

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

**ROLL CALL**

Present: Mrs. Crook, Mr. Farrell, Mr. Fox, Ms. Gilbert, Mr. Kominsky, Mr. Lieberman, Mr. Grossman.  
Absent: Mr. Brensilber.  
Also present: Mr. Ritvo, Mr. Hals, 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."

**COMMUNICATIONS**

1. Letter dated 2-10-2011 from County of Bergen re: Site Plan received for Community Synagogue of Tenafly & Englewood.
2. Letter dated 1-6-11 from Schwanewede/Hals Engineering re: 81 Hudson Ave - 1308/8. ZB2011-04.

**OTHER BUSINESS**

Mr. Jeffrey Levene was sworn in by Mr. Ritvo. (Mr. Levene fills the unexpired term of Mr. Lofberg.)

Motion by Mr. Brensilber second by Mr. Fox to appoint David Hals of the firm Schwanewede/Hals, as the engineer for the Board of Adjustment.

Roll call vote:

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

Opposed: None.

Mr. Hals approved unanimously as the Board Engineer 7-0.

Motion by Mr. Kominsky second by Mrs. Gilbert to appoint the firm RCC Consultants, Inc., as the Board Radio Frequency expert subject to the posting of the necessary escrow by the applicant (T-Mobile Northeast, LLC-ZB2010-25.)

Roll call vote:

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

Opposed: None.

RCC Consultants, Inc unanimously appointed as RF Expert for the Board 7-0.

**APPROVAL OF MINUTES**

The minutes of February 7, 2011 were not ready for approval.

## **MOTIONS FOR ADJOURNMENT**

Request from Mr. Edwards attorney for T-Mobile, ZB2010-25, as an expert is not available. Motion by Mrs. Gilbert second by Mr. Farrell to carry the application to April 4, 2011 in the Council Chambers 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.

Mr. Lieberman arrived.

Request from Mr. Watkins attorney for Lee, 81 Hudson Ave, ZB2011-04, to adjourn the matter until May 2<sup>nd</sup>, 2011. Motion by Mr. Fox second by Mrs. Gilbert to carry the application to May 2, 2011 in the Council Chambers 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.

## **UNFINISHED BUSINESS**

Carried from 2-7-11:

Park, 34 Lindley Ave – 702/5.

FAR, lot coverage, front yard setback (2), side yard setback. ZB2011-06. (Rec'd 1/26/11 decision by 5/26/11.)

Present for the applicant was Mr. Urdang, who said his witness would be the architect. Sung Jong Park gave his address as NOK Architecture, 2573 State Route 10, Morris Plains, New Jersey; he gave a summary of his education and experience and was sworn in by Mr. Ritvo.

Mr. Park described the lot and existing house; the proposed addition will be mainly to the rear on the second floor; the front porch will be closed in to make the living room larger and add a front entry vestibule with room for a closet, an interior wall will be removed to make the kitchen larger and on the second floor the rear of the house will be expanded adding a master bedroom suite and another smaller bedroom, and a deck will be added to the rear of the house; a new roof, windows and siding will also be added. A photograph was marked A-1, this showed the existing front porch.

With regard to the variances being requested Mr. Park said the front entry steps that will be constructed will mean a 10' setback from the street, the house is currently at a 17' setback. Mr. Park offered a photo of the neighbor's house that was marked as A-2; this showed two houses on the street with similar front entry steps. A side yard setback variance is needed as the addition in the rear and the deck will follow the existing building line which does not conform to the 10' setback; the overage in lot coverage is not visible; the increase in FAR is mainly on the second floor towards the rear of the house. Mr. Park did not feel there were any negative aspects to the proposed addition and the house would be upgraded and have a positive impact on the street.

Mr. Kominsky asked why the steps have to come out so far in front of the house.

Mr. Park said the homeowner wants the entry vestibule to use as shelter and a safety issue with entering the house, and thus the steps do extend out; and he added there other similar steps in the neighborhood.

There were no questions or comments from the audience.

Mr. Urdang gave a summary of the application.

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

Mr. Farrell said he would approve the application and did not have any great concerns, nor feel there was any negative impact.

Mr. Kominsky said he had a problem with the front steps.

Motion by Mr. Brensilber second by Mrs. Gilbert to approve the bulk variances.

Roll call vote:

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

Opposed: Mr. Kominsky, Mr. Grossman.

Bulk variances approved 5-2.

Motion by Mr. Brensilber second by Mr. Farrell to approve the FAR variance.

Roll call vote:

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

Opposed: None.

FAR variance approved 7-0.

**NEW BUSINESS**

Garcia, 66 Sussex Rd – 803/6.

Lot coverage, curb cut. ZB2011-05. (Rec'd 2/16/11 decision by 6/16/11.)

Present was the homeowner Sarah Garcia who was sworn by Mr. Ritvo. Mrs. Garcia said they bought the house with a deck and curb cut in violation of the Code; if the house was in a different zone the deck would comply with the code; the deck has no impact on light and air, it is behind the house and does not aggravate any water situation, as water runs through the decking. The reason for this application is the previous homeowners had work done and when the Final As-Built was submitted the deck was larger than approved as was the curb cut. They bought the house in December 2009 knowing the As-Built had not been approved and they would have to file an application to the Board. The survey was revised 7/22/10 to show the curb that had been installed to make only an 18' opening, a raised curb was installed, but this makes ingress and egress awkward with a van.

Mr. Mottola explained to the Board the Code allows a 20' opening at the curb, this driveway is flared and measures 22', adding there are two different measurements on the survey. Mr. Mottola in response to another question said the deck is about 440SF.

Marcia Mayman, 49 Joyce Road asked for the width and depth of the deck and if a buffer could be installed to shield her from the view of the deck.

Mrs. Garcia said the deck is about 19' by 21', and she would talk to her landscaper about screening.

Evelyn Sanchez, 54 Sussex Road was concerned the deck had not been inspected and found to be larger than approved.

Mr. Grossman suggested she talk to the inspector. Mr. Mottola said the inspection is done, but the Inspector does not measure, he makes sure the work was done in compliance with the Building Code.

Minutes approved: 3-21-11.

Evelyn Sanchez, 54 Sussex Road was sworn in by Mr. Ritvo and said she is a direct neighbor and does not have any problem with the deck.

Marcia Mayman, 49 Joyce Road was sworn in by Mr. Ritvo said she lives behind and to the side of applicant and spoke against the deck.

Mrs. Garcia gave a summary of the application.

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

Mrs. Gilbert said she felt that any changes to make the deck conforming would be more disruptive to the neighborhood; and would be in favor of approving the application as is.

Mr. Kominsky was also in favor and said he felt the homeowner had done due diligence by pursuing the open permits, and are here making application to the Board.

Mr. Farrell agreed and said he was in favor of approving both variances.

Motion by Mrs. Gilbert second by Mrs. Crook to approve the application, and asked for Mr. Mottola to double check what is there and the measurements before the application is memorialized.

Roll call vote:

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

Opposed: Mr. Brensilber.

Variances approved subject to Mr. Mottola measuring the width of the curb.

Roth, 82 Hazelton Terr – 110/13.

A/C condenser in rear yard. ZB2011-03. (Rec'd 2/18/11 decision by 6/18/11.)

Present for the applicant was Mr. Catania of the firm Saiber, LLC. Mr. Catania said his firm is representing the Contractor Gilson and Sons. Mr. Catania said the application is a rear yard setback variance to place an A/C Condenser in the rear yard; the existing rear yard is only 21', the frontage on the property is about 77'. He offered Mr. Roman the Contractor as his witness.

Jose Roman gave his business address as 22 Spearman Road, Fairfield, New Jersey and was sworn in. Mr. Roman said the condenser was placed in the rear yard as the easiest way to run the electrical connection was through the attic from the panel up there; there was no room on the side of the house and the homeowner did not want the condenser in the front yard. Mr. Roman added the house behind the applicant is very far away and the land drops off.

There were no questions or comments from the audience.

Mr. Catania gave a summary of the application.

Motion by Mr. Grossman to go into deliberative session. All members were in favor.

Mrs. Crook said she had no problem with the application adding there would be no impact on the neighbors.

Minutes approved: 3-21-11.

Motion by Mrs. Crook second by Mr. Brensilber to approve the rear yard variance.

Roll call vote:

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

Opposed: None.

Rear yard setback variance approved 7-0.

Carried from February 7, 2011:

Lee, 123 Dean Drive - 906/2.

Use. ZB2011-02. (Rec'd 1/26/11 decision by 5/26/11.)

Present for the applicant was Mr. Urdang. He gave an opening statement giving a history of Mt. Laurel, Mr. Laurel II and the Fair Housing Act; this property was one of two in the Borough that a Borough Committee approved for housing as per the COAH third round; COAH third round at this time has not been approved by the State. His witnesses this evening would be the engineer and a traffic expert.

Mr. Ritvo suggested Joe Burgis of the firm Burgis Associates as the Planner for the Board and David Hals of the firm Schwanewede/Hals as the Board engineer on this application.

Motion by Mr. Fox second by Mrs. Gilbert to nominate Mr. Burgis as the Planner and Mr. Hals as the Engineer for the 123 Dean Drive application.

Roll call vote:

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

Opposed: None.

Motion unanimously approved.

At 9:45PM Mr. Grossman suggested a ten minute break.

Meeting returned to order at 9:55PM.

Michael Hubschman gave his address as 263A Washington Avenue, Bergenfield, New Jersey, was worn in and accepted as an expert in the field of Engineering. Mr. Hubschman said the Site Plans that had been submitted would be used on display for explanation;

Existing conditions Sheet 6 of 6 (colorized) last revised 3-10-11 was marked A-1;

The Proposed development sheet 2 of 6 was marked A-2;

Grading and drainage sheet 3 of 6 was marked A-3;

Lighting and Landscape Plan sheet 5 of 6 was marked A-4.

Mr. Hubschman used A-1 to show the existing conditions on the site and the location and size of the lot and surrounding properties; using A-2 gave an explanation of what is proposed for the site and a breakdown of the number of units, including 6 affordable units; parking will be underneath the building, and driveways will be on either side of the building; using A-3 Mr. Hubschman explained the site grading and drainage, and further explained a history of the site and DEP conditions and regulations. Mr. Hubschman went through the Borough Engineer's letter of February 8, 2011 stating they would comply with the necessary requested changes including lighting and landscaping. Mr. Hubschman explained the lantern type lights that will be installed two on each outer side of the driveway; there would be no spillage onto the adjacent properties.

In response to questions from the Board, Mr. Hubschman said RSIS is the standard for parking at a proposed facility like this, the size of the building is a little larger than the one the Borough Committee saw; several cars will be parked in the front yard setback hence the need for that variance.

Borough Engineer, David Hals expressed concern with the site drainage, an existing municipal drain bisects the site, the applicant proposes relocating the storm drain to the southerly end of the building; he expressed concern with the flat slope of the culvert, which will accumulate sediment and be difficult to keep clean and suggested the pipe be relocated to the north of the site where there is more of a slope.

There were no questions or comments from the audience for the Borough Engineer.

In response to comments from the Police Chief, Mr. Urdang offered Nick Verderese of KZA Engineering, P.A. as a traffic expert. Mr. Verderese gave a summary of his education, experience and background as a Traffic Expert. A Traffic Impact Study dated March 7, 2011 was marked A-5. Mr. Verderese said a manual count was done on February 9<sup>th</sup> and February 10<sup>th</sup>; between the hours of 7AM and 9AM, and between 4PM and 6PM.; data from the Institute of Transportation Engineers publication was used to determine the worst times; the road is relatively flat and there are no sight lines; in his opinion the proposed residential facility would generate fewer trips than the previous use which was a restaurant; the peak traffic time in the morning is between 7:45AM – 8:45AM and in the evening between 4:15PM and 5:15PM. With regard to the parking, Mr. Verderese went through the RSIS standards and concluded that in his opinion the parking waiver is a de minimus exception; and felt that the Traffic Study had responded to the concerns of the Police Chief.

There were no questions from the Board or audience for this witness.

Motion by Mrs. Crook second by Mr. Farrell to carry the application to April 4, 2011. All members on a voice vote were in favor.

**CLOSED SESSION** – there was none.

## **ADJOURNMENT**

Motion by Mr. Brensilber second by Mr. Levene to adjourn the meeting. All members on a voice vote were in favor, the meeting was adjourned at 11:10PM.

Respectfully submitted,

Lindsay Graham  
Board Secretary