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October 14, 2020

**Via e-mail**

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**Via e-mail**

Robert Farrell, Chairman  
Colts Neck Zoning Board of Adjustment  
124 Cedar Drive  
Colts Neck, N.J. 07722

Re: Appeal/Interpretation of Flancbaum, Dfailey and Zagha  
Colts Neck Zoning Board of Adjustment

Gentlemen,

I am in receipt of Mr. Shea's correspondence dated October 13, 2020 objecting to the Zoning Board of Adjustment hearing the above referenced Appeal/Interpretation at tomorrow night's meeting on October 15, 2020. Mr. Shea's objection is based on the requirement in N.J.S.A. 40:55D-72 that all papers constituting the record upon which the action appealed from was taken be immediately transmitted to the Board of Adjustment.

I have reviewed this with Township Planner/Zoning Officer Tim Anfuso. He advises that, although his decision was made principally upon review of the plans, which are in the Zoning Board file, there were other documents in the Colts Neck Community Church file at the time the decision appealed from was made. It is my opinion the best practice is that all documents that were in the Colts Neck Community Church file at the time the decision appealed from was made should have been transmitted to the Zoning Board of Adjustment file whether or not they were relied upon by the Zoning Officer in making his decision.

Based on the foregoing I am directing the Board of Adjustment not to hear the Appeal/Interpretation at tomorrow night's meeting. That hearing will have to be carried to another meeting in order to provide Mr. Shea and his clients with the time and materials to be able to properly prepare their case. That meeting shall not occur prior to the November 19, 2020 meeting date so that adequate time is assured.

I am also directing Mr. Anfuso to assemble all materials that comprised the Colts Neck Community Church file at the time of the decision appealed from, regardless of whether they were relied upon in his decision-making. They are to be placed in the Zoning Board of Adjustment file by Monday, October 19, 2020 and made available to all for review.

Notwithstanding the foregoing, there are two procedural issues not related to the substance of the Appeal/Interpretation requiring resolution that can, and should, be addressed at tomorrow night's meeting.

The first issue has been raised by Mr. Shea as to whether the hearing must be conducted at an "in-person" meeting and not at a "virtual" meeting. This issue must be decided as the rescheduling of the Appeal/Interpretation will depend on its outcome.

The second issue has been raised by Mr. Alfieri as to whether the Zoning Board of Adjustment has jurisdiction to hear the Appeal/Interpretation. This issue must also be decided as whether to reschedule the Appeal/Interpretation will depend on its outcome.

Please be prepared to address those issues at tomorrow night's meeting.

Very Truly Yours,



Michael B. Steib