

**TENAFLY BOARD OF ADJUSTMENT  
REGULAR PUBLIC MEETING  
7:30 P.M. March 21, 2011  
MINUTES**

**ROLL CALL**

Present: Mr. Brensilber, Mrs. Crook, Mr. Fox, Ms. Gilbert, Mr. Levene, Mr. Grossman.  
Absent: Mr. Farrell, Mr. Kominsky, Mr. Lieberman.  
Also present: Mr. Zenn, Mr. Ritvo, Mr. Mottola.

**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. Letter dated February 17, 2011 from Borough Engineer re: 343 Tenafly Road, 1008/4 on Site Improvement costs.

**APPROVAL OF MINUTES**

Motion by Mr. Fox second by Mrs. Gilbert to approve the minutes of February 7, and March 7, 2011. All members who had been present at the meetings voted in favor.

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

**UNFINISHED BUSINESS:**

Resolutions to be memorialized:

Approved: Park, 34 Lindley Ave – 702/5.  
FAR, lot coverage, front yard setback (2), side yard setback. ZB2011-06.

Approved: Roth, 82 Hazelton Terr – 110/13.  
A/C condenser in rear yard. ZB2011-03.

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

Garcia, 66 Sussex Rd – 803/6.  
Lot coverage, curb cut. ZB2011-05.

Mr. Mottola said he had measured the driveway, and provided a drawing showing the measurement between the belgian block curbing of the driveway, and the measurement at the curb; at his recommendation it was agreed that the variance be granted for 21', and the applicant remove the concrete curb on the right side of the driveway to the nearest construction joint, and replace that portion of concrete curb up to the edge of the Belgian block curbing.

Motion by Mr. Fox second by Mrs. Crook to have the attorney draw up the resolution with the above wording; resolution will be memorialized at the April 4<sup>th</sup> meeting.

Roll call vote:

In favor: Mr. Fox, Mrs. Gilbert, Mrs. Crook, Mr. Grossman.

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Opposed: None.

## NEW BUSINESS

Borghgi, 523 Knickerbocker Rd 121/8.  
Front yd coverage by patio. ZB2011-07. (Rec'd 2/2/11 decision by 6/2/11.)

Present was the homeowner, Mr. Borghi who was sworn in by Mr. Zenn. Mr. Borghi said the application is for additional patio coverage in the front yard facing Sunset Terrace with an additional 237SF. The existing patio was uneven and covered in mold, so he had a contractor remove the pavers level the ground and put the pavers back in the same place having cleaned off the mold. They used the same pavers that have been there for many years. He applied for a permit but was denied as there were additional pavers proposed. Mr. Borghi said the patio has been in the same place since they bought the house in 1999.

In response to questions from the board, Mr. Borghi said visitors do not use the circular driveway for parking, as once the first car is parked, it is difficult for anyone else to get out; the contractor did the work on the patio, and did not get a permit; the additional 237SF is not there yet, there is grass. Grass is difficult to grow in that area due to the heavy foliage. Several board members were concerned that there were no dimensions of the patio, the numbers on the application form were the same for proposed and existing, and had the pavers been installed.

Mr. Mottola said if the two surveys are compared side by side, the survey dated 1-8-08 shows the patio that was existing at the time of the side yard variance granted in 2008; the survey dated 7-2-10 shows the expanded patio on the Sunset Terrace side, lot coverage has increased from 18.7% to 19.9%, and the 237SF has already been constructed.

Mr. Borghi offered a set of five photographs he had taken each showing a different view of the sunset Terrace side of the house. Mr. Borghi confirmed he had taken the photographs some years ago; Mr. Zenn marked the photos A-1.

There were no questions or comments from the audience for the applicant. Mr. Borghi gave a summary of the application.

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

Mr. Fox said the area was well landscaped and attractive and did not feel there was any detriment, despite the frustration with the contractor.

Motion by Mr. Leven second by Mrs. Crook to approve the front yard setback variance.

### Roll call vote:

In favor: Mr. Levene, Mrs. Crook, Mr. Fox, Mrs. Gilbert, Mr. Grossman.  
Opposed: None.

Front yard setback variance of 9.5' approved 5-0.

Shakarjian Management Co., 17-19-21 Washington St 1010/6.  
Use – Yoga studio. ZB2011-08. (Rec'd 3/10/11 decision by 7/8/11.)

Present was the applicant Lisa Bergquist who gave her home address as 70 Surrey Lane, Tenafly and was sworn in by Mr. Zenn. Mrs. Bergquist said she would like to use about 655SF of space on the second floor of the building (above CVS) as a Yoga studio; the second floor of the building consists of about 10,000Sf of vacant space. She proposes holding one class on a daily basis starting at 9:00Am and ending at 10:15AM.; she may in the future hold a teaching class on a Sunday, starting at 11:00AM.; there would be 8-

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10 people for the daily session, in her opinion parking would not be an issue as there is specific parking for this building and a municipal lot about 200 yards away. As a positive for the application she felt being located in the Central Business District would draw members in to the area to do local shopping after their class, before returning home; in her opinion she felt there would be no impairment to the Master Plan or zone plan; I will be convenient and the benefits will be mental and physical.

Chris Blake Architect gave his business address as 150 County Road, Tenaflly, was accepted as an expert in the field of architecture and sworn in by Mr. Zenn. Mr. Blake said a positive for this application is that it only needs two parking spaces, if this were an office 4 spaces would be needed; there is a parking lot for this building that is about 200ft away, that lot has 31 spaces. No changes would be made to the exterior of the building, interior changes are minor and would involve closing a door, removing a partition and installing a hardwood floor.

Mrs. Gilbert asked about the additional 243SF. Mr. Mottola replied an office is a permitted use, and no variance is needed; he stressed this application has less intensive parking than the permitted use of an office and there is a parking lot dedicated specifically for this building.

Mr. Levene asked about the number of people waiting for the next class and where would they park and was there space for them to wait. Mrs. Bergquist replied she is only planning on doing one class a day – in the morning – as she has found that the afternoon classes do not really work and are not good for teaching. In response to other questions, Mrs. Bergquist said she will only be using 650SF out of 9,500SF on the second floor, and would not sublease this space.

There were no questions from the audience.

Audience comments:

Norman Dorf gave his address as 11 Park Street, Tenaflly and was sworn in. Mr. Dorf said he is a member of the BID group, and spoke in favor of allowing the use variance which he felt would bring traffic and revenue to the downtown area; he did not feel there would be a negative impact on parking; it would be a chance for business.

Marnia Bramowitz, 23 Park Street, Tenaflly, Natasha Leibel, 42 Downey Drive, Tenaflly and Sharon Fredman, 99 Sussex Road, Tenaflly were sworn in individually and each spoke in favor of the application.

Mr. Grossman explained to the applicant there were only 6 members present to vote, and the applicant could hold the deliberative session and vote to another meeting or take a chance and have the vote done now. Mrs. Bergquist said she would take her chances now for a vote.

Mrs. Bergquist gave a summary of the application.

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

Mr. Levene said he felt yoga would be beneficial to the downtown area.

Mrs. Gilbert felt the use was consistent with other activities, adding parking is always an issue downtown.

Mr. Fox said he felt this was a good use of the space.

Motion by Mrs. Gilbert second by Mr. Levene to approve the use variance.

Roll call vote:

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

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Use variance unanimously approved.

## **UNFINISHED BUSINESS**

Carried from ~~10-18-10; 11-8-10; 12-6-10; 1-10-11; 3-21-11.~~

SMSA d/b/a Verizon. 2902/23.

Remand hearing as directed by the Appellate Division to hear testimony, as to the availability of alternate site. ZB2007-09. [Information packets received 10-5-10.]

Present was Mr. Stanzione of the firm Hiering, Dupignac, Stanzione, Dunn & Beck for the applicant SMSA d/b/a Verizon; who said his two witnesses would be the Mayor and the President of the Nature Center Board of Trustees. Mr. Stanzione explained the two witnesses who had been subpoenaed by the Board were involved in discussions by the two groups regarding being approached by Verizon to construct a cell tower at the Nature Center.

Mayor Rustin gave his address as 295 Woodland Park Drive, Tenafly and was sworn in. In response to questions from Mr. Stanzione Mayor Rustin said he has been Mayor for eight years; did not recall any discussion other than the matter was referred to the Nature Center Board as they are the tenants there; the Borough does have a cell tower location by ordinance; he was not cognizant of the terms of the Nature Center lease but felt that if the Nature center was in favor of a cell tower application, it would have to come back to the Mayor and Council for their approval; the Nature Center has a lease with the Borough which is still in effect.

There were no questions for the witness from the Board.

Michael Sinkevich of the firm Lieberman & Blecher, Esqs was present for Mr. Lieberman who had another commitment. In response to questions Mayor Rustin said he had no specific recollection of a Verizon inquiry to the Borough regarding leasing land for tower at the Nature Center; did not specifically remember any discussion; Mayor Rustin outlined the process for a work session and public meeting, adding no vote takes place at a work session, but if the Council agrees, a topic is placed on a public meeting agenda for discussion and a vote; it would not be out of the ordinary to send this request to the Nature Center for them to discuss and decide; and their decision normally would come back to Mayor and Council for a formal vote; his understanding this was an informal inquiry and he did not have any idea as to lease amounts or the like, and reiterated the Nature Center would request a formal vote from the Mayor and Council on a topic.

There were no questions for the witness from the Board or members of the public.

Michael Neus gave his address as 330 Engle Street, Tenafly and was sworn in. in response to questions from Mr. Stanzione Mr. Neus said he had been the President of the Board of Trustees of the Nature Center for two years; with regard to the letter dated July 2010 from Mr. Weible from Jennifer Kleinbaum, he explained she is executive director and oversees day to day operations and is supervised by executive committee of Board of Trustees; there were discussions by the executive committee prior to this letter being sent; the executive committee reviewed the lease with the Borough and under the terms of lease the Nature Center is the steward of the Nature Preserve lands, it is a not for profit organization responsible for stewarding the land and not allowed to sub lease or add buildings or structures without Mayor and Council approval. Mr. Neus said there was wide ranging and thorough discussion by the executive committee and a majority opinion was to not seek approval from the Mayor and Council, the topic was raised at a full board meeting, and it was agreed to not proceed with this proposal from Verizon, they also had discussions with the council liaison for the Nature Center; adding that any new building or structure would also require state approval as the land comes under Green Acres regulations.

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Mr. Sinkevich clarified the process of discussions of the Trustees and Nature Center board. In response to questions from Mr. Sinkevich said he did not review the proposal from Verizon, Ms. Kleinbaum had relayed the details to him, nor did he know if there was a specific location proposed for the cell tower other than near East Clinton Avenue, he did not know what kind of tower would be built, nor did he remember how long before the letter sent by Ms. Kleinbaum the proposal was received; he believes the revenue in the lease proposal was about \$19,000.00 per year.

Mr. Stanzione objected as revenue is not relevant to this hearing.

The objection was noted.

As clarification Mr. Sinkevich agreed revenue not relevant, but said the revenue in a proposal goes to a formal offer.

In response to further questions from Mr. Sinkevich Mr. Neus said he was not sure if other co-location antennas were mentioned but did recall another cell phone company had asked a similar question about leasing land a few months prior to the proposal from Verizon; this topic has not been raised at any meetings since July.

There were no questions from the Board or public for the witness.

Mr. Stanzione asked the board to defer their decision to the next meeting as he would like the full board present.

Mr. Sinkevich objected stating his client has been put through significant costs and to come back to Tenafly for further discussion and a vote is onerous.

Mr. Ritvo suggested summation be done now and the hearing be closed, absent members would listen to the recording of the meeting and would then go into deliberative session and take a vote.

Lisa Pribanic, 3 Huyler Avenue, Tenafly was sworn in. Ms. Pribanic spoke against the application stating there are new technologies available that can be used by cell phone companies.

Mr. Sinkevich gave a summary of his objection to the application.

Mr. Stanzione gave a summary of the application.

Mr. Ritvo said the board's determination is as to the potential use of the Nature Center as a site only and would that change the board's decision. There followed some discussion by the board as to whether the hearing should be closed.

Motion by Mr. Brensilber second by Mrs. Crook to keep the application open in case there are questions or further discussion once the absent board members have listened to the recording of this hearing. A majority of members present voted in favor.

After discussion as to availability of the attorneys a date of May 16<sup>th</sup> was agreed. Motion by Mrs. Gilbert second by Mrs. Crook to carry this application to May 16<sup>th</sup> at 7:30PM in the Council Chambers or as soon thereafter as the matter can be reached with no further notice required by the applicant. All members present voted in favor, the matter was carried to May 16<sup>th</sup>.

**CLOSED SESSION**

**ADJOURNMENT**

Minutes approved: 4-4-11

Motion by Mr. Brensilber second by Mr. Fox to adjourn. All members on a voice vote were in favor, the meeting was adjourned at 10:15PM.

Respectfully submitted,

Lindsay Graham, Board Secretary