

**LOPATCONG TOWNSHIP ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
JUNE 10, 2015 – 7:00 pm**

CALL TO ORDER BY ACTING CHAIRMAN RUTLEDGE

PLEDGE OF ALLEGIANCE

OPEN PUBLIC MEETINGS STATEMENT: “adequate notice of this meeting has been provided indicating the time and place of the meeting in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star Gazette and The Express-Times and by posting a copy on the bulletin board in the Municipal Building”.

ROLL CALL:

Present: Members DeGroff, Marchie, Horun, Rutledge

Absent: Members Unangst, Larsen, Bittone, Vice-Chairman Gary and Chairman Barcik

OLD BUSINESS:

- Approve the Regular Meeting Minutes from May 13, 2015

Motion by: Member DeGroff

Seconded by: Member Marchie

ROLL CALL:

AYES: Members DeGroff, Marchie, Horun and Acting Chairman Rutledge

NAYS:None

- Memorialize Resolution 2015-07 – Victor Camporine– 500 Red School Lane, in the R75 Zone, Block 35, Lot 2 – to Convert a Two Family Home into a Three Family Home.

**BOARD OF ADJUSTMENT
TOWNSHIP OF LOPATCONG
WARREN COUNTY, NEW JERSEY
CASE NO.: 2015-07
PREMISES: BLOCK 35, LOT 2
500 RED SCHOOL LANE
LOPATCONG TOWNSHIP, NEW JERSEY
APPLICANT: VICTOR CAMPORINE**

WHEREAS, Victor Camporine has made application to the Zoning Board of Adjustment of the Township of Lopatcong to convert an existing two family home to a three family home at the premises located at 500 Red School Lane, Lopatcong Township, New Jersey; and

WHEREAS, the within matter was heard and considered at the regular open public meeting of the Zoning Board of Adjustment of Lopatcong Township on Wednesday, May 13, 2015 held at the Municipal Building, 232 South Third Street, Morris Park Phillipsburg, New Jersey 08865; and

WHEREAS, the applicant submitted a proper and complete Affidavit of service of notice of the instant proceeding upon all property owners within 200 feet of the subject property; and

WHEREAS, the applicant submitted a proper and complete Affidavit of Publication; and

WHEREAS, the aforesaid open public meeting was noticed, advertised and held in accordance with the Open Public Meetings Act; and

WHEREAS, this matter was opened to the public for both the questioning of witnesses and comments; and

WHEREAS, the Zoning Board of Adjustment considered the following:

1. Application for Variance;
2. Real estate listings on Red School Lane;
3. Sketch of lower floor level of the premises at 500 Red School Lane; and

WHEREAS, the Zoning Board of Adjustment does hereby make the following findings of fact:

1. The property in question is known as Block 35, Lot 2 with a street address of 500 Red School Lane. The property is improved with an existing two family dwelling constructed in 1970. Three family dwellings are not permitted in the R75 zone district, where this property is located.

2. The applicant proposes reconfiguration of the lower floor level of the existing home so as to divide it into two separate dwelling units. No exterior changes are proposed. Each dwelling will have its own separate means of ingress and egress.

3. The applicant, Victor Camporine, testified that his wife is suffering from Parkinson's Disease. In order to properly care for her he needs a live in care giver. In order to afford this care giver some privacy and by the same token provide the Camporines with some privacy, a separate dwelling or apartment contained within the existing lower floor level is proposed.

4. This case presents an unusual set of facts and circumstances. Normally, this Board would be reluctant to allow a conversion of an existing legal two family home into a three family home in a zone where it is not permitted. Notwithstanding the foregoing, the Board finds that this case is factually unique. No exterior changes to the structure are proposed whatsoever. A separate means of ingress and egress exist for each separate residence. The property is serviced by public water and sewer. Allowing the Camporine family to remain in the home where they have resided for many years and receive healthcare when needed while at the same time maintaining some modicum of privacy are all laudable goals. For all of these reasons the Board finds that special reasons have been

demonstrated warranting the grant of variance relief. The Board also finds that for these same reasons the negative criteria have been satisfied.

5. The applicant acknowledged that despite the fact that no exterior changes are proposed, all building code requirements for the creation of a separate dwelling must be satisfied.

NOW THEREFORE BE IT RESOLVED by the Board of Adjustment of the Township of Lopatcong, State of New Jersey, that Case Number 2015-7 of Victor Camporine be and is hereby approved subject to the following:

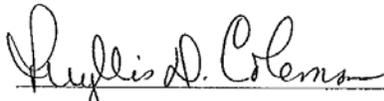
1. All improvements made on the premises shall conform to building standards and other regulations as set forth in any applicable, federal, state, county or municipal statute, regulation, code or ordinance at the time of the installation of such improvements.

2. The applicant shall pay any outstanding invoices for fees and costs incurred in connection with this application prior to the issuance of any permits.

3. This approval shall be null and void unless the applicant obtains a statement from the Chief Financial Officer of the Township of Lopatcong within 60 days that the applicant has paid all outstanding fees and costs associated with this application and further that sufficient monies have been deposited to pay all anticipated disbursements and finally that deposit monies are not overdrawn from prior applications.

CERTIFICATION

I, Phyllis D. Coleman do hereby certify the above to be a true correct copy of a Resolution regularly and duly adopted by the Board of Adjustment of the Township of Lopatcong at a duly called meeting of the Board of Adjustment held on June 10, 2015.


Phyllis D. Coleman

ROLL CALL:

AYES: Members DeGroff, Marchie, Horun and Acting Chairman Rutledge

NAYS: None

- Miles Van Rensselaer – 1352-1354 River Road – Block 4, Lot 1 and Block 1, Lots 3 and 3.01 – Final Major Subdivision Approval.

Acting Chairman Rutledge: Good evening. I guess he has to be sworn in?

Attorney Sposaro: No, he doesn't need, he is the attorney, he doesn't need to be sworn.

Acting Chairman Rutledge: Oh, okay, sorry.

Attorney Sposaro: Go ahead Mr. Van Rensselaer:

Attorney Van Rensselaer: Thank you. Good evening Mr. Chairman, thank you very much. Good evening members of the Board. My name is Bob Van Rensselaer, I'm an attorney with the firm Carter, Van Rensselaer & Caldwell in Bernardsville, New Jersey, and our firm represents the applicant Miles Van Rensselaer, who also happens to be my son. Uh, this is an application for final, uh, approval, final subdivision approval. There are three conditions that, uh, need to be addressed with respect to the preliminary approval granted last, uh, September, uh, one involving a, a county waiver upon approval, uh, which is pending. Now, the other involving provision to the grant prepared by Wayne Ingram, uh, in accordance with the engineers, the (inaudible) engineer's report of September 5, 2014; those revisions have been made. There is a report that was submitted by Mr. Sterbenz on Friday, June 5th, indicating there were certain technical and minor final revisions that need to be made before the plats signed. Uh, Mr. Ingram is here and he certainly can present to the Board about what we've done. Uh, the third condition needed to be address was the, um, submission of approval of a conservation easement, uh, to the Board attorney, but because the Board attorney changed from, uh, one of (inaudible), the preliminary application, uh, was destroyed and now that was deferred to Mr. Sterbenz for his comments because he attended, obviously, the preliminary meeting. Uh, he has approved the conservation easement with two exceptions; he wants a reference made, uh, with respect to wetlands areas and flood hazard areas, to ensure that the applicant will not interfere, mainly, uh, deduct activities that would be against regulations connected with those two acts. I've made those changes; I spoke with Mr. Sterbenz this afternoon, uh, he told me that he would not be attending this evenings meeting, but said, and it cert, and I think his report of June 5th, it appears this is as well, that he would be, uh, comfortable with the Board granting, uh, final approval this evening subject to those three conditions being met; county, county, uh, waiver or approval, which is pending, uh, the, uh, final minor plat revisions by Mr. Ingram, which he'd never take, and get to, uh, Mr. Sterbenz for his final review and the conservation easement, as I, I, I've already said, has been changed; it just needs to be submitted to Mr. Sterbenz for his final review. So I would request the Board, uh, approve the application subject to those three conditions.

Attorney Sposaro: Let me just comment for a minute, if I may. This is an application for final subdivision approval, uh, preliminary approval was granted in September of last year. Um, the Land Use Act, this Board is, uh, obligated to approve the application for final it. The plans are consistent with the plans that we'll approve at the time of subdiv, of, uh, preliminary subdivision approval. Mr. Sterbenz has reviewed the plans, he feels they are consistent. There were conditions attached to the preliminary

approval that would carry over; there are some technical issues contained in, uh, Mr. Sterbenz report of June 5, uh, that need to be addressed as far as tweaking the plans, getting, uh, county approval and some minor modifications to the conservation easement. But this is, uh, this is pretty straight forward, uh, we really don't need to elicit any testimony in my opinion. Professionals have reviewed the plans, they're satisfied with them. I don't know of anybody from the public has any comments to make with respect to this application.

Acting Chairman Rutledge: Make public comment?

Attorney Sposaro: I didn't see any?

Acting Chairman Rutledge: Okay.

Attorney Sposaro: With that then, if there's going to be a motion to approve, then I recommend that, that it be, uh, subject to the conditions that were contained in preliminary and subject to the comments contained, uh, in Mr. Sterbenz report of June 5, 2015. Is that acceptable Mr. Van Rensselaer?

Attorney Van Rensselaer: Yes it is. Thank you.

Attorney Soar: Thank you.

Acting Chairman Rutledge: May I have a motion?

Motion by: Member Horun

Seconded by: Member Marchie

Motion by: Member Horun

Seconded by: Member Marchie

ROLL CALL:

AYES: Members DeGroff, Marchie, Horun and Acting Chairman Rutledge

NAYS: None

Attorney Van Rensselaer: Thank you very much; appreciate your time.

Attorney Sposaro: I'll send you a draft of the resolution.

Attorney Van Rensselaer: Would you like me to draft it?

Attorney Sposaro: I, I will send you a copy of the, uh, resolution.

Attorney Van Rensselaer: Okay, thank you very much.

Attorney Sposaro: Quite welcome.

PAYMENT OF BILLS:

- Anthony J. Sposaro Verizon Wireless \$375.00
 Attend Board Meeting, 5/13/2015 \$250.00

Prepare Resolution for Victor Camporine	\$250.00
Total	<u>\$875.00</u>

Motion by: Member DeGroff

Seconded by: Member Marchie

ROLL CALL:

AYES: Members DeGroff, Marchie, Horun and Acting Chairman Rutledge

NAYS: None

PUBLIC COMMENT:

Lee Rozycki: Lee Rozycki, 56 Puddingstone Way. I was just, um, curious as to when or if the, um, Board of Adjustment will hear, um, a Notice of Appeal of a zoning ordinance that was submitted on behalf of, um, Belcaro and Pryor, from the Law Firm of Norris and Norris?

Attorney Sposaro: I've been in communication with, uh, the attorney; I'm from that firm. I think this has to do with the signage associated with the most recent election.

Mrs. Rozycki: Uh huh.

Attorney Sposaro: Uh, the decision was made, uh, not to interfere with that signage and to let the election pass and then afterwards sort out whether the ordinance applies to political signs or not. I had communication with the municipal attorney and it was my understanding that was what was going to be done. So I communicated that to the attorney, so as, as I understand it, there is no appeal that is going forward.

Mrs. Rozycki: Okay, thank you.

Attorney Sposaro: You're welcome.

Marla Endick: Marla Endick, 10 Byron Drive, um, I am confused, um, so here is, I'll, I'll ask you a question since you're an attorney. If, um, and I asked this at the last council meeting, if I violate a township ordinance, and I'm notified by the zoning officer that I am in violation of a township ordinance, am I allowed to continue to violate that ordinance if I send a letter saying that I'm appealing that ordinance?

Attorney Sposaro: I'm not here in a position to give you legal advice. With all due respect, the Board is my client;

Ms. Endick: Uh huh.

Attorney Sposaro: you are not my client.

Ms. Endick: Right, right.

Attorney Sposaro: I, I, I think that you need to consult with your own attorney to determine what your rights are. I can tell you that internally, the municipality made the decision that rather than make a big deal over this, and rather than interfere with the political process, as I understood it, the signs remained

and there would be no enf, no further enforcement action that would be taking by the zoning officer, to obviate the need to, um, remove the signs, have a challenge. But it is an issue that's going to get addressed.

Ms. Endick: Um, who, when you say, "they decided", who decided not to address the issue? Because my understanding was, the reason it wasn't address was there was a packet sent saying that "we're appealing" and for some reason that was determined by someone, "Well, if they're appealing, then they'll stay up" and now you're telling me, they're not appealing, but the signs stayed up?

Attorney Sposaro: I received correspondence indicating, that was forwarded to me as the Board attorney, indicating that an appeal was being taken.

Ms. Endick: Yes, I've seen that document.

Attorney Sposaro: And I communicated with the attorney that wrote that letter

Ms. Endick: Okay.

Attorney Sposaro: indicating that decision had been made not to take any enforcement action with respect to those signs.

Ms. Endick: Okay. Um,

Attorney Sposaro: Which rendered the appeal mute, but it doesn't render, and, and because the election is over and the signs now, uh, aren't of much utility I would think, that, or any utility, that, um, it, it, obviated the need for the appeal. But the issue still needs to be squarely addressed and I think it needs to be addressed by the governing body

Ms. Endick: Okay.

Attorney Sposaro: with whether the, whether there is valid, legal exception for political signs; there very well may be.

Ms. Endick: Well, we do have precedent set in this township. I don't know if you're aware of that, um, that three years ago there was an election and similar to this one, there were signs put up, very large. There was whole newspaper article on it, uh, the clo, but Mr. Belcaro was actually running, um, that same year. So he was well aware of the township ordinance, which was, clearly states no sign over four square foot goes up. So, um, I don't know what jurisdiction this Board has to defend its own ordinances, but

Attorney Sposaro: It has none.

Ms. Endick: Okay. So it goes, it goes to council then; these guys are completely out of it?

Attorney Sposaro: Yes. We hear applications when people are seeking variance relief from, in connection with, uh, applications for development.

Ms. Endick: Okay.

Attorney Sposaro: An application doesn't comply on, in all four, on all fours with the zoning ordinance. In simple terms, it comes here.

Ms. Endick: Uh huh.

Attorney Sposaro: um, it's a pretty complex question where our jurisdiction is, but in simple terms, we also hear appeals from decisions by the zoning officer. We also have jurisdiction to, to, uh, interpret the zoning ordinance.

Ms. Endick: Uh huh.

Attorney Sposaro: Those are the three areas primarily where this Board has jurisdiction. I was advised by the township attorney, who provides guidance to the governing body,

Ms. Endick: Uh huh.

Attorney Sposaro: that, um, the council was going to address the issue of the ordinance and the legality or enforceability of the ordinance as it relates to political signs.

Ms. Endick: Hm.

Attorney Sposaro: So that's, from our vantage point, that's where it stands. If someone comes to us and files an application for an interpretation,

Ms. Endick: Uh huh.

Attorney Sposaro: whether the ordinance applies to political signs, we would have jurisdiction to hear that and the Board would render an opinion.

Ms. Endick: Okay, so, it is incorrect then that this was given to use as the attorney for the zoning board to determine whether or not the ordinance was actually being violated and whether or not that continued? That did not happen?

Attorney Sposaro: It was sent to me in my capacity as the Board attorney, but I don't make those decisions unilaterally.

Ms. Endick: Okay. Okay.

Attorney Sposaro: If there was an appeal from the zoning officer's determination

Ms. Endick: Uh huh.

Attorney Sposaro: it would be this Board that would have to decide whether

Ms. Endick: Okay.

Attorney Sposaro: the zoning officer was correct.

Ms. Endick: Okay.

Attorney Sposaro: Not me. I could advise the Board, but I don't get to vote.

Ms. Endick: Okay.

Attorney Sposaro: I just give advice.

Ms. Endick: And just for the benefit, I don't know if all of you, are you all familiar with this particular case? Okay, well just for your, um, education, and, uh, what happened was during the last Primary election, um, pretty early on, I think maybe it was the 2nd week of May, Mr. Pryor and Mr. Belcaro, who Ms. Endick (Con't): are running in the Primary Election, put up very over, oversized political lawn signs that break the township ordinance, which says, "signs cannot be bigger than four square feet". They were larger than four square feet. Um, they were I think, was it 21 x 36"? They were, they were larger than four square feet. Um, and you know, we would like to see fair elections in the township if at all possible. Um, Ms. Rozycki who is running with another candidate, Mr. Nazario, had signs that were well under the township ordinance and Ms. Rozycki came in and spoke to the Zoning Officer, Mr. Wayne Degan, and basically said, "I believe these signs are in violation of township ordinance"; and since she brought it to him, because we are often told by Council, when a citizen comes forth and brings forth a complaint that they absolutely must look into it. So the zoning officer took a look into it and determined, yes, in fact, they were breaking township ordinance. He sent a letter to both Mr. Belcaro and Mr. Pryor, informing them that their lawn signs broke township ordinance and that they would be, to be taken down immediately. Uh, they were not taken down immediately and instead, um, some days later, they, I guess, hired an attorney who put together a huge packet of information, which I believe, um, Mr., I'm not going to say it right, Sposaro probably has if you'd like to see it. We OPRA requested it, so we have it. Um, if we challenging the township ordinance, saying, "I don't even remember, it's confusing, um, no one ever has complained about signs before, you're targeting our client", and all kinds of different things. You can read it for yourself. But the fact remains, the ordinance was broken and this was very easy to remedy. If they wanted to put up signs that were over the township ordinance, they could have come in, filed for a permit, gave their money like every other tax payer does and put their signs up, if that's what happened. That's not what happened. Instead, they threatened to appeal the ordinance; they were allowed to keep their signs up, which dwarfed the other candidates signs, place their signs directly in front of the other candidates signs, in many cases, so the other signs couldn't be seen. And, that's kind of what happened. So, I'm trying to get some resolution, because what I don't want to see is each election, our signs start getting bigger and bigger and bigger, which is why we have township ordinances; to keep the beauty and to keep things reasonable. But if we can just break the law and get away with it, time and time again, I foresee that happening in the future. So I hope, if you guys do have any say in this at any point, that you will enforce your own ordinances. I'd appreciate that so much. Thank you.

Attorney Sposaro: Thank you.

Member Rutledge: Inaudible.

Attorney Sposaro: If you'd like, go ahead.

Member Rutledge: I was involved in the last sign incident and, uh, our attorney dug into it and what he come up with is that political signs are political speech. It's protect, protected by the First Amendment and, uh, a local ordinance can't supersede the Constitution.

Ms. Endick: So, I decide to purchase 5' x 5' signs for the next election; two hundred of them, by the way,

Member Rutledge: Go right ahead.

Ms. Endick: and put them up in residential;

Member Rutledge: Go right ahead.

Ms. Endick: You're gonna be okay with that?

Member Rutledge: I will, personally.

Ms. Endick: Okay. All right. So this is

Inaudible – several speaking at once.

Ms. Endick: We have it on the record. Is that on the record Phyllis?

Secretary Coleman: Yes.

Ms. Endick: Okay, great. So we can just grow these signs

Member Horun: Well, that, that's, that's one man's opinion.

Ms. Endick: Okay.

Member Horun: Just so you know.

Ms. Endick: So, yeah.

Member Horun: Obviously there are sight line issues in, involved and things of that nature.

Mr. Olschewski: What's interesting, (inaudible) to our sign, which is \$100 (inaudible) per day, Mr. Belcaro and Pryor, they owe us \$11,000.00.

Ms. Endick: That's minimum.

Mr. Olschewski: Minimum.

Inaudible – several speaking at once.

Ms. Endick: Minimum of \$11,000.00.

Member Horun: What was their signs, what was their sign again? 21 x what?

Mr. Olschewski: It was about what, 4

Mrs. Rozycki: 21" x 31.5.

Member Horun: 31.5

Mrs. Rozycki: Uh huh.

Inaudible – Several speaking at once.

Acting Chairman Rutledge: That was only my personal opinion; a statement of what happened to me. (inaudible).

Member Horun: I'm an attorney. I'm not, I'm not a doctor. I don't know math anymore.

Mrs. Rozycki: I understand.

Ms. Endick: Four square feet would be 24 x 24,

Mrs. Rozycki: 24, right.

Ms. Endick: multiply it out into your inches, it can't be more than that many inches.

Member Horun: Oh, oh, okay.

Ms. Endick: Yeah.

Member Horun: I got what you're saying.

Ms. Endick: Yeah.

Member Horun: (Inaudible).

Mrs. Rozycki: I mean, it was, they were oversized by one square foot.

Member Horun: You're, you're not saying, like, one side can't be more than four, forty-eight inches?

Mrs. Rozycki: The total

Member Horun: The entire thing

Mrs. Rozycki: Yeah, the total area of the

Member Horun: Total area.

Mrs. Rozycki: Yeah.

Acting Chairman Rutledge: The 24 x 24 (inaudible).

Member Horun: No.

Mrs. Rozycki: It's, it's four square feet.

Ms. Endick: (Inaudible) four square feet.

Member Horun: With four square feet.

Acting Chairman Rutledge: Oh, four square feet, okay.

Ms. Endick: And again, you know, okay, so they weren't hugely over, the point is, if our signs were the ones that were over, you could be sure they would be taken down.

Mrs. Rozycki: Can I, me personally, um, we read the ordinance, we're staying within the law. And I think that should apply to all citizens. And it's unfortunate, and I talked to Mr. Belcaro after the last Town Council Meeting and because I went to his house to talk to him about it, face to face, candidate to candidate, and unfortunately he wasn't there. Um, but that's okay. Um, the point is, you know, he said he didn't know and I get that. I, you know, I, it's hard to expect everybody to know every single line of every single ordinance of within the township, I get that.

Acting Chairman Rutledge: (Inaudible).

Mrs. Rozycki: However, let, if I could just finish, um, you made a mistake, you take your signs down and you put signs up, you, within the ordinance. Or you cut them down, I get that. I'm not, I'm not, um, disagreeing to content, I totally agree with free speech, absolutely 100%. Um, I do, personally, and I will come back at future meetings; I, I do believe I don't want five foot signs on, on property within the township. I think it diminishes the integrity and beauty and I believe that we should have an ordinance, uh, you know, come to some happy, um, you know, consensus on, on sign, size of the sign. But the content is, is certainly within everyone's right; there's no dispute. And, but, um, if you made a mistake, if you didn't read the law correctly and if I speed, I get a ticket, I pay my fine. So, if he, if he

Attorney Sposaro: I, I don't want to, and we don't want to cut you off, but we, we don't have the jurisdiction, the authority to

Mrs. Rozycki: Okay.

Attorney Sposaro: adopt ordinances to, to do anything with the ordinance as it exists now. This is a presentation, if you haven't made it already; you need to make to the governing body

Mrs. Rozycki: To Council, okay.

Attorney Sposaro: if they're going to take action or not.

Mrs. Rozycki: Now it's my also understanding is, they can send it to you for your interpretation and then your interpretation goes back to them?

Attorney Sposaro: Any citizen can come to us, uh, and, and seek an interpretation of the ordinance. There's an application form that needs to be submitted, I don't know if there is an application fee, if

there is, it's a nominal amount of money and this Board then has the jurisdiction to look at the ordinance and to interpret it

Mrs. Rozycki: Right.

Attorney Sposaro: based upon what its understanding of the law is.

Mrs. Rozycki: Okay.

Attorney Sposaro: If you want us to do that, you're free to make that application for an interpretation.

Mrs. Rozycki: Okay. Okay.

Ms. Endick: Where do we find the application?

Mrs. Rozycki: Yeah.

Attorney Sposaro: Uh, you can speak to Ms. Coleman and if we don't have an application form for an interpretation, I can put something together for you and really you could do it informally by way of letter.

Mrs. Rozycki: Okay.

Attorney Sposaro: Okay?

Mrs. Rozycki: Okay, all right, thank you.

Attorney Sposaro: You're welcome.

Mrs. Rozycki: Thank you for your time and listening.

Mr. Olschewski: Olschewski, Highlands Way, and I just want to make, because I spoke to the Mayor and the Mayor informed me that I think he spoke to you, and you told him to leave the offending item up until the election is over. Now, if you don't have any jurisdiction, I will ask him later today if you'd let him know that you don't have any jurisdiction because he didn't take any action based on your suggestions to leave the signs up. If you don't have any jurisdiction, you just said it's not my thing, and I find it amazing that, that in this town it's enough for me to challenge an ordinance, just to go to an attorney and say, "I appeal", and, and I can keep my hot dog cart running until somebody does something about it. But if you don't really have any jurisdiction and you didn't tell the mayor that you don't have any jurisdiction, I'll call him right after the meeting, then something is wrong. You should have said, "I have nothing to do with it, its Katrina's job and not mine". And if you didn't say that and you said, "We'll leave the offending item up until the election is over", then you are partially, partially guilty of having town ordinance broken and not doing something about it. And that's something you're not supposed to do.

Member Horun: If, if somebody has an issue

Attorney Sposaro: Let me just respond to this and I think (inaudible). I had no communications with the Mayor.

Mr. Olschewski: Okay.

Attorney Sposaro: I did not talk to him about this about this; haven't talked to him in months. The determination that the signs not come down is made by the township attorney, it was not made by me. Plain and simple.

Mr. Olschewski: Good.

Member Horun: Could I say, just, just, cause now I'm interested. If, if something like that does occur, where there is an ongoing violation, is the remedy of that party to basically seek, like a temporary restraining order or something?

Attorney Sposaro: They could go into Superior Court. They could

Member Horun: And they would have to show irreparable harm. I mean, you, you'd have to show and you're likely to hope, to win on the merits in the end, right?

Attorney Sposaro: And, and the dilemma that I think everyone (inaudible) was that, there was an appeal that was taken but the appeal could not have been heard until after the election anyway,

Member Horun: Right.

Attorney Sposaro: which rendered the appeal mute. But it doesn't resolve the issue. And I full well respect your concern, all of you, about the ordinance and whether it's being enforced; whether it's being enforced, um, consistently or selectively, and is there an exception for political signs? Everyone needs to know the answer to that question. So that the next time around, and if someone doesn't like our decision, whatever it is, that decision can be appealed to the Superior Court. But for the next election, I think everyone who's in the political arena should know what the rules of the game are. So everyone is playing by the same rules and you're all bound by the same rules and the chips will fall where they may. So I, I don't know the candidates, I don't know the issues, it's wonderful that I'm not involved in politics.

Ms. Endick: Yes.

Attorney Sposaro: I mean that I'm A-political when it comes to that. Uh, I just try and give this Board advice and that's where we are. But I would encourage you, if you're, if there, if the Council is not giving you any indication that they are going to wrestle with that issue and amend the ordinance or address the ordinance, you are absolutely entitled to come to this Board and seek an interpretation of, from our, from our perspective, what that ordinance means and whether there's an exception for political signs.

Mrs. Rozycki: We will, I definitely will do that. I, we just have to say, to me, I read, so I'm not sure what all the confusion was.

Attorney Sposaro: I, I think the ordinance is clear on its face, whether there are court decisions that would apply to the political sign ordinances; I don't know the answer. There was a lot of law that was referenced in the submission that was made, but I didn't, but I didn't go through it, uh, because there,

Mrs. Rozycki: Uh huh.

Attorney Sposaro: the municipal attorney basically called off the dogs and said,

Mrs. Rozycki: Yes.

Attorney Sposaro: "You're not going to deal with this issue". But I can assure you that if the issue comes before us, I will look at those cases and you can present, and if you could do it in advance, anything that you'd like to, any, any cases, any determinations where the issues been addressed. This cannot be the first time in the State of New Jersey that this issue has surfaced.

Member Horun: But because of the timeline, that issue would have come to us tonight and it would have been beyond the election anyway.

Attorney Sposaro: Right, right.

Mrs. Rozycki: Right.

Member Horun: So you're the aggrieved party in this situation. You're step was Superior Court to try to obtain some type of (inaudible).

Attorney Sposaro: And, and the time and expense associated with that and what

Member Horun: Well that's what I'm saying, is that that's what it was.

Mr. Olschewski: (Inaudible) extremely what for me was, if, if something is against the ordinance, right, like if I put a hot dog cart in front of the pool

Member Horun: You like hot, you like hot dogs, don't you?

Mr. Olschewski: and somebody says, "You cannot serve hot dogs here", and I say, "You know what? I appeal". And if, if you guys want to take, I appeal that and then until you guys and if you guys tell or give me an injunction or court order, I start selling hot dogs, there's nothing you can do about it. I don't think that's right.

Member Horun: I don't think that's (inaudible).

Mr. Olschewski: It's, it's, if I, if something breaks the law, should it not be taken down or, or removed until there's a clear determination of if the law is broken or not? In leaving something

Member Horun: I just don't know who has, who would have the power to enforce it. I mean

Attorney Sposaro: The zoning officer, uh, could go into, could communicate with the municipal attorney and someone could go into court and seek an injunction. But the, but the zoning officer also has the

power to issue a summons and bring the matter to the municipal court and everyday may be a separate violation. So if someone wants to openly file a, an ordinance and say I'm taking an appeal, they have no, my opinion, they have no, uh, they have no cover, they have no sanctuary because an appeal is pending, summons can still issue and they can be found guilty and they have to pay the consequences, so.

Mrs. Rozycki: Thank you.

Attorney Sposaro: Sure. I can assure we'll, I'll look at this carefully and the Board may, I will be very, I'll be curious to see what the Board's interp, interpretation of the ordinance is. And I'm very curious to see what the cases provide.

Mr. Olschewski: But it's, it's curious that you have a Council person who challenges his own ordinances. It's something which is like,

Mrs. Rozycki: Different.

Mr. Olschewski: different, you know. It's not, you would assume that the people sitting on Council for years, that they agree with the ordinances which are made.

Mrs. Rozycki: Or at least know that.

Mr. Olschewski: Yeah, if, if, if, if they disagree with their own laws, that is a little different.

Acting Chairman Rutledge: Well the Constitution's also our own law, but you know, you gotta push it a little further and I'm sure you will get justice. You have, whatever that is.

Mrs. Rozycki: Okay.

Attorney Sposaro: But we invite you to come back and, and seek that interpretation.

Mr. Olschewski: We will. Thank you so much.

Mrs. Rozycki: Thank you for the exchange and you're

Inaudible.

Acting Chairman Rutledge: Is there any further, uh, is the any further public comment on this issue or any other issue? Can I have a motion to adjourn?

Mrs. Rozycki: Just, I was just curious, what was the prior hearing about? What were they, uh,

Attorney Sposaro: It was an application for a, uh, uh, a subdivision of a piece of property. They had, uh,

Mrs. Rozycki: A residents property or was it a commercial?

Member Horun: Commercial/like a residential.

Attorney Sposaro: The subdivision was approved in September of last year, but there's preliminary approval and there's final approval; they got their preliminary approval, they were just coming back for the final approval.

Member Horun: He has a studio. He has an art studio, that's all it is; down by the River Road.

Member Marchie: Marble Company.

Acting Chairman Rutledge: Cold Sculpture, I think, they guy sculpts.

Member Horun: He can do that since his dad (inaudible). We're not off the record yet, I can't do that.

MOTION TO ADJOURN:

8:40 pm

Motion by: Member Horun

Seconded by: Member Marchie

ALL IN FAVOR: AYES

NAYS: NONE

Respectfully submitted,

Phyllis D. Coleman
Secretary, Zoning Board of Adjustment

Gus Rutledge
Acting Chairman

