

**Borough of Ho-Ho-Kus  
Bergen County, New Jersey  
Zoning Board Minutes  
May 5, 2022  
Regular Meeting**

**Meeting Called to Order at 7:00PM by Chairman Tarantino**

**Open Public Meeting's Act Statement: Read into the record by the Board Secretary.**

**Salute to Flag**

**Roll Call:** Messrs. Cox, Forst, Ms. Metzger (absent), Messrs. Rodger (absent at time of roll call; arrived at 7:25PM), Madden (absent), Ms. Raschdorf, Ms. Deegan, Mr. Martinez, Chairman Tarantino

**Also in attendance:** Gary J Cucchiara, Esq., Substitute Board Attorney; JoAnn Carroll, Board Secretary

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**Mr. Cucchiara administered the Oath of Office to the following, en masse:**  
**Kathleen Raschdorf, Member, Term Expiration 12/31/2023**  
**Maura Deegan, Alt. Member #1, Term Expiration 12/31/2022**  
**Sergio Martinez, Alt. Member #2, Term Expiration 12/31/2023**

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**Completeness Review:**

**Ms. Olive Ho, Tojo Restaurant, 1-7 N. Franklin Turnpike, Block 1013, Lot 2, GB Zone:** applicant seeks to occupy a 635 sf tenant space for use as a "ghost" kitchen; any use not specifically permitted in the zone, is expressly prohibited in the zone; D(1) variance

**Nicholas Doria, Esq., applicant's attorney:** placed his appearance on the record; was before the Board on behalf of Tojo Restaurant and Ms. Olive Ho.

**Mr. Cucchiara:** stated this is just a Completeness Review; no testimony will be taken or witnesses heard or any exhibits received this evening; the matter will not be discussed on its merits in anyway; the sole purpose of the applicant's appearance this evening is for the Board to determine if the application is complete, and if so, to schedule a public hearing which would be held on June 2, 2022 beginning at 7:00PM.

**Mr. Doria:** stated the application before the Board is the same which was in front of the Planning Board; it was discovered the intended use is not permitted in the zone; D variance; space to operate as a "ghost" kitchen; kitchen without seating capacity; will be used for the Tojo Restaurant at 5 N. Franklin Turnpike and for the applicant's other restaurant at the Garden State Plaza Mall; intention is to use the facility to prep foods; will have warming tables.

**Chairman Tarantino:** stated the application was self-explanatory and concise.

**Please note: Board Members had no questions of Mr. Doria.**

**Application deemed complete and was scheduled for a public hearing on June 2, 2022 at 7:00PM.**

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**Please note: a brief recess was taken at this time, 7:12PM.  
Meeting reconvened at 7:18PM.**

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**New Business:**

**Mr. & Mrs. Mourad Elayan, 58 Jacquelin Avenue, Block 403, Lot 3.01, R1 Zone:** applicants seek to construct a single-family dwelling, inground pool, cabana, greenhouse, driveways and HVAC equipment; non-compliance with: 85-9.A.(1): Two (2) dwelling unit on one lot where only one is permitted; 85-15.1.C: No accessory structures permitted in the front yard (greenhouse); 85-15.1 F.(1) One story of the cabana (basement) is below grade which is not permitted where one-story, ground level is permitted. By definition the proposed cabana is a 2-story structure; 85-32.3.B: Proposed driveway width is 50' where 35' is permitted (Mill Road entrance); 85-32.3.B: Proposed driveway width is 42' where 35' is permitted (closest to Jacquelin Avenue); 85-35: Air conditioning condensers and generators may encroach into the side yard setback by 5'; minimum distance from end of condenser to side yard to be no less than 45' where 17' is proposed (A/Cs & generator); 85-9.I.(1): Accessory structures must be at a minimum of 10 ft. from each other and the principal structure (pool cabana steps are less than 10' from the edge of the pool); Expansion of a pre-existing non-conforming use (principal dwelling); 85-9.I.(4): Accessory structure must maintain a distance of 35 ft. from the side property line where 17' is proposed (pool equipment); 85-9.H no accessory building shall exceed a height of 15 ft; height of screen surrounding cabana (part of cabana) at 16.4' where 15' is permitted; 85-15.1.F.(5): a cabana shall comply with a maximum of 300 sf on a lot 43,001 sf and greater; proposed cabana is 667 sf.; 85-15.1 F(4): HVAC installation, air conditioners, and heating or cooling systems or equipment are prohibited; **Determination Review:** the front, rear and side yard setbacks have been determined using the proposed new home as the principal structure.

**Chairman Tarantino:** stated he spoke with Mr. Whitaker and there will not be a decision on this application this evening; will be carried into June and possibly July; three senior Board members are absent; two new Board members are present; absent members will listen to the recording of tonight's meeting so they will be able to vote at a later date; at least one member of the public has COVID and cannot attend; the application is going forward and expert testimony will proceed; afterwards, members of the public can ask questions of the experts of the direct testimony that is taken.

**Please note: no Board Members identified a conflict with this application.**

**Bruce Whitaker, Esq., applicant's attorney:** placed his appearance on the record; stated Mr. McCarthy, the resident who was unable to attend this evening, contacted him; Mr. Whitaker told him this would be the beginning of a series of meetings; based on reports from the Borough professionals, revisions are being made to the plans; expert witnesses will be back at the next meeting;



Mr. Whitaker will correspond with Mr. McCarthy after tonight's meeting; the applicant's engineer and architect were present to testify; revised plans will be submitted more than ten days before the next meeting date; since the first application was submitted, modifications have been made; one of the exhibits is a list of variances that are now being sought and an interpretation if a variance is needed or not; reduced the amount of variances; the greenhouse has been eliminated; it is not being built; the application before the Board is not a typical application.

**Please note: Member Rodger arrived at this time, 7:25PM.**

**Mr. Whitaker, continued:** very large application; reviewed property; unique piece of property; one of the largest lots in town; described lot; existing conditions reviewed; dealing with almost 4 acres of property; owner wants to create an estate for his family; there are two older homes on the site in the state of deterioration; applicant was the successful bidder on the property; not looking to carve up the property; seeking multiple variances; two residential units on one property; one large home on the property and a carriage house; the carriage house is a 2-family house at this time; owner wants to restore it and make it a single family home, which would eliminate a non-conformity.

**Chairman Tarantino:** asked if there were tenants in the carriage house at this time.

**Mr. Whitaker:** stated no; has received both Mr. Snieckus' and Hals' reports; will provide details and revisions to the plans which the Board has not yet seen; there are two principal structures; homes built before 1920; well before zoning ordinances were in effect; there was always one lot; will restore the carriage house; no expansion; will create a single-family home there; Mr. Elayan's mother will live there; in the future, another family member may live there or a caretaker of the property; not a rental unit; accessory to the main home; occupancy will be only by a family member or a caretaker; a deed restriction can be put in place; will run with the land; owner wants to create an estate for his family; applicant is proposing to make the use of the land less intense; other non-conformities will be removed; the main home does not require any variances; one driveway from Mill Road to service the main home and the carriage house; series of accessory structures proposed; some are being removed that are there now; extensive swimming pool with a lazy river proposed; integral part of the design of the house; the pool provides a pool area with an island in it that has the pool house on it; this type of pool house is very different than what was contemplated when the recent cabana ordinance was adopted by the Borough; variance relief sought in this instance is larger than the code permits; HVAC; variance relief is now down to nine variances; they will be discussed briefly tonight; will submit correspondence to the Board; based upon the cabana configuration, it does not have a basement, which has been called out as a second story; we suggest this is not the case; solely to be used for storage; truly a one story building; it is larger than it should be; we can make the height conforming; not a multi-family dwelling.



**Mr. Sean McClellan, applicant's engineer:** gave his educational and professional background; his license is in good standing; accepted as an expert in the field of engineering; sworn in by Mr. Cucchiara; has visited the site; prepared the site plan; is aware of the existing conditions; corner lot; 3.73 acres; described lot and location; existing house sits at the high point of the property; carriage house on Mill Road has driveway access from Mill and Jacquelin; inground pool and patio on property; full sized tennis court and a smaller raised wooden tennis court on property as well; discussed topography; various walkways, porches and patios around the existing house; the house sits at an elevation at 103; the pool and tennis court at a 3 ft. difference; the tennis court is a pre-existing non-conformity; is an accessory structure that will be removed; the sport court proposed is also non-conforming but much less non-conforming than the tennis court; the sports court sits at 20 ft. from the property line and the required is 50 ft.

**The following exhibits were marked:**

- B1 Report of E. Snieckus, Burgis Associates, dated 5/2/2022**
- B2 Report of D. Hals, Schwanewede & Hals Engineering, dated 5/2/2022**
- A Application**
- B Affidavit of Service and Proof of Publication**
- C List of Variances**
- D Plan Entitled: "Site Plan for 58 Jacquelin Avenue, Lot 3.01, Block 403, Borough of Ho-Ho-Kus, Bergen County, NJ", dated 2/23/2021, last revised 2/25/22", prepared by Lantelme, PE**
- E Plan Entitled: "Proposed New Construction for: The Elayan Residence, 58 Jacquelin Avenue, Ho-Ho-Kus, NJ 07423", dated 4/2/2021**
- F Plan Entitled: "Proposed Pool House for: The Elayan Family, 58 Jacquelin Avenue, Ho-Ho-Kus, NJ 07423", dated 12/18/2020, prepared by D'Agostino, RA**
- G Colored rendering of proposed house, inground pool, cabana and surrounding area**

**Mr. McClellan, continued:** explained what is being proposed; reviewed exhibit E; carriage house is staying on site; no modifications are being made to the building; footprint will be the same; same foundation; greenhouse will be removed; the proposed house and swimming pool will be taking over the existing house; there will be a driveway from Mill Road only; deck off the house; loggia and pergola; cabana; patio areas; lazy river goes around the cabana; there will be a basement in the cabana.

**Chairman Tarantino:** asked if the house and/or the cabana will be able to be seen from either Mill Road or Jacquelin Avenue.

**Mr. McClellan:** stated he did not know if they would be visible from Jacquelin; the edge of the cabana is the edge of the house line; at tiny bit may be visible from Mill Road but not likely; the proposed main home is in the same area as

the current home; mean elevation along Jacquelin is 76; the elevation of the cabana is at 102.6.

**Ms. Raschdorf:** stated because of the differences in grades you will be able to see the home as you travel up Jacquelin Avenue.

**Mr. McClellan:** stated what covers part of the area where the existing house sits will be the patio, decks and pool; meets all bulk requirements; building coverage on the entire site is 7.8%, max allowed is 20%; ILC max allowed is 25%, proposing 23.5%; driveways proposed to be wider than code permits; come off of Mill Road; 50 ft. area to service 2 driveways; flexibility for cars coming in to the site and maneuvering; wider driveway in front of house to accommodate garages serviced by that driveway; scale of the driveways compared to the size of the house is proportionate; sized for four garage entrances; sport court not elevated; a/c units and pool equipment will be moved to make them conform; plans in flux; providing drainage; there is currently no drainage on site that meets the SW management requirements; roof leaders will be tied to seepage pits; seepage pits provided for carriage house, pool patio and driveway; volume required for all these improvements is 13,500 gallons; providing 21,000 gallons of storage; will comply with Mr. Hals' request; in Mr. Hals' report he recommends a review of the gate and fencing of the property due to sight concerns; will revise for subsequent meeting.

**Chairman Tarantino:** stated Mr. Hals was concerned with traffic being stopped in his report; wanted an immediate left hand turn so cars can enter the site quickly.

**Mr. Whitaker:** stated it will be stepped back; it will comply with the sight triangles per Mr. Hals' review; trees removed would require STC approval; will revise landscaping plan again; request for soil moving permit has been noticed for; can comply with all soil movement requirements and the BCSD requirements as well.

**Chairman Tarantino:** stated the Board is lucky to have a landscaping expert, as well as being a member of the STC, Ms. Raschdorf.

**Mr. Whitaker:** stated both homes will be hooked up to sewers and have water connections.

**Mr. Snieckus:** asked if the raised court was to be removed.

**Mr. McClellan:** stated yes.

**Mr. Whitaker:** stated the raised court was being restored, not removed.

**Mr. Forst:** confirmed the raised court was staying, and the sports court is new.

**Mr. Whitaker:** stated the raised court is in the setback; keeping it in the same location.



**Mr. McClellan:** stated the sports court will sit where the tennis court is now.

**Mr. Snieckus:** confirmed with Mr. McClellan that a new landscaping plan would be submitted to the Board for the additional changes and tree removal; also, the applicant should look to save additional trees.

**Chairman Tarantino:** stated landscaping is critical to shield the neighbors' views.

**Mr. Snieckus:** asked if lighting was to be installed for the driveway.

**Mr. McClellan:** stated there is no proposed lighting for the driveway.

**Mr. Snieckus:** asked if any of the courts would be lit.

**Mr. McClellan:** stated he did not know.

**Mr. Whitaker:** stated that information would be given at a later time.

**Mr. Forst:** asked if there would be lights around the pool.

**Mr. Whitaker:** stated he did not believe so.

**Ms. Raschdorf:** asked if any subsurface investigations were conducted and any natural features found.

**Mr. McClellan:** stated a perc test was not conducted.

**Ms. Raschdorf:** asked if there were any rock outcroppings.

**Mr. McClellan:** stated he did not believe so; would address at next meeting.

**Ms. Raschdorf:** stated the house is pushed very far forward when there is a natural contour on the property; the applicant needs to construct retaining walls at six, seven and eight feet stacked so close to the property line; if the house was pushed farther back some of the old growth trees could be saved; one of those trees could be original to the house; 38 and 40 inch oaks are being cut down simply for grading; the development could be more sensitive to the existing conditions; the ILC is low for the overall site, but about 3 acres of land clearing is being proposed; a concern in town at this time is the clearing of heavily wooded lots; every tree will need to be taken down with the retaining wall proposed along Jacquelin; the applicant is filling and chasing grade.

**Please note: the meeting at this time was opened to the public. No members of the public came forward to ask questions of the applicant's engineer. Public portion closed.**

**Mr. Daniel D'Agostino, applicant's architect:** gave his educational and professional background; license is in good standing; accepted as an expert in

the field of architecture; sworn in by Mr. Cucchiara; designed the home and is restoring the carriage house; will restore the carriage house to a one family; no architectural plans for it at this time; footprint staying the same and volume; door and window locations will be restored; half of the building was demoed at one time; not on historic register; committed to the building that is there; has a lot of charm but needs a lot of work; described design of new home; reviewed exhibits E and F; has a sense of the grade and the trees; made a great attempt to save the trees that are worth saving; main structure is a 5 bedroom, 6.5 bath home; owners have a great interest in the design; a lot of Asian influence; there are outcroppings in the center of the lot to the immediate left of the existing dwelling; this is why the home has been pushed to the rear right corner; want to keep an expanse of lawn; wants to remove and replant the ginkgo tree; does not want the house visible from the street; multiple sight line studies done around the property; meandering driveway configured to the home cannot be seen; many iterations done to provide privacy; a lot of glass proposed; there are very few solid walls because the owners want to bring the outdoors "in"; every area has scripted views; all of the wood will be cedar; top of screen is 16.4 ft.; looking to make it conform; it will not be visible from the street.

**Chairman Tarantino:** asked if the cabana would have plumbing.

**Mr. D'Agostino:** stated yes; it is not for habitable space; it is an outdoor environment; walls are made of glass; palette of materials transferred to the cabana from the home; spotted trees throughout the architecture; aligned with halls and corridors within the house; there may be an elevator installed; roof deck is at approximately 26 ft. in height from grade.

**Chairman Tarantino:** asked about the proposed lighting.

**Mr. D'Agostino:** stated lighting would be introduced along the driveway; low voltage; no overhead proposed; sports court will have lighting; not designed yet; no light pollution or spillage; there is existing lighting at the paddle court; they will be fixed up and kept; the current tennis court is being shrunk and replaced with a basketball/sports court.

**Mr. Whitaker:** stated the location of the proposed sports court will be reviewed due to the fact its location was just called out in Mr. Hals' report.

**Mr. Snieckus:** asked what the basement of the cabana would be used for and also asked for a description of where the wall is relative to the setback.

**Mr. D'Agostino:** stated there is a staircase located to the south for the basement of the cabana; on the left-hand side of the wall is a retaining wall; cellar is 8ft. below grade; it will be used for storage of pool furniture; cannot put the pool equipment underneath; no living space; wall is a retaining wall at grade; not above grade; railing around it; cheek wall around the stairs.

**Mr. Snieckus:** asked if a structural analysis of the carriage house was conducted to see if it can be restored.



**Mr. D'Agostino:** stated it can be restored; he investigated it himself.

**Mr. Snieckus:** asked if there was any potential that the Board is acting on something and the building would end up having to be removed.

**Mr. Whitaker:** stated he asked this before the application was submitted; it is understood if the building needs to be removed, the applicant would need to appear before the Board.

**Mr. Snieckus:** asked how the carriage house would be converted to a single unit.

**Mr. D'Agostino:** stated there are currently two kitchens, two gas meters and one electrical service; filed an OPRA; there were no approvals for the change to a two family or the work done; will make into one unit.

**Chairman Tarantino:** asked if there would be a bathroom in the basement of the pool cabana.

**Mr. D'Agostino:** stated no; the plumbing would be upstairs for the main level; full bathroom proposed.

**Chairman Tarantino:** asked if any evidence of a historic nature was found during the research on the carriage house.

**Mr. D'Agostino:** stated no.

**Chairman Tarantino requested the Board Secretary contact Mr. John Hanlon, Borough Historian, to inquire if he has any knowledge of the history of the carriage house.**

**Ms. Raschdorf:** asked for the landscaping and trees to be shown on the plan; commented the transplanting of the large gingko would most likely be a wasted effort as a tree that size wouldn't fare well.

**Please note: the meeting at this time was opened to the public.**

**Mr. David Gregory, 5 Boiling Springs, Ho-Ho-Kus:** asked questions of Mr. D'Agostino.

**No additional members of the public came forward on this application. Public portion closed.**

**Mr. Whitaker:** stated that concluded his presentation of the application this evening.

**Chairman Tarantino:** stated the application would be carried to the June 2, 2022 regularly scheduled meeting of the Board, beginning at 7:00PM, without further notice; stated, for members of the public, that this application could take another month or two; at some point, towards the end when the application has been heard in its entirety and before the Board deliberates,



members of the public will be able to make comments on this application, after being sworn in.

**Mr. Cox:** asked if Board Members could walk the property.

**Mr. Whitaker:** stated a guided tour could be arranged through Mr. D'Agostino's office; there is no one living at the property at this time.

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**Resolution:**

**Mr. Michael Vagnone and Ms. Susan Woods, 229 Blauvelt Avenue, Block 210, Lot 17, R2 Zone:** "Whispering Woods" hearing; approval of settlement.

**Chairman Tarantino:** stated the adoption of the resolution for 229 Blauvelt Avenue would be carried to the June 2, 2022 meeting of the Board.

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**Approval of Minutes:**

**Approval of April 7, 2022 Minutes:** Rodger

**Seconded by:** Forst

**Ayes:** Cox, Forst, Rodger, Raschdorf, Chairman Tarantino

**Nays:** None

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**Motion to Adjourn:** Chairman Tarantino

**Seconded by:** Cox

**All in Favor**

**None Opposed**

**Meeting adjourned at 8:36PM.**

Respectfully submitted by:

  
JoAnn Carroll

Zoning Board Secretary

May 11, 2022

**APPROVED ON JULY 13, 2022**