

**MANALAPAN TOWNSHIP ZONING BOARD OF ADJUSTMENT  
REORGANIZATION AND PUBLIC MEETING**

**MINUTES**

**JANUARY 18, 2018**

The Manalapan Township Zoning Board of Adjustment Reorganization meeting was called to order by Acting Recording Secretary Janice Moench with the reading of the Open Public Meetings Act at 7:35 p.m. and followed with a salute to the flag.

A Motion was offered by Ms. Strauss, seconded by Mr. Cooper to nominate Mr. Stephen Leviton as Acting Chair. All were in favor and none were opposed. The meeting was turned over to Acting Chairman Stephen Leviton.

A Motion was offered by Acting Chairman Stephen Leviton, Seconded by Ms. Strauss to nominate Janice Moench as Acting Recording Secretary. All were in favor and none were opposed.

Acting Chairman Stephen Leviton stated for record the designated newspaper for the 2018 Manalapan Township Zoning Board of Adjustment is the Asbury Park Press.

Acting Chairman Stephen Leviton states Mayor McNaboe is present this evening and will swear in our returning and new members.

Mayor McNaboe administered the Oaths of Office of Terry Rosenthal, Mollie Kamen, Eric Nelson, Mary Anne Byan, Adam Weiss and David Schertz. After the members were sworn in and joined the dais, Ms. Moench continued with Roll Call of the members:

**ROLL CALL:**

**MEMBERS PRESENT:** Mollie Kamen, Terry Rosenthal, Larry Cooper, Eric Nelson, Eve Strauss, Mary Anne Byan, David Schertz, Adam Weiss, Steven Leviton,

**ABSENT:** Eliot Lilien

Acting Chairman Stephen Leviton read the Resolution Authorizing an Executive Session to discuss personnel matters; the Motion for such Executive Session was moved by Ms. Strauss and seconded by Mr. Cooper, agreed to by all and commenced at 7:42 p.m. Roll call was taken for Executive Session. The Board exited the dais and held the Executive Session behind closed doors. Executive Session was closed at 8:10 p.m. and the Board returned to the dais.

**RESOLUTION APPOINTING ZONING BOARD ATTORNEY**

A Motion was offered by Chair Leviton, seconded by Mr. Cooper to nominate and/or appoint The Weiner Law Group, LLP as attorney(s) to the Manalapan Township Zoning Board. Mr. John Miller, Esq. will be in attendance at the meetings. There was no further discussion.

**YES:** Kamen, Rosenthal, Cooper, Nelson, Strauss, Byan  
Leviton

**NO:** None

**ABSENT:** Lilien

**ABSTAIN:** None

The Weiner Law Group, LLC was elected/selected as Attorney to Zoning Board of Adjustment.

**RESOLUTION APPOINTING ZONING BOARD ENGINEER**

A Motion was offered by Chair Leviton, seconded by Mr. Cooper to nominate and/or appoint CME Associates as Engineer to the Manalapan Township Zoning Board. There was no further discussion.

YES: Kamen, Rosenthal, Cooper, Nelson, Strauss, Byan  
Leviton  
NO: None  
ABSENT: Lilien  
ABSTAIN: None

CME Associates was elected/selected as Engineer to Zoning Board of Adjustment.

**RESOLUTION APPOINTING ZONING BOARD PLANNER**

A Motion was offered by Chair Leviton, seconded by Mr. Rosenthal to nominate and/or appoint Leon Avakian, Inc. as Planner to the Manalapan Township Zoning Board. There was no further discussion.

YES: Kamen, Rosenthal, Cooper, Nelson, Strauss, Byan  
Leviton  
NO: None  
ABSENT: Lilien  
ABSTAIN: None

Leon Avakian was elected/selected as Planner to the Zoning Board.

**RESOLUTION APPOINTING CHAIRPERSON**

A Motion was offered by Ms. Strauss to nominate, seconded by Mr. Rosenthal to nominate Mr. Stephen Leviton as Zoning Board Chairperson. There were no other nominees. No other discussions or nominations were offered. The nomination was accepted.

YES: Kamen, Rosenthal, Cooper, Nelson, Strauss, Byan,  
Leviton  
NO: None  
ABSENT: Lilien  
ABSTAIN: None

Mr. Leviton was elected/selected as Chairperson. He assumed the Chair.

**RESOLUTION APPOINTING VICE CHAIRMAN**

A Motion was offered by Chairman Leviton, seconded by Mr. Rosenthal to nominate Mr. Larry Cooper as Vice Chairperson of the Zoning Board. No other discussion or nominations were offered. The nomination was accepted.

YES: Kamen, Rosenthal, Cooper, Nelson, Strauss, Byan  
Leviton  
NO: None  
ABSENT: Lilien  
ABSTAIN: None

Mr. Cooper was elected/selected as Vice Chairperson. He assumed the Chair.

**RESOLUTION APPOINTING RECORDING SECRETARY**

A Motion was offered by Chair Leviton and seconded by Ms. Strauss to nominate Janice Moench as Recording Secretary to the Manalapan Township Zoning Board. No other discussion or nominations were offered.

YES: Kamen, Rosenthal, Cooper, Nelson, Strauss, Byan  
Leviton  
NO: None  
ABSENT: Lilien  
ABSTAIN: None

Ms. Moench was elected/selected as Recording Secretary to the Zoning Board of Adjustment.

**RESOLUTION OPEN PUBLIC MEETINGS**

A Motion was offered by Chair Leviton seconded by Mr. Cooper to accept the resolution establishing meeting dates for the Township of Manalapan Zoning Board of Adjustment for the calendar year 2018.

YES: Kamen, Rosenthal, Cooper, Nelson, Strauss, Byan  
Leviton  
NO: None  
ABSENT: Lilien  
ABSTAIN: None

Professionals were not chosen for a Conflict Planner, Conflict Engineer and Conflict Attorney.

Mr. Miller Swore in Professional Engineer, Brian Boccannuso and Professional Planner, Jennifer Beahm.

**MINUTES:**

A Motion was made by Mr. Cooper, Seconded by Mr. Leviton to approve the Minutes of December 7, 2017, as written.

YES: Rosenthal, Cooper, Strauss, Byan, Leviton  
NO: None  
ABSENT: Lilien  
ABSTAIN: None

A Motion was made by Mr. Rosenthal, Seconded Ms. Strauss to approve the Minutes of December 18, 2017, Special Meeting as written.

YES: Kamen, Rosenthal, Cooper, Strauss, Byan, Leviton  
NO: None  
ABSENT: Lilien  
ABSTAIN: None

**RESOLUTIONS:**

**Application No: ZBE1711**  
Applicant: Pulse Fitness by Wade  
Memorialization of Amended Approval  
Location: Block/Lot: 30/5.01

A Motion was made by Mr. Rosenthal, seconded by Mr. Leviton to approve the Amendment to the Resolution of Memorialization.

Yes: Rosenthal, Strauss, Leviton  
No: None  
Abstain: None  
Absent: Lilien  
Not Eligible: Kamen, Cooper, Nelson, Byan, Schertz, Weiss

**Application No: ZB1744**

Applicant: James and Kathleen Weiss  
Memorialization of Approval  
Location: Block/Lot: 72/27

A Motion was made by Mr. Cooper, seconded by Ms. Strauss to approve the Resolution of Memorialization.

Yes: Rosenthal, Cooper, Strauss, Byan, Leviton  
No: None  
Abstain: None  
Absent: Lilien  
Not Eligible: Kamen, Nelson, Schertz, Weiss

**Application No: ZBE1746**

Applicant: Karen Portnoff  
Memorialization of Approval  
Location: Block/Lot: 2008/37

A Motion was made by Ms. Strauss, seconded by Mr. Rosenthal to approve the Resolution of Memorialization.

Yes: Rosenthal, Strauss, Byan, Leviton  
No: None  
Abstain: None  
Absent: Lilien  
Not Eligible: Kamen, Cooper, Nelson, Schertz, Weiss

**Application No: ZBE1747**

Applicant: Jeffrey Blocher  
Memorialization of Approval  
Location: Block/Lot: 2007/13

A Motion was made by Mr. Strauss, seconded by Mr. Cooper to approve the Resolution of Memorialization.

Yes: Rosenthal, Cooper, Strauss, Byan, Leviton  
No: None  
Abstain: None  
Absent: Lilien  
Not Eligible: Kamen, Nelson, Schertz, Weiss

Chair Leviton states application number ZBE1735 Smith, and application number ZBE1719 Fontana will be carried to the February 1, 2018 meeting without further notice to the public. Chair Leviton further adds the public hearings on the agenda for this evening are residential; therefore the professional's attendance is not required for the remainder of the meeting. Mr. Boccanfuso and Ms. Beahm departed from the meeting.

**PUBLIC HEARINGS:**

**Application No. ZBE1748**

Applicant: Michael & Sandy Rath  
Proposal: Ratify Deck  
Request: Bulk Variance – setback relief  
Location: 15 Blenheim Rd  
Block/Lot: 401/13  
Zone: R20

Ms. Sandy Rath is sworn in by Mr. Miller. Ms. Rath explains she purchased the home in 1986 with an existing side deck. At that time Ms. Rath hired a contractor to renovate extend the deck out 5 Feet. Ms. Rath explains the side of the property where the deck is encroaching into the setback, is facing a wooded area.

Chair Leviton states there is an encroachment of 8 ft to the side setback. Mr. Cooper asks Ms. DeFalco if approvals were in place for the original side deck. Ms. DeFalco refers to the survey to see the original deck built with the house.

Ms. Strauss and Ms. DeFalco discussed how the original deck, that was permitted and built with the home, was already encroaching.

Ms. Byan confirms with Ms. Rath that the side of the home where the deck is located faces a wooded area. Ms. Strauss and Ms. DeFalco confirm the wooded area is part of Holiday Park and owned by Manalapan Township.

Chair Leviton asks the Board members if they have any further questions for Ms. Rath.

Mr. Miller asks Ms. Rath if she can give the Board an approximate timeframe in which the deck was reconstructed. Ms. Rath states she believes she closed in May of 1986 and the deck was reconstructed over that summer. Mr. Miller states the date of the survey is March of 1988. Ms. DeFalco confirms with Ms. Rath she had the survey completed when she purchased the home. Ms. Rath states she thought she purchased the home in 1986, but it may have been 1988.

Mr. Rosenthal asks Ms. Rath how she came before the Zoning Board. Ms. Rath explains she is selling the home and she didn't realize there was an issue until she began the CO process.

Chairman Leviton opened the floor to the public for comments or questions. Seeing there were no comments, he closed public.

A Motion was made by Mr. Cooper to approve this application and Seconded by Ms. Strauss.

Yes:	Kamen, Rosenthal, Cooper, Nelson, Strauss, Byan, Leviton
No:	None
Absent:	Lilien
Recused:	None
Not Eligible:	Weiss, Schertz

Chairman Leviton opened the floor to the public for any non-agenda items. Seeing there were none, the public section of the meeting was closed.

### **WORKSHOP:**

There were no correspondence matters to be discussed, but Ms. Moench requested that the Board review the 2018 Zoning Board Member List and let her know of any corrections or additions to the contact information.

Mr. Miller addressed the new Board members and stated that there is a statutory education requirement for newly appointed members. Within the next 18 months Board members are required to take a class ran by the New Jersey Planning Officials.

Chair Leviton explains that prior to the seating of the new Board members he spoke to the Township Administrator about bringing someone to Manalapan to teach the course and provide the certification. Ms. DeFalco explains the Township has put in an application to the New Jersey Planning Officials and there may be a class here in the fall.

Ms. Strauss explains she feels there is an advantage to sitting on the Board for a while before taking the course.

Mr. Miller made a statement regarding social media. He explained that we write impact our ability to sit on applications. When you respond to something on social media about any of our applications, it could cause you to have to recuse yourself. When there are applications with objectors, one of the first things an objector's attorney does is troll around the social media sites to see if members of the Board are commenting. If you comment in the middle of a hearing, the only way to remedy the conflict is to actually start the hearing all over again. Emails can become part of a public record, so don't write anything in an email that you wouldn't want to see in the Asbury Park Press. Some Board members believe they can evade the OPRA requirements by using an alternative email; however that means you have subjected your personal email to OPRA requests. Mr. Miller further suggests Board members should create a new email to use solely for Zoning Board matters.

**ADJOURNMENT:**

A Motion was offered by Mr. Cooper to adjourn the meeting at 8:30 p.m. and was agreed to by all. None were opposed.

Respectfully Submitted,

Janice Moench  
Recording Secretary

RECORDED COMPACT DISCS OF THE ZONING BOARD OF ADJUSTMENT ARE  
AVAILABLE FOR REVIEW, IN THE PLANNING/ZONING BOARD OFFICE BY  
APPOINTMENT.