

**TENAFLY BOARD OF ADJUSTMENT  
REGULAR PUBLIC MEETING  
7:30 P.M. April 4, 2016  
MINUTES**

**ROLL CALL**

Present: Mr. Brensilber, Mr. Callahan (arr 7:50PM.), Mr. Cytryn, Mr. Farrell, Mr. Kominsky, Mr. Lieberman, Mr. Menon, Mr. Grossman.

Absent: Mrs. Gilbert.

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 published in the Record on December 24, 2015, 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. Cytryn second by Mr. Menon to approve the minutes of March 7<sup>th</sup> and 21<sup>st</sup>, 2016. All members on a voice vote were in favor.

**MOTIONS FOR ADJOURNMENT**

**UNFINISHED BUSINESS:**

*Resolutions to be memorialized:*

Approved 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; extension of time to 2/22/2016, 3/7/2016.)

Approved: Shoshani, 7 Glenwood Rd – 2505/7  
Side yard, lot coverage, FAR. ZB2016-09. (Rec'd 3/9/16 decision by 7/7/16.)

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

**NEW BUSINESS**

Vaynshenker, 16 Marcotte La – 501/4

Impervious coverage, driveway setback, driveway coverage. (Rec'd 3/23/16 decision by 7/21/16)

Mr. Scalia said his witnesses were the same professionals that had been sworn at the previous meeting – Nassir Almkhtar the architect and Michael Hubschman the Planner. Both witnesses were advised they were still under oath.

Mr. Almkhtar said after discussion with the Golf Club the existing fence will be removed and a new fence installed with no gate; the cupola will be restored and re-installed on top of the garage where it used to be. An FAR variance is not required as they eliminated the space above the garage. In response to questions from the Board, Mr. Almkhtar said the neighbor wants a fence to be installed to separate the two properties; the driveway will consist of two strips on black top with 3ft of grass between; the driveway gates will be to stop the children from running out to the street.

There were no questions from the public.

Michael Hubschman the Planner gave his business address and was sworn in. Mr. Hubschman said the height of the garage has been lowered, which has lessened the bulk of the building and the front yard impervious coverage has been reduced. In response to a question from the board Mr. Hubschman confirmed that variances are needed to build on the lot, and the driveway would be wide enough for emergency vehicles.

In response to questions from Michael Kates, the attorney for the owners of 14 Marcotte Lane, Mr. Hubschman confirmed the driveway width of 15ft, there would be landscaping along the side where the garage of 18 Marcotte Lane is, the FAR is 22.5%, the house cannot be smaller than is now shown on this plan, and it would be on a new foundation.

Stanley Heller, 14 Marcotte Lane was sworn. He offered a copy of his property survey into evidence, this was marked H-1. In response to questions from the Board, Mr. Heller said the view from his house will be the new house and driveway, his rear yard does have landscaping, he said he does not really see his own driveway and carport from his house as most of his living area is on the second floor and they now see the remains of the house.

Mr. Kates said behind this house is the 18<sup>th</sup> hole and he felt it would be better to offend the golf course than his client, either way a variance would be needed; in his opinion the pole part of the flag lot should not be counted and the house is too big for the lot, and the board needs to decide if it has pre-existing status, if not why is this being sanctioned, the driveway should not be counted as the FAR is too big for the lot and in his opinion a big issue.

Christine Alpert, 12 Marcotte Lane was sworn in and agreed with Mr. Kates' comments.

In response to questions from Mr. Kominsky Mr. Hubschman explained the driveway setback, and said they could push the garage back a little and get a three foot setback for plantings. There followed discussion on the square footage of the house.

Mr. Scalia said his client was willing to set the driveway back three feet and would amend the application to include a three foot buffer at the north side of the property.

Mr. Kates said the dimensional criteria are not preserved when the fire destroyed the house, he felt the Zoning Officer should take a second look at the application as nothing is being saved and maybe it is a do-over as nothing is being saved. When asked if the lot was unbuildable, Mr. Kates replied yes, there is no right to continue dimensional variances, maybe a residence can continue with diminished variances. This is valuable Tenafly land that cannot support a single family dwelling and denying the application is a way of cleaning up the ordinance.

Mr. Scalia said he was not prepared for condemnation proceedings.

There were no further questions or comments from the public.

Mr. Ritvo explained flag lots to the board that they are a prior existing non-conforming use but are now not permitted and the driveway portion is included the square footage of the lot.

Mr. Scalia gave a summary of the application.

Mr. Brensilber made a motion second by Mr. Farrell that with the information that had been discussed this evening the Zoning Officer be asked to look at the application again to reaffirm or reconsider his decision.

Minutes approved: 6-6-2016

Mr. Cytryn questioned this second opinion by the Zoning Officer, the board has not said they cannot build, and wondered if the fire impacts the decision of the Zoning Officer.

There followed discussion on undersized lots and what can be built on them; it was confirmed the owners had noticed for a new dwelling.

Mr. Ritvo in response to board questions said this is the correct board for this application; the application can be referred back to the Zoning Officer to have another look and make sure he has all the facts, and it is the Zoning Officer who determines this is a legal lot.

Mr. Scalia said the family is not living in the house due to the fire, and this is their second time in front of the board, and he reminded the board this is a pre-existing non-conforming lot.

Mr. Lieberman said he was prepared to vote now, as he was not sure what else would be gained from the Zoning Officer's re-review.

Mr. Brensilber withdrew his motion and suggested the board vote on the application. At this time Mr. Farrell said his parents live at 10 Marcotte Lane; the Board Secretary confirmed that they were noticed. Mr. Callahan had not heard the whole matter; there were only 6 members present to vote. Mr. Ritvo said the board had to adjourn the matter as the hearing could be considered tainted as Mr. Farrell had been involved in discussions; the case would be re-heard on May 2<sup>nd</sup>.

Motion by Mr. Brensilber second by Mr. Cytryn to carry this application to May 2<sup>nd</sup> to be heard in these chambers at 7:30PM or as soon thereafter as the matter can be heard with no further notice required by the applicant. All members on a voice vote were in favor.

11 Grandview, LLC., 11 Grandview Terr – 1503/35  
Front yard setback, lot coverage, FAR. (Rec'd 3/23/16 decision by 7/21/16)

Mr. Ritvo said he would have to recuse himself from hearing this matter as he had a conflict, and would make arrangements for an attorney to be present at the next meeting. Mr. Capizzi expressed his annoyance at the matter having to be adjourned.

Motion by Mr. Lieberman second by Mr. Cytryn to carry this application to May 2<sup>nd</sup> to be heard at 7:30PM or as soon there-after as the matter can be reached with no further notice required by the applicant. All members on a voice vote were in favor.

## **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 9:02PM.

Respectfully submitted,

Lindsay Graham  
Board Secretary