

**MINUTES OF THE ANDOVER TOWNSHIP LAND USE BOARD MEETING HELD  
DECEMBER 4, 2012**

**OPEN MEETING:** Chairman O'Connell called the meeting to order at 7:30 p.m.

**FLAG SALUTE:** Chairman O'Connell led the flag salute.

**ROLL CALL:**

Diana Boyce – Excused  
Suzanne Howell – Present  
Gerald Huelbig – Present  
Gail Phoebus – Excused  
Ellsworth Bensley Jr. – Present  
CeCe Pattison – Present  
Christine Kretzmer – Excused  
Rick Melfi – Excused  
Paul Messerschmidt (Alt.1) – Excused  
Ken Roberts (Alt. 2) – Present  
Chairman John O'Connell – Present

**PROFESSIONALS PRESENT:** Joseph Golden, P.E., P.P.; Richard Brigliadoro, Esq.

**OPEN PUBLIC MEETINGS ACT NOTICE:** Chairman O'Connell read the following statement: This is an open public meeting of the Andover Township Land Use Board. Notice of this meeting was given in accordance with the Open Public Meetings Act, Chapter 231, Public Law 85. The rules are generally as stated on the agenda.

**RULES:** Chairman O'Connell read the following rules: No new cases after 9:30 p.m. or testimony after 10:00 p.m. Comments from each member of the public are limited to 5 minutes during the public portion of the meeting. Transcript requests are to be in writing with a check for 100% of costs. Material for the meeting is to be filed fourteen days before the next meeting once it has been heard for completeness. Individuals or members of a partnership must be present at the meeting or be represented by an attorney. Testimony is under oath. False testimony constitutes perjury.

**MINUTES:** There were no minutes scheduled for review.

**RESOLUTIONS:** There were no resolutions scheduled for review.

**COMPLETENESS REVIEWS:** There were no matters scheduled for review.

**HEARING:** A-10-12-1, Iacobelli, Lucille. Appeal. Block 105.4 Lot 11 —

Gary A. Kraemer, Esq., appeared on behalf of the Applicant. He presented the Applicant's request to reverse the determination of the zoning official rendered on October 10, 2012 and modify conditions of a resolution titled RESOLUTION GRANTING TEMPORARY VARIANCE, ANDOVER TOWNSHIP ZONING BOARD OF ADJUSTMENT, IN THE MATTER OF GEORGE AND MATILDA DIAZ AND CARMINE AND THERESE FIORETTO. He stated the law indicates that variances run with the land and not with persons. He stated that the variance granted in 1986 should be allowed to continue. Mr. Kraemer noted that the family interested in purchasing the home share some of the same characteristics as the owner of the property stating there were, and are proposed to be, two family units functioning as one household.

Richard Briigliodoro, Esq., confirmed the Zoning Board had jurisdiction, and that no additional variances were requested. He agreed that variances were not to be limited to specific individuals. He read the zoning officer's determination dated October 10, 2012; reviewed the subject resolution passed by the Andover Township Zoning Board of Adjustment on August 25, 1986; reviewed the applicant's submittal narrative; and reviewed the ordinance relative to the definition of family and single-family dwelling unit with the Board. Mr. Golden provided information about multi-generational housing noting that said housing type contains three or more family units.

Mr. Kraemer submitted the following exhibits for the Board's review: Exhibit A-1 —

DEED, County of Sussex, BOOK 1245, Page 64, Document Number 22817, recorded 3/8/85 and made on 2/26/85 between William J. Kilpatrick and Elizabeth Kilpatrick and George Diaz and Matilda Diaz, his wife, Grantor and Theresa Fioretto and Carmen Fioretto, her husband, Grantee; Exhibit A-2 — DEED, County of Sussex, BOOK 1595, Page 090, Document Number 88-19780, recorded 9/16/88 and made on August 25, 1988 between George Diaz and Matilda Diaz, his wife and Theresa Fioretto and Carmen Fioretto, her husband, Grantor, and Theresa Fioretto and Carmen Fioretto, her husband and Lucille Iacobelli, unmarried; Exhibit A-3, *Floor Plan with Fire Separation Notes, Sheet 1 of 1, 11/6/86, Renovations-Kitchen Alterations @ Residence 24 Joyce and Longview, Andover Township*, prepared by W. Jay Ohland, Sr., R.A.; Exhibit A-4 — *Sussex County Department of Environmental and Public Health Services SEPTIC PERMIT 17204, Block 105.04 Lot 11, 12/4/12*; and Exhibit A-5 — CONTRACT FOR THE SALE OF REAL ESTATE, 8/23/12, BUYERS, Heather Sliker, Alan Sliker, Charles Schmiedhauser, Arlene Schmiedhauser; SELLER, Therese Fioretto, et al.

Ms. Lucille Iacobelli was sworn. She confirmed that her sister and brother-in-law sold their interest in the subject property to her, and that she has lived in the home since 1988. She stated that an application was made to the Township in 1986 to change the garage into a living room and kitchen and to change the porch into a bedroom to allow a separate residence within the home. She noted that her deceased mother's living space is contained on one floor that has two separate entrances. Ms. Iacobelli stated the unfinished basement area was shared and contained a daybed as well as laundry and storage facilities. Ms. Iacobelli noted the bathtub located within her portion of the living space, a furnace for the home's three-zone heating system, the electric meter, the mailbox, and both kitchens were shared. She stated the family often had meals

together. She stated the beneficial living arrangement enabled her to be close to and care for her mother. Mr. Roberts inquired about any complaints from neighbors. Ms. Iacobelli stated she had no complaints from them. She also explained that her mother and stepfather have passed, and she cannot carry the home on her own.

Ms. Iacobelli further described the layout of the four-bedroom home and confirmed there is a lockable doorway between the individual dwelling areas within the home. She stated the layout is the same today and from the outside, the home looks like a single-family residence. She confirmed that most of the homes in the neighborhood are single-family homes, and the size of the home is in keeping with the general size of the other homes in the neighborhood.

Ms. Howell reviewed the 1988 transfer of ownership and inquired if said transfer created a zoning violation relative to the conditions of the 1986 approval. Mr. Kraemer stated it was a technical violation. Chairman O'Connell noted that the violation has existed for 24 years. Mr. Kraemer offered that the original resolution's conditions were improper.

Mr. Charles Schmiedhauser was sworn. He confirmed that he is one of the contract purchasers of the subject property, and that all four parties will be on the deed. He stated the two families currently live together in two-bedroom apartment.

Chairman O'Connell opened the meeting to the public. Ms. Betty Donnelly was sworn. She stated that she supported the application and welcomed the buyers.

Mr. Steve Storch was sworn. He stated he is in favor of multi-generational uses.

No other members of the public addressed the Board, and Chairman O'Connell closed the meeting to the public.

The attorneys reviewed case law and discussed the use of a deed restriction to identify the use as single-family. Chairman O'Connell expressed that in past board action, the intent has been to prevent two-family or multi-family structures in the zone. There was no further discussion.

A motion to reverse the decision of the zoning official; and a motion to vacate the conditions of the 1986 resolution; stipulate that a deed restriction be recorded that identifies the structure as a single-family dwelling with prohibitions against alterations intended to change the structure into two separate and distinct dwelling units and/or marketing the structure as two distinct dwelling units was made by Ken Roberts and seconded by Ellsworth Bensley, Jr. Roll Call: Ken Roberts – yes; CeCe Pattison – yes; Gerald Huelbig – yes; Suzanne Howell – yes; Ellsworth Bensley, Jr., – yes; John O'Connell – yes. The motion carried.

**UPCOMING MEETINGS:** Chairman O'Connell confirmed the upcoming meeting dates of December 18, 2012 and January 15, 2013.

**PUBLIC PORTION:** No members of the public addressed the Board.

**VOUCHERS:** There were no vouchers scheduled for review.

**OLD/NEW BUSINESS:** There was no discussion of old or new business.

**ADJOURNMENT:** Having no further business, a motion to adjourn was made by Suzanne Howell and seconded by Ellsworth Bensley, Jr. All were in favor. The meeting adjourned at 9:30 p.m.

Minutes respectfully submitted by:

*/s/ Anne-Marie Wilhelm*

Anne-Marie Wilhelm  
Land Use Administrator