

RAMSEY ZONING BOARD OF ADJUSTMENT
Minutes of the Regular Meeting
January 20, 2021

REGULAR MEETING

Acting Chairman Scuderi called the regular meeting of the Board of Adjustment of the Borough of Ramsey to order at or about 7:30 P.M. **Acting Chairman Scuderi** announced that the meeting is being conducted via teleconferencing due to the COVID-19 restrictions.

PLEDGE OF ALLEGIANCE

Mr. Crimmins led the Pledge of Allegiance.

Acting Chairman Scuderi read the Open Public Meetings Law notice.

ATTENDANCE	PRESENT	ABSENT
Ms. Boone, Alt. #1	X	
Mr. Crimmins	X	
Ms. Fisher Poppe	X	
Mr. FitzPatrick	X	
Ms. Jarvis		X
Mr. Mooradian	X	
Mr. Scuderi	X	
Chairwoman Stollo		X
Mr. Rogers Esq., Board Attorney	X	
Mr. Hals, Board Engineer	X	
Ms. Lupo, Board Admin. Secretary	X	
Mr. D'Agostaro, Zoning Officer	X	

Mr. Rogers swore in returning and new Zoning Board members.

ZONING BOARD OF ADJUSTMENT 2021

Acting Chairman Scuderi turned the meeting over to **Mr. Crimmins**. A motion was made by **Mr. Crimmins** to nominate the following Slate of Officers:

Ms. Angela Stollo Chairwoman
 Mr. Thomas Scuderi Vice Chairman

Mr. Mooradian seconded the motion. There being no other nominations, a motion was made by **Mr. Mooradian**, seconded by **Ms. Fisher Poppe**, to close the nominations. **Carried.**

Mr. Mooradian made a motion to approve the Slate of Officers, **Ms. Fisher Poppe** seconded the motion.

Roll Call: **AYES:** **Ms. Boone, Mr. Crimmins, Ms. Fisher Poppe, Mr. FitzPatrick, Mr. Mooradian, Mr. Scuderi**
 NAYES:
 ABSTAIN:
 ABSENT: **Ms. Jarvis, Chairwoman Strollo**

Carried.

Mr. Crimmins instructed the Secretary to cast one ballot for the Slate of Officers for the Zoning Board of Adjustment for the year 2021.

Mr. Crimmins nominated **Mary Ann Lupo** as Administrative Secretary to the Zoning Board of Adjustment for the year 2021. **Mr. Mooradian** seconded the motion. There being no other nominations, a motion was made by **Mr. Mooradian** seconded by **Ms. Fisher Poppe** to close the nominations. **Carried.**

Mr. Crimmins asked for a motion to approve the nomination, a motion was made by **Mr. Mooradian**, seconded by **Ms. Fisher Poppe**.

Roll Call: **AYES:** **Ms. Boone, Mr. Crimmins, Ms. Fisher Poppe, Mr. FitzPatrick, Mr. Mooradian, Mr. Scuderi**
 NAYES:
 ABSTAIN:
 ABSENT: **Ms. Jarvis, Chairwoman Strollo**

Carried.

Mr. Crimmins instructed the Secretary to cast one ballot for Mary Ann Lupo as Administrative Secretary to the Zoning Board of Adjustment for the year 2021.

Mr. Crimmins turned the meeting over to **Ms. Lupo** who read the following:

RESOLUTION - PROFESSIONAL APPOINTMENTS

WHEREAS, the Planning Board of the Borough of Ramsey, requires the professional services of a Planning Board Attorney, Professional Engineer, Drainage Consultant, Sewer Consultant, Planner, Professional Surveyor;

WHEREAS, it is contemplated that the 2021 budget will contain the necessary appropriations estimated to be reasonably required for each of such professional services;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Ramsey that the following appointments be made for the year 2021:

- Matthew Rogers as Attorney for the Zoning Board of Adjustment;**
- David A. Hals P.E., L.S., P.P. as Engineer for the Zoning Board of Adjustment;**
- David A. Hals P.E., L.S., P.P. as Drainage Consultant;**
- Crew Engineers, Inc. as Sewer Consultant;**
- Joseph H. Burgis, P.P., Burgis Associates as Planner;**
- David A. Hals P.E., L.S., P.P. as Professional Surveyor;**

BE IT FURTHER RESOLVED that a copy of this resolution shall be published in the Bergen Record and Ridgewood News within ten days of its passage as required by law.

A motion to approve the resolution was made by **Mr. Mooradian**, seconded by **Ms. Fisher Poppe**.

Roll Call:

AYES:	Ms. Boone, Mr. Crimmins, Ms. Fisher Poppe, Mr. FitzPatrick, Mr. Mooradian, Mr. Scuderi
NAYES:	
ABSTAIN:	
ABSENT:	Ms. Jarvis, Chairwoman Strollo

Carried.

APPROVAL OF MINUTES

A motion to approve the minutes of 12/16/20 was made by **Mr. Mooradian**, seconded by **Ms. Fisher Poppe**. All eligible members voted in favor. **Carried.**

CONSENT RESOLUTIONS

Vouchers/Performance Bonds/Letter of Credit:

A motion was made by **Mr. Mooradian**, seconded by **Ms. Fisher Poppe**, to approve the 01/20/21 **CONSENT RESOLUTION** recommending to the Mayor & Council the payment of vouchers. All eligible members voted in favor. **Carried.**

BOARD COMMENTS - None

PUBLIC COMMENTS - None

PUBLIC HEARING:

Robert & Alexandra Corcoran
 Block 4909, Lot 4
 95 South Franklin Turnpike

Mr. Rogers verified that the applicants had noticed properly and that the hearing could proceed.

Robert Corcoran, 95 S. Franklin Turnpike, Ramsey, N.J. was sworn in. **Mr. Corcoran** explained that the proposal is to demolish an older second story existing deck and build a new expanded one. **Mr. Corcoran** continued it was a small deck and to make it a more of a usable deck he increased the size, but not past the brick pavers underneath. **Mr. Corcoran** said that it's not a detriment to anything or anyone in rear yard because it backs up to the Ramsey Golf & Country Club's 16th tee. **Mr. Corcoran** said that it's not a detriment to each side yard neighbor because it doesn't hurt their view of the golf course.

QUESTIONS FROM THE BOARD - None**QUESTIONS FROM THE PUBLIC**

Liz Kearns of 99 South Franklin Turnpike asked **Mr. Corcoran** if there will be any contingencies for privacy from her end as a result of the deck. **Mr. Corcoran** replied no. The deck is located off the bedroom for their own personal use.

Kevin Kearns of 99 South Franklin Turnpike asked **Mr. Corcoran** if there were any supports that were on the ground for the existing deck. **Mr. Corcoran** said no. That's why the existing deck was falling down.

Robert Botta of 85 South Franklin Turnpike asked **Mr. Corcoran** why would he take the deck down and put up a new deck before he realized that he needed a variance. **Mr. Corcoran** said that he submitted the plans for a building permit. He then met with a Zoning Official at Borough Hall to explain the proposal and two days later he received a voice mail saying that it's all good to go and that he sent the file back to the building department. **Mr. Corcoran** said that while he waited for the permit, he framed the deck to locate exactly where the footings were going to go. **Mr. Corcoran** continued that later received a call from the same Zoning Official saying that his boss had found that there was a rear yard setback problem.

Vincent J. Laino of Greenlight Architecture, 10 Spice Drive, Township of Washington, N.J. was sworn in and deemed an expert in architecture. **Mr. Laino** presented the following exhibits:

Exhibit A-1 Site Plan last revised 11/09/20

Exhibit A-2 Drawing of the existing house and the existing deck that was removed

	dated 8/03/20 - Diagram D111
Exhibit A-3	Drawing of proposed deck dated 08/03/20 - Diagram A111
Exhibit A-4	Drawing of exterior elevations of deck dated 08/03/20 - Diagram A201
Exhibit A-5	Drawing of exterior elevations of deck dated 08/03/20 - Diagram A202
Exhibit A-6	6 photographs
Exhibit A-7	6 photographs

Mr. Laino said that the applicant is asking for relief for three (3) variances. **Mr. Laino** said that the rear yard setback and building coverage are both connected to the proposed wood deck. **Mr. Laino** said that the third variance relates to the driveway. **Mr. Laino** said regarding the variances for the wood deck, the hardship is the undersized property. The lot is 8,250 sf where 14,000 sf is required in the R-3 zone. **Mr. Laino** said the existing building coverage exceeds the allowable coverage for the R-3 zone. The proposed deck increases the building coverage from 45 sf to 150 sf or 1.3%. A variance is required for the increase in Maximum Building Coverage from 24.5% to 25.8%, where 20% maximum is permitted. **Mr. Laino** said that the third variance being sought is for maximum impervious coverage for the driveway. **Mr. Laino** said a circular, gravel driveway, increasing the impervious coverage, had been added as a result of an accident that the family had been in. **Mr. Laino** said that in the R-3 zone, 40% is the maximum allowable coverage and the property is currently at 54.3%. **Mr. Laino** discussed the photographs in Exhibits A-6 and A-7 stating that he took them with the purpose to convey the minimal impact on the neighborhood. **Mr. Corcoran** presented additional details about the photographs.

QUESTIONS FROM THE BOARD

Mr. FitzPatrick asked **Mr. Laino** if he could review the lot coverages. **Mr. Laino** did so. **Mr. FitzPatrick** asked **Mr. Corcoran** if he could describe photos on Exhibit A-7. **Mr. Corcoran** did so. **Mr. FitzPatrick** asked **Mr. Corcoran** if people at the 16th tee could see into you and your neighbor's yard. **Mr. Corcoran** said yes. **Mr. Scuderi** asked **Mr. Laino** if this lot were a conforming lot, how would it effect these 3 variances being sought. **Mr. Laino** replied there wouldn't be the coverage or setback issues. **Mr. Scuderi** asked **Mr. Laino** the general feeling about the size of the deck in relationship to the neighborhood. **Mr. Laino** said, in his opinion, it is a modest sized deck. **Mr. Scuderi** asked **Mr. Laino** about a back patio that appeared to be over the property line. **Mr. Corcoran** replied that he replaced an area with a swing set with brick pavers, maintaining a shrub line that in actuality is part of the club's land. **Mr. Scuderi** asked **Mr. Hals** how that patio effects the impervious coverage, is it just the part that is on the property. **Mr. Hals** stated that any area off the site is not considered part of the coverage. **Mr. Scuderi** asked **Mr. Hals** if the driveway could be minimized in any way to reduce the impervious. **Mr. Corcoran** replied that as far as reducing it, it's pretty tight. **Mr. Rogers** asked **Mr. Laino** does the sub-standard lot size prevent you from providing a sizable, usable deck. **Mr. Laino** said it does not provide you with many choices as to where the deck can go. **Mr. Rogers** asked **Mr. Laino** if the reason the deck was built so small, was because of the requirements of

the zone. **Mr. Laino** said it could be or it could also be that it was more of a balcony, as it still is, as there are no steps from the deck. **Mr. Rogers** asked **Mr. Laino** if they considered a smaller sized deck. **Mr. Corcoran** replied that he was trying to get a small table on the deck to sit at.

QUESTIONS FROM THE PUBLIC

Kevin Kearns of 99 South Franklin Turnpike asked **Mr. Laino** what is the offset from the property line for the driveway. **Mr. Hals** responded 5 ft. in the R-3 zone. **Mr. Kearns** asked **Mr. Laino** what date he was employed. **Mr. Laino** stated it was the end of July the beginning of August, 2020. **Mr. Kearns** asked **Mr. Laino** the size of the original deck. **Mr. Laino** replied the original deck, according to the drawings, was 5'6" X 9'6" long. **Mr. Kearns** asked **Mr. Laino** what does that become. **Mr. Laino** said the 5'6" becomes 13' and the 9'6" becomes 11'8".

Liz Kearns of 99 South Franklin Turnpike asked **Mr. Corcoran** regarding photographs they submitted, that were taken from their small deck that leads down to their patio, how are they going to address the privacy issue that this larger deck presents. **Mr. Corcoran** said he was willing to put up larger shrubs.

Robert Botta of 85 South Franklin Turnpike asked **Mr. Corcoran** if he was familiar with applicable statute with regards to uniqueness. **Mr. Corcoran** said no. **Mr. Botta** asked **Mr. Corcoran** if he was familiar with applicable statute in regard to undue hardships. **Mr. Corcoran** said he knew that when something is not within the setback, you go to the Board of Adjustment.

COMMENTS FROM THE PUBLIC

Liz Kearns of 99 South Franklin Turnpike was sworn in. **Ms. Kearns** stated that she is not trying to prevent the Corcoran's from developing their lot. **Ms. Kearns** continued that she had a nice view for 30 years; this deck is so high up and overlooks her patio. **Ms. Kearns** said that she has no privacy.

Robert Botta of 85 South Franklin Turnpike was sworn in. **Mr. Botta** stated he was surprised that **Mr. Corcoran** went ahead and completed 3 projects without proper permits. **Mr. Botta** said from his deck, he can see the golf course but the deck **Mr. Corcoran** put up blocks his view and decreases the value of his property. **Mr. Botta** said he objects to this deck in every way.

CONCLUDING STATEMENT

Mr. Corcoran stated that he has no problem planting shrubs that are as high up as the railings of the deck. **Mr. Corcoran** said with regard to **Mr. Botta's** comments that there is zero blockage of the golf course.

COMMENTS FROM THE BOARD

Ms. Boone stated that **Mr. Corcoran's** offer to put shrubs up is a great solution for that side of his property. **Mr. FitzPatrick** stated that he felt with the minimum lot size, the applicant has shown that this fits in terms of hardship as does the irregular lot size;

Ms. Sara Fisher Poppe is available to listen, but is not eligible to vote.

Mr. Mooradian and **Ms. Boone** are eligible to vote.

James J. Delia, Esq. of Wells, Jaworski & Liebman, LLP, 12 Route 17 North, Paramus, N.J. appeared on behalf of the applicant.

David L. Rutherford, Esq. of 131 Dayton Street, Ridgewood, N.J. appeared on behalf of Alejandro and Andrea Frezza who are the owners of property located at 24 Grant Street.

Mr. Rutherford subpoenaed Mr. Jack D'Agostaro, Borough of Ramsey Engineer, Director of Public Works, Zoning Officer and Purchasing Agent as a witness.

Jack D'Agostaro, Borough of Ramsey Engineer, Director of Public Works, Zoning Officer and Purchasing Agent, was sworn in. **Mr. Rutherford** asked **Mr. D'Agostaro** how long he had been the Zoning Officer for the Borough of Ramsey. **Mr. D'Agostaro** responded since July of 2016. **Mr. Rutherford** asked **Mr. D'Agostaro** if he was familiar with the property at 24 Grant St. **Mr. D'Agostaro** said yes. **Mr. Rutherford** asked **Mr. D'Agostaro** if he knew his client **Mr. Frezza**. **Mr. D'Agostaro** said yes. **Mr. Rutherford** asked **Mr. D'Agostaro** if he recalled when he first met **Mr. Frezza**. **Mr. D'Agostaro** said no. **Mr. Rutherford** asked **Mr. D'Agostaro** if it would have been around November of 2018. **Mr. D'Agostaro** said yes. **Mr. Rutherford** asked **Mr. D'Agostaro** if it was on or about the time when **Mr. Frezza** purchased the property. **Mr. D'Agostaro** said yes. **Mr. Rutherford** asked **Mr. D'Agostaro** if **Mr. Frezza** was issued two permits by your office, with respect to the property, on or about November of 2018; one relating to the installation of a fence, the other relating to the installation of a gravel driveway expansion in the rear of the property. **Mr. D'Agostaro** said yes. **Mr. Rutherford** asked **Mr. D'Agostaro** if those permits were approved and issued by you and **Mr. Frezza** undertook to do the work. **Mr. D'Agostaro** replied yes. **Mr. Rutherford** asked **Mr. D'Agostaro** if in connection with the issuance of those permits, you became acquainted with the nature of his business which is landscape, maintenance and hardscape installation. **Mr. D'Agostaro** said yes. **Mr. Rutherford** asked **Mr. D'Agostaro** if he considered that to be a permitted use in the B-3 zone. **Mr. D'Agostaro** said yes. **Mr. Rutherford** asked **Mr. D'Agostaro** if there are similar uses in the B-3 zone, in and around the vicinity of Grant Street. **Mr. D'Agostaro** said yes. **Mr. Rutherford** asked **Mr. D'Agostaro** if all those businesses are similar to what **Mr. Frezza** proposes to do on the property. **Mr. D'Agostaro** said yes. **Mr. Rutherford** asked **Mr. D'Agostaro** in August of 2020, **Mr. Ashbahian** raised an issue as to whether or not the use was permitted. **Mr. D'Agostaro** said yes. **Mr. Rutherford** asked **Mr. D'Agostaro** if in response to that you wrote an email, that is the basis of **Mr. Ashbahian's** appeal, opining that the use was indeed a permitted use. **Mr. D'Agostaro** said yes. **Mr. Rutherford** asked **Mr. D'Agostaro** if in connection with this proceeding, this Board had met on December 16, 2020 and some issues arose at that time with respect to the exact nature of the use. **Mr. D'Agostaro** said yes. **Mr. Rutherford** asked **Mr. D'Agostaro** if the Planning Board had issued resolutions for a similar use in the B-3 zone over the years. **Mr. D'Agostaro** said correct.

CROSS-EXAMINATION OF JACK D'AGOSTARO BY MR. DELIA

Mr. Delia asked **Mr. D'Agostaro** if he reviewed the appeal package submitted to the Board. **Mr. D'Agostaro** replied no. **Mr. Delia** asked **Mr. D'Agostaro** why he had not. **Mr. D'Agostaro** replied he had given his determination. **Mr. Delia** asked **Mr. D'Agostaro** what he had reviewed. **Mr. D'Agostaro** replied with the emails, Ordinances and Resolutions related to the case. **Mr. Delia** asked **Mr. D'Agostaro** if he agrees that unless a use is specifically permitted in the code, it's prohibited. **Mr. D'Agostaro** said yes. **Mr. Delia** asked **Mr. D'Agostaro** if he determined that the use was a service use. **Mr. D'Agostaro** said yes. **Mr. D'Agostaro** said that it's permitted under Ordinance 34-29.1.a which references the B-1 Zone under Ordinance 34-26.1.a. **Mr. Delia** asked **Mr. D'Agostaro** if the Frezza application falls under this definition. **Mr. D'Agostaro** said yes. The storage is outside but the landscaping office is inside. **Mr. Delia** asked **Mr. D'Agostaro** if the business involves movement of vehicles on and off the property. **Mr. D'Agostaro** said yes. **Mr. Delia** asked **Mr. D'Agostaro** if the building is currently being used as an office. **Mr. D'Agostaro** said he's not aware. **Mr. Delia** asked **Mr. D'Agostaro** if he's aware that the building is currently being used as a residential use. **Mr. D'Agostaro** said he's not aware. **Mr. Delia** asked **Mr. D'Agostaro** if he made any inquiry presently as to the use of the building. **Mr. D'Agostaro** said no. **Mr. Delia** referenced an email from **Mr. D'Agostaro** to **Mr. Ashbanian** dated July 31, 2020. **Mr. Delia** asked **Mr. D'Agostaro** if outdoor storage is permitted. **Mr. D'Agostaro** said yes. **Mr. Delia** asked **Mr. D'Agostaro** if he has visited the site recently. **Mr. D'Agostaro** said yes. **Mr. Delia** referenced the Resolutions for Brown Dog and Top Notch. **Mr. Delia** asked **Mr. D'Agostaro** if he was zoning officer for any of those applications. **Mr. D'Agostaro** said no. **Mr. Delia** asked **Mr. D'Agostaro** if he's aware of any other appeal. **Mr. D'Agostaro** said he believes his client appealed a previous application on the same site for a landscaper.

REBUTTAL BY MR. RUTHERFORD

Mr. Rutherford referenced his letter dated December 17, 2020. **Mr. Rutherford** said the existing residential use will be terminated and the single family home that is currently being used for residential purposes will be converted into commercial office space. **Mr. Rutherford** asked **Mr. D'Agostaro** if once the house is converted to commercial office space will that resolve any concern about the residential use on the property and the impact that might have on the use being permitted. **Mr. D'Agostaro** said correct. **Mr. Rutherford** asked **Mr. D'Agostaro** if an application for Site Plan was filed to the Planning Board and that process was interrupted when Mr. Ashbahian raised a question about the use. **Mr. D'Agostaro** said correct. **Mr. Rutherford** asked **Mr. D'Agostaro** if Green Belt Landscaping and Top Notch store vehicles and equipment overnight for extended period of time or sometimes for a day. **Mr. D'Agostaro** said correct. **Mr. Rutherford** asked **Mr. D'Agostaro** if Mr. Frezza's business is similar to businesses that have historically been permitted in the B-3 Zone. **Mr. D'Agostaro** said yes. **Mr. Rutherford** asked **Mr. D'Agostaro** if Mr. Frezza's landscaping business includes parking of trucks, trailers and equipment that do not constitute the conduct of business outside the

confines of a building. **Mr. D'Agostaro** said correct. **Mr. Rutherford** asked **Mr. D'Agostaro** if he considers the trailers as equipment used in a business. **Mr. D'Agostaro** said correct.

Mr. Delia asked **Mr. D'Agostaro** if he was aware that the applicant had originally proposed to keep the residential use plus have the commercial use on the property. **Mr. D'Agostaro** said yes. **Mr. Delia** asked **Mr. D'Agostaro** if that is permitted. **Mr. D'Agostaro** said the mixed use would not be permitted even though each individual use is. **Mr. Delia** asked **Mr. D'Agostaro** if he had advised Mr. Frezza or put in writing that the mixed use required a use variance. **Mr. D'Agostaro** said no. **Mr. Delia** asked **Mr. D'Agostaro** why not. **Mr. D'Agostaro** said he wasn't asked by the Planning Board.

BOARD QUESTIONS

Mr. Rogers asked **Mr. D'Agostaro** why he referenced Brown Dog and Top Notch Resolutions. **Mr. D'Agostaro** said he was trying to find out what his predecessors or his office had done in the past. He was trying to be consistent. Since the Planning Board had approved the Site Plan for those businesses, it was his understanding that use was permitted. Otherwise, the approval and Resolutions would have come from the Board of Adjustment. **Mr. Rogers** asked **Mr. D'Agostaro** to confirm if he had visited the site earlier in the day. **Mr. D'Agostaro** said yes. **Mr. Rogers** asked **Mr. D'Agostaro** if he visited the site when the application was being heard by the Planning Board. **Mr. D'Agostaro** said yes. **Mr. Rogers** asked **Mr. D'Agostaro** if he was familiar with the site. **Mr. D'Agostaro** said yes.

Mr. Delia asked **Mr. D'Agostaro** in August when you issued your opinion, did you have the benefit of reviewing the Brown Dog or Top Notch Resolutions. **Mr. D'Agostaro** said yes.

Mr. FitzPatrick asked **Mr. D'Agostaro** to provide examples of retail and service type businesses. **Mr. D'Agostaro** did so. **Mr. FitzPatrick** asked **Mr. D'Agostaro** where is the business currently being conducted. **Mr. D'Agostaro** said the Applicant would have to answer what is actually happening now. **Mr. Crimmins** asked **Mr. D'Agostaro** if the trailer is used for open storage for equipment being transported back and forth to sites. **Mr. D'Agostaro** said yes.

RESOLUTION

Ramsey Golf & Country Club, Block 5207, Lot 7; 105 Lakeside Drive.

A motion to waive the reading of the resolution was made by **Mr. FitzPatrick**, seconded by **Ms. Fisher Poppe**. **Carried**.

A motion to approve the resolution was made by **Mr. FitzPatrick**, seconded by **Ms. Fisher Poppe**.

Roll Call: **AYES:** **Ms. Fisher Poppe, Mr. FitzPatrick, Mr. Mooradian, Mr. Scuderi**

NAYES:

ABSTAIN: Ms. Boone, Mr. Crimmins
ABSENT: Ms. Jarvis, Chairwoman Strollo

Carried.

NEW BUSINESS - None

OLD BUSINESS - None

ADJOURNMENT

A motion was made by **Mr. Crimmins**, seconded by **Mr. FitzPatrick** to adjourn the regular meeting at 10:45 pm. All voted in favor. **Carried.**