

**TENAFLY BOARD OF ADJUSTMENT
REGULAR PUBLIC MEETING
7:30 P.M. June 6, 2011
MINUTES**

ROLL CALL

Present: Mrs. Crook, Mr. Farrell, Mr. Fox, Ms. Gilbert (arr 7:40PM), Mr. Kominsky, Mr. Levene, Mr. Lieberman, Mr. Grossman.
Absent: Mr. Brensilber.
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 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. Fox second by Mr. Farrell to approve the minutes of May 16, 2011. All members on a voice vote were in favor.

MOTIONS FOR ADJOURNMENT

Fax request received from Mr. Urdang to adjourn 123 Dean Drive, ZB2011-02 to July 11, 2011.

Fax request received from Mr. Urdang to adjourn 2 Engle St ZB2011-19 to July 11, 2011.

UNFINISHED BUSINESS

Carried from 10-4-10; 12-6-10; 1-10-11; 2-7-11; 3-7-11; 5-16-11.

T-Mobile Northeast, LLC.

44 Franklin St - 905/7.

Use, Site Plan. ZB2010-25. (Rec'd 9/24/10, decision by 1/21/11, extension of time to 4/11, extension of time to 6/6/11.)

Set a date to continue the hearing.

Mr. Ritvo said he had spoken to Mr. Edwards, the attorney for T-Mobile, who said the applicant was not ready to proceed tonight and requested the application be carried to July 11th. Motion by Mr. Farrell second by Mrs. Gilbert to carry the application to July 11, 2011 at 7:30PM or as soon thereafter as the matter can be reached to set a date for the hearing only, with no further notice required by the applicant. All members on a voice vote were in favor.

Carried from: 5/16/11:

Lee, 123 Dean Drive – 906/2, 3, 4.

Use, Site Plan. ZB2011-02. (Rec'd 1/26/11 decision by 5/26/11, verbal extension of time to 6/6/11.)

Motion by Mrs. Crook second by Mr. Fox to carry the application to July 11, 2011 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.

Minutes approved 6-20-11.

Community Synagogue of Tenafly & Englewood, 2 Engle St – 2008/15.

Non conforming conditional use, bulk. ZB2011-19. (*Rec'd 5/26/11 decision by 9/23/11.*)

Motion by Mrs. Crook second by Mr. Fox to carry the application to July 11, 2011 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.

Resolutions to be memorialized:

Approved: SMSA d/b/a Verizon. 2902/23.
ZB2007-09.

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

Approved: Pertsov, 9 Wight Pl – 210/14
Average front yard setback. ZB2011-11.

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

Denied: Hall, 7 Standish Ct – 606/9.
6' fence in front yard setback. ZB2011-18.

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

NEW BUSINESS

Casillo, 28 N Brae Ct – 2601/16

Shed. ZB2011-24. (*Rec'd 5/20/11 decision by 9/17/11.*)

Present was the homeowner Mr. Casillo who was sworn in by Mr. Ritvo. Mr. Casillo said he had lived at this location since 1979; in 1982 he had a survey done and the surveyor had installed markers at the corners. The shed in question is 3' from the rear property line with Cresskill and 10' from the side yard; the shed was damaged some years ago and was relocated to the current location; last year he knew the shed needed to be repaired, but once he began the repair process he realized the damage was more intensive, so he rebuilt the shed using the same footings but did make it a little higher, feeling that it was nestled in the trees in the northwest corner of his property. Exhibit A-1 was marked, this consisted of an aerial view of the area showing contours and three photographs of the shed. Mr. Casillo said the shed is hidden from view by the trees around it, and if the Board insisted the shed be moved two trees would have to be removed.

In response to questions from the Board, Mr. Casillo said the benefits of approving the variance would be that the trees that are 40-50' high will remain to the north of his property is a drainage ditch for Cresskill and he has had to put in berms and trenches on his property to handle water overflow from this area; he had not spoken to his neighbor, but is positive the shed meets the 10' side yard setback; the shed was moved from its location on the survey.

Karen Norton, 27 N Brae Court asked the Board to clarify grandfathering, adding that her understanding is that once a building or structure is removed completely, it is not grandfathered. Mr. Ritvo said that is correct and when the board looks at an application it looks at the property as if the shed is not there.

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In response to further questions, Mr. Casillo said the shed has been where it is for 29 years, and to move it to a conforming location would involve taking two trees down the shed would be more visible and there is also a steep drop off on the property; the shed is hidden in the summer, agreeing that it can be seen in the winter; he confirmed the shed had been completely demolished as the rot was worse than imagined; he was confident that the shed is 10' from the property line.

Mr. Grossman said the shed is not shown on the survey and he said the applicant should get a survey or move the shed; Mr. Mottola's letter dated March 3, 2011 stated a new survey is required.

Mr. Casillo said Mr. Mottola said had suggested he run a string from the markers on that side and then measure 10' and place the shed accordingly; the shed has been in this location for 29 years and the survey company is no longer in business, he again expressed his confidence about the 10' setback.

Karen Norton, 27 N Brae Ct was sworn in by Mr. Ritvo. Dr. Norton asked if the ramp for the shed is included in the 10' setback; and was concerned at the materials near the shed which she felt were unsightly; the shed is an eyesore to visitors and them as homeowners when pulling in to their driveway. Dr. Norton offered two photographs and a copy of her survey into evidence; these were marked by Mr. Ritvo: N-1, photo of the shed, ramp and items outside the shed; N-2, photo from her driveway showing the shed; N-3, copy of her property survey. Dr. Norton said the shed was there when they moved in, it is larger, the color is unsightly, it is taller than it was, there is plastic on the windows, and they planted arbor vitae on the property line to try to shield he view of the shed.

Mr. Casillo said he does not like the color either, there was a problem with the paint color; there is plastic on the windows as the glass for the windows is expensive, the ramp is there all the time as he is just lazy about putting it away – the ramp does fit on the side of the shed.

Mr. Ritvo pointed out that the ramp does go into the side yard which would mean the set back is only seven feet. .

In response Mr. Casillo said he can put the ramp away or move the door of the shed. In response to other questions from the board Mr. Casillo confirmed the shed sits above the ground on cinder blocks, and the footings consist of two cinder blocks below ground, the shed is not attached to the blocks and he could shift it away from the side yard a little.

There were no further questions or comments from the audience.

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

Mrs. Gilbert said she felt as there was nothing in the rear and this was not as important as the side yard, and felt that Mr. Casillo should have a survey to show the exact distance from the side yard.

Mr. Lieberman said a new structure was put up, the color should be changed and the applicant testified to the 10' setback, the neighbor could plant a few more trees, if the shed was moved forward to a conforming location it would be more visible; he did not have a problem with the shed.

Mr. Kominsky agreed adding the shed could be where it is by resolution, he does not accept this is a has a problem with three feet from the property line, but as it has been there so long, he tends to be more in favor.

Mr. Fox was uncomfortable as there was no current survey, the structure was demolished and a new structure built, there is no concrete footing or base and the shed should conform to the setback requirement; he felt it matters that the structure was demolished, any variance granted would be in perpetuity, .and without the survey the shed does not conform, real setback numbers are required, the shed does not conform.

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Mr. Farrell agreed, adding it seems to be a floating shed that can be moved; the old shed was completely removed and a new one built.

Mr. Levene felt the physical observation the distance is less than 10ft, the distance is unknown and there is not enough evidence to confirm the 10ft setback.

Mrs. Crook said even though markers were put in, the applicant does not seem to know who put them in, so how would we know they were accurate; someone should visit site to determine what and where the markers are.

Mrs. Gilbert expressed concern that the applicant was trying to get one over on the board, he was told by the Zoning Officer to get a current survey; and the survey provided does not even show the location of the shed, she was uncomfortable saying yes when there is not enough information here.

Mr. Ritvo confirmed a survey is part of the submittal application as part of Schedule 5A.

There followed some discussion on how different this application would have to be in the event of a re submittal; Mr. Ritvo said it could be denied for lack of information and the applicant can come back to the board with the same application if necessary.

Motion by Mr. Kominsky second by Mr. Fox to deny the application without prejudice as the applicant must provide a survey showing proof of the setback from the property line.

Roll call vote:

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

Opposed: Mr. Lieberman.

Motion to deny the application without prejudice carried 6-1.

Geges, 171 Highwood Ave – 1505/23.

FAR, front yard x 2. ZB2011-17. (Rec'd 5/20/11 decision by 9/17/11.)

Present for the applicant was Mrs. Schepisi who said the applicant had changed plans from the prior approval granted by the Board; variances were still needed, but this application was better suited to the applicants needs; the existing home is an eyesore, the proposed dwelling will make entry to Highwood Avenue more pleasing and be an improvement to the neighborhood. This application involves three variances - one for FAR and two for front yard setbacks.

Robert Adamo gave his business address, was sworn in by Mr. Ritvo and deemed an expert in the filed of architecture. Mr. Adamo explained that his client had changed significantly the plans for the dwelling after some of the comments from the board at the last hearing, and as there was a large tree growing through the foundation of the house, and after deliberations it was decided that it would be safer to start fresh and not use that foundation which was compromised by the tree roots and the age of the house. Mr. Adamo said some of the features of the house included different textures, stone would be used on the exterior of the first floor and stucco above; wood shutters would be used on the second floor windows. Mr. Ritvo marked as A-2 enlarged plans of the proposed dwelling.

Mr. Adamo continued, the existing garage would be removed, the proposed house has been pulled away from the corner; open trellis will be installed over the front entry as a focal point to the house and to create an architectural feature that will break up the brick and stucco, he gave a brief outline of the rooms on each floor.

In response to questions from the board, Mr. Adamo said the FAR was higher as a new foundation will be dug due the situation of the existing one; during the design process once the first floor is set and decided, the second floor is easier to place and design, the second floor over the garage is setback, due to the style of roof, reducing the second floor square footage, the entry foyer is a two story open area that is

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included in FAR even though there is no 'floor' there; he apologized for not bringing copies of the previous design plans with him, this is a new application much improved.

There were no questions for this witness from the audience; no questions or comments for the homeowner, there were no comments from the audience on the application.

Mrs. Schepisi gave a summary of the application.

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

Mr. Levene said he felt this was a good application that would be consistent with the neighborhood and enhance the area.

Mr. Lieberman asked about the impervious areas and if the applicant would have to come back; this information was found on the site plan

Mr. Fox felt the application was responsible and the applicant had been responsive the boards comments at the prior hearing, he felt they would be back as there was a tree to deal with, and he hoped they would not be back in three months for a pool; the FAR is generous and the house is well placed on the site.

Mr. Grossman said he was concerned with the FAR, but the saving grace is the length of the lot and with architectural details it might hide the bulk of the building.

Mr. Kominsky agreed the FAR is more than the board usually grants, but he accepted the architect's testimony that this is the most practical way of building the house; he was in favor of the application.

Motion by Mrs. Gilbert second by Mr. Fox to approve the variances.

Roll call vote:

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

Opposed: None.

Motion carried 7-0.

CLOSED SESSION

ADJOURNMENT

Motion by Mrs. Crook second by Mr. Levene to adjourn the meeting. All members on a voice vote were in favor, the meeting adjourned at 9:25PM.

Respectfully submitted,

Lindsay Graham
Board Secretary