

**TENAFLY BOARD OF ADJUSTMENT
REGULAR PUBLIC MEETING
7:30 P.M. August 1, 2011
MINUTES**

ROLL CALL

Present: Mr. Brensilber, Mr. Fox, Ms. Gilbert, Mr. Kominsky, Mr. Levene, Mr. Grossman.
Absent: Mrs. Crook, Mr. Farrell, Mr. Lieberman.
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 Mrs. Gilbert to approve the minutes of July 11, 2011. All members on a voice vote were in favor.

MOTIONS FOR ADJOURNMENT

UNFINISHED BUSINESS

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.)

Request to carry this to September 12, 2011.

Motion by Mrs. Gilbert second by Mr. Levene to carry the application to September 12 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: 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.)

Request from Mr. Urdang to carry this to September 12, 2011.

After some discussion on the many adjournments over the past months, motion by Mrs. Gilbert second by Mr. Kominsky to dismiss the application with out prejudice to be restored to the calendar at any time upon application to the Board by letter and re noticing. On a voice vote five members were in favor and one opposed.

Resolutions to be memorialized:

Approved: Rafferty, 114 Columbus Dr – 130/8
FAR, building height, side yard setback. ZB 2011-22.

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

Minutes approved: 9-12-11.

Approved: Lee, 81 Hudson Ave – 1308/8.
Use, Site Plan. ZB2011-04.

Resolution not ready yet.

NEW BUSINESS

Liebowitz, 77 Engle St – 1910/11.

Swing set. ZB2011-21. (Rec'd 7/21/11 decision by 11/18/11.)

Present for the applicant was Marc Leibman, of the firm Kaufman, Semeraro, Bern, Deutsch & Leibman, LLP, who said his witness would be the homeowner Alan Liebowitz. Mr. Leibman said he had requested a waiver of producing a survey to show the location of the swing set; initially the application had been approved by Mr. Mottola, but some days later received a denial for placement due to the lot being considered a through lot as there is an unnamed road off Sherwood Road. The applicant had proposed purchasing this portion of land from the Borough but the Mayor and Council would not sell it. Mr. Leibman offered 13 photographs which were marked A1-13 by Mr. Ritvo, and a portion of the tax map of the Borough that was marked A14. This portion of the tax map showed the 'unnamed' 15' road.

Alan Liebowitz the homeowner was sworn in. Mr. Liebowitz said he had lived here for 9 years, and until recently did not realize the unnamed street was not part of his property, he plows it in the winter and does maintenance as needed; he has a 6 year old daughter who loves the swing set; the swing set had been moved from the neighbor's property and installed onto his property, he then received a denial for placement because of the unnamed road. The swing set is 15' from the rear property line, but the unnamed road makes his lot a through lot, with different setbacks – he cannot put the swing set in a conforming location as it would be in the house.

In response to questions from the board Mr. Liebowitz said by moving the swing set to the other side of the yard it would still not conform to the requirement of 36.25', if the Borough had agreed to sell him this strip of land the swing set would conform.

There were no questions or comments from the audience.

Mr. Leibman gave a summary of the application.

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

Mrs. Gilbert said even though the unnamed street is not used as such, she would be in favor of the swing set being left where it is.

Mr. Fox agreed and requested the resolution state the variance is for a swing set only.

Roll call vote:

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

Opposed: None.

Variance for set back requirement approved 6-0.

Farley, 89 Highwood Ave – 1602/14.

Use of accessory structure. ZB2011-26. (Rec'd 7/21/11 decision by 11/18/11.)

Request from Mr. Mueller, attorney for the applicant, to carry this matter to the November meeting.

Minutes approved: 9-12-11.

Motion by Mrs. Gilbert second by Mr. Levene to carry the application to November 7th 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.

Katona, 30 Birchwood Rd – 2402/8.
Front yard setback, 53' required, 44' proposed. ZB2011-27. (Rec'd July 22, decision by 11/19/11.)

Present was the applicant and homeowner John Katona who was sworn in by Mr. Ritvo. Mr. Katona said the application is to put a roof over the front steps; this would be a safety issue especially in the winter when ice forms on the steps, and it would also make the house, in his opinion this is the least attractive house on the block and the proposed roof would make the house more aesthetically pleasing.

Mr. Katona offered two photographs, A-1 his house at 30 Birchwood Place, and A-2 33 Birchwood Place, these were marked into evidence by Mr. Ritvo. There was some discussion and clarification on the setback distance being requested.

There were no questions or comments from the audience.

Mr. Katona gave a summary of the application.

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

Mr. Fox said he is persuaded by the safety issue and the aesthetic improvement there would be.

Mr. Kominsky agreed adding the hardship is the great setback of the neighbor's property at 53'.

Mr. Grossman said there is a brook and foliage that separates the houses, and most of the homes on the street have a front entry.

Motion by Mr. Kominsky second by Mrs. Gilbert to approve a front yard setback of 9'.

Roll call vote:

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

Opposed: None.

Front yard setback variance of 9' approved 6-0.

Behar, 11 Farview Rd – 2901/11
Lot coverage, side yard x 3. ZB2011-15. (Rec'd 6/8/11 decision by 10/6/11.)
Fax request to adjourn to September 12, 2011.

~~Kwon, 69 Sherwood Rd – 1909/5~~
~~FAR. ZB2011-25. APPLICATION WITHDRAWN.~~

CLOSED SESSION

ADJOURNMENT

Motion by Mr. Brensilber second by Mrs. Gilbert to adjourn the meeting. All members on a voice vote were in favor, the meeting adjourned at 8:25PM.

Respectfully submitted,

Minutes approved: 9-12-11.

Lindsay Graham
Board Secretary