

**Borough of Kinnelon**

**Board of Adjustment**

**April 4, 2017**

The regular monthly meeting of the Kinnelon Board of Adjustment was called to order by Chairman John Carpenter at 8:00p.m., Tuesday, April 4, 2017 in the Municipal Building.

It was posted that adequate notice of this meeting had been given in accordance with the Sunshine Law by posting a notice on the municipal bulletin board, by publication of a legal notice in the Suburban Trends on January 2017 and by sending the meeting date to the Daily Record and Herald News on January 2017.

Present and answering roll call were Mr. Carpenter, Mrs. Minett, Mr. Ruocco and Mr. Ott. Mrs. Canale, Mrs. Maletsky and Mr. Diani were absent from this meeting.

Mr. Carpenter asked if everyone would please rise for the Pledge of Allegiance.

Mr. Carpenter stated that application #1460 46 Fayson Lakes Road, application #1462 11 Decker Terrace and application #1402 7 Westcrest Trail would be carried to the May 2, 2017 meeting.

A motion to approve the February 7, 2017 and March 7, 2017 minutes was offered by Mr. Ruocco, second by Mrs. Minett with the affirmative "yes" vote of all on roll call. Mr. Ott abstained.

**Application #1459 Carmen Pio Costa, Block 56703, Lot 127.02.** The applicant seeks approval tap construct a single-family dwelling that is landlocked and does not abut a street. This applicant makes this application as an appeal.

Mr. Carpenter asked if the Board had time to read the Engineers report since the notice came out to early and the report was just recently sent out.

Mr. Boorady stated that there was a typo on page 2, paragraph 3&4 and on page 3 comment 1. On these pages it should say 2014 not 2011.

Mr. Ott said that he was just looking at the report now.

Mr. Carpenter read the Borough Engineers report dated April 3, 2017 into the record.

A motion to deem the application complete was offered by Mr. Ruocco, second by Mrs. Minett with the affirmative "yes" vote of all on roll call.

Mr. Bacchetta swore in Frank Matarazzo (Engineer) and Carmen Pio Costa (applicant).

The Board recognized Mr. Frank Matarazzo as an expert in the field of Engineering and Surveying.

Mr. Kevin S. Krystopik was the Attorney representing Carmen Pio Costa.

Mr. Krystopik stated that this is a piece of property that is landlocked and in 2014 we were in for approvals. We haven't been able to get approvals from the NJDEP or Montville yet. We have submitted a new application with a different route.

Mr. Carpenter asked if DEP approval was still on the table and Mr. Krystopik said that it's complicated and doesn't think it's dead but you never know things change.

Mr. Carpenter stated they should go get DEP approvals first and that would be the best place to start.

Mr. Ott asked if the Highlands exempt that was granted 3 years ago, if it was still in process and Mr. Krystopik said that the exemption doesn't cover this portion.

Mr. Pio Costa stated that the alternate route is acceptable to DEP but we are trying to convince them the first option is better because there is a lot less disturbance. Mr. Pio Costa said that they are hoping to get some kind of answer.

Mr. Ott asked if they were asking to reinstate the approval for the top and get approval for the alternate.

Mr. Krystopik said the appeal has to go through because it's a landlocked property and can consist of both roads.

Mr. Ott asked if his client was aware of the 9 months and why he didn't come back to the board at 8 months to ask for an extension.

Mr. Pio Costa stated that he didn't realize how much time had lapsed.

Mr. Ott asked if the supporting document approvals are all ok with the 2<sup>nd</sup> option.

Mr. Boorady said that they were.

Mr. Ott asked if Kinnelon Fire needed to review it and Mr. Boorady said that Montville will respond to any emergency.

Mr. Krystopik said the call would be taken by Montville because of the location.

Mr. Pio Costa stated that the nearest Firehouse is in Towaco.

Mr. Carpenter said that if the appeal is approved and they get DEP approval there would be 2 driveways here.

Mr. Bacchetta said even if both were approved by the Board the approvals would lapse after 9 months if nothing was done.

Mr. Carpenter stated to get DEP approvals first because he isn't a big fan of the 1400 foot driveway, that is the alternate route.

Mr. Ott said that it's a 1400 foot driveway, you have to build walls and cut the rock. Mr. Ott also asked how steep it was.

Mr. Matarazzo stated that it was 12% and Mr. Boorady stated that its 15%.

Mr. Ott asked if DEP has granted approval and Mr. Pio Costa stated that there is an application for other lots and might be able to connect with that.

Mr. Krystopik said that this a slow process and we needed another route.

Mr. Ott asked what the storm water strategy was.

Mr. Matarazzo said that it flows East off the site, then enters in the driveway where the storm sewer goes into the basin and then goes into a wrap trench. Mr. Matarazzo said there will be no erosion because it will sheet flow.

Mr. Ott asked if there was ground water recharge and Mr. Matarazzo said it is a dry basin with 2 small discharges at the bottom.

Mr. Carpenter asked if there was going to be about a 40 to 50 foot disturbance of the driveway and Mr. Matarazzo said yes.

Mr. Ott stated that in regards to Mr. Boorady's comment about the 400 feet of driveway where there will be run off, what will be done with this.

Mr. Matarazzo said that a lot of the storm water is being diverted so there will be zero runoff at the southern side.

Mr. Pio Costa stated that the property below goes to 287 and any runoff will flow across 50 acres, it will not affect the neighbors.

Mr. Carpenter asked Mr. Pio Costa how long he has owned the property and he said since the 70's.

Mr. Ott asked if test pits were done for the septic and Mr. Matarazzo said yes.

Mr. Ott asked what type of walls would be installed and Mr. Matarazzo said Gavin walls.

Mrs. Minett asked how high the walls would be and Mr. Matarazzo said some places it will vary from 6 feet, 4 feet and 3 feet.

Mrs. Minett asked if there would be a safety rail to keep the cars on the driveway and Mr. Matarazzo said yes some guiderail.

Mr. Carpenter asked what direction the house faced and Mr. Krystopik said the front door is on the north side.

Mr. Pio Costa stated that he shared some of the concerns the Board has but we are trying to do the best we can.

Mr. Boorady asked about the utilities.

Mr. Matarazzo said the electric and telephone will be thrown Montville, there will be propane, well, septic, satellite dish and a private hauler for garbage.

Mr. Boorady asked how many telephone poles would be installed and Mr. Matarazzo said 5.

Mr. Boorady then went over his technical comments:

1. If approvals are granted would need something in writing from Montville and the DEP
2. Would stipulate only one driveway be constructed to minimize the disturbance
3. Discussed this already
4. Sheet #4 show the septic
5. Discussed
6. Would need Mayor and Council approval no matter what driveway is constructed
7. Would be discussed during the Soil Removal application

Mr. Krystopik stated that the applicant would like both routes approved and 9 months is a short time and that we would ask to double that to 18 months.

Mr. Bacchetta stated that if you get your approvals tonight and at 8 months you would send a letter to the Board asking for an extension and show what you have done so far because the application has been deemed complete and the Board has 120 days to act on it.

Mr. Carpenter opened the meeting to the public and hearing no one opened it back up to the Board.

Mrs. Minett asked how the current road was built and Mr. Pio Costa said it was grandfathered in.

Mr. Krystopik asked the board vote on both options.

Mrs. Minett asked what would happen if it was voted down tonight and Mr. Pio Costa said you would be cutting off access to the property.

Mr. Bacchetta stated that the applicant can ask for both routes to be voted on and the Board can vote on them separately. The members should express their opinion before the vote is taken.

Mr. Carpenter stated that he would vote for option A because in good faith can't vote for option B because there is too much disturbance.

Mr. Ott stated that he would vote for the southerly driveway in that Borough Engineer, the applicant's Engineer would work to try and minimize the disturbance as much as possible.

Mrs. Minett stated that the applicant should go back and work with the DEP and make them understand and I would have to vote no because it looks too dangerous.

Mr. Ruocco stated that there was still too many loose ends with driveway, wall and utility poles that he would have to vote no.

A motion to approve the Southerly route with the conditions of the Boroughs Engineers letter and that both Engineers come up with a plan to minimize the disturbance was offered by Mr. Ott and Second by Mr. Ruocco. Mrs. Minett voted no and Mr. Carpenter voted no.

This motion didn't carry.

A motion to approve the northern driveway as in (2014) subject to the Borough Engineer's report, DEP and Montville approval was offered by Mrs. Minett, second by Mr. Ruocco with the affirmative "yes" vote of all on roll call.

A motion to approve the bills was offered by Mr. Ott, second by Mr. Ruocco with the affirmative "yes" vote of all on roll call.

A motion to approve Resolution #1455, 3 Juniper Trail and adjourn was offered by Mrs. Minett, second by Mr. Ruocco with the affirmative "yes" vote on roll call.

Submitted by:

Jennifer Highers  
Board of Adjustment

Cc: All Board Members  
Board Attorney