

**TENAFLY BOARD OF ADJUSTMENT
REGULAR PUBLIC MEETING
7:30 P.M. June 20, 2011
MINUTES**

ROLL CALL

Present: Mr. Brensilber, Mrs. Crook, Mr. Farrell, Mr. Lieberman, Mr. Grossman.
Absent: Mr. Fox, Ms. Gilbert, Mr. Kominsky, Mr. Levene.
Also present: Mr. Donald Lenner an associate of 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 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

APPROVAL OF MINUTES

Motion by Mr. Farrell second by Mrs. Crook to approve the minutes of June 6, 2011. All members on a voice vote were in favor.

MOTIONS FOR ADJOURNMENT

Request from Mr. Urdang to adjourn Behar, 11 Farview Rd, ZB2011-15 to August 1st, 2011.

Motion by Mr. Farrell second by Mrs. Crook to adjourn the application to August 1st to be heard at 7:30PM or as soon thereafter as the matter can be reached in the Council Chambers, with no further notice required by the applicant. All members on a voice vote were in favor.

UNFINISHED BUSINESS

Resolutions to be memorialized:

Denied without prejudice: Casillo, 28 N Brae Ct – 2601/16
Shed. ZB2011-24.

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

Approved: Geges, 171 Highwood Ave – 1505/23.
FAR, lot coverage, front yard x 2. ZB2011-17.

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

NEW BUSINESS

~~Behar, 11 Farview Rd – 2901/11
Lot coverage, 3 side yd setbacks. ZB2011-15. (Rec'd 6/8/11 decision by 10/6/11.)~~

Scartozzi, 79 Homestead Rd – 2604/11
FAR, 3.5 stories, front yard setback. ZB2011-16. (Rec'd 6/8/11 decision by 10/6/11.)

Minutes approved 7-11-11.

Mr. Grossman advised Mr. Urdang the attorney for the applicant, that he was hoping one more member might be present. Mr. Urdang said he was willing to wait until that time.

Bozzo, 160 E. Clinton Ave – 1805/10.
Driveway setback. ZB2011-20. (Rec'd 6/9/11 decision by 10/7/11.)

Present was the homeowner Felipe Bozzo who was sworn in. Mr. Bozzo said they had purchased the house in 1979, and the size of the driveway was as it now is - a layer of concrete with asphalt on top. In 2006 they decided to remove the asphalt which was in poor condition and install pavers; they were advised by the then Code Enforcer that a zoning permit was needed, a Zoning Permit for approval to install pavers was approved and issued; the driveway was to remain the same size with no expansion. Mr. Bozzo said his neighbor complained, even though he had helped before. They were now informed that they had to re-apply for a Zoning Permit. That Zoning Permit was denied and they were told to file for a variance as the driveway encroaches into the side yard setback. Mr. Bozzo said the bump out in the driveway is convenient as they can use it to back into and go out of the driveway head first onto East Clinton Avenue which is a busy road.

In response to questions from the Board, Mr. Bozzo said no changes were made to the driveway in 2006; the driveway was not enlarged; the bump out of the driveway is shown on the original survey from when the house was purchased. Mr. Lenner marked as A-1 a survey by Coogan/Thomas dated 11/7/1975.

Mr. Bozzo continued, they left the concrete base of the driveway; the pavers were put on top. Mr. Lenner marked as A-2 a Zoning Permit Z065-66 dated October 25, 2006; Mr. Bozzo did not know what had happened in the last five years since that approval and then a denial last year; he was not sure what triggered the denial, a mistake was made by the administration, and once he re-applied he was denied.

Mr. Lieberman pointed out that the two surveys match, and there does not seem to be any enlargement.

Mrs. Crook said she was having trouble with the time line.

Mr. Grossman asked if there were any questions from the audience.

Ernest Kollitides gave his address as 164 East Clinton Ave. In response to questions from Mr. Kollitides Mr. Bozzo said the driveway was not rebuilt, the concrete base was left and pavers installed over it; he did not remember how many bags of concrete were used; and did not remember the name of the person who came to inspect the driveway.

Mr. Grossman asked Mr. Bozzo if he had any further witnesses. Jeanette Bozzo, 221 E 72nd Street, New York was sworn in by Mr. Lenner.

Ms. Bozzo said she had grown up in the house and the driveway had always been the way it is; she was concerned as her father and this neighbor used to be good friends, and now they are involved in a fight. In response to a question from Mr. Grossman she said the driveway had always been that size, when she was growing up and still living at home her friends used to like the space of the driveway for their cars, as parking is not allowed on East Clinton Avenue; the concrete was always there, she did not remember the type of edging along the sides of the driveway.

There were no further questions from the audience. Mr. Grossman asked if there were any comments on the application from the audience.

Anna Manos, 74 Stonehurst Drive was sworn in and spoke against the application.

Mr. Grossman twice asked if there were any other comments on this application from the audience. There were none.

Minutes approved 7-11-11.

Mr. Bozzo 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. Brensilber said the driveway did exist before 2006 as both the original survey when the house was purchased, and the recent survey showed it.

Mr. Grossman said he was looking for evidence that the driveway had changed, and there was none, there are two surveys and the testimony showed that.

Mr. Kollitides asked when he would be able to make his comments. Mr. Grossman said he had asked twice if there were any comments from the audience, and Mr. Kollitides did not get up and speak, and the board is now in deliberative session. Motion by Mr. Brensilber second by Mrs. Crook to reopen the hearing, on a voice vote three ayes and two nays the hearing was reopened.

Ernest Kollitides, 164 East Clinton Ave was sworn in and spoke against the application reading from a three page letter he had prepared.

Mr. Bozzo in response to a comment from Mr. Kollitides said he did not commit a violation.

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

Mr. Brensilber said the board is here for a 10' setback, personally he does not feel there is evidence that the driveway was completely removed, it was there before; he would be in favor as the driveway was existing.

Mrs. Crook wondered why a zoning permit was issued if the driveway was rebuilt, and was also concerned as the variance runs with the land.

Mr. Lenner said that is difficult to answer why a zoning permit was issued, the time line and what exactly happened is unknown.

Mr. Brensilber said we only have the survey to show the driveway.

Mr. Lieberman said there is also the testimony.

There followed discussion on approving the driveway as-is, why a zoning permit was issued and was then denied, and why the application is in front of the board, was the driveway changed and what was there.

Motion by Mrs. Crook second by Mr. Brensilber to deny the application.

Roll call vote:

In favor: Mrs. Crook, Mr. Brensilber, Mr. Grossman.

Opposed: Mr. Farrell, Mr. Lieberman.

Motion to deny the variance approved 3-2.

Minutes approved 7-11-11.

Scartozzi, 79 Homestead Rd – 2604/11
FAR, 3.5 stories, front yard setback. ZB2011-16

At this time there were still five board members, Mr. Urdang asked for an adjournment, and was offered September 12, 2011. Motion by Mrs. Crook second by Mr. Lieberman to adjourn the application to

September 12 to be heard at 7:30PM or as soon thereafter as the matter can be reached in the Council Chambers, with no further notice required by the applicant. All members on a voice vote were in favor.

CLOSED SESSION – there was none.

ADJOURNMENT

Motion by Mr. Brensilber second by Mr. Farrell to adjourn the meeting. All members on a voice vote were in favor, the meeting was adjourned at 9:15PM.

Respectfully submitted,

Lindsay Graham
Board Secretary