

**TENAFLY BOARD OF ADJUSTMENT
REGULAR PUBLIC MEETING
7:30 P.M. September 9, 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: Harold Ritvo.

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

APPROVAL OF MINUTES

Motion by Mr. Farrell second by Mr. Cytryn to approve the minutes of July 1, 2013. All members on a voice vote were in favor, the minutes were approved.

MOTIONS FOR ADJOURNMENT - none scheduled.

UNFINISHED BUSINESS

Resolutions to be memorialized

Farley, 89 Highwood Ave – 1602/14.
Upheld: Interpretation. ZB2011-26.
Denied: Use.

Approved: Falek, 21 Coppell Dr – 1809/15
FAR, lot coverage. ZB2013-12. (Rec'd 6/21/13 decision by 10/19/13.)

Motion by Mr. Farrell second by Mr. Levene to memorialize the two resolutions. All members on a voice vote were in favor, the resolutions were memorialized.

NEW BUSINESS – [Carried from August 5th meeting]

Callas, 105 Franklin St – 808/14
New Two family dwelling – 3 story, height 31.3', projection into side yard of 7'. ZB2013-13.
(Rec'd 7/22/13, decision by 11/19/13.)

Present for the applicant was Jaclyn D'Arminio of the law offices of Elliot W. Urdang . Ms. D'Arminio explained the applicant had been given approval to build a conforming structure, but the Borough Engineer recommended the garages not be put underground as this section of town has water issues, as such they now need a height variance, part of the issue is the definition of cellar and basement in the Borough Code. The witnesses would be the engineer Mark Martins and architect Vassilios Cocoros.

Mark Martins gave his address, experience, stated he had testified in front of this board, was sworn in and accepted as an expert. Mr. Martins explained that in a letter dated April 12, 2013 and after consultation with the Board Engineer the Borough Engineer (Maser Consulting) recommended the permits not be issued for below grade garages due to the flooding and water issues there are in this area. Mr. Martins added the applicant did comply with the necessary equipment required for below grade garages; but felt that it would be better to revise the plan so the driveways are at grade, the revised plans now require variances; for the height of the building, as the basement was raised which makes the house appear to be a three story dwelling and due to the higher building the front steps project into the front yard. Mr. Martins felt this plan was better as it is beneficial to have the garages pitching up as it also allows for safer access.

Ms. D'Arminio offered a Zoning Permit showing approval had been given for building permits. Ms. Graham explained the applicant had only received Zoning Approval, no building permits were issued. Upon review by the Borough and Board Engineers the recommendation was for the applicant to re-design the house so the garages were not below grade, due to the water issues in the area.

Marked into evidence were:

A-1: Copy of Maser Consulting letter dated April 12, 2013.

A-2: Zoning Permit No: 20120386 issued 10/17/2013.

A-3: colorized Site Plan last revised 5/17/2013.

In response to questions from the Board Mr. Martins said grading will be done in accordance with the plans as approved by the Borough Engineer; the driveway pitch on Franklin Street will be about 12", and on the DeMott side about 6"; the Franklin Street side has greater flooding issues than the DeMott side, he felt part of the problem could be the 36" Storm Main that is to the north of the property which in a severe storm may be the cause of flooding in that area; so even to install a trench drain at the end of the driveway on Franklin Street would be ineffectual in a heavy rain and only add to the flooding issues.

There were no questions from the audience.

Vassilios Cocoros the architect gave his business address, education and background was sworn in and deemed an expert. Mr. Cocoros said in response to the engineer's letter the basement height was lowered to seven and a half feet, and the roof ridge was also lowered. The house will be a brick design which is in keeping with the neighborhood; the brick will be broken up with stucco around the windows and along the edges of the building; the property is on a corner and he felt the side yard helped mitigate the height of the building; the roof will be a 4 on 12 with shingles to make the roof any more shallow would make the building appear higher which is the effect when not too many roof shingles are visible. In his opinion he did not feel there would be any effect on the light and air of the neighbors.

In response to questions from the Board Mr. Cocoros outlined the changes that had been made to the height of the building; he described the slope and pitch of the roof; and if the Borough Engineer was in agreement they could landscape around the corners of the building facing Franklin Street to detract from the appearance of three stories; Mr. Cocoros said the basement was not just the garage, there is a bathroom, recreation room, closets and a utility room, he confirmed the garages were for two cars; basement height is about 8ft, first floor is 9ft, and the third floor is 8ft 6", so that tray ceilings can be installed in the bedrooms for a little detail. To lower the building a little more the first floor could be lowered to 8ft 6", but this would also impact the front entry.

Ms. D'Arminio asked for a few minutes of the Board's time to discuss the application with her client.

There were no questions from the audience. There were no comments on the application from the audience.

Mr. Brensilber asked Ms. D'Arminio to address a three story structure in her summation.

Ms. D'Arminio gave a summary of the application and addressed the definitions of cellar and basement in the Code.

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

Mr. Brensilber said he felt they had done a good job; it is not the height that concerns him it is the three stories, which he does not feel has any benefit, there are other bulky two family houses in the area; this design works for maximum square footage for the dwelling.

Mr. Lieberman disagreed, two families are allowed in this zone and this three story building is not much higher than a two story structure; the flat driveway is more aesthetically pleasing.

Mr. Cytryn said he thought they had put a lot of thought into the design and were trying to be compliant with the code, he felt the variances were de minimis.

Mr. Levene said he thought it was a similar design to the Marlboro Apartments in the area and felt they had made a good effort in complying with the code.

Mr. Brensilber again said it is the three stories that concern him, not that it is a two family dwelling.

Mr. Kominsky felt the wording of the definitions of cellar and basement in the ordinance were wrong, and was undecided on the application.

Mr. Grossman said he felt the structure would have an impact on the neighborhood and would affect the neighbors.

Ms. Gilbert said it has the appearance of the three story house, drainage and landscaping should also be considered.

Motion by Mr. Lieberman second by Mr. Kominsky to approve the variances.

Roll call vote:

In favor: Mr. Lieberman, Mr. Kominsky, Ms. Gilbert, Mr. Levene.

Opposed: Mr. Brensilber, Mr. Farrell, Mr. Grossman.

Variances approved 4-3.

Stiefel, 70 N. Browning Ave – 303/31

8' side yard for A/C condenser. ZB2013-14. (Rec'd 7/23/13 decision by 11/20/13.)

Present was the applicant Jeannie Stiefel the homeowner who was sworn in. Mrs. Stiefel said she is requesting a side yard variance of 8ft for an AC condenser; the nearest house is about 40ft away with a garage in between, and the side yard is a little over 13ft. There are some hedges along the property line, there is also a gap in the hedges near where the condenser would go, and Mrs. Stiefel said she would replant to screen the condenser.

In response to questions from the board Mrs. Stiefel said the unit is a 3.5 ton which the contractor told her would be suitable for her house. Ms. Graham handed out a spec sheet for the condenser. Mrs. Stiefel said the unit cannot go in the rear yard, the children come and visit and play, the side yard is best.

Ms. Graham in response to concerns from the board said she had spoken to the contractor about placement of the condenser, he said he physically cannot run the wires through the attic which at that corner of the roof becomes too small to be able to feed the wires through.

There were no questions or comments from the audience.

Mrs. Stiefel gave a brief summary.

Motion by Mrs. Gilbert second by Mr. Levene to go into deliberative session. All members voted in favor.

Mrs. Gilbert said she would be in favor of the side yard location for the AC condenser with the additional screening along the property line.

Motion by Mrs. Gilbert second by Mr. Lieberman to approve the side yard variance.

Roll call vote:

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

Opposed: None.

Side yard variance of 8ft for an AC condenser approved.

Muftahi, 35 Elm St – 2001/15

Second floor addition, rear yard 22.4'. ZB2013-15. (Rec'd 7/25/13 decision by 11/22/13.)

Present was the owner Bulent Muftahi, who said his witness would be the architect Mr. Cocoros. Mr. Muftahi said they would like to remove a deck over the garage, and expand this area to expand the master bedroom to include a master bath.

Mr. Cocoros was sworn in, he said the existing deck would be removed and an addition constructed, this necessitates a variance for the rear yard setback; the garage is non-conforming at 22.7ft, the existing deck overhangs the garage, this deck will be removed for the second floor addition to be constructed.

Mr. Cocoros offered into evidence an exhibit consisting of three photographs: this was marked A-1, a, b, c; these showed different views of the deck and that part of the house. Mr. Cocoros explained the upstairs will be renovated to expand one of the bedrooms and master bathroom, add a laundry room, and add a walk in closet in the master bedroom.

Mr. Lieberman asked what work was being done now, as there was much activity and the site was very messy. Mr. Cocoros said they have permits to start the interior work downstairs and they are replacing windows and adding new siding.

There were no questions or comments from the audience.

Mr. Muftahi gave a summary of the application.

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

Mr. Lieberman said the site was messy with materials all over the place and the dumpster overflowing, and did not feel the neighbors passing the house on Serpentine or living across from this site

Minutes approved Oct 7, 2013.

should be subject to such a mess, he said the lot is small and felt it would affect the light and air of the neighbor to the east on Elm Street.

Mr. Cytryn agreed and said it would affect the light and air

Mr. Brensilber said he thought the house would look better and be more aesthetically pleasing and was in favor, and suggested to the owner that the site get cleaned up.

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

Roll call vote:

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

Opposed: Mr. Lieberman.

Rear yard setback of 22.47' approved 6-1.

ADJOURNMENT

Motion by Mr. Brensilber second by Mrs. Gilbert to adjourn the meeting. All members on a voice vote were in favor, the meeting was adjourned at 9:38PM.

Respectfully submitted,

Lindsay Graham
Board Secretary