

**TENAFLY BOARD OF ADJUSTMENT
REGULAR PUBLIC MEETING
7:30 P.M. July 11, 2011
MINUTES**

ROLL CALL

Present: Mr. Brensilber, Mrs. Crook, Mr. Farrell (arr 7:55PM.), Mr. Fox, Ms. Gilbert, Mr. Kominsky, Mr. Lieberman, Mr. Grossman.

Absent: Mr. Levene.

Also present: Mr. Ritvo, Mr. Hals.

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 7-6-11 from Board Engineer re: 81 Hudson Ave, 1308/8; Use and Site Plan.
2. Letter dated from Board Engineer re: 2 Engle St, 2008/15; Site Plan, conditional use.

APPROVAL OF MINUTES

Motion by Mr. Farrell second by Mrs. Crook to approve the minutes of June 20, 2011. All members on a voice vote were in favor.

MOTIONS FOR ADJOURNMENT.

1. Request from Mr. Edwards, attorney for T-Mobile, 44 Franklin Street ZB2010-25 to the next available date, including an extension of time.
2. Request from Mr. Urdang attorney for Lee, 123 Dean Drive ZB2011-02 to carry this application to August 1, 2011.
3. Request from Mr. Urdang attorney for Diasparra, 49 Madison Ave ZB2011-13 to carry this application to September 12, 2011.

NEW BUSINESS

Rafferty, 114 Columbus Dr – 130/8

FAR, building height, right side yard setback, garage setback. ZB 2011-22. (Rec'd 6/22/11 decision by 10/20/11.)

Present was the owner and applicant Brian Rafferty who was sworn in by Mr. Ritvo. Mr. Rafferty said he plans an addition in the rear and to add a garage; the variances being requested are FAR, right yard setback, height and the 4' setback for the garage. The benefits of the application to the Borough would be the house has been vacant for seven years, it will be an improvement to the neighborhood, this is an older home with character and a front porch; the proposed addition will be in the rear and adding a garage is a benefit; he did not feel there were any negative aspects to the addition, it is all positive.

Mrs. Crook said the garage setback should only be 4' which is what the Code requires in the zone, and it was agreed that variance was not necessary.

In response to questions from the Board Mr. Rafferty said there is no garage on the property, there is no driveway on Columbus Drive, most homes in the area use the alley in the rear of the property for garage access; the attic is not livable space, it is unfinished attic space explaining that the ceiling height on the first

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and second floor was 9' and the attic height is not that high, the roof line was proposed to match existing otherwise there would have been two different roof lines.

There were no questions from the audience.

Pat Rouse, 116 Columbus Drive was sworn in and spoke in favor of the application.

There being no other comments, and no further concerns or questions from the Board, Mr. Rafferty gave a summary of the application.

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

Mrs. Gilbert said the request is reasonable, the lot is undersized for the zone, it will complement the other homes in the neighborhood, the FAR is over but she would vote in favor.

Mr. Brensilber agreed adding the overage on FAR is 198SF, and he would also be in favor.

Mr. Grossman pointed out that the overage on FAR is about the size of the garage.

Mr. Farrell arrived 7:55PM.

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

Roll call vote:

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

Opposed: None.

Application approved 7-0.

UNFINISHED BUSINESS

Carried from 5/2/11:

Lee, 81 Hudson Ave – 1308/8.

Use, Site Plan. ZB2011-04. (Rec'd 2/24/11. Written extension of time to 5/2/11)

Present for the applicant was Mr. Watkins who said his witnesses would be the Engineer Mr. Hubschman, and the Mr. Lee the applicant was also present.

Michael Hubschman gave his business address, was sworn in, and accepted as an expert in the field of engineering. He went through Mr. Hals letter of July 11, 2011 and said all issues raised would be complied with and went through the items that were raised in that letter, he would resubmit a lighting plan; signage for the building has not been confirmed, but it will comply with the ordinance. Mr. Hubschman said he felt the use was suitable for the zone and will be an improvement to the area; the plan has been modified to show a mix of medical use and office space; he described the other uses in the area.

Marked as A-1 was a shaded set of plans last revised June 7, 2011, the same as submitted to the board.

Mr. Kominsky asked how the board ensures that what the applicant has agreed to is done. Mr. Ritvo explained Mr. Hals letter of 7-11-2011 would be referenced in the resolution and other comments would be stipulated in the resolution.

In response to a question Mr. Hubschman said the interior of the building would be changed to allow for office space which lowers the number of parking spaces required.

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Mr. Hals said the only open item is an exemption from State requirements as the property is less than 50 acres, and elevations of the first floor of the building would have to be submitted to show the first floor elevation of the building is outside the flood hazard area; the applicant would also have to submit a Soil Moving application. The handicap space in the front requires the use of two spaces, if this space is moved, three spaces would be lost. Mr. Hals said the only reason this applicant is here is for the medical use, otherwise the applicant would be in front of the Planning Board.

Mr. Hubschman explained the parking situation on Hudson Avenue, only one side of the street can be used for parking.

There were no questions from the public for the witness.

Mr. Watkins offered James Lee the applicant who was sworn in. Mr. Lee said he lives in Demarest and works out of Englewood Hospital as an obstetrician/gynecologist; this location is convenient to both his home and the hospital, patients would be seen Monday through Friday between the hours of 8:00AM to 12 noon, for a total of 20 hours a week, he only has 5 to 20 OB/GYN patients; he has one employee. Mr. Lee explained the offices would be used for a business of which he is the CEO, only one employee would be working, he has offices in two other locations, and the group is Total Health Care Group, LLC., that company involves development and management of various medical properties.

In response to questions from the board Mr. Lee said the medical use is his practice and he hopes to retire from this profession, this site is local and convenient to his home and the hospital, for both the LLC Company and his duties as a doctor; he confirmed that he sees between 5 and 20 patients a day, and be on site 4-5 days a week, he has never seen 100 patients a week; general practitioners may see more patients on a daily basis, specialized practices may see less.

There were no questions from the audience. There were no comments on the application from the audience. Mr. Brensilber asked about the parking spaces in front of the building. Mr. Watkins said they would be screened from view, and their opinion is more on site parking is better than less.

Mr. Watkins gave a summary of the application.

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

Mr. Kominsky said initially he was opposed to the plan because of the lack of parking, the two spots in front serve a great purpose, if Mr. Lee wants to be closer to Englewood Hospital and be in Tenafly this should be considered; he is now in favor as long as all items in Mr. Hals letter of July 11, 2011 are addressed and implemented.

Mrs. Gilbert said it could be a different medical use, but felt two things would control the type of medical use in this building – parking and the square footage of the space.

Mr. Fox said the big picture is the improvement that developing the property would bring to Tenafly, it is a derelict property, a property one can't see many different uses on, but the big picture will be an attractive medical facility, and parking fears can sometimes be exaggerated.

Mr. Brensilber said he likes the use, does not like parking in the front, adding it would be more aesthetically pleasing without those two spots in front.

Mr. Farrell said he felt the fact that the handicapped space made accessibility to the building much easier; if it was in the rear it would be more difficult.

Mr. Hals pointed out some landscaping will be provided, in this location there are no sidewalks on that side of Hudson, there is area for landscaping; maybe eliminate the space on the right, but keep the

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handicap space which will be the least used space, and enhance that area with landscaping, or a screen wall as if the building is extended a little further. There followed some discussion by the board on the suggestions made by Mr. Hals.

Motion by Mr. Brensilber to approve the application with the removal of the parking space to the right, maintaining the handicap space, and the stipulations that will be outlined in the resolution second by Mr. Farrell. Mr. Ritvo read the stipulations that would be included in the resolution and that a Developers Agreement be entered into.

Roll call vote:

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

Opposed: None.

Use and Site Plan approved 7-0.

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 4/4/11, extension of time to 6/6/11, extension of time to 7/11/11.)

Motion by Mrs. Crook second by Mr. Fox to carry this matter to September 12th at 7:30PM or as soon thereafter as the matter can be reached with no further notice required by the applicant for the sole purpose of setting a date to continue the hearing. 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, extension of time to 7/11/11.)

Motion by Mr. Fox second by Mr. Kominsky to carry this matter to August 1st 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.

Carried from 6/6/11:

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.)

Mr. Fox recused himself from hearing the application and left the dais.

Present for the applicant was Mr. Urdang, who stated his witness would be the site engineer Mr. Hubschman. Mr. Urdang gave the background of this case as an inherently beneficial use and also protected under RLUIPA (42 USC 2000cc); the application was approved by Englewood Planning Board on July 7th. The applicant proposes keeping the existing synagogue which faces Engle Street, and expanding a new building behind and around it to accommodate a new sanctuary, classrooms, etc. The portion of the property that is in Tenafly, about one third of the property, consists of a single family dwelling that will be demolished to allow for a portion of the new building, parking and a trash area to be constructed.

Michael Hubschman was sworn in by Mr. Ritvo. Mr. Hubschman said the plans had been revised 6-23-11, a colorized version was on the easel; this was marked A-1 by Mr. Ritvo. Mr. Hubschman described the property as to size, location and existing conditions in both towns; he also pointed out the differences between each town specifically as it related to zoning; the demolition of various accessory buildings including the dwelling on the Tenafly property, that will allow construction of the new synagogue. Mr. Hubschman went through the variances that are required for the improvements on the Tenafly property, stating that the ordinance on Houses of Worship had recently been changed by the Mayor and Council,

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which makes the property non-conforming for setbacks, lot coverage, parking setback, parking in the front yard.

Mr. Ritvo suggested the board look at this as a development on the entire property, not just Tenafly.

Mr. Hubschman explained the parking calculations for both municipalities, adding the 39 spaces provided on that portion of the property that is in Tenafly was approved by Englewood Planning Board.

Mr. Urdang said there would be testimony later regarding parking, adding this is an orthodox synagogue and on the Sabbath and most significant holidays there is no driving to the synagogue. After some discussion between Mr. Kominsky and Mr. Urdang on parking, Mr. Ritvo said he felt the board should hear the entire application and it should make sense to them, and to hear all the information on the different zoning and standards in each town; there will be testimony from the Planner, and the architect.

Mr. Hubschman said the driveway will be one way in off Engle Street, Tenafly and egress will be on East Hudson Avenue, Englewood; there are adequate sight lines; the parking is angled; he did not see there would be a problem with getting into and out of parking spaces, and the two handicap spaces have been moved to about the middle of the Tenafly lot due to the topography of the land, this is the best grade for accessibility, and near an elevator access to the building; the setback of the parking spaces on the north east property line is 2'; both towns require a 25' setback for that parking. Mr. Hubschman said he has been told the County will approve the application. There is a 50' setback in Tenafly for front yard parking and the spaces in the front yard have been added to maximize parking. Mr. Urdang said there will be additional testimony from the Planner and someone from the Synagogue on the parking.

There followed some discussion on exactly what this board is voting on, and it was agreed to look at the entire application and the entire lot.

Mr. Hubschman said grading and drainage would meet the requirements as required by the Borough Engineer; Englewood and the County required certain drainage this is all contained on the Englewood side of the property, all leaders and gutters would be connected to the drainage system which will be located in front of the property on the Engle Street side of the property. Using sheet 5, Mr. Hubschman said there are two types of lights, some on the building and others light poles, the lighting poles will be lowered to reduce spillage on to neighboring properties. The lighting would comply with Mr. Hals request. Mr. Hubschman said the front facing Engle Street would be heavily landscaped with shade trees and other plantings; he agreed it would be difficult to landscaping on the northern property line, but screening in the form of a fence or arbor vitae would be installed for buffering. A fenced in area would be provided in the far corner of the property for trash containers.

Mr. Hubschman went through Mr. Hals letter of July 8, 2011 and said they would comply with the items that need to be addressed and revise the plans accordingly.

Mrs. Crook asked about fencing along the property lines and how the parking would be screened from the neighbors. Mr. Hubschman said there would be fencing or arbor vitae or shrubs installed. Mr. Urdang said at this time they are waiting to see what Englewood has in its resolution about screening the parking. Mr. Brensilber asked for the width of the drive aisle, and if there was any play in that width that would help in allowing more screening/buffering from the neighboring properties. Mr. Hubschman said he would take a look at it. Mr. Hals said any less aisle width may make backing out of a parking space more difficult.

Carol Bernstein, 1 Primrose Court, Tenafly, said she lives diagonally across from the proposed addition, and had questions on the impact of traffic and parking along Engle Street; and the water run off, as her yard is a swamp.

In response to those questions, a traffic study has not been done Mr. Urdang said he will talk to his clients about this; Mr. Ritvo suggested Mrs. Bernstein ask the Planner that question. Mr. Hubschman said

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the run off will be directed south to Engle Street through a pipe system. Mr. Grossman asked how water run off would be handled where the slope is about 6' down towards Engle Street. Mr. Hubschman said two catch basins will be installed and a trench drain which should be able to handle the water run off, the site will be pitched towards the curb.

Mr. Hals said drainage improvements had been done by Tenafly on two low points on Engle Street ,and in his opinion none of the water from this site should reach this area but flow south towards Englewood; he added that the proposed site improvements will be an improvement of what is there now.

Mr. Urdang requested the application be carried to August 1st. Motion by Mrs. Gilbert second by Mr. Farrell to carry the matter to August 1st, 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.

Continued from 5/16/11.

Diasparra, 49 Madison Ave – 1306/3.

Use. ZB2011-13. (*Rec'd 5/5/11 decision by 9/2/11.*)

Motion by Mr. Fox second by Mrs. Gilbert to carry this matter to September 12th 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.

Resolution to be memorialized:

Bozzo, 160 E. Clinton Ave – 1805/10.

Driveway setback. ZB2011-20. (*Rec'd 6/9/11 decision by 10/7/11.*)

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

CLOSED SESSION – there was none.

ADJOURNMENT

Motion by Mrs. Gilbert second by Mr. Farrell to adjourn the meeting. All members on a voice vote were in favor the meeting was adjourned at 10:10PM.

Respectfully submitted,

Lindsay Graham
Board Secretary