

**TENAFLY BOARD OF ADJUSTMENT  
REGULAR PUBLIC MEETING  
7:30 P.M. November 2, 2015  
MINUTES**

**ROLL CALL:**

Present: Mr. Brensilber (arr 7.44PM), Mr. Callahan, Mr. Cytryn, Mr. Farrell, Mrs. Gilbert, Mr. Kominsky, Mr. Levene, Mr. Lieberman, Mr. Grossman.  
Absent: None.  
Also present: Mr. Ritvo, Mr. D. 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 2, 2015, posted on the bulletin board in the lobby of the Municipal Center and posted to the municipal web site."

**COMMUNICATIONS**

1. Planning & Zoning Analysis re: N Summit Street; from Kauker & Kauker, LLC (Rec'd 10/19/2015)
2. Letter from E. Urdang Attorney for 76 W Clinton Ave re: sign. (Rec'd 10/22/2015)  
Mr. Ritvo advised the Board that the applicant can appeal the denial of their sign to the Sign Committee which is the process for sign denials, even though the application was heard by the Board. The Board were in agreement.

**APPROVAL OF MINUTES**

Motion by Mr. Levene second by Mr. Cytryn to approve the minutes of October 5, 2015. All members on a voice vote were in favor, the minutes were approved.

**UNFINISHED BUSINESS**

Resolution to be memorialized:

Approved: 92 Howard Pk Dr – 2201/10  
FAR – 31%, side yard setback 9.8ft. ZB2015-16

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

Carried from Sept 21:

Jose Garcia Foundation, N Summit St – 1404/ 3 & 4.  
Use. ZB2015-11. (Rec'd 10/23/2015 decision by 2/20/2016)

Present were the following: Carl Rizzo, Cole Schotz P.C. for the objectors Mr. & Mrs. Zafar, the neighbor; Betsy Ann Rosenbloom, of the firm Williams, Caliri Miller & Otley, PC the title attorney for the objectors; William T. Smith, of the firm Smith, Crotty, Meyer & Bruins for the Jose Garcia Foundation.

Mr. Rizzo outlined his objections because the notice requirements had not been satisfied and were defective, and in his opinion the board did not have jurisdiction on this matter.

Mr. Brensilber arrived 7:44PM.

Mr. Smith on behalf of the applicant said he is not contesting the defective noticing because this application is for a use that has been in effect since the 1940's, it is not new construction or a major-subdivision, they are looking for confirmation that the use is pre-existing non-conforming; he gave a brief outline of the history of the uses on the lot and its topography.

Ms. Rosenbloom said she is the Title Attorney for Mr. & Mrs. Zafar, there are discrepancies in the boundary lines between the Site Plan done by Jose Garcia and her clients survey, in her opinion she felt the Board could not rule if there is a boundary line dispute and a Use variance.

Mr. Ritvo said the notice requirements were not met for a Site Plan and Use application, and advised the Board that the property dispute must be resolved before the matter can come back to the Board. Mrs. Gilbert said for the record Cole Schotz are doing work for her, but she felt she could be impartial.

Motion by Mr. Lieberman second by Mr. Brensilber to dismiss this application without prejudice.

Roll call vote:

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

Opposed: None.

Application dismissed without prejudice.

**NEW BUSINESS**

Romanov, 27 Jewett Ave – 301/13

Side yard setback – 5ft. ZB2015-17. (Rec'd 10/20/2015 decision by 2/17/2016.)

Present for the applicant was the architect Mr. Mederos of Imagen Architecture, LLC. Mr. Mederos was sworn in and accepted as an expert in the field of architecture. Mr. Mederos described the lot and the existing conditions, adding the width is 40ft and the code allows 50 to 75ft, there is an existing side yard setback of 5ft which with the proposed new construction will be maintained, this is the only variance that is required. The existing house that was built in 1933 will be demolished and a new single family home will be built with a detached garage, pool and patio.

Marked as A-1 was a google layout of the street prepared by Mr. Mederos office. Mr. Mederos explained the layout and rhythm of the street, with the houses on the right side of the property and the driveways on the left on the west side of the street. They did consider alternate designs, but felt this one fitted in with the design of this neighborhood.

In response to questions from the Board, Mr. Mederos said the generator and A/C pads can be moved in; the detached garage is considered an accessory structure and the setback is 4ft; this location for the garage is best as they can make the garage a little wider and less impervious coverage is used. The house width is the same as existing, the height will be a little less in the rear as the land slopes away from the street; they did consider putting the house on the rear part of the lot, but that would increase the impervious coverage and change the rhythm of the street by putting a driveway and grassy area where the house should be, Mr. Mederos added the lot is not a traditional flag lot as the pole portion of the lot is 40ft wide, what they are proposing fits the intention of the street.

In response to questions from Chun Zhou, 25 Jewett Ave, Mr. Mederos explained the setback requirements, this house will not add to the congestion on the street as there is a house there now, he is not exaggerating the non-conformity, the second floor can extend 2ft by Code, they are not breaking any rules, which is why a variance is being requested, as to the claim by Mr. Zhou that he did not get the letter, it was pointed out that the law requires proof of mailing not receipt.

Minutes approved: 12-07-2015

Maria Wilfert, 33 Jewett Ave, asked why the letter said addition/renovation when a new house was being built. Marked as A-2 was her notice. Mrs. Wilfert also asked about drainage which in the 30 years she has lived there the water flows along the rear of the property in question and towards the north of the street; Mr. Mederos said the drainage will be improved as seepage pits will be installed to control run-off.

In response to questions from Chi Leung, 23 Jewett Ave, Mr. Mederos said the views of #23 and #25 will be preserved as the proposed building will not be as high; the five foot setback is what the code allows; they will construct a fence around the property; the second floor extends two feet as allowed by code, this enables the driveway to remain at 9ft and be useable, and the space is needed on the second floor, the property will not be dug out to make the house taller, the sloping land will remain.

There followed discussion on the notice which said 'Addition/Renovation' and Board members wondered if more people would be here if the notice had said 'New Dwelling'.

Motion by Mrs. Gilbert second by Mr. Farrell to have the applicant re-notice for the construction of a New Dwelling.

Roll call vote:

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

Opposed: None.

Agreed unanimously to re-notice for a new dwelling.

Vesga/Bobadilla, 77 Sherwood Rd – 1909/2.

Steep Slopes. ZB2015-19. (Rec'd 10/20/2015 decision by 2/17/2016.)

Present for the applicant was Angelo Onello of Onello Civil Engineering Consulting Services in Ramsey New Jersey, he was sworn in. Mr. Onello said the application is for a steep slopes variance; he said the homeowners have trouble using the property, stabilization is difficult; there is some grass and a lot of rock and the tracks of water flow from heavy rain are visible. A trench drain will be installed in front of the garage, this will direct water flow from the driveway to the side of the house into a catch basin and then towards the rear of the house; roof leaders will go into a seepage pit in the rear yard; 3ft retaining walls made of modular block will be constructed on the rear property line, a see through fence is proposed for the top of the wall, he confirmed the rear property line has plantings now.

In response to questions from the board Mr. Onello said the steepest slopes are two small areas on either side of the house, steps will be constructed on the right side leading toward the rear yard, the concrete walks and patio on the right side will be removed and a 3ft path constructed to get to the rear yard; there is a 10ft difference in grade from the street to the garage; he explained that water travelling over concrete or similar surface travels much quicker than water travelling over grass; the water from the leaders will go into the seepage pit.

Jeffrey Brecker, 10 Byrne Lane who lives directly behind the subject property said in the 18 years he has lived in his house he has not had any run-off; he asked Mr. Onello if he had seen the water flow down the property in question to his and what exactly is being done; where has the soil gone, what about the oak trees, and they have many plantings along the property line that must not be compromised.

Mr. Onello replied they are trying to capture the run off rather than have it go into the garage, a retaining wall on the rear property line will allow the property to be graded and levelled off, he did not know where the soil had gone, it had eroded and there was no vegetation to slow the water flow. Mr. Onello confirmed they would not touch anything on Mr. Brecker's property and the large oak on the property line would remain, and the retaining wall be built around it; a silt fence would be installed to insure no run off.

Minutes approved: 12-07-2015

Sandra Bobadilla the homeowner was sworn in. Ms. Bobadilla said the amount of water that flows into the garage has lessened after the DPW put an asphalt roll at the top of the driveway, the water flows down either side of the property.

Mr. Onello said the retaining wall will be constructed about 12-16" below grade, the location of that wall is not on a steep slope it is on the rear property line.

There were no further questions from the public.

David Hals, the Zoning Board Engineer was sworn in. Mr. Hals explained the steep slopes on this property and their location on either side of the property, adding he did not feel there would be an impact on the neighbors as all run off will be collected in the seepage pit; this will be a significant improvement in existing conditions.

Phyllis Gordon, 10 Byrne Lane asked Mr. Onello how the proposed wall would affect her plants on the rear property line. Mr. Onello said a fabric silt fence would be installed along the property line.

Jeffrey Brecker, 10 Byrne Lane asked if the wall is not on the property line what protection would there be for the large oak.

Mr. Hals said the wall is one foot off the property line, they could dig around the tree roots by hand, and reminded the questioner that a variance is not required for the wall, the variance is for disturbing the steep slopes.

Mr. Brecker asked the board for time to check with his experts and said he had not had enough time to review the plans.

Ms. Bobadilla said they have been waiting for nearly a year for this to be resolved.

Mr. Onello gave a summary of the application.

The board went into deliberative session.

Mr. Cytryn said he agreed with Mr. Hals that the applicant was here for steep slopes on the sides, the walls and soil moving can be done without variances.

Mrs. Gilbert said the engineer has responded and she is comfortable with his decision and testimony.

Motion by Mr. Levene second by Mr. Kominsky to approve the Steep slopes variance and one of the conditions be that hand digging be done around the base of the tree.

Roll call vote:

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

Opposed: None.

Steep slope variance approved 7-0.

Lubavitch on Palisades, 11 Harold St – 1105/26.01

Expansion of a non-conforming use, building height -55.45ft. ZB2015-15.

(Rec'd 10/22/2015 decision by 2/19/2016)

Request to carry this application to December 7<sup>th</sup>. This was agreed.

**ADJOURNMENT**

Minutes approved: 12-07-2015

Motion by Mr. Farrell second by Mrs. Gilbert to adjourn the meeting. All members on a voice vote were in favor, the meeting was adjourned at 10:34PM.

Respectfully submitted,  
Lindsay Graham, Board Secretary