

BOROUGH OF RAMSEY
COUNCIL MEETING MINUTES
September 9, 2009

Mayor Botta called the regular meeting of the Mayor and Council to order. O.E.M. Director Mike Adams led the Pledge of Allegiance. Mayor read the Open Public Meetings law notice.

I. ROLL CALL

Present: Mayor Botta, Councilmembers Dillon, Jachzel, Jones, Nalbandian, Siemsen, Vozeh, Borough Attorney Peter Scandariato, Borough Administrator Nicholas Saros and Borough Clerk Meredith Bendian.

Absent: None

II. APPROVAL OF MINUTES

Motion by Jones, seconded by Vozeh, to approve the minutes of August 12 and August 26, 2009, as submitted. (Councilwoman Jachzel abstained from August 12 and Councilman Nalbandian abstained from August 26). Carried.

III. COMMUNICATIONS

Motion by Jachzel, seconded by Nalbandian, to receive and file the following Communications. Carried.

1. [Lisa Kennedy, Manager, Dunkin Donuts, Route 17 North, Ramsey, NJ](#)
e-mail dated August 28, 2009, requesting permission to allow flags and banners be posted at their store front for their grand reopening in October.
2. [Gail Ryan, Executive Director, Visiting Homemaker Home Health Aide Service](#)
of Bergen County, Inc., 298 Union Street, Hackensack, NJ 07601
letter received August 31, 2009, inviting the Mayor and Council to the Annual Dinner and Wine Tasting Fundraiser on Thursday, October 8, 2009 and to ask for participation in the Ad Journal.
3. [Various Residents on Elbert and Monroe Streets, Ramsey, NJ 07446](#)
letter dated September 1, 2009, requesting a traffic study at school pick up and drop off times when school is open. (Mayor Botta referred letter #3 to the Public Safety Committee).
4. [Dennis McNerney, Bergen County Executive, County of Bergen, Hackensack,](#)
NJ 07601
letter dated September 3, 2009, regarding the preparation of the updated Countywide Master Plan.

5. [Harvey Young, Property Manager, Central Park, Wood Ridge, NJ 07075](#)
letter dated September 2, 2009, requesting permission for the Central Park residents to park in the back lot of the municipal building on the evening of Monday, September 14, 2009.
6. [Charlotte Vandervalk, Assemblywoman, 39th District, 220 Kinderkamack Road, Westwood, NJ 07675](#)
letter dated August 26, 2009, regarding the recent State Appeal Court ruling on affordable housing.
7. [Russ and Mary Beth Remy, 109 Jean Street, Ramsey, NJ 07446](#)
letter dated September 9, 2009, requesting permission to hold a block party on Sunday, September 27, 2009 from 11am until 11pm.

IV. APPOINTMENTS –

Mayor Botta made the following appointments:

Thomas Carroll – Office of Emergency Management

Vincent Mazzella – Office of Emergency Management

Kyle Sharry – Ramsey Rescue Squad

V. CONSENT RESOLUTION

Introduced by Siemsen, seconded by Dillon

BE IT RESOLVED that the following resolutions herewith listed having been considered by the governing body of the Borough of Ramsey be and are hereby passed and approved:

- | | | |
|----------|-------------|--|
| 212-2009 | Resolution: | Payment of Vouchers |
| 213-2009 | Resolution: | Authorizing Probationary Police Officers Adam Macaluso, Earle Hines, Jeffrey Guilfoyle, Jaclyn Morris and Michael Parise to Permanent status |
| 214-2009 | Resolution: | Release of Performance Bond to Salerno, LLC, Block 3802, Lots 4, 5 and 6 in the amount of \$70,165.60 |
| 215-2000 | Resolution: | Appointing Thomas Carroll to the Ramsey Office of Emergency Management |
| 216-2009 | Resolution: | Appointing Vincent Mazzella to the Ramsey Office of Emergency Management |
| 217-2009 | Resolution: | Appointing Kyle Sharry to the Ramsey Rescue Squad |

BE IT FURTHER RESOLVED that the following applications and/or recommendations hereby be approved:

A. SPECIAL PERMITS:

Family Reach Foundation is interested in hanging signs at the Ramsey High School tennis courts advertising the 5K and Fun Run on Sunday, October 25, 2009

B. BLOCK PARTY REQUESTS:

[Russ and Mary Beth Remy, 109 Jean Street, Ramsey, NJ 07446, requesting](#) permission to hold a block party on Sunday, September 27, 2009 between the hours of 11am and 11pm blocking off the road between Darlington and Woodland Avenues

AYES: Dillon, Jachzel, Jones, Nalbandian, Siemsen, Vozech NAYS: None

Mayor administered the Oaths of Office to Thomas Carroll, Vincent Mazzella, and Kyle Sharry, and thanked the new members for volunteering.

Motion by Nalbandian, seconded by Vozech, to go out of the normal order of business to hear the Stella Fence appeal. Carried.

Borough Attorney Scandariato stated that this is not a new hearing and this Board cannot substitute its decision for that of the Board of Adjustment. Attorney Scandariato stated that the Stellas are here to point out to this Council the reasons why they believe the decision was arbitrary and capricious.

MARK AND KATHERINE STELLA FENCE HEARING

Katherine Stella, 316 South Central Avenue, stated that she and her husband, Mark, would like to thank the Mayor and Council for this opportunity to appeal the decision of the Board of Adjustment and they have prepared a statement that specifically addresses some points in the denial from the Board of Adjustment with regard to the original decision.

The first point states that the applicant proposed to construct a fence 6 ft. in height enclosing their rear yard property and the applicants testified that they require a 6 ft. fence because they have young children and wish to keep out stray animals. Mrs. Stella stated that although that is true, we do propose a 6 ft. fence but it was not stated in the denial letter that we would like to keep our children from going out into the busy street and making the fence as high as possible to deter the possibility of the children climbing over it, as we would like our privacy and we do have neighbors on all sides. The neighbor in back of us has a patio area particularly close to our property and has expressed a need for her privacy as well and would welcome a six foot fence, to keep her dog from running onto our property. As for the findings of the Board with regard to statement #2 that it would not improve or enhance the value of the property, we find that to be untrue for the following reasons: houses with fences may very well be a determining factor as it was for us as there was already a six foot fence along one side of the property and there was a five foot fence along the rear of the property. We saw it as a way to have to only put up the one remaining side. It is unknown to us what interference this would cause our neighbors, as they have no objections to the fence. They welcome it since it would a wooden fence at no cost to them. We had made arrangements for the disposal of all materials and do not believe that it would interfere with our neighbors. One of the Board members said that he would have voted differently if our children had been teenagers. In reference to point #3 that it would be inconsistent with the purposes of the Municipal Land Use Act, the fact that there is a

six foot fence already on a neighboring property, as well as others in the surrounding area, is inconsistent. The benefits from the deviation of the zoning ordinance would not be outweighed by the detriments as stated in the denial letter. We feel that our application should be reconsidered and we have the following documents if you wish to see them: a letter signed by our neighbors stating that they do not feel that the fence height would negatively impact their property or obstruct their view, pictures of the proposed fence, and pictures of our property so that you can see why we need this fence.

Borough Attorney asked if those items had been submitted to the Board of Adjustment. Mrs. Stella said no, but they (the Board) had pictures that were taken by someone. Councilman Vozech asked about the children going into the street (inaudible).... Mrs. Stella said yes.

Borough Attorney stated that since Mrs. Stella had not submitted the photos to the Board of Adjustment, the photos could not be submitted at this time since it is new evidence to the application. Councilwoman Dillon asked if Mrs. Stella had the pictures that were used at the hearing of the Board of Adjustment. Mrs. Stella stated that she did not have them and she did not know who took them. Councilwoman Dillon asked why was the decision of the Board capricious and arbitrary? Is it because the written decision does not reflect everything that was stated that night? Mrs. Stella said yes, perhaps. Going into it, I thought it was more of a formality; I was not aware that we needed to have evidence signed by our neighbors and I would have been better prepared for that. For us, the kids were so important that I just never thought it would have been denied. I would have taken a picture of my neighbor's garage that we have to look at every day that has wooden boards and has a big rock...is it a matter of aesthetics? I would have been able to compare that. I really honestly thought it was more of a formality.

Councilman Nalbandian stated that we can sympathize. Unfortunately, what you are saying rises to that relatively high standard, arbitrary and capricious. Basically the decision of the Board was that they didn't think the evidence that was entered to them enabled them under the Statute didn't rise to a level of them being able to grant your request. I was at the hearing and I did listen to the tape as well. Even if any of us thought that we may have voted differently after we heard the tape or sat and listen to the application that is not necessarily a basis. Correct me if I wrong but it is not a basis for us to overturn the Zoning Board's decision. Maybe all of us would have voted differently if we were there. That is not the standard, unfortunately, it is whether the decision was arbitrary and capricious and I think one of the things that was addressed was they thought a four foot fence could satisfy the concern you had. I think the comment about them being teenagers is irrelevant because when they are older, they can get over any fence and you don't worry as much about them running out into the street because they know better. I am not sure how prudent that comment was. It is difficult and I say this with a lot of respect but it is difficult here to say that the decision was arbitrary and capricious. The things that you mentioned that you could have done unfortunately and I don't mean this to sound flippant or anything but that is not the Board's fault that you did not present the case maybe you should have to them. Hindsight is always 20/20, so don't beat yourself up either. Unfortunately, that is not their obligation for any applicant and I know there were other applications that night for 6 foot fence variances and there are generally quite a number of them on any given night. Every application stands on its own merits and perhaps what you heard presented in another application that ended up

passing muster from the Board's perspective and enabling them to grant the variance that was requested, the reasons may not be applicable for you. It works in both directions. Because someone may have presented the same basis for their 6 ft. fence application and got it granted, for reasons specific to that application, it does not necessarily mean the same reasons apply to every application. I know that is hard for you to hear.

Councilwoman Dillon asked if you could wrap up why the Board's decision was wrong. Mrs. Stella stated that the most important reason would be for our children. We have 3 boys and I really want to protect them. We live on South Central and I just think a 4 ft. fence would not do it and I have not been able to let them out into the backyard. We worked very hard to buy a house in Ramsey and we looked for 3 years for this house. We loved it, that is why we moved here. There is no other reason, except for them. I want them to enjoy the backyard. Thank you.

Councilman Nalbandian stated that there were six voting members of the Board present and the vote on your application came down to 3-3. Under the law, it amounts to a denial. I am not inclined to reverse the Board's decision because I don't think it was arbitrary and capricious, but I would ask the Borough Attorney if it was appropriate, given that if we do have the latitude, possibly to remand it back to the Zoning Board given that one-third of the members were absent from that meeting with an opportunity for them to go before that Board again for a new hearing. Councilwoman Jachzel stated that she agreed with that, especially since there is some concern with the reasoning for one of those 3 denial votes. Councilman Nalbandian stated that he would make the motion, seconded by Dillon, to remand the matter back to the Zoning Board. Carried.

VI. COMMITTEE AND LIAISON REPORTS

- A. FINANCE AND ADMINISTRATION -Councilman Andrew Siemsen
Congratulations and thanks to the new volunteers. Friday night is the 9/11 ceremony.
- B. PUBLIC SAFETY – Councilman William Jones
I would like to echo the comments of Councilman Siemsen and welcome the new volunteers. I would also ask that we remember those who died on 9/11, and remind everyone that Ramsey Day is September 12. We have a lot of local talent. The Open Mic night is the 4th Saturday at Border's. Our first annual Shred-It Day will be October 17 from 9:00 a.m. to 2 p.m. in front of the DPW building. It is for Ramsey residents and three boxes are allowed per resident.
- C. BUILDING, PLANNING & ZONING – Councilman Arthur M. Nalbandian
I too would like to thank the new volunteers. I hope everyone has a great time on Ramsey Day. Unfortunately, I will be away on business.
- D. UTILITIES, BUILDINGS & GROUNDS – Councilman Bruce Vozeh
I would echo my colleagues' comments and welcome the new volunteers and urge everyone to attend the 9/11 ceremony.

- E. PUBLIC & GOVERNMENTAL RELATIONS – Councilwoman Vanessa Jachzel
I would also like to welcome the new members of the Rescue Squad and OEM.
Ramsey Day is going to be a little different this year, with a “ Movie Under the Stars”
at night. Our second issue of the Ramsey Journal will be going out this week.
Taste of Ramsey will take place on Sunday, October 4, at the train station.
- F. HEALTH, EDUCATION & SOCIAL SERVICES – Council President Deirdre A. Dillon
I too would like to welcome our new volunteers and urge everyone to attend the 9/11
service at the High School. My congratulations to the new permanent officers of the
Police Department.
- G. MAYOR CHRISTOPHER C. BOTTA
The Woodland Avenue project is nearing completion. It has turned out to be
an excellent improvement. The Main Street/North Central project is nearing
completion. It will be a great improvement to our downtown area. The
Jack McKeown run will take place on September 19 and I urge everyone to
participate. This year we are adding a one mile Fun Run at 11:00 a.m. and I
encourage children and senior citizens to participate.
- H. BOROUGH ATTORNEY – Peter A. Scandariato, Esq. No comments.
- I. BOROUGH ADMINISTRATOR – Nicholas C. Saros No comments.
- J. BOROUGH CLERK – Meredith Bendian No comments.

VII. PUBLIC COMMENT

Patricia Hunt, 88 Pine Street, spoke about the bad condition of the curbs on Pine Street. We assumed that we were going to get new curbs after the street was repaved. She was told that Pine Street would be added to the list for next year. The curbs one block away (on Snyder Avenue) were done and then the street was paved. Ms. Hunt stated that she spoke to Harold Reed, Borough Engineer. Mayor stated that our budget is \$100,000 for resurfacing and \$100,000 for curbs and sidewalks. Ms. Hunt stated that some new curbs were recently installed at the top of Pine Street. We thought the new curbs would be done before the paving. Councilman Nalbandian stated that we receive the recommendations for curbs and sidewalks from Harold Reed. I don't think we got a recommendation for Pine Street curbs. Borough Administrator stated that in today's way, it is not the same process as years ago. They do not rip up the whole street to put a curb in, but Harold will review it.

Not seeing anyone else who wished to speak, Mayor closed the public comment.

VIII. ADVERTISED PUBLIC HEARING FOR FINAL CONSIDERATION OF ORDINANCES - None

IX. INTRODUCTION OF ORDINANCES - None

X. UNFINISHED BUSINESS - None

XI. NEW BUSINESS - None

XII. ADJOURNMENT

Motion by Nalbandian, seconded by Dillon, to adjourn the meeting. Carried.

Meredith Bendian
Borough Clerk