

**TENAFLY BOARD OF ADJUSTMENT
REGULAR PUBLIC MEETING
7:30 P.M. April 8, 2013
MINUTES**

ROLL CALL

Present: Mr. Brensilber, Mr. Cytryn, Mr. Farrell, Mrs. Gilbert, Mr. Kominsky, Mr. Levene, Mr. Lieberman, Mr. Grossman.

Absent: Mr. Li.

Also present: Mr. Donald Lenner, Mr. David Hals.

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."

COMMUNICATIONS

1. NJ Planner January/February 2013.
2. Letter dated February 25, 2013 from Board Engineer re: 17 S Summit St; ZB2013-06.
3. Letter dated April 4, 2013 from Board Engineer re: 52 & 56 Madison Ave, BMW; ZB2013-03.

APPROVAL OF MINUTES

Motion by Mr. Farrell second by Mr. Levene to approve the minutes of March 4, 2013. All members on a voice vote were in favor.

MOTIONS FOR ADJOURNMENT - there were none.

UNFINISHED BUSINESS

Resolutions to be memorialized

Approved: Blatt, 25 Knoll Rd – 1403/3.
Side yard setback of 7'. ZB2013-01. (Rec'd 12/27/12 decision by 4/26/13.)

Approved: Bloom, 83 Country Club Rd – 503/17.
FAR, lot coverage, side yard. ZB2013-04. (Rec'd 1/25/13 decision by 5/25/13.)

Motion by Mr. Farrell second by Mrs. Gilbert to memorialize the above resolutions. All members on a voice vote were in favor.

Farley, 89 Highwood Ave – 1602/14.
Upheld: Interpretation. ZB2011-26. (Rec'd 4/27/12 decision by 03/04/2013.)
Denied: Use.

Approved: Weingarten, 77 Norman Pl – 407/35
Side yard setback. ZB2013-07. (Rec'd 2/21/13 decision by 6/21/13.)

Farley and Weingarten resolutions would be available at the May meeting.

Carried from March 4, 2013:

Bassen 140 Devon Rd – 2204/13

Driveway expansion, side yard setback. ZB2013-05. (Rec'd 2/21/13 decision by 6/21/13.)

Revised drawings received Mar 18, 2013. (Revision consists of the location of a seepage pit.)

Present was the homeowner Mr. Todd Bassen who was sworn in by Mr. Lenner. Mr. Bassen said they are run-off issues of water from the neighbors behind them; they propose expanding the driveway, and adding a seepage pit to handle the run-off. He offered Mr. Harry Tuvel an engineer.

Mr. Tuvel stated he was filling in for the Site Engineer Mr. Hubschman who had a family emergency and was unable to attend. Mr. Tuvel said he was familiar with the plan and the property. They propose a driveway expansion as shown on an exhibit marked A-1 on the easel, which was a colorized rendering of the plan that had been submitted to the board, last revised March 18, 2013. Mr. Tuvel explained the property slopes from east to west and they are trying to create a turn-around area rather than having to back out onto Devon Road; a seepage pit will be installed to handle the additional water; the expansion will be 488SF and provide a back-up area once leaving the garage so that vehicles can leave head first, the only variance required is a side yard setback variance for the expanded driveway which will be 6ft; he further explained the existing driveway is 4ft off the property line, the code now requires 15ft setback.

In response to questions from the board, Mr. Tuvel said the main reason for the turn-around is to leave the driveway head first, everything else conforms and they are adding a seepage pit to contain the water. Mr. Tuvel said there would be no negative impact and the benefits outweigh the detriments.

Mr. Brensilber said he felt the pitch of the driveway would make it difficult to back out, and felt the increase was de minimis; this was more of a safety issue.

Mr. Bassen said the driveway does freeze in the winter, and the area which will undergo the expansion is soft, wet and mushy almost all year.

Mr. Farrell questioned the application which said the area would be used for parking; Mr. Tuvel said he did not complete the application, in his opinion it would be used as a turn-around area, and there would be no impact on the neighbor as the area is screened. The height of the wall would be 3ft maximum.

There were no questions or comments from the public.

Mr. Tuvel gave a summary of the application.

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

Mr. Lieberman said he felt it would improve a wet mushy area, it will be well screened and additional drainage improvements are being installed; he would be in favor.

Mr. Farrell said this was not a busy street for backing out onto; his concern was the application which said this would be a parking area.

Mr. Brensilber said he felt the town would benefit as the applicant is improving drainage and creating a safer driveway.

Mr. Cytryn agreed adding he sees many vehicles backing out into traffic and feels it could be a safety issue.

Mr. Kominsky agreed with his colleagues comments.

Motion by Mr. Brensilber second by Mr. Lieberman to approve the application.

Roll call vote:

In favor: Mr. Brensilber, Mr. Lieberman, Mr. Kominsky, Mr. Levene, Mr. Grossman.

Opposed: Mr. Farrell, Mrs. Gilbert.

Minutes approved 05-06-2013.

Side yard setback of 6ft for driveway expansion approved 5-2.

BMW, Madison Ave – 1307/3 & 4

Use, bulk variances. . ZB2013-03. (Rec'd 2/15/13 decision by 6/15/13.)

Present for the applicant was Mr. Urdang, who said the application is for a storage yard for BMW, for new cars and employee parking. His witnesses would be the engineer, Scott Turner of Menlo Engineering Associates; Steven Capasso of Penske Auto Group, and David Spatz the planner.

Scott Turner gave his business address, a summary of his education and experience and was sworn in by Mr. Lenner. On the easel was a colorized rendering entitled Madison Avenue Site Plan and Landscaping last revised 4-5-13, this was marked A-1. Mr. Turner described the lot, its location and existing conditions. The applicant proposes a storage yard with 100 parking spaces, Mr. Turner used the exhibit to show the proposed landscaping and lighting; the drainage system will be an underground pipe detention system that will hold the water from the site and then let it seep into the ground gradually; the applicant is exempt from Bergen County Soil Conservation approval. Mr. Turner said the applicant will comply with the items in the Board Engineer letter dated April 4, 2013, including Belgian block curbing on Madison Avenue, even though they feel this is not necessary as they will have much landscaping and a pipe detention system. There followed some discussion on the type and color of the lighting fixtures.

There were no questions from the public for this witness.

Steven Capasso, Penske Auto Group who owns Tenafly BMW was sworn in. Mr. Capasso said the two buildings currently on the site would be demolished; the business has shifted and they are being sent a lot of cars to sell, and they feel they should try to accommodate a parking area for employees who work at 245 County Road who currently park along Hudson Avenue; there would be no deliveries, and no customers to the proposed storage yard; a six foot fence would better hide the cars from view.

In response to questions from the board, Mr. Capasso said they would try to get the employees to park in the storage yard; the lease is 10 years with two 5 year extensions; he explained the way the parking would be handled by the employees who do the parking; three quarters of the lot would be new vehicles, and the other quarter would be employee parking; the lot across the street from 301 County Road is all pre-owned vehicles for sale; stacking on this lot will be a line of cars parked one behind the other particularly for employee parking; if this application is not approved they do not have a Plan B.

There were no questions for this witness from the public.

David Spatz, Planner gave his business address and was sworn in by Mr. Lenner. Mr. Spatz was deemed an expert in the field of planning. Mr. Spatz outlined the location of the property, lighting and the variances being requested; in his opinion they will be eliminating two non-conforming uses in the zone and he did not feel there was any substantial detriment or negative aspects to the application and surrounding area. He further explained the size of the aisle width and parking spaces as being typical for a situation like this akin to valet parking; there will be no public access on the site, and a 6ft fence is better for security.

In response to questions from the board, Mr. Spatz said he had not done a traffic study as that is not his field of expertise; any loss of tax revenue is not the concern of this board; he felt the storage yard would benefit Tenafly as less cars would be parked on the streets; in four or five years he felt this area would consist of different business including automotive uses.

There were no questions from the public for this witness.

David Hals, Board Engineer was sworn in. Mr. Hals said the parking spaces are adequate for a storage/parking yard, and to him black is a personal choice for light pole color as it doesn't stand out as much as a white lamp post.

Minutes approved 05-06-2013.

There were no questions for Mr. Hals from the Board or the public.

There were no comments from the public on the application.

Mr. Urdang gave a summary of the application.

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

Mr. Levene said he had looked at the site and said the north end seems to be car related. He would be in favor.

Mr. Farrell said he would abstain from voting.

Mr. Brensilber pointed out this is a commercial area and would vote in favor.

Mrs. Gilbert said it is basically similar to the other site but a different location.

Mr. Lieberman said there were similar uses in the area.

Mr. Kominsky agreed adding it is similar to what was there in the past.

Mr. Cytryn agreed.

Motion by Mr. Brensilber second by Mrs. Gilbert to approve the use variance and various bulk waivers and variances.

Roll call vote.

In favor: Mr. Brensilber, Mrs. Gilbert, Mr. Kominsky, Mr. Levene, Mr. Lieberman, Mr. Cytryn, Mr. Grossman.

Opposed: None.

Use variance and bulk variances and waivers approved 7-0.

NEW BUSINESS

ERMM, LLC./17 S Summit St – 1009/5

Use. ZB2013-06. (Rec'd 3/27/13 decision by 7/25/13.)

Present for the applicant was Mr. Capizzi, who said this application is to have offices on the first floor which is currently prohibited under the ordinance; the prior tenant was a service establishment, and an optometrist office is not permitted in this zone. His witnesses would be Chris Blake the architect, the operator of the establishment, and David Spatz the planner.

Chris Blake gave his business address and was sworn in by Mr. Lenner. Mr. Blake described the existing site and conditions, adding the work would be all on the interior of the building, in reconfiguring the inside to allow for examination rooms, display of merchandise and contact lens fitting; there is a basement but this will not be used; the upstairs will be used for billing and storage of inventory. There would be no changes to the exterior of the building or the site.

In response to a question from Mr. Grossman Mr. Blake said the parking spaces number seven and their size is 9' x 20'.

There were no questions from the audience for the witness.

Rena Moi Chang the optometrist and principal of ERMM, LLC., was sworn in by Mr. Lenner. Mrs. Chang said she would be the optometrist, and will hire a tech for glasses and contact lenses and a

Minutes approved 05-06-2013.

receptionist; scheduling will be by appointment only, she expects up to 10 customers a day; there will be three employees; there are front and rear entrances and it will not matter which entrance is used by customers. Mrs. Chang said upstairs would be storage of inventory, an area for billing, an office and an employee break room, there would be no need for customers to be upstairs.

There were no questions from the public for this witness.

David Spatz gave his business address and was sworn in by Mr. Lenner. Mr. Spatz said he had reviewed the plans, and described the location of the property and the uses in the area. In his opinion this would be a good use for the building, there is a lot of space inside and he felt the parking would be sufficient for the anticipated customers; under the proposed ordinance submitted to the Mayor and Council, this use and the available parking would be conforming.

There were no questions from the public for this witness.

David Hals, the Board Engineer said the use would be approved under the proposed ordinance, and requested the applicant restripe the lot, and as South Summit Street is a one way street suggested a No Right Turn be installed at the driveway exit.

There were no questions for the witness from the public.

There were no comments from the public on this application.

Mr. Capizzi gave a brief summary.

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

Mrs. Gilbert said she would be in favor of the application it seems an appropriate use for the building and was not concerned about traffic.

Motion by Mrs. Gilbert second by Mr. Kominsky to approve the application.

Roll call vote:

In favor: Mrs. Gilbert, Mr. Kominsky, Mr. Brensilber, Mr. Farrell, Mr. Levene, Mr. Lieberman, Mr. Grossman.

Opposed: None.

Use variance approved 7-0.

ADJOURNMENT

Motion by Mr. Brensilber second by Mr. Lieberman to adjourn the meeting. All members on a voice vote were in favor, the meeting was adjourned at 10:30PM.

Respectfully submitted,

Lindsay Graham
Board Secretary