TENAFLY BOARD OF ADJUSTMENT
REGULAR PUBLIC MEETING
7:30 P.M. February 4, 2013
MINUTES

ROLL CALL

Present: Mr. Farrell, Mrs. Gilbert, Mr. Kominsky, Mr. Levene, Mr. Li (arr 8:05PM), Mr. Lieberman, Mr. Grossman.
Absent: Mr. Brensilber, Mr. Cytryn.

Also present: Mr. Donald Lenner

OPEN PUBLIC MEETINGS ACT STATEMENT

Chair Grossman read the Open Public Meetings Act Statement: "In compliance with the Open Public Meetings Act P.L. 1975, chapter 231, the notice requirements have been satisfied. Notice for this meeting date was faxed to the Record on January 3, 2013, posted on the bulletin board in the lobby of the Municipal Center and posted to the municipal web site."

REORGANIZATION:

SWEAR IN RE-APPOINTED MEMBER:

Timothy Farrell was sworn in by Mr. Lenner.

After some discussion on a second vice chair, motion by Mr. Kominsky second by Mr. Farrell to nominate Mr. Lieberman. All members on a voice vote were in favor.

COMMUNICATIONS

1. NJ Planner, Nov/Dec 2012.

APPROVAL OF MINUTES

Motion by Mr. Levene second by Mr. Kominsky to approve the minutes of January 7, 2013. All members on a voice vote were in favor.

MOTIONS FOR ADJOURNMENT – there are none.

UNFINISHED BUSINESS

<u>Resolutions to be memorialized</u>

Denied: Quirk, 19 Jewett Ave– 301/17
No garage. ZB2012-26. *(Rec'd 10/3/12 decision by 1/31/13.)*

Approved: Weingarten, 77 Norman Pl – 407/35
Side yard setback. ZB2012-25. *(Rec'd 9/13/12 decision by 1/11/13.)*

Denied: Hojo, 68 Norman Pl – 412/9
Impervious coverage, building height. ZB2012-27. *(Rec'd 11/26/12 decision by 3/26/13.)*

Approved: D & K Management, LLC., 20 Washington St – 1011/6
Second floor residential. ZB2012-23. *(Rec'd 9/14/12 decision by 1/12/13.)*

Approved: Hojo, 68 Norman Pl – 412/9
Building height. ZB2013-02. *(Rec'd 12/19/12 decision by 4/18/13.)*

Motion by Mr. Lieberman second by Mr. Grossman to memorialize the resolutions. All members on a voice vote were in favor.

NEW BUSINESS

Blatt, 25 Knoll Rd – 1403/3.
Generator in side yard. ZB2013-01. *(Rec'd 12/27/12 decision by 4/26/13.)*

Present was the homeowner Lindsey Blatt who was sworn in by Mr. Lenner. Mrs. Blatt described the property, the house faces sideways on the lot, it was built in the early 1900's. The A/C units are on the west side of the house, they would like to put the generator there as the gas line is there. They have tried plantings on that side but nothing seems to grow there and they would install a picket fence to hide the equipment; they are asking for a variance of 8' and would leave 7 clear feet between the edge of the generator and property line. Mrs. Blatt offered a set of four color photographs showing the house and proposed location of the generator which was marked as A-1.

Mr. Li arrived 8:05PM.

Mrs. Gilbert asked if the generator could be located past the A/C Units towards the back of the house. In response Mrs. Blatt said the gas line is near the front of the house. Mr. Kominsky confirmed with the applicant the variance would be for 7'. There followed some discussion on 'appropriate screening' of the generator.

There were no questions or comments from the public.

Mrs. Blatt gave a summary of the application.

Motion by Mr. Levene second by Mr. Farrell to go into deliberative session. All members on a voice vote were in favor.

Mr. Kominsky said he felt the variance request was not unwarranted, there would be no intrusion to the neighbor as it did not appear to be living space on that side of the neighbor's house.

Motion by Mr. Kominsky second by Mr. Farrell to approve the side yard variance of 7' for the generator.

Roll call:
In favor: Mr. Kominsky, Mr. Farrell, Mrs. Gilbert, Mr. Levene, Mr. Lieberman, Mr. Grossman.
Opposed: None.
Side yard setback variance of 7' approved 6-0.

Carried from ~~December 3, 2012~~; January 4, 2013.
Farley, 89 Highwood Ave – 1602/14.
Interpretation. ZB2011-26. *(Rec'd 4/27/12 decision by 02/04/2013.)*

Present for the applicant was Marc Leibman, of the firm Kaufman, Semeraro, Bern, Deutsch & Leibman, LLP., Mr. Leibman gave a brief overview and history of the property, he re-distributed his letter of July 26, 2012 and briefly went through the points in that letter. Mr. Leibman said the applicant is willing to have a deed restriction done regarding the use upstairs of the garage; they are seeking an Interpretation from the Board in defining 'residence purposes', which is not defined in the Ordinance; and gave the Ordinance definition of a dwelling unit. Mr. Leibman said the upstairs of the garage would have a bedroom to be used occasionally as the Farley's have a large family that gathers on some holidays.

In response to questions from the Board, Mr. Leibman said the bathroom would consist of a shower, toilet and sink, if the Board were not favorable on the Interpretation, the applicant would immediately make the argument for a Use variance, the bedroom would be used by visitors, no kitchen would be installed, he was not sure how specific the deed restriction could be.

Mr. Lenner explained deed restrictions and said without a kitchen the garage did not qualify as a residential structure.

There followed discussion on the Zoning Denial #1288, issued on June 29, 2010; concern was expressed with the installation of a bathroom and that a microwave, hotplate and small refrigerator could constitute a kitchen.

There were no questions or comments from the public.

Mr. Leibman gave a summary of the application.

Motion by Mr. Kominsky second by Mr. Farrell to go into deliberative session. All members on a voice vote were in favor.

Mr. Kominsky expressed concern at the lack of words and the words used in the definition of residence facility.

Mr. Farrell said he was hung up on defining this as a residence and was not in favor of the Interpretation.

Mr. Grossman explained this is a separate structure, and does the bathroom open it up to being a separate unit.

Mr. Levene felt the deed restriction would have a significant effect.

Mr. Li felt it had the potential to be a residence.

Prior to the vote, Mr. Leibman asked that Mr. Li not vote as he was not fully familiar with the application.

Motion by Mr. Lieberman second by Mr. Farrell that it does constitute a residence purpose, and uphold the Interpretation on the Denial.

Roll call vote:
In favor: Mr. Lieberman, Mr. Farrell, Mrs. Gilbert, Mr. Grossman.
Opposed: Mr. Kominsky, Mr. Levene.
Interpretation upheld.

There followed discussion on the deed restriction and that it should be reviewed by the Board and their Attorney.

Motion by Mr. Kominsky second by Mr. Farrell to approve the Use of the space above the garage for residence purposes with a deed restriction in place.

Roll call vote:
In favor: Mr. Kominsky, Mr. Farrell, Mr. Levene, Mr. Grossman.
Opposed: Mrs. Gilbert, Mr. Lieberman.
Use variance failed 4-2.

Bloom, 83 Country Club Rd – 503/17.
FAR, lot coverage, side yard. ZB2013-04.

Present were the homeowner Eric Bloom and his architect Chris Blake. Both were sworn in and Mr. Blake was accepted as an expert in the field of architecture.

Mr. Bloom said they purchased the home two years ago; the house has no basement and as such storage is very limited, and now they have triplets, space is at a premium; they would like to add a one story mud room in the rear and create new space above the garage.

Mr. Blake said the side yard currently is 13.84', lot coverage allowed is 20%, 24.12% is proposed and FAR of 31.32% will be the final result with the additions; they propose adding a second level above the garage and building straight up, only the front corner of the addition over the garage will be in the side yard setback; the current house is over on lot coverage, the mud room will only be adding 110 square feet to lot coverage; the addition of the mud room in the rear will add 150 square feet to the FAR; the mudroom will not be visible from the street, and in his opinion there would be no negative impact on the light and air of the neighbors. The house is a slab on grade there is no space for storage, no recreation area, no laundry area, they will be adding useable space not making an extra bedroom or the existing bedrooms larger; a playroom will be above the garage with many closets for storage. Mr. Blake continued the garage is setback from the street the second floor addition will blend and be finished in a similar style to the existing house; there are mature pine trees on that side of the house. He did not feel there would be any negative impact to the neighbors. The positive aspects are the house will be complete with storage areas and a mudroom and laundry area, he felt it would be a good fit for the property.

Mr. Lieberman said he had no problem with the variances being requested. Mr. Grossman asked if the second floor could be further back so as not to be so visible. Mr. Blake said the second floor addition over the garage would not be as high as the existing house.

There were no questions or comments from the audience.

Mr. Bloom and Mr. Blake gave a summary of the application.

Motion by Mr. Levene a second by Mrs. Gilbert to go into deliberative session. All members on a voice vote were in favor.

Mr. Lieberman said he had an issue with the addition over the garage, he felt that even by setting the front corner of the addition back would be one less variance; no issue with the mud room as it is the rear, and the house is about 70' wide, which is wide for the lot.

Mr. Kominsky said he felt there was a necessity for the additions and did not have a problem with the variances being requested.

Mr. Li had no problem with the application.

Mr. Levene said he felt the variances were justified and not significant.

Mr. Farrell said he thought the variances were de minimis; the addition is practical and will be a major improvement.

Mrs. Gilbert agreed with Mr. Farrell, adding this board is not an architectural review board, her concerns were, would the house fit in with the neighborhood and be consistent; she understood the FAR calculations especially where cathedral ceilings are involved.

Mr. Grossman said he felt the house was wide and did not feel the property could accommodate the addition as the house is already over on FAR and lot coverage, and as a practical matter he pointed out there is no bathroom upstairs, adding that is the homeowner's problem to solve. .

Motion by Mr. Farrell second by Mr. Levene to approve the FAR application.

Roll call vote:
In favor: Mr. Farrell, Mr. Levene, Mrs. Gilbert, Mr. Kominsky, Mr. Lieberman, Mr. Li.
Opposed: Mr. Grossman.
FAR variance of 31.32% approved 6-1.

Motion by Mrs. Gilbert second by Mr. Farrell to approve the bulk variances.

Roll call vote:
In favor: Mrs. Gilbert, Mr. Farrell, Mr. Kominsky, Mr. Levene, Mr. Lieberman, Mr. Li.
Opposed: Mr. Grossman.
Lot coverage of 24.12% and side yard setback of 13.84' approved 6-1.

CLOSED SESSION – there was none.

ADJOURNMENT

Motion by Mr. Kominsky second by Mrs. Gilbert to adjourn the meeting. All members on a voice vote were in favor, the meeting was adjourned at 10:00PM.

Respectfully submitted,

Lindsay Graham
Board Secretary