his wife are present to greet the guest personally and on occasion, if they are not available, a neighbor greets the guest and shows them the home. The guests are always provided with their cell phone numbers in case there is a problem or an issue arises. They also reinforce the rules and regulations and they also direct the guest to some of the local establishments, i.e. restaurants and shops. They also leave informational flyers on activities, i.e. hiking trails. They try to promote the local establishments and they receive feedback from their guests. Mr. Thomas stated guests come from all over the country and world. Many of their guests are coming to the area for a wedding. Mr. Thomas said the feedback he has received from the guests as well as the neighbors has always been positive from both.

Mr. Gavan asked for clarification that Unit 43 is farthest from the road and closest to the lake and is the Airbnb unit. Attorney Thomas responded in the affirmative and submitted a copy of a survey which reflects the 2 houses on the property, which survey was marked Exhibit A-3.

Chairman Maguire asked clarification that there are two dwellings on the property. Mr. Thomas responded in the affirmative. Chairman Maguire asked if Unit 41 is a full-time rental to which Mr. Thomas responded in the affirmative. Chairman Maguire asked how long the current tenant has resided at Unit 41. Mr. Thomas responded the tenant has resided in the Unit for the past 5 years. The property is a traditional landlord/tenant relationship. Chairman Maguire asked about parking on the property. Mr. Thomas responded they have a carport between the walkway and the garage and there is a 2-car garage accessible by the tenant and the Airbnb guest.

Mr. Torelli questioned a favorable decision opening them up to the possibility of making Unit 41 an Airbnb. Attorney Thomas stated this matter only deals with Unit 43 and if they wanted to change Unit 41 to an Airbnb, they would need to come back before the Board. Mr. Thomas assured the Board they have no intention to change Unit 41 to an Airbnb.

Drew Taylor was sworn in. Mr. Taylor testified that he lives across the street from the property and he has lived at the property for 30 years. Attorney Thomas asked Mr. Taylor if in the 30 years he lived there, was the prior owner using the two properties as traditional landlord/tenant relationships. Mr. Taylor answered in the affirmative. Attorney Thomas asked if, when the Thomas' became owners, did they continue to use the unit in the front as a traditional landlord/tenant relationship. Mr. Taylor answered in the affirmative. Attorney Thomas asked if the Thomas' utilized the other unit for their own family. Mr. Taylor responded in the affirmative. Attorney Thomas asked if Mr. Taylor is familiar with the Thomas' Airbnb business. Mr. Taylor responded in the affirmative. Attorney Thomas asked if Mr. Taylor has assisted the Thomas' in the process of greeting the guests. Mr. Taylor answered in the affirmative. Mr. Taylor stated he has also given information to the guests such as local restaurants such as Bell's Mansion and the Black Forest. Mr. Taylor stated in addition to himself, there has been positive relationships the other neighbors and some do not know it is an Airbnb. Attorney Thomas asked if Mr. Taylor sees this as a positive cultural experience. Mr. Taylor responded in the affirmative.

Chairman Maguire questioned the cleaning of the property. Mrs. Thomas responded that she employs someone who has cleaned for her for the past 19 years. Chairman Maguire asked the hours of the rental. Mr. Thomas responded the hours are 3:00 on Friday; however, most guest arrive about 6:00 p.m. and check out is on Sunday at either 11:00 am or 12:00 noon.

Mr. Gavan noted that from testimony and evidence, prior to June 2019, this unit and just this unit was consistently being used as an Airbnb. The applicant did not need to testify and speak about their love for the property because the evidence provided; however, the Board appreciates the extra testimony.

Chairman Maguire noted the question is if the Board agrees that the use was a pre-existing, non-conforming use, which use Mr. and Mrs. Thomas would like to continue with.

Chairman Maguire opened the meeting to the public for questions or comments on this hearing. Seeing no one from the public wishing to speak, Chairman Maguire closed the public portion of the meeting.

On motion by Mr. Rogalo, seconded by Mr. Torelli, and carried by the following unanimous roll call vote, the Board accepted the evidence presented that Unit 43 was a pre-existing, non-conforming use as an Airbnb prior to the June 2019 adoption of the ordinance banning Airbnb's in the Borough.

AFFIRMATIVE: Mr. Bielanowski, Mr. Rogalo, Mr. Torelli, Ms. Zelif-Murphy, Chairman Maguire  
OPPOSED: None  
ABSTENSIONS: None

(Ms. Maio and Mr. Cipollini returned to the dais.)

RESOLUTION OF MEMORIALIZATION:

**19-02, Juntos Holdings LLC**

Block 11205, Lots 1 and 4.01, Use Variance Application and Site Plan  
Application Dismissed: 01/13/2020

Mr. Gavan informed the Board he has not completed the Resolution of Memorialization for this matter. The Resolution of Memorialization dismissing the application of Juntos Holdings LLC will be moved to the March meeting.

**Corey Kirk**, Extension of Variance Approval re:  
30 Linden Avenue (Blk 11304, Lot 6)

Mr. Gavan stated he made a number of minor revisions to the Resolution of Memorialization forwarded to the Board, i.e. correct the year in the first paragraph that reads "62017," change planning board to land use board. On motion by Ms. Zelif-Murphy, seconded by Mr. Cipollini and carried by the following roll call vote, the Resolution of Memorialization memorializing action taken by the Board, extending the variance granted for property at 30 Linden Avenue, Block 11304, Lot 6 was adopted, as revised.

AFFIRMATIVE: Mr. Bielanowski, Mr. Cipollini, Ms. Maio, Mr. Rogalo, Mr. Torelli, Ms. Zelif-Murphy, Chairman Maguire  
OPPOSED: None  
ABSTENSIONS: None

BILLS:

**Bowman Consulting Group Ltd.**

01/07/20	Re: Lusardi Variance	\$225.00
01/07/20	Re: Singh/Bajwa	\$412.50

**Miscellaneous**

01/13/20	New Jersey Planning Officials – Membership Dues	\$325.00
01/22/20	Daily Record – legal notices (Annual Meeting Notice)	\$ 50.91

On motion by Ms. Maio, seconded by Ms. Zelif-Murphy, the aforesaid bills were approved on the following unanimous roll call vote.

AFFIRMATIVE: Mr. Bielanowski, Mr. Cipollini, Ms. Maio, Mr. Rogalo, Mr. Torelli, Ms. Zelif-Murphy, Chairman Maguire  
OPPOSED: None  
ABSTENSIONS: None

OPEN TO THE PUBLIC FOR NON-AGENDA ITEMS:

Chairman Maguire opened the meeting to the public for non-agenda items. Seeing no one from the public wishing to speak, Chairman Maguire closed the public portion of the meeting.

ADJOURNMENT:

On motion by Ms. Zelif-Murphy, seconded by Mr. Rogalo, it was the consensus of the Board to adjourn the meeting at 7:50 P.M.

Respectfully submitted,



Ellen Horak, Board Secretary