

**TENAFLY BOARD OF ADJUSTMENT  
REGULAR PUBLIC MEETING  
7:30 P.M. June 2, 2014  
MINUTES**

**ROLL CALL**

Present: Mr. Cytryn, Mr. Farrell, Mr. Kominsky, Mr. Levene, Mr. Lieberman, Mr. Grossman.  
Absent: Mr. Brensilber, Mrs. Gilbert, Mr. Li.  
Also present: Mr. 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 7, 2014, 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. Kominsky second by Mr. Lieberman to approve the minutes of May 5, 2014. All members on a voice vote were in favor the minutes were approved.

**MOTIONS FOR ADJOURNMENT** - there were none.

**UNFINISHED BUSINESS**

Resolutions to be memorialized:

Approved: Weir, 55 E Clinton Ave – 1709/18.  
Side yard setback 7.83'. ZB 2014-12.

Approved: Miller/Musso, 50 Lylewood Dr – 308/1  
Side yard 4.7'. ZB2014-11.

Denied: Sachs, 96 Buckingham Rd – 3101/2  
Impervious coverage. ZB2014-10.

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

Carried from May 5<sup>th</sup> : Revised Plan and Denial

Kinel, 4. N. Summit St – 1402/11

Impervious coverage, pool setback. ZB2014-09. (Rec'd 4/25/14 decision by 8/24/14.)

Present for the applicant was Mr. Urdang who said the engineer would be here at about 8PM but the Landscape Architect is now present. The applicant had submitted a revised plan and a revised zoning denial.

Michael Hartnett, the Licensed Landscape Architect was advised he was still under oath. Mr. Hartnett said the walkway around the pool had been reduced to 4ft, about 150SF of the existing pavers will be removed and plantings made, coverage is done to 33.2% or 6589SF; the pool cannot be moved into the rear half of the property as required by the code as the property slopes away from North Summit Street; one

tree will be removed and there will be more plantings done along the property line. In response to questions Mr. Hartnett said in a heavy rain the pool retains water which slows the run off, if the rain should be that heavy to fill the pool there is a 1" drain line around the walkway of the pool which will take any additional water into the seepage pits. The pool is only 650SF and a smaller pool would still make the impervious coverage over the code; in his personal opinion he said restrictions on impervious coverage allow water to flow into the ground and recharge the underground water; he felt the actual water of the pool should be excluded from impervious coverage as the pool can hold a lot of water, there is probably about a 6" difference between the water and coping.

There were no questions or comments from the public.

Mr. Urdang gave a summary of the application.

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

Mr. Cytryn said he felt the applicant had made a good effort in addressing changes, and in his opinion felt the pool serves as a retainer for excess rain water.

Mr. Farrell said the applicant has mitigated the issues but he was torn as he felt the application only benefits the homeowner.

Mr. Lieberman said he felt the applicant had done their best to comply with Zoning, there is a steep pitch to the rear, the pool holds excess water and there are seepage pits, he would be in favor.

Mr. Kominsky said he was not ready for pools to be good or that there should be any exception, they are still over on impervious coverage and having a pool does not alleviate the run off.

Mr. Levene said the homeowners had made a good effort to comply with the board suggestions, and would be in favor of the application.

Mr. Grossman said he was still on the fence, there is an open patio, covered patio, walk ways it all adds to coverage, the issue is total impervious coverage; further information is needed on pools and water retention.

Mr. Kominsky said last month we had a contentious meeting about pools and felt it was out of place for the board to design or make suggestions.

There was some discussion among board members on the board making suggestions and designing projects for the applicants; and about the right to add and make changes and the general feeling was to not design this or other projects.

Mr. Farrell said he did not feel the impervious coverage variance was de minimis.

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

Roll call vote:

In favor: Mr. Cytryn, Mr. Lieberman, Mr. Levene.

Opposed: Mr. Farrell, Mr. Kominsky, Mr. Grossman.

Variances denied 3-3 (4-2.)

## **NEW BUSINESS**

Goldweit, 24 Park St – 1605/18

Impervious coverage, side and rear yards. ZB2014-14. (Rec'd 5/16/14 decision by 11/13/14)

Present for the applicant was Mr. Urdang, who said this application is to refurbish the existing two car garage and add a third garage in the rear of the property; his witness would be Mr. Scott Lurie the architect.

Mr. Lurie gave his business address, was sworn in and deemed an expert in the field of architecture and planning. Marked as A-1 was the key map of the area. Mr. Lurie described the area and zone; adding the homeowners have lived there since 1996; the house is set back 80ft from the street where the ordinance requires 40ft, which makes the rear yard small and cramped. Exhibit 2 consisted of five photographs taken by Mr. Lurie last week showing different views from the PQ to 89 Depeyster Ave, the rear neighbor; the three pages were marked A-2A, A2B, and A2C. Mr. Lurie described the various views of the photographs.

Using a Site Plan on the easel, Mr. Lurie explained the work to be done and the paved surface that will be removed; the existing garage is bland they will put a slate roof to match the house and give the garage some character. With regard to the variances, the overall aesthetic of the garage will be improved; the new garage will be set further away from the property line, cars will be off the driveway; he felt the benefits outweigh the detriments, they are trying to improve the non-conformity of impervious coverage and will be removing about 101SF of pavement; screening will also be provided, marked as A-3 was an undated Planting Location Plan done by Mr. Lurie's office. Mr. Lurie described the proposed trees to be planted on the side and rear of the garage to shield it from view.

In response to questions from the Board, Mr. Lurie said the garage will not exceed 15ft which is the code, he felt the purpose of setback requirements is for open space and separation from buildings, the proposed garage cannot be set back further than it is from the rear property line, as it will make egress difficult and the turning radius would become more difficult; he did not feel there would be any diminution of light or air, there would be no excess noise as it is a garage; he felt there was enough space behind the garage to plant; and agreed if the third car garage application is denied, the applicant would update and rehab the existing two car garage; he confirmed the interior of the new garage would be 13'6", it is only 19' deep and there is not much extra for storage.

Peter Lafharis entered his appearance as the attorney for the neighbor in the rear Jill Greenberg, 89 Depeyster Ave. In response to questions from Mr. Lafharis Mr. Lurie said he took the pictures on Thursday, May 29<sup>th</sup>, he did not go on the neighbor's property; the driveway is about 180' long, at its widest it is 35ft and when both garage doors are open it will be for a 12' opening. Mr. Lurie said he did not believe there was any environmental or engineering impediment to parking in the rear; the ground is level in the rear, and as a practical matter it is less unsightly to have a car in the garage. It would be difficult to bring the garage any further forward as it would block the turning radius of the existing garage; the owners have not decided what interior finishes will be applied inside, the interior height is about 4-5' above the car, a new two car garage could not be built without a variance. No new impervious coverage is being added, the proposed garage will go over existing.

Lance Hutchins, 26 Park Street was sworn in. Mr. Hutchins said he objected to the side yard variance which he felt would impact his privacy and property values. He offered a photograph he had taken on May 31<sup>st</sup>; this was marked as H-1. He has a two car attached garage and was not sure how many properties in the area have three car garages, he concluded he has no problem with the addition as long as it meets the code.

Mr. Lafharis asked if his client could be sworn in to testify. Jill Greenberg, 89 Depeyster Ave was sworn in. In response to questions from Mr. Lafharis, Ms. Greenburg said she has lived in the area for 18 years, she used to sell real estate and is familiar with the area, she believes there is one other three car garage

in the area. She offered into evidence five photographs taken from her property showing the garages at 24 Park Street; the photographs were marked A-1 through A-5. The first four photos were taken from her patio and G-5 was taken from Park Street looking up the Goldweit driveway. In her opinion because there are tree roots behind the garage it would be almost impossible for anything to be planted and grow, that area is very shady and dry, she expressed concern over a possible decrease in property values especially her back yard and the proposed view.

In response to questions from Mr. Urdang Ms. Greenburg said she would prefer looking at a car as in the photographs, as the car is not always there, a solid wall be it grey or white would be there all the time, she did not feel there were any drainage problems.

Mr. Lafharis gave a summary of his client's objection to the application.

There were no other comments from the public.

Mr. Urdang gave a summary of the application.

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

Mr. Levene said he sympathized with the applicant, the style will be aesthetically pleasing.

Mr. Cytryn said when the trees and open space are there, it is acceptable, but once the wall of the garage is built that will always be there.

Mr. Farrell said he was on the fence, he was concerned about the look of another garage, and how the proposed plantings would be irrigated.

Mr. Lieberman said his concern was the existing garage encroaches into the setback, and despite pulling the proposed garage away from the side and rear property lines, he still felt the garages were too close to the setbacks.

Mr. Kominsky said he was on the fence, the existing structure is there and that cannot be expanded.

Mr. Grossman said New Jersey law likes prior existing non-conformities to be gone, this would add to a preexisting non-conformity, he did not feel there was a hardship; the variance goes with the land.

Motion by Mr. Lieberman second by Mr. Cytryn to deny the application.

Roll call vote:

In favor: Mr. Lieberman, Mr. Cytryn, Mr. Farrell, Mr. Kominsky, Mr. Levene, Mr. Grossman.

Opposed: None.

Motion to deny the variances carried 6-0.

Zhu, 479 Knickerbocker Rd – 208/20

Side yard, impervious coverage. ZB2014-13. (Rec'd 5/16/14 decision by 11/13/14

Present was the homeowner and his architect; Harold Zhu and Chris Blake were sworn in, Mr. Blake was deemed an expert in the field of architecture. Mr. Zhu said they propose removing the second floor deck which is over the sunroom; and add a master bedroom suite. The first floor changes would expand the dining room and allow for easier entry to the rear of the house, this expansion is to allow south facing windows to let in as much sunlight as possible.

Mr. Blake said economically it is easier to go up onto an existing permanent structure; this lot is quite heavy with impervious coverage, the applicant has not had any drainage issues in the past five years, but will remove about 1,200SF of pavers in the rear. The side yard setback is needed as the existing house is at 13' from the property line, and to set back the second floor addition to meet the code would be a hardship.

Marked as A-1 was a photo taken by Mr. Zhu of the side of the house where the proposed second floor will be added.

In response to questions from the board Mr. Blake confirmed that 180SF of impervious coverage is being added, but 1,200SF will be removed, the existing sun room faces north and does not get much sun light, the proposed addition will have large windows to get as much light as possible; he did not feel there would be any effect on light and air and there are no negative criteria.

There were no questions or comments from the public.

Mr. Blake gave a summary of the application.

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

Mr. Kominsky said there would be less impervious coverage, and he did not feel the side yard setback was a detriment.

Mr. Cytryn said he felt the proposed addition was in keeping with the neighborhood.

Mr. Grossman said if the was any larger it could be quite visible from Buff Road.

Motion by Mr. Cytryn second by Mr. Kominsky to approve the side yard and impervious coverage variances.

Roll call vote:

In favor: Mr. Cytryn, Mr. Kominsky, Mr. Farrell, Mr. Levene, Mr. Lieberman, Mr. Grossman.

Opposed: None.

Variances for side yard and total impervious coverage approved 6-0.

**ADJOURNMENT**

Motion by Mr. Levene second by Mr. Cytryn to adjourn the meeting. All members on a voice vote were in favor, the meeting was adjourned at 10:26P.M.

Respectfully submitted,

Lindsay Graham  
Board Secretary