

**Minutes**  
**Knowlton Township Zoning Board of Adjustment**  
**Tuesday, April 4, 2023**

There was a regular meeting of the Knowlton Township Zoning Board of Adjustment on Tuesday, April 4, 2023 at 7:30 p.m. Chairman Tillman led the Board in the pledge of allegiance. Secretary Apgar announced that adequate notice of the meeting has been provided in accordance with the "Open Public Meetings Act" by publishing notice of all meetings in the Official Newspapers as well as providing said schedule in the Municipal Clerk's Office.

**Roll call: Present:** O'Neill, Mezzanotte, Werner, DeVincenzi, Baley, Starrs  
And Tillman

**Absent:** Walsh

**Also Present:** Board Engineer Keenan, Board Planner Bloch and Attorney  
Thomas

**Memorializing Resolutions:**

**#ZB22-001 Daniel Deroche/Deroche Truck Covers & Tarps Inc, Block 12, Lots  
7, 8, 9**

Attorney Thomas stated there has been a suggested modification regarding the number of employees whereas that was not a stipulation and so the language will be modified. There were no changes from the board. A motion to approve was made by Ms. O'Neill and seconded by Mr. Baley. Roll call vote: Baley-yes, DeVincenzi-yes, Mezzanotte-yes, O'Neill-yes, Starrs-yes, Werner-yes, Tillman-yes.

**Approval of Minutes:**

The March 7, 2023 minutes were distributed prior to the meeting. There was a question regarding the testimony from Mr. Deroche on the hours of operation. Attorney Thomas stated the hours have been modified in the resolution.

A motion was made by Mr. Werner to approve the minutes and it was seconded. Roll call vote: O'Neill-yes, Mezzanotte-yes, Werner-yes, DeVincenzi-yes, Baley-yes, Starrs-yes, Tillman-yes.

**Completeness:**

**#ZB23-001 Julius and Anne Harajda, Block 8, Lot 60**

The applicant's attorney Steve Rother was introduced as council for the Harajda's. Township Engineer, Keenan, then proceeded to go over the completeness review. He stated there is a number of waivers. Attorney Rother apologized for not seeking the waivers. Mr. Keenan then stated the only issue he has is the proposed building is essentially located in the 500-year floodplain and at the edge of a 100-year floodplain which is a FEMA floodplain. Attorney Rother stated rather than doing another map, which is costly, he would like to have an engineer do an entire analysis and then give a letter stating that where it's located on the survey is outside of that floodplain. Mr. Keenan stated a survey with elevations is needed. It was agreed between Attorney Thomas and Mr. Keenan it would be appropriate to deem the application incomplete with the understanding that the applicant will provide the needed information before the next meeting. Chairman Tillman asked for a motion to deem the application incomplete for the one reason outlined by the board engineer, point number 2. Motion made by Ms. O'Neill and seconded by Mr. Baley. Roll call vote: Baley-yes, DeVincenzi-yes, Mezzanotte-yes, O'Neill-yes, Starrs-yes, Werner-yes, Tillman-yes.

**Old Business:****#ZB22-002 Hayden's House of Healing, Block 44, Lot 56**

The applicant's attorney, Michael Selvaggi, introduced himself as council and stated he believes this application is inherently beneficial and that this program is worth having here in Knowlton. He announced the applicant's planner will speak tonight. He stated this is a retreat center and it's been operating for years now providing this service. They are prepared to address some of the negatives brought up by members of the public. Regardless of whatever the outcome is these people aren't here to pick fights with residents they came here with the truest of intentions. He stated they will be using the Sica standards tonight. He continued, neither Robert or Ady Dorset are licensed therapists but that doesn't mean you can't run a retreat. Attorney Selvaggi then introduced John Hansen as uniquely qualified both as an engineer and planner. Mr. Hansen was sworn in and gave his engineering and planning credentials and stated his primary office is in High Bridge, NJ. His engineering testimony began with going over the layout of the project. The location is 20 Ivan Road, the property is pie shaped, the house sits lower than the road, it is served by well and septic. The property is in the FPD zone, he gave the dimensions of the property, the gravel driveway installed by the applicant has been removed. He stated the property has been used for years as a retreat center and that use is not permitted in this zone. They are here for a D1 variance and there are 2 paths he will go down to make their argument. One of the concessions they have made since the last meeting is the number of attendees for each retreat will be reduced to a maximum of 10 and the number of employees will be reduced to a maximum of 3. They also have offered to do landscaping on both sidelines so that clearly defines their property lines. This will provide privacy to adjoining neighbors and avoid possible trespassing. Mr. Hansen stated both himself and Rob Dorset went to the Warren County Health Department back in February and met with 2 staff members to talk about the septic system. The system was designed and approved for a 4-bedroom house. That means the design flow for that system is 650 gallons a day. They looked at different uses that the code will provide for to develop a design flow for a use like this. This is such a unique use that there is no design flow in the code. The county has had similar situations and steered them towards usage as a group home which is in the code. This allows 50 gallons per day for an overnight guest per person. With their maximum of 13 persons this would total 650 gallons. They would have to get approval from the health department if this board approves that and this would be a condition. As to the variance there are 2 avenues they could use to present the case for the board to consider. The Medici framework whereas the positive and negative criteria need to be met. But Mr. Hansen stated they are proposing to follow the Sica case framework. He believes the use is inherently beneficial. For background the Sica case was from 1992, the case was denied and then appealed and during the case they separated this inherently beneficial use standard and how it should be looked at. Inherently beneficial by the court's definition meant the use promotes the general welfare, but in 2009 the law was amended to add definition to mean a use which is universally considered a value to the community because it fundamentally serves the public good and promotes general welfare. Such uses include but are not limited to schools, child care centers, hospitals, and group homes.

Mr. Hansen continued that under the Sica test the standard of the negative criteria is much less. It is a 4-step test: identify the public interest at stake, identify the detrimental effects, determine if any legitimate detrimental effects can be reduced by imposing reasonable conditions, and determine whether the variance can be granted without substantial detriment to the public. Regarding step #1 enhancement to the general welfare can extend farther than just the township residents. Regarding step #2 the detrimental effects of granting the variance brought up by the public include noise, parking, possible septic system problems, and possible trespassing. Regarding step #3 items brought up can be addressed including limited the hours, the number of people at retreats, the days of the week, the number of retreats per year, limiting the number of vehicles parked in the driveway, and approval from the Warren County Health Department regarding the septic system. Mr. Hansen said it is a balancing test and he believes the variance can be granted without substantial impact. He then went on to explain permitted uses in the FP zone including community residences for developmentally disabled, community shelters for victims of domestic violence. He believes this shows the types of uses are consistent with helping individuals. Regarding step #4 substantial impairment to the public good, Mr. Hansen believes there is none. The use will be reduced and less intense than a home for developmentally disabled or for a home for victims of domestic violence as they are there full time and allowed to have visitors. He went on to say the maximum number of cars parked at the house will be 8. Lastly the septic design flow for the proposed number of people is consistent with the prior use and will be confirmed with the health department.

Attorney Thomas made comment that the uses referenced, group homes as well as domestic violence are now statutory authorizations as defined in the municipal land use. Mr. Hansen was not aware of any case law that states this exact use has been deemed inherently beneficial somewhere else. Township planner, Dan Bloch stated he felt it was up to the board to determine, as there is no case law for this particular use it is so unique. It has a lot of the characteristics of other inherently beneficial uses. Dan believes Mr. Hansen did go thru the proper criteria of the 4 step Sica analysis for inherently beneficial use and the board must weigh the positive and negative impacts and can the board be satisfied that they will be enforced somehow. Chairman Tillman asked whether there is case law regarding positive criteria for the township but negative impacts on a neighborhood. Attorney Thomas stated he believes the case law does look to surrounding properties. Board member Starrs questioned Mr. Hansen if the property is on well water and have there been any studies done regarding intensive use of well water or the water table affecting surrounding homes. Mr. Hansen said the use is not any more intensive than a single-family home according to the septic code. Board member Werner had a question for Mr. Hansen regarding the Sica test and examples of inherently beneficial use asking if was his testimony that the use we are looking at is comparable to these highly regulated types of use. Mr. Hansen stated it was not. It is very subjective and the board needs to determine does this use fit into the inherently beneficial uses and fundamentally serve the public. There was a board question again on the number of cars and parking. Mr. Dorset stated he secured parking at the Hope park and ride as well as a private residence on Knowlton Road. He also stated the number of cars on site will be 6.

Board member DeVincenzi asked about ADA compliance and any safety requirements being this is a public type use. Mr. Hansen did not believe there were any requirements and Mr. Dorset stated the home is ADA accessible. Food preparation safety concerns were discussed and Mr. Hansen stated it would be brought to the health department if the application was approved. There was more discussion on water usage and Mr. Hansen stated in speaking with the health department there were no detrimental effects reported. Board member Mezzanotte asked about the 5 one day workshops with 18 people, Mr. Hansen stated they do not spend the night.

The meeting was then opened to the public for questions only for Mr. Hansen. Alan Smith asked about septic standards for congregate living. Frank Giambrone asked if the calculations of the draw on the well vs. the septic output should be equivalent to a 4-bedroom home. Board Attorney Thomas then suggested to the board to open the meeting for public comment only for the planner, Mr. Hansen. As overall public input was already heard at the previous meetings. Alan Smith from 68 Countryside Rd was sworn in and spoke on design criteria for congregate living. Christina DeCesare from Macungie, PA was sworn in and stated she oversees the operations of every group home in Bucks County. She does yearly inspections on all the homes and 95% are within the community and single-family homes. She attends Hayden's House and believes it functions better than any home she has ever interacted with. Public portion was then closed.

The applicant's attorney, Mr. Selvaggi, stated he usually does the closing statement but his client would like to read the closing statement. Attorney Thomas reminded them they are still under oath. Ady Dorset first wanted to respond to the comments on washing clothes and stated most of the laundry is taken to their home to wash. She then read a prepared statement stating she is there to defend her work, they have been there for 3.5 years, she went over noise complaints, lake dues, being a non-profit, why Hayden's House needs to exist, her professional background in education, lesson plans for the retreats, neighborhood concerns, security cameras, background checks, their insurance, how the work they do is inherently beneficial, Knowlton Township being a stigma free community and prolonged grief disorder.

Chairman Tillman stated Roger asked for a vote in the affirmative, but we need to set the conditions. Attorney Thomas said a decision needs to be made first as to determine whether we are dealing with a D variance under the Medici case or a D variance under the Sica case. Because the standards change significantly. He stated that vote should be first and the board needs to interpret the language. This is a unique use and not previously established. Does this meet the definitions of inherently beneficial or do you need to look further into not just the definition but some of what the case laws have said in terms of the kind of uses that have been approved. He also stated you must decide if there is any substantial interference or detriment to the Master Plan or zoning ordinance. Attorney Thomas answered questions from the board members regarding the 2 case laws and explaining that is the first step. Secondly you must do the analysis and go through the criteria that was talked about. A question was raised if it is the applicant's responsibility to explain what precedent they want to base this on. Attorney Thomas said they did, they want to use inherently beneficial – Sica. But what they are saying is if you do not agree with that, they still think they met the standards for Medici. Chairman Tillman stated the affirmative motion would be to accept Sica. Board member Starrs, received clarification from Attorney Thomas that the first vote would be for accepting their argument. The second vote will be to go through the analysis to see if they meet the standard of inherently beneficial use.

Chairman Tillman noted the applicant is asking for Sica and 5 affirmative votes are needed if it is inherently beneficial. Mr. Werner made the motion and was seconded by Ms. Starrs. Roll call vote: Baley-no, DeVincenzi-abstain, Mezzanotte-yes, O'Neill-no, Starrs-yes, Werner-no, Tillman-no.

Attorney Thomas stated the motion does not carry so forget about inherently beneficial use. Now it must be determined if they meet the standard under Medici. He went over with the board the criteria again for Medici. Chairman Tillman noted this vote is *the* vote and again 5 affirmative votes are needed. Attorney Thomas said a motion to determine this applicant has met the D variance standard and include at a minimum the conditions that are outlined in Mr. Selvaggi's letter dated March 3, 2023 (with the exception of the number of people) and Mr. Hansen's testimony. Also, if not included in Mr. Selvaggi's letter, a note of the alternative parking, a limit of 6 cars parked on site, and board of health review. Discussion took place regarding the D variance running with the land. Attorney Thomas stated the applicant would have to agree to a condition having the variance run only for the period of time they own the property and then the variance would expire. Mr. Dorset agreed to the condition.

Board Member Starrs asked to read a statement into public record which included; the home being a business in a residential zone, children in the neighborhood, other business zoned properties available in the township, property taxes, township liability, Hayden's income and criteria for the variance.

Chairman Tillman asked for a motion. Motion was made by Mr. Werner. Motion seconded by Ms. O'Neill. Roll call vote: Baley-no, DeVincenzi-abstain, Mezzanotte-no, O'Neill-no, Starrs-no, Werner-no, Tillman-no.

**New Business:**

**#ZB22-003 Michele Torzilli, Block 39, Lot 4.16**

Attorney Greenbaum introduced himself as council for the applicant Michele Torzilli. He stated Mr. Torzilli resides at 13 Meadow Ridge Rd. He is seeking a C variance for the installation of a tennis court in his backyard. Mr. Greenbaum introduced the engineer, Alfred Stewart, who was sworn in and went over his credentials. Mr. Stewart stated the property has 3.529 acres, it is in the FP zone, it is an odd shaped lot, there is approximately an acre in the rear of the property. The proposal is for a tennis court in the rear of the house directly behind the pool area. The court would be 60x120, 7200 square feet and surrounded by a 10-foot-high fence which will be black vinyl clad. Beyond that is a 2-foot width trench surrounding the court to capture runoff coming into the court area. There will be no lighting for the tennis court it will be used in daylight hours only, as far as additional screening there are trees along the boundary line. As for clearing, there are 2 scrub trees that need to be removed. They are requesting several variances; one for maximum lot disturbance, one for maximum pervious coverage, one for maximum accessory building area and for the building envelope. Mr. Greenbaum then went over the board engineers report with Mr. Stewart. They went over the extent of the buffer and it will remain undisturbed. The tennis court, based on the topography and tree cover, would not be visible to any of the adjacent properties and one lot is vacant. Questions were then asked by the board regarding the adjacent vacant lots. One is in farmland preservation and one is a vacant 3-acre lot, which could possibly be buildable. Board member Mezzanotte asked if a house was there would they see the tennis court. Mr. Stewart stated there is screening, a series of plantings along the boundary line and another series at the rear of the home.

There is also sloping from the house down to the tennis court area, but from the roadway parts might be seen. The court will be for personal use only. The trench will go around the full court and act as an infiltration facility, there will be no runoff. It will measure 24 inches wide and 36 inches deep lined with 2 ½ stone so it will saturate into the ground. River stone could be used if needed to make it more aesthetically pleasing.

Attorney Thomas asked for the engineer, Mr. Stewart, to comment on the buffering between this house and the property to the west. Mr. Stewart said the tree width is about 40 feet. The 200-foot notification was done. There will be brush removal. Planner Bloch raised questions on the building envelope, which the ordinance says shouldn't exceed 20 thousand square feet for this size lot and they are at 57 thousand square feet. The other question is the floor area ratio which is an existing non-conforming condition. Mr. Greenbaum stated there was a prior application for an addition to the house as a mother-daughter suite and the application was granted, but in checking the floor area ratio wasn't found so it somehow slipped through. But this application doesn't seek add to the floor area ratio in any fashion. It is not part of this application and shouldn't be considered by the board because it is a pre-existing condition of approval from back in 2020 and is fully constructed. The meeting was then opened to public questions. Peter Rabinowicz asked if there is a fence around the court. There is a ten-foot-high fence. It was noted the max is 6 foot. Attorney Greenbaum stated the deed restriction which was approved in 2020 was filed.

Mr. Torzilli was the next witness and sworn in. He stated he has owned the property at 13 Meadow Ridge Rd for approximately 9 years. He is seeking to have a tennis court installed at his property for personal use of himself and children, possibly neighbors. He feels the court will be pretty much un-noticeable as there is not much elevation to it. In response to board member DeVincenzi's question about the noise level from the ball, Mr. Torzilli has played for some time and does not believe there is any unreasonable amount of noise. Use will be limited to daytime only and there will be no pickleball use. Regarding the concern of Mr. Bloch's pertaining to the size of the court (normal size is 27 feet wide and 78 feet long) Mr. Torzilli is seeking a 60-foot-wide by 120-foot-long court. That measurement includes the "run-off" area on the sides and the back. The lines of the court are standard size. One of the trees to be removed is prone to lantern fly infestation, so that would be a benefit to neighbors. The buffering tree line has a mix of evergreens and other trees. Mr. Torzilli sees no detriment to the adjoining property owners. Neighbors were notified by the 200-foot list sent certified and regular mail and no one has raised any concerns. There is no intention to use the court for tennis lessons, the court is for personal use only, no commercial use.

The last witness was the contractor, Donald Pierson, who was sworn in and stated his business is located in Chester, NJ. He has owned Courts Unlimited for the past 40 years. Regarding court size Mr. Pierson stated the 27 foot wide court is for single play, 36 foot wide by 78 feet long is for doubles play. Mr. Greenbaum asked Mr. Pierson what the standard minimum size he would recommend is. He stated 60x120 is standard dimension and is what is recommended by the American Sports Builders Association. With regards to the proposed location he feels there are no impediments. It's in an otherwise unusable area of scrub brush, tucked away where neighbors can't see it. It ties in nicely with the pool which is slightly elevated. Regarding noise from tennis play he has never heard of any complaints from a tennis ball. There were no public questions.

Attorney Thomas then stated if there is an approval, there are some conditions he is aware of. First to verify the trench will be 2 feet wide with 36 inches of depth and covered with some sort of river stone for aesthetic purposes. Also, a condition that there will be no commercial use of the court only personal use. Paying appropriate fees and taxes and no lighting. Mr. Greenbaum stated all is acceptable to the applicant and gave his closing statement including he feels there is no detriment to the approval of the C variances they are seeking. It was noted the height of the fence needs to be included. A motion to approve with the conditions was made by Ms. Starrs and seconded by Ms. O'Neill. Roll call vote: Baley-yes, DeVincenzi-yes, Mezzanotte-yes, O'Neill-yes, Starrs-yes, Werner-yes, Tillman-yes.

**Other:**

**Annual Report:** Mr. Thomas stated he has received some suggested modifications. Ms. O'Neill was asked to go over them. Corrections were suggested on the AT Truck Stop application summary including the number of existing freestanding signs and number of times the board denied the application. She also felt it is important to note that all the work and changes were done without permits. It wasn't until they received violation notices that they applied for these permits. Also, removal of contaminated soil. Mr. Thomas stated he usually doesn't put all of that kind of information in the annual report. It was noted the Resolution is the binding document. The information is given to the governing body and Planning Board to determine whether or not any of these actions would lead you, as a board, to suggest any modifications in the ordinance. There was then discussion regarding AT Truck Stop's resolution for signage being open for 6 months and why 2 separate resolutions couldn't be done. It was left as dependent upon the timing of their next appearance. Attorney Thomas stated if the board is in agreement with the suggested modifications he would incorporate them. A motion to adopt the annual report and forward it to the governing body was made by Ms. Mezzanotte and seconded by Ms. O'Neill. Roll call vote: Baley-yes, DeVincenzi-yes, Mezzanotte-yes, O'Neill-yes, Starrs-yes, Werner-yes, Tillman-yes.

**Approval of Vouchers:**

Ms. Mezzanotte made the motion to approve the vouchers. Motion was seconded by Ms. O'Neill. Roll call vote: Baley-yes, DeVincenzi-yes, Mezzanotte-yes, O'Neill-yes, Starrs-yes, Werner-yes, Tillman-yes.

**Adjournment:**

Chairman Tillman asked for a voice vote for adjournment, all were in favor. The meeting was adjourned at 10:22 p.m.

Respectfully Submitted:

Doreen Apgar  
Board Secretary