

**TENAFLY BOARD OF ADJUSTMENT
REGULAR PUBLIC MEETING
7:30 P.M. July 6, 2015**

Prior to the public meeting at 7:00PM the Board held a training session with the Board Attorney.

ROLL CALL

Present: Mr. Brensilber, Mr. Callahan, Mr. Cytryn, Mr. Farrell, Mrs. Gilbert, Mr. Kominsky, Mr. Levene, Mr. Lieberman, Mr. Grossman.
Absent: None.
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 2, 2015, posted on the bulletin board in the lobby of the Municipal Center and posted to the municipal web site."

COMMUNICATIONS

1. Letter dated June 11, 2015 from Mr. Urdang re: 150 Oxford Dr, Baumgarten.
2. Letter dated July 2, 2015 from Mr. Urdang re: 150 Oxford Dr, Baumgarten, withdrawing the application in its entirety.

APPROVAL OF MINUTES

Motion by Mr. Farrell second by Mr. Cytryn to approve the minutes of June 1, 2015. All members on a voice vote were in favor.

UNFINISHED BUSINESS

Carried from June 1, 2015:

Patel, 76 W Clinton Ave – 901/39.
Home Office. ZB2015-06. (Rec'd 3/25/15 decision by 7/23/15.)

Present for the applicant was Mr. Urdang, who said he would have two witnesses, the homeowner and Mr. Spatz the Planner. Mr. Urdang said he felt the proposed use as a limited home office for an attorney would fit in to the area as this property is the only dwelling unit and is surrounded by non- residential uses.

Jayshree Patel the homeowner was sworn in and stated her address is 76 West Clinton Avenue. Mrs. Patel said they have lived in this ranch house since 1987, she is a Real Estate and Immigration attorney, her main office is in Edison; for medical reasons it is becoming difficult for her to drive to Edison every day, and ideally she would like to interview and complete paperwork with no more than tree clients two days per week. As an immigration attorney the paperwork and information is confidential, there would be no support personnel, just the client and her; she would not do any real estate closings at this home office. The house has a two car garage; the home office has a separate entrance from the entry to the main house. They would also like a sign to indicate the attorney's office address; there is space for about four cars on the driveway.

In response to questions from the board, Mrs. Patel said the sign would be to direct clients to her address, by appointment only. Mr. Kominsky confirmed that the usual home office has no employees and clients do not visit. Mr. Urdang said the sign would follow the conditions of the resolution and meet the

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code; the sign would not be lit. Mrs. Patel added it is not financially feasible to rent another space for one or two days a week.

There were no questions from the public.

David Spatz a Planner in the State of New Jersey was sworn in and accepted as an expert in the field of Planning. Mr. Spatz described the house and its location on West Clinton Avenue. He offered a board with eight photographs into evidence. This was marked A-1. He described each photograph #1 the property in question, #2 and #3 the dentist next door and that sign; #4 - Grace Chapel; #5 - Day Care building across the street; #6 - Borough parking lot, #7 - Senior Building; #8 - Gas Station. A home office is an accessory use in the residential zone, three conditions cannot be met: clients coming to the home office, the sign and a separate entry; in his opinion this lot can accommodate the use, there is a parking lot across the street and the property does have sufficient space for up to four cars to park and any deliveries that might occur.

In response to questions from the board mainly about the sign, Mr. Spatz said the sign does not turn the property into a commercial area, the sign is for identification only, the sign can say By Appointment Only, the sign can be closer to the office entrance than the house; Mr. Spatz added visits will be by appointment only, there will be no real estate closings; the parking is sufficient, and this is an ancillary use only.

Mr. Urdang said his client would stipulate to a maximum of three days per week and there would be no lighting on the sign.

There were no questions or comments from the public. Mrs. Gilbert suggested a separate vote be taken on the sign and the use.

Mr. Urdang gave a summary of the application.

The board went into deliberative session.

Mr. Kominsky agreed with the use and said it should include more than immigration.

Mrs. Gilbert was troubled by the sign; she felt only the house number was needed.

Mr. Cytryn said it is a heavily used street and felt the sign was a safety issue that it should be seen.

Mr. Callahan said he felt if the vote was split, people who are not from this area need the sign, and to deny the sign is hampering the utility of the use.

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

Roll call vote:

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

Opposed: None.

Use approved unanimously 7-0.

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

Roll call vote:

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

Opposed: Mrs. Gilbert.

Sign approved 6-1.

North Summit St – 1401/4

Use. ZB2015-11. (Rec'd 5/14/2015 decision by 9/1/2015.)

** Request to carry this application to August 3rd as their engineer is still working on a Site Plan to meet the Board Engineer's requirements.

Motion by Mrs. Gilbert second by Mr. Farrell to carry the application to August 3rd to be heard in these chambers at 7:30PM or as soon thereafter as the matter can be reached with no further notice required.

All members on a voice vote were in favor.

Rupp, 156 Churchill Rd – 2102/13

Fence / piers. ZB2015-08. (Rec'd 5/22/15 decision by 9/19/15.)

Present for the applicant was Mr. Hubschmann his attorney; Mr. Hubschmann said his witness would be Massimo Piazza, PE and the homeowner Mr. Rupp was also present if the board had questions.

Massimo Piazza P.E. was sworn in and accepted as an expert in the field of engineering. Mr. Piazza said what is proposed is a 75% open style fence with 4ft piers; the code allows a the 75% open fence of 4ft, but piers cannot be more than 2'6", the variance is needed for the 4ft piers only along the front property line. In his opinion a 2'6" pier set between a 4' fence would not be visually pleasing.

Alois Rupp the homeowner was sworn in. Mr. Rupp said the property is fenced, the entry piers will be 4ft high and 2ft square, they will be opened by a remote device and in the event of an alarm sounding in the house, the gates will open automatically to allow emergency vehicles entry to the property. Mr. Rupp added his family was subject to a home invasion and he feels the fence and four foot piers will act as a deterrent.

Mr. Piazza agreed there were no other fences on the street, but the fence will not be the main focus of the front of the property as many trees and shrubs will be planted to hide the fence.

There were no questions or comments from the public.

Mr. Grossman said the ordinance does not allow solid fences in the front yard as he felt they did not want it to look like a gated community.

Mr. Hubschmann gave a summary of the application.

The board went in to deliberative session.

Mr. Callahan said he likes fences and said there are very few in this area.

Mr. Lieberman said it is decorative fence and will be visually pleasing.

Mrs. Gilbert said she could not see anything negative about the fence.

Motion by Mr. Brensilber second by Mr. Lieberman to approve the 4ft piers.

Roll call vote:

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

Opposed: Mr. Kominsky, Mr. Grossman.

Four foot piers approved 5-2.

NEW BUSINESS

Karofsky, 171 Hudson Ave – 1404/22

Side yard 9.75ft, impervious coverage 29.14%. ZB2015-10. (Rec'd 06/15/2015 decision by 10/13/2015)

Present for the applicant was Chris Blake architect. Mr. Blake said the application is for a small mud/ laundry room to be constructed on the north east side of the property; a side yard setback variance is needed, 15ft is required and they are asking for 9.75ft; a second variance is also required for total impervious coverage 29.18% where 29.14% is permitted. Mr. Blake said it will be in keeping with the house just a small single story addition, all other codes are being met, and walkways and patios are being reconfigured to reduce the total impervious coverage.

Mr. Blake said the proposed addition could not go in the rear of the house, as the breakfast room is there and it is glassed and open, not the right place for a mud room to block the views.

Joe Molner, West End Construction was sworn in. Mr. Molner said he believes there is still an open permit on the kitchen which is being remodeled and this space is the most beneficial for the proposed use.

Wendy Podos, 2 Knoll Road said she is the most affected neighbor and asked about the foundation that was already constructed.

Mr. Molner said the foundation was not in very good shape, and they did not realize it was in such bad shape when they removed a roof that was there to prepare for the mud room, so to stop any water going in to the basement they dug and poured a three foot foundation; he did say an inspector was there who said the work could be done.

Mrs. Podos said she was concerned with the work that had been done and had hired several professionals to check out her large retaining wall which is on the borderline for damage.

Mr. Blake pointed out that many properties that have a 10ft setback do not suffer damage from a neighbor's construction.

Mrs. Podos, 2 Knoll Road was sworn in. Mrs. Podos said she wished her neighbors had the courtesy to show her what they were planning to do, her concern is the wall which is on the property line; she did not have any reports from her professionals.

There were no other questions or comments from the public.

Mr. Blake gave a summary of the application.

The board went in to deliberative session.

There followed discussion by the board on perhaps deferring a decision until the engineer has looked at the site; it was noted that there are no reports from the neighbor's experts and it is all conjecture; it is a busy street and difficult to see what is happening from the street, drainage should be a condition in the resolution.

Motion by Mr. Lieberman second by Mr. Levene to approve the two variances.

Roll call vote:

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

Opposed: None.

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Side yard setback and impervious coverage variances approved 7-0.

There followed discussion and advice from the Board Attorney regarding comments that are made in email; members were strongly urged to not use email as a forum for discussion of an application; comments should only be made at the meetings and on the record.

ADJOURNMENT

Motion by Mr. Brensilber second by Mr. Cytryn to adjourn the meeting. All members on a voice vote were in favor, the meeting was adjourned at 9:55PM.

Respectfully submitted,

Lindsay Graham
Board Secretary