

**TENAFLY BOARD OF ADJUSTMENT
REGULAR PUBLIC MEETING
7:30 P.M. December 5 2011
MINUTES**

ROLL CALL

Present: Mr. Brensilber, Mrs. Crook, Mr. Farrell, Mr. Fox, Mrs. Gilbert, Mr. Levene, Mr. Lieberman, Mr. Grossman.
Absent: Mr. Kominsky.
Also present: Mr. Donald Lander.

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 Press Journal on December 31, 2010, faxed to the Record on January 28, 2011 and posted on the bulletin board in the lobby of the Municipal Center and the Borough Web page."

COMMUNICATIONS

1. Dates for 2012 meetings.
2. Letter dated Oct 24, 2011 from Board Engineer re: 1 Engle St, 2006/10; ZB2011-35.
3. Copy of letter dated 11/28/11 from Thomas Izzard attorney for Mt. Carmel Church to Elliot Urdang attorney for Temple Sinai stating his client was not noticed on the Temple Sinai Application.
4. Copy of letter from Elliot Urdang in response to that letter.

APPROVAL OF MINUTES –November 7, 2011.

MOTIONS FOR ADJOURNMENT - there were none.

UNFINISHED BUSINESS

Resolutions to be memorialized

Approved: Casillo, 28 N Brae Ct – 2601/16.
Rear yard setback for shed. ZB2011-34. *(Rec'd 10/27/11 decision by 2/24/12.)*

Approved: Thek, 103 Prospect Terr – 1501/7.
Lot coverage. ZB2011-33. *(Rec'd 10/27/11 decision by 2/24/12.)*

Board Secretary will email the resolutions to board members review and the above resolutions will be voted on at the January meeting.

Carried from 8-1-11, 9-12-11.

Behar, 11 Farview Rd – 2901/11

Lot coverage, side yard x 3. ZB2011-15. *(Rec'd 6/8/11 decision by 10/6/1, extension of time to 12/5/11.)*

Present for the applicant was Elliot Urdang. Mr. Urdang explained that the lot coverage variance was no longer needed as Ordinance 11-08 was adopted In July making the property now conform to the code. Three side yard setback variances are needed.

The owner Andrea Behar was sworn in. In response to questions from Mr. Urdang, Mrs. Behar said she bought the house from the previous owner on May 14, 2010; she bought the house as is after renovations had been done and was unaware the property did not conform to the code.; she has not made any change to

the property, and has had no contact with the previous owner, the violations were discovered after the closing.

7:45PM. Mrs. Gilbert arrived.

Mr. Urdang offered three pages of photographs with 12 pictures in total into evidence. These were marked A-1. Mrs. Behar described the different views of the photographs, explaining the foliage and fence that help screen the deck from the neighbors.

In response to questions from the board, Mrs. Behar said she was not aware at the closing that there were violations on the property and could not say why; Mrs. Behar could not comment on the drainage and water coming off the driveway, she was unfamiliar with those matters. It was pointed out to the Board that the Engineer had signed off on the project, which was an addition and renovation.

There were no questions or comments from the audience.

Mr. Urdang gave a brief summary of the application.

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

Mr. Fox said this was an unfortunate situation in which a home with violations was purchased, there is foliage and screening on both sides of the property and as the drainage and project had been signed off by the engineer, he would be in favor of the application.

Mr. Lieberman agreed adding the second owner was in an unknown situation; he said he realized Tenafly does not have a CO Inspection and if this was in place the violations may have been caught before the sale.

Motion by Mr. Lieberman second by Mr. Fox to approve the side yard setback variances.

Roll Call vote:

In favor: Mr. Lieberman, Mr. Fox, Mr. Brensilber, Mrs. Crook, Mr. Farrell, Mr. Levene, Mr. Grossman.

Opposed: None.

Application for three side yard setback variances approved 7-0.

Carried from 11-7-11:

Farley, 89 Highwood Ave – 1505/33

Use of accessory structure. ZB2011-26. (Rec'd 7/21/11 decision by 11/18/1, extension of time to 12/5/11 given via email rec'd 11/9/11.)

Present for the applicant was Marc Leibman, Kaufman, Bern, Deutsch & Leibman, LLP. Mr. Leibman said the application is to continue a pre-existing non-conforming use of the garage.

George Farley the homeowner was sworn in. Mr. Farley said they bought the house in 1982 and were told the garage was permitted and an approved In-law apartment. Their intention is to modify the garage to be a bedroom; they have a very large family and when they visit the house at least twice a year, which has eight bedrooms is extremely full with family sleeping everywhere possible.

In response to questions from the board, Mr. Farley said the only thing in the garage now is electric and the stairs, the garage used to be two stories and he is not sure what was there as it is now on a different foundation, he would like to add water and a sewer hook-up.

Bruce Morrissey, 10 Sisson Terrace asked how many rooms would be in the garage.

Mr. Farley said one bedroom and a bathroom, and pointed out that the neighbor to the west has a similar garage, but was not sure what it is used for.

A question was raised as to whether a vote should be taken to determine if this was a prior non-conforming use.

Mr. Lander said to be grandfathered in the use should be proper and legal at that time.

Mr. Leibman offered into evidence a letter dated July 31, 1975 from the Zoning Officer/Construction Official which was marked A-1. Mr. Lander read the letter, pointing out that the letter states a one story structure, not a two story structure.

Mr. Brensilber said he did not feel there was enough information on this application, adding the applicant should do further research on the use of the garage.

After a brief discussion with his client, Mr. Leibman said they would do further research, but knew that the record might not be fully complete as there had been a fire in the Borough attic where many of the records were kept.

Motion by Mr. Brensilber second by Mrs. Gilbert to carry this application to March 5th, 2012 at 7:30PM or as soon thereafter as the matter can be reached, with no further notice required by the applicant. All members on a voice vote were in favor.

NEW BUSINESS

Antifonario, 81 Palmer Ave – 503/5

Front yard average setback, lot coverage. ZB2011-31. (Rec'd 11/23/11 decision by 3/22/12.)

Present for the applicant was Elliot Urdang, who said his witness would be the architect Roland Scharfspitz. Mr. Scharfspitz was sworn in and accepted as an expert in the field of architecture. Mr. Scharfspitz said the applicant proposes rear and front additions to the house; the addition in the rear will expand the dining room and add a mud room; the mud room will take some of the garage space, but the garage will still be used as a garage; on the second floor the master bedroom will be expanded to add a large walk-in closet and master bathroom. Mr. Scharfspitz said variances are not needed for the rear addition; a front yard setback variance is required for the front porch and this also necessitates the lot coverage variance of 17SF. The second floor in the front does overhang the front door area and the applicant would like to use this space as a front porch, the homeowners wanted a usable front porch and chose to make it 6' deep, to make it smaller he felt would make the space less desirable, but negate the need for a front yard setback variance.

Photographs of existing front entry were marked A-1; photographs of the proposed front entry were marked A-2. Mr. Scharfspitz said windows will be enlarged, new materials on the house and the gables would make the house look better; in his opinion there would be no diminution of light and air and the house would be more aesthetically pleasing once finished.

There were no questions from the board or the audience. There were no comments from the audience.

Mr. Urdang gave a summary of the application.

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

Mr. Lieberman said he would approve the application and did not feel it would have any negative impact on the neighborhood, it would be positive.

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

Roll call vote:

In favor: Mr. Lieberman, Mr. Brensilber, Mrs. Crook, Mr. Farrell, Mr. Fox, Mrs. Gilbert, Mr. Grossman.

Opposed: None.

Front yard setback and lot coverage variances approved 7-0.

Brisman, 50 Glenwood Rd – 2501/8.

Side yard for hot tub placement. ZB2011-36. (Rec'd 11/23/11 decision by 3/22/12.)

Mr. Grossman recused himself from the application and sat in the audience, Mr. Brensilber took the Chair.

Present was the homeowner and applicant David Brisman, who was sworn in. Mr. Brisman said the variance is needed as the Code states a hot tub must be in the rear yard; they live on the corner of Glenwood Road and Highwood Avenue and have two front yards, the rear yard which would conform to the code would be near the driveway. The proposed location of the hot tub, behind the house near the patio on the south side is the only location suited for the hot tub. Mr. Brisman added the neighbor to the south of him on Highwood Avenue has a pool, there is mature foliage and a fence; the proposed location will be screened from all street views. Mr. Brisman offered four pages of photographs showing different views of the proposed location, concluding it is the least obtrusive place for the hot tub.

Mr. Levene said this does seem to be the only logical place for the hot tub; Mr. Brensilber said the photographs show the screening and what is there now.

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

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

Mr. Farrell said he would approve the side yard location of the hot tub adding it will be screened with landscaping.

Motion by Mr. Farrell second by Mrs. Gilbert to approve the application.

Roll call vote:

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

Opposed: None.

Side yard location for hot tub approved 7-0.

Temple Sinai, 1 Engle St - 2006/10

Conditional Use, playground equipment in side yard. (Rec'd 11/23/11 decision by 3/22/12.)

Mr. Grossman returned to the dais. Mrs. Gilbert recused herself from hearing the application and sat in the audience. Present for the applicant was Mr. Urdang explained who the correspondence from Mr. Izzard, the attorney for Mt. Carmel, adding his clients in good faith used the list of property owners within 200' as provided by the Tax Assessor and assumed it to be correct, Mt. Carmel was omitted from the 200'

list but Mr. Izzard the attorney for Mt. Carmel is present this evening and his clients have had the time to come and review the submitted plans. It was agreed the application could continue.

Mr. Urdang explained the nature of the variance and that the property is also in Englewood, and the Englewood Planning Board has waived jurisdiction on this matter. Mr. Urdang said this variance is for playground equipment that will be closer than 25' to the property line, and confirmed there have been issues with the parking calculations show on different Site Plans, but the parking would be for 110 cars, and thus a parking variance is also required.

His first witness was Risa Tannenbaum, the Director of pre-school education at the Temple. Mrs. Tannenbaum was sworn in. Mrs. Tannenbaum explained there is a great deal of competition in pre-schools and hence the need to improve the playground equipment and make it more conforming with State requirements; only one class would be outside playing at one time, at most there would be 50 children outside playing; the under three year olds would have their own playground; the advantage of separating the children, as the equipment for the under twos can be scaled down more to their size and abilities.

Drew Taylor the Landscape Architect gave his background and education adding he was not licensed in the State of New Jersey, but his boss who is, was out of the country, he gave his business address and was sworn in. Mr. Taylor described the three different play areas which will be installed on the existing parking area, and their surfaces; three rain gardens are proposed which will be used to try and slow down the flow of the water, native plants will be planted in the rain gardens which will be like a detention system; a pergola is proposed that will offer tables and a shady area. With regard to Mr. Hals comment on the handicapped accessibility access this will be moved and the curb will be flush with the parking lot; Mr. Taylor did not feel there would be any negative impact on the neighbors.

In response to questions from the board, Mr. Taylor said they were not sure how much water would be used in the bubbler/water spray area, it would not be recycled water for possible health reasons, and the testing that would need to be done on a daily basis. Mrs. Tannenbaum replied on a question about parking, that drop off and pick up will be staggered and all parents park and bring their children to the school, there would be enough spaces during the day for these events, the State allows 120 to 150 children depending on their age.

There were no questions from the audience.

Daphne Galvin, PE of the firm Dresdner Robin was sworn in and accepted as an expert in the field of engineering. Mrs. Galvin said there is no drainage system in place now, one will be installed along the northern property line and south along the side of the building to take any water away from the property line and into the rain gardens and then down to Hudson Avenue; in response to a question on the adequacy of the drainage system, Mrs. Galvin said after a period of time the ground becomes compacted and the water cannot seep into the ground, what is proposed will help take the water from the property to the north and direct it south towards Hudson Avenue.

Mr. Hals the Board Engineer said he felt the ramp should be modified to meet the ADA requirements, the drainage will be improved, and the rain gardens will serve in small rain events at slowing the flow of water, roof drains will be piped underground; the number of parking spaces will remain the same. As an explanation he said the bubbler/ water spray area is basically like a sprinkler, he had no questions for Mrs. Galvin.

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

Mr. Urdang gave a brief summary of the application.

Motion by Mr. Fox second by Mrs. Crook to go into deliberative session. All members on a voice vote were in favor.

Mrs. Crook said she felt there was no downside to the application and would approve the variances and 110 parking spaces.

Mr. Farrell said initially he had concerns about the volume of water from the bubbler/water spray area, but those had been allayed by Mr. Hals, and he would approve the application.

Motion by Mrs. Crook second by Mr. Lieberman to approve the variances.

Roll call vote:

In favor: Mrs. Crook, Mr. Lieberman, Mr. Brensilber, Mr. Farrell, Mr. Fox, Mr. Levene, Mr. Grossman.
Opposed: None.

Side yard setback for playground equipment and a parking variance for 110 spaces approved 7-0.

CLOSED SESSION

ADJOURNMENT

Motion by Mr. Brensilber second by Mr. Lieberman to adjourn the meeting. All members on a voice vote were in favor, the meeting was adjourned at 10:35PM.

Respectfully submitted,

Lindsay Graham
Board Secretary