

**Washington Borough
Board of Adjustment Minutes
January 25, 2005**

Prior to the Roll Call the **Oath** was administered to **Victor Cioni and Frank Mangiacotti** by Stuart Ours, Esq., Board Attorney prior to Roll Call. Mr. Kramer was unable to be in attendance at this meeting due to an out-of-town business trip but will be administered the Oath at the February meeting.

Roll Call: Hurley, Mangiacotti, Schlader, Nienstedt, Eller, Semonche and Cioni – 7 Present.

Absent: Post and Kramer – 2 Absent.

Also Present: Stuart Ours, Esq., Board Attorney
Linda L. Hendershot, Clerk

Chairman Eller led the members of the Board of the flag saluté and read the Open Public Meetings Act into the Record.

NOMINATIONS OF OFFICERS FOR 2005

It was moved by Hurley, seconded by Semonche that **Don Eller** be appointed **Temporary Chairman** to conduct the nominations of Officers for the year of 2005:

Nominations were entertained from the floor for **Chairman**.

It was moved by Semonche, seconded by Schlader that **Don Eller** be nominated as **Chairman**.

Hearing no further nominations, it was moved by Semonche, seconded by Mangiacotti that the nominations be closed.

Ayes: 7, Nays: 0.
Motion carried.

Nominations were entertained from the floor for **Vice-Chairman**.

It was moved by Schlader, seconded by Nienstedt that **Larry Hurley** be nominated as **Vice-Chairman**.

Hearing no further nominations, it was moved by Semonche, seconded by Cione that the nominations be closed.

Ayes: 7, Nays: 0.
Motion carried.

Nominations were entertained from the floor for **Secretary**.

It was moved by Hurley, seconded by Schlader that **Frank Mangiacotti** be nominated as **Secretary**.

Hearing no further nominations, it was moved by Schlader, seconded by Semonche that the nominations be closed.

Ayes: 7, Nays: 0.
Motion carried.

Appointment of the Clerk for the Calendar Year 2005

It was moved by Hurley, seconded by Nienstedt that **Linda L. Hendershot** be appointed as **Clerk of the Board** for the Calendar Year of 2005.

Ayes: 7, Nays: 0.
Motion carried.

Appointment of Board Attorney

The following Resolution was moved by Schlader, seconded by Nienstedt **reappointing Stuart Ours, Esq., Board Attorney:**

RESOLUTION

BOARD OF ADJUSTMENT ATTORNEY

WHEREAS, there exists a need for legal services to be rendered to the Washington Borough Board of Adjustment, Warren County, New Jersey; and

WHEREAS, funds for these services are included in the 2005 Budget; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-35, et. seq.) requires that the Resolution authorizing the award of contracts for professional services without competitive bidding must be publicly advertised.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment Members of the Borough of Washington, Warren County, New Jersey as follows:

1. That the Board of Adjustment members are hereby authorized to execute the appointment of **Stuart Ours, Esq.**, as Board of Adjustment Attorney, as outlined in the Local Public Contracts Law because:

“The Services to be rendered by the Board of Adjustment Attorney can only be rendered by a person that meets the qualification standards of the New Jersey Supreme Court, and is further subject to the rules and procedures of the courts of the State of New Jersey and further, the services are of such a qualitative nature as will not reasonably permit the drawing of specifications or the receipt of competitive bids.

A copy of this Resolution shall be published in the Star Gazette as required by law within ten (10) days of its passage.

Roll Call: Mangiacotti, Eller, Schlader, Semonche, Nienstedt, Hurley and Cioni.

Ayes: 7, Nays: 0.
Motion carried.

Resolution Establishing the Attorney’s Rates

The following Resolution establishing the Attorney’s rates was moved by Schlader, seconded by Nienstedt and adopted:

RESOLUTION

ESTABLISHING RATES – BOARD ATTORNEY

WHEREAS, the Board of Adjustment of the Borough of Washington, pursuant to the authority vested in it by N.J.S.A. 40A:55D-24, and the Board having determined to employ an attorney during the calendar year of 2005.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Adjustment, for the Borough of Washington, hereby appoints Stuart Ours, Esq., of 196 Belvidere Avenue, Washington, New Jersey as Attorney for the Borough of Washington, Board of Adjustment.

BE IT FURTHER RESOLVED, that the Board of Adjustment of the Borough of Washington, pursuant to the Agreement with the aforesaid Attorney, approves the expenditures of funds at the rate of **\$125.00 an Hour** for his work beyond attendance of the regularly monthly meetings as may be authorized by the Board, the total not to exceed the sum of **\$3,907.31 specifically \$ 3,407.31** as salary for attending the Board meeting to enable him to become a member of the (PERS) Public Employees Retirement System.

Roll Call: Mangiacotti, Eller, Semonche, Schlader, Nienstedt, Cioni and Hurley.

Ayes: 7, Nays: 0.
Motion carried.

Resolution Establishing the Meetings for the Calendar Year of 2005

The following Resolution scheduling meetings for 2005 was moved by Semonche, seconded by Nienstedt and adopted:

RESOLUTION

OPEN PUBLIC MEETINGS ACT

WHEREAS, pursuant to the Open Public Meetings Act, P.L. 1975, C. 231, the Borough of Washington is required to file and post certain notices of public meetings of the Board of Adjustment of the Borough of Washington; and

WHEREAS, among the obligations imposed upon the Board of Adjustment is the obligation to file the said notices with the newspaper of general circulation in the Borough of Washington.

WHEREAS, the Star Gazette is designated as such newspaper; and

WHEREAS, a Schedule of Regular Meetings must be prepared, posted and filed within seven (7) days of the date of the Annual Re-organizational Meeting of the Board of Adjustment, **NOW, THEREFORE**,

BE IT FURTHER RESOLVED, by the Authority aforesaid, that the attached Schedule of Regular Meetings be furnished to any member of the public requesting the same, upon the payment of such person of the sum of \$ 1.00 to the Borough of Washington, said charge to cover the cost of duplicating the sum and the administrative expense of compliance with the request, all as required by the **OPEN PUBLIC MEETINGS ACT**.

NOTICE

BOARD OF ADJUSTMENT

SCHEDULE OF REGULAR MEETINGS

WASHINGTON BOROUGH, WARREN COUNTY, NEW JERSEY.
(4th Tuesday of Each Month)

January 25, 2005	July 26, 2005
February 22, 2005	August 23, 2005
March 22, 2005	September 27, 2005
April 26, 2005	October 25, 2005
May 24, 2005	November 21, 2005 *
June 28, 2005	December 28, 2005 **

Reorganizational meeting: January 23, 2006

- * Monday
- ** Wednesday

All meetings will be held at 8:00 P.M. on the dates listed in the Council Chambers, 2nd Floor, Washington Borough Municipal Building, 100 Belvidere Avenue, Washington, NJ 07882.

Copies of this Schedule are available to the public from the Borough Clerk upon payment of the sum of \$ 1.00 to the Borough of Washington.

MINUTES:

Regular Meeting – December 28, 2005

Chairman Eller entertained additions or corrections to the minutes of the regular meeting held December 28, 2004.

Some minor typos were noted by the Clerk. It was therefore moved by Hurley, seconded by Nienstedt that the minutes of the regular meeting held December 28, 2004 be approved as corrected.

Roll Call: Mangiacotti, Eller, Hurley and Nienstedt – Ayes: 4, Nays: 0.
Schlader, Semonche and Cioni – Abstained.

Motion carried.

RESOLUTIONS:

Case #2004:24 – Carolyn & William O'Rourke, 23 S. Jackson Avenue

It was moved by Hurley, seconded by Mangiacotti that this Resolution be adopted as approved at the December meeting denying this request to the O'Rourke's to convert a single family home to a two family home.

Roll Call: Nienstedt, Hurley, Eller and Mangiacotti – Ayes: 4, Nays: 0.
Abstained: Schlader, Semonche and Cioni.

Motion carried.

Case #2004:25 – James Yorke, 130 Sunrise Terrace

It was moved by Mangiacotti, seconded by Hurley that this Resolution be adopted as approved at the December meeting approving the construction of a fence for the Yorke property at 130 Sunrise Terrace.

Roll Call: Mangiacotti, Eller, Hurley and Nienstedt – Ayes: 4 Nays: 0.
Abstained: Schlader, Cioni and Semonche.

Motion carried.

OLD BUSINESS:

Case #2004:23 – Vincent E. Roland, Jr, 33 Lambert St., Blk. 2.11, Lot 33

This application is filed for the purpose of constructing a 10' x 24' patio room and deck.

In the Zoning Officer's Refusal of Permit this request was denied for noncompliance with the provisions of Section(s) 94-75 B (4) of the Municipal Zoning Ordinance for the following reasons: Uncovered decks may be constructed in the rear yard, provided that the rear yard of not less than 35 feet shall be maintained.

This case was tabled for additional information to be supplied by the Code Enforcement Officer.

Mr. Bescherer rechecked the measurements of the property and found that the applicant does have a 41' rear yard setback.

Mr. Roland would like to construct a 10' x 24' deck and patio room off the rear of his property to give his daughter more living space on the first level of the home. His daughter suffers from cerebal palsey which does limit her from outside activities.

The attorney outlined the criteria for the granting of this variance for the Board. Variances are required from the rear yard setback, 4' for the uncovered portion of the deck and 9' from the portion of the deck that will be enclosed as a patio room.

It was therefore moved by Hurley, seconded by Nienstedt that Mr. Roland be granted a variance to construct a 10' x 24' deck across the back of his home with half of the deck being open and the other portion of the deck to be an enclosed patio room, this variance can be granted as it presents a severe hardship to the applicant because of his duaghter's physical handicap, this variance can be granted without substantial detriment to the public good, nor will it impair the intent and purpose of the zone plan.

Roll Call: Mangiacotti, Eller, Hurley and Nienstedt – Ayes: 4, Nays: 0.
Abstained: Semonche, Schlader and Cione.

Motion carried.

APPLICATIONS:

Case #2005:1 – Dale & Cathleen Nauta, 318 E. Washington Avenue, Bk. 72, Lot 27

This application is filed for the purpose of constructing a 3' x 4' free-standing sign in the front yard of their business.

In the Zoning Officer's Refusal of Permit this request was denied for noncompliance with the provisions of Section(s) 94-72 6 A & D of the Municipal Zoning Ordinance for the following reasons:

A front yard of not less than 50' shall be maintained for the main building and no portion of the free-standing sign or its supporting members shall be closer to 5' from the property line.

Attorney Ours reviewed the notices of service to the property owners and affidavit of publication and determined that the Board had jurisdiction to hear this application.

The Oath was administered to Cathleen Nauta by Attorney Ours.

Mrs. Nauta explained the reason for their request for a free-standing sign. The existing sign on the building advertising her hair and nail business is difficult for those people coming in a westerly direction from Hackettstown because it is not visible until you are right on top of the business and the trees adjacent to her property also create a visibility problem.

She would like to erect a 3' x 4' unlit free-standing sign in the front yard of her existing business. The Board discussed the location she was requesting and was concerned with blocking visibility and the site triangle. The sign, as presently located, would be 3' in the State right-of-way and would require their approval.

Chairman Eller entertained questions or testimony from the audience. There were none.

The location of the sign was discussed and some suggestions on relocation of the sign were made. The applicant agreed to the proposed changes in the relocation of the sign.

The sign would be located to the rear of the State Highway right-of-way on the westerly side of the driveway of the business and no closer than twelve (12") inches from the lot line of the Agway building. The sign should not be any higher than 6' feet and no closer than 2' feet off the ground.

Attorney Ours reviewed the criteria necessary for the granting of this variance.

It was therefore moved by Semonche, seconded by Schlader that the Board grant a variance to Mrs. Nauta 3' x 4', unlit sign free-standing sign. The sign shall be located on the westerly side of the applicant's driveway, no closer than 12" inches from the lot line of the Agway building and can be no higher than 6' feet and no closer than 2' feet off the ground. This variance is granted due to the unusual shape and size of the lot, given the building is located in close proximity to Rt. 57 and is a very narrow lot, there is no real detriment to the public good, nor will it impair the intent and purpose of the zone plan.

Roll Call: Nienstedt, Cioni, Hurley, Schlader, Semonche, Eller and Mangiacotti.

Ayes: 7, Nays: 0.
Motion carried.

COMMUNICATONS:

The New Jersey Planner was acknowledged, received and filed.

Christina Woykowski wanted to take the opportunity to let the Board know that she wanted to thank them for the kindness shown to her during her short tenure on the Board of Adjustment. She enjoyed her duties serving on this Board and would have continued her appointment on the Board if the Statutes had permitted it. Mrs. Woykowski is now serving as a Councilwoman on Council.

The members of the Board of Adjustment welcomed Victor Cioni to the Board and looked forward to working with him. The Board's job is to work for the betterment of the Borough and to try and meet the needs of the applicant's that appear before them in the presentation of their appeal for relief of the zoning regulations.

The Catholic Charities application was touched upon briefly. They have filed an appeal before the Superior Court. Board member Schlader questioned what takes precedence? Does State Law supercede local jurisdiction?

Attorney Ours explained that the Board must interpret their existing zoning ordinance and must find certain criteria in which to grant an applicant relief to approve what they are proposing to do. The courts must weigh both sides of the issue and make a determination from the transcript and facts brought out during the hearing. In most cases the court generally gives the Board of Adjustment the benefit of the doubt.

Hearing no further business to come before the Board, it was moved by Schlader seconded by Semonche that the meeting be adjourned at 9:30 PM.

Ayes: 7, Nays: 0.
Motion carried.

Respectfully submitted,

Frank Mangiacotti, Secretary