

**TENAFLY BOARD OF ADJUSTMENT
REGULAR PUBLIC MEETING
7:30 P.M. September 12, 2011
MINUTES**

ROLL CALL

Present: Mr. Brensilber (arr 7:38PM), Mrs. Crook, Mr. Farrell, Mrs. Gilbert (arr 8:00PM), Mr. Kominsky, Mr. Levene, Mr. Lieberman, Mr. Grossman.
Absent: Mr. Fox.
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. Report dated August 2nd from Police Chief re: Community Synagogue, 2 Engle St, 2008/15.
2. Report received August 8th from Fire Official re: Community Synagogue, 2 Engle St, 2008/15.
3. NJ Planner July 2011.
4. Copy of Englewood Planning Board resolution #2011-09 re: Community Synagogue, Engle St.

APPROVAL OF MINUTES

Motion by Mr. Kominsky second by Mr. Levene to approve the minutes of August 1, 2011. All members on a voice vote were in favor.

MOTIONS FOR ADJOURNMENT

UNFINISHED BUSINESS

Resolutions to be memorialized

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

Approved: Liebowitz, 77 Engle St – 1910/11.
Swing set. ZB2011-21.

Approved: Katona, 30 Birchwood Rd – 2402/8.
Average front yard setback of 9'. ZB2011-27.

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

Applications carried from previous dates:

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

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 4/411, extension of time to 6/6/11, extension of time to 7/11/11; extension of time to 9/12/11.)

Minutes approved: 10-3-11

After some discussion on the continual adjournments and no request received to extend the time for decision, it was agreed to deny the application without prejudice.

Motion by Mr. Farrell second by Mrs. Crook to deny the application without prejudice.

Roll call vote:

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

Opposed: None.

Motion to deny without prejudice carried unanimously 7-0.

Carried 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 Mrs. Crook second by Mr. Farrell to carry the application to October 17th 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 8-1-11.

Behar, 11 Farview Rd – 2901/11

Lot coverage, side yard x 3. ZB2011-15.

Motion by Mr. Brensilber second by Mr. Farrell to carry the application to December 5th 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 6-20-11:

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.*)

Present for the applicant was Mr. Urdang, who said this application requires three variances: FAR, number of stories and front yard setback. He would have two witnesses, the architect Mr. Rosenberg and the planner Mr. Preiss.

Jordan Rosenberg gave his business address, was deemed an expert on the field of architecture and was sworn in by Mr. Ritvo. Mr. Rosenberg described the existing condition and lay out of the house, adding the land slopes off about 10' from front to rear, exposing the basement fully, thus requiring a variance for number of stories. Using the plans that had been submitted to the board, on sheet A00 Mr. Rosenberg described the proposed addition to the house: the basement will be fully enclosed, a master suite will be added to the first floor and a second floor would be added, using only 60% of the footprint of the second floor of the existing house and adding about 1,300SF. Sheet A02 Elevations; a front yard setback variance is needed for a stair tower that projects 8' into the front yard, visually aesthetically pleasing features have been added including the stair tower with matching windows, and various roof and gable details. Mr. Rosenberg added that from the street the house will look like a two story dwelling; with regard to the rear, the rear of the house is not visible from the houses in the rear as the land slopes off quite steeply and it is heavily wooded. Mr. Rosenberg offered a copy of the existing first floor of the house and cross hatched in red was the proposed second floor addition; marked A-1.

Minutes approved: 10-3-11

In his opinion he did not feel there would be any detriment on the neighbors or zoning ordinance, the east side of the street is 10' higher than the west side, there would be no negative visual impact on either side of the street.

Mr. Rosenberg offered two pages of photographs showing front and rear views of existing neighbors and the same photographs with the proposed new dwelling. This was marked A-2.

Mrs. Gilbert arrived 8:00PM.

In response to questions from the board Mr. Rosenberg said the patio on the left side of the house is existing and new flagstones will be installed, he confirmed it was at grade; he explained the elevations and front stair tower; he confirmed the new roofed areas that would be added, and said if necessary an additional seepage pit would be installed; he added the proposed addition is respectful of the zoning ordinance and will fit in with the streetscape, the houses across the street do appear much larger but that he felt was due to the slope of the land; the driveway is on the right of the house, and did realize that his photo-shop exercise on A-2 had cut out the location of the driveway and was not fully accurate, he agreed to the error on the plan in which Englewood was listed under Building Characteristics.

There were no questions from the audience.

Richard Preiss gave his business address, was accepted as an expert in the field of planning and sworn in by Mr. Ritvo. Mr. Preiss said he had visited the site and reviewed the plans, the existing FAR is 22.2% and the proposed addition would increase the FAR to 27.9%; in his opinion the site could handle the FAR increase and there would be no negative visual impact. He offered a board entitled Scartozzi Variance Application, Tenafly-this was marked A-3. This consisted of nine photographs of houses on the street, a key map and three separate boxes showing various parcels on the street whose FAR calculation was above the permitted for the Zone. Mr. Preiss went through the exhibit with an explanation for each property. In his opinion the proposed addition would not overwhelm the neighborhood, the site can handle the increase; with regard to the number of stories the topography is the hardship, from the street it will appear as a two story dwelling, and the height is below the required 30'; the front yard setback is due to a design feature of the stair tower.

In response to a question from Mr. Brensilber, Mr. Preiss said his research showed the houses on the street that are over on FAR are #71, #87 and #103.

There were no questions or comments from the public.

Mr. Urdang gave a summary of the application. Before going into deliberative session there was a question for the architect on the size and bulk of the proposed house; to which Mr. Rosenberg responded that it will be a second story addition from the street and is within the existing footprint and there is room to spare.

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 he felt the north wall of the house would look bulky, but could see the application both ways.

Minutes approved: 10-3-11

Mrs. Crook said she felt the design was not detrimental to the ordinance, the basement would be a whole living area, and the house would not be intrusive in the neighborhood.

Mr. Kominsky said initially he was opposed; he had no problem with the three and a half stories, but the large mass in the neighborhood would not comport, and he had no problem with the stair case coming into the front yard.

Mr. Grossman said he did not have a problem with the stair case, but felt the house would look too big for the street.

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. Levene, Mr. Lieberman.

Opposed: Mr. Kominsky, Mr. Grossman.

FAR variance approved 5-2.

Motion by Mr. Kominsky second by Mr. Farrell to approve the two bulk variances.

Roll call vote:

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

Opposed: None.

Front yard setback and three and a half story variances approved 7-0.

NEW BUSINESS

Hirsch, 24 Westervelt Ave – 1901/9.

Side yard setback – 11.8'. ZB2011-23. *(Rec'd 8/19/11 decision by 12/17/11)*

Present was the homeowner Stephen Schonberg and the architect Chris Blake; both were sworn in by Mr. Ritvo.

Mr. Blake explained that the applicants had been in front of the board in 2006 (ZB2006-39) when they had required a side yard variance due to the hardship that the house does not sit parallel to the property line, a variance for 12.95' was granted. Mr. Blake further explained that an error was made in calculating the side yard setback on that side of the property as the survey did not show that particular distance. The Final As Built that was submitted after the project was completed was denied by the Zoning Officer as the board granted setback did not match what was built.

There were no questions or comments from the Board or the audience. Mr. Blake gave a brief 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 the application was de minimus even though she was not in favor of applicants coming back to the Board, and made a motion to approve the application, second by Mr. Brensilber.

Roll call vote:

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

Opposed: None.

Minutes approved: 10-3-11

Side yard setback variance of 11.8' granted 7-0.

Baines, 49 Evergreen Pl – 712/3

Rear yard setback for deck. ZB2011-28. (Rec'd 8/22/11 decision by 12/20/11.)

Present was the homeowner Keith Baines who was sworn in. Mr. Baines said there was a fire in the house in 2010 causing much damage and the deck was taken down as it was not safe, they would like to rebuild the deck the same size; adding on the left side of the house the deck did wrap around that corner of the house, and they do not want to rebuild that portion. The deck cannot be seen from the street they do have a 6' fence around the rear yard; there is also some natural screening. Mr. Baines offered four photographs of the property which were marked A-1 through A-4.

Mr. Kaps, 34 Clover St said he was the rear neighbor and asked if the deck was larger and higher than was previously there.

In response Mr. Baines said the deck is the same size and same height.

Mr. Kaps gave his address as 34 Clover Lane and was sworn in by Mr. Ritvo. Mr. Kaps spoke against the application stating the deck violates the ordinance.

There were no further questions or comments from the audience. Mr. Baines gave a brief summary of the application, responding to the neighbor's concern that he could construct the deck below 36" and make it larger extending it closer to the rear property line.

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

Mrs. Crook said if the deck is the same size and no bigger she did not feel there would be any detriment to the neighborhood.

Mr. Brensilber said he appreciates the neighbor's concern, but will approve the application.

Motion by Mr. Lieberman second by Mr. Brensilber to approve the application.

Roll call vote:

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

Opposed: None.

Rear yard variance of 27' approved 7-0.

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.)

Present for the applicant was Mr. Urdang; who said he would have four witnesses, the engineer, the immediate past President of the synagogue, the architect and the planner. Mr. Ritvo confirmed the Board had received a copy of the Englewood Planning Board resolution of approval for this site.

Mr. Hubschman the Engineer was advised by Mr. Ritvo that he was already sworn. Mr. Hubschman said that after comments by the Board at the last hearing they had revised the parking calculations to show the Tenafly standard for the entire lot, and offered an exhibit that was marked A-2.

There were no questions from the Board or audience.

Nathan Fox gave his address as 82 Glenwood Rd, Englewood and was sworn in by Mr. Ritvo. Mr. Fox said he was the immediate past president of the synagogue and he gave a brief history of the synagogue community since its inception in 2000; regular members live within walking distance; Saturday services are 9:15AM to 11:45AM at which time about 120 adults and 120 children could be in attendance.

Mrs. Gilbert expressed concern with Bar Mitzvahs or other events on a Saturday particularly with respect to the parking.

Mr. Fox said in those kinds of events parking would be on the street once the lot is full. There followed some discussion on the possibility of a different use on the site where the parking would be very different and increased. Mr. Fox said the building would not be rented or hired out for other events as it is basically full now and to have more people there would be a safety issue.

There were no questions from the audience.

Lance Blake gave his business address as 16 Microlab Road, Suite B, Livingstone, New Jersey was sworn in and accepted as an expert in the field of architecture. Mr. Blake described the proposed interior layout of the building; he offered an architectural rendering of the front elevation of the building; Keshet Synagogue that was marked A-3. Mr. Blake described the materials that would be used on the exterior finishes and added the building would be compliant with ADA requirements.

Mr. Farrell pointed out that the existing blue Victorian house was not shown on A-3 and asked if it would remain. Mr. Blake said that the house is not integral to the new building, and at some point in time the house may be removed. Mr. Urdang briefly gave a history of the property, the Englewood Planning Board decided the house would remain could not be removed, but the Englewood resolution states the building must remain, he did not feel it would be forever, in time the applicant could re apply to whichever board and modify this particular condition. Mr. Fox was recalled; he said the community was split on the building staying, it will remain during construction as the community does not want to relocate, there seems less desire among community to keep it, he said it is not in a good state of repair and they do not want to put much money into, the stipulation by Englewood Planning Board was a surprise, they could use it for storage, but the intention was to build a new stand alone building; and there is no intention for the blue building to be a residence.

In response to questions, Mr. Blake said there are some modern contemporary houses in the area that is generally a mixed area; they did consider both communities and came up with this design and that 39 spaces would suffice.

In response to a question on lot coverage Mr. Hubschman said the impervious coverage for the entire lot is 65.47%; there is no other way to design the building and to provide the needed parking they made it one way in and out.

Mr. Ritvo will talk to the Englewood Board attorney and they will coordinate the lead agency during construction. Mr. Hall confirmed the seating capacity in social hall would be 157 to 180; seating capacity in sanctuary is 120 times two.

There were no questions from the audience.

David Spatz gave his business address was sworn in and deemed an expert in the field of planning. Mr. Spatz said the use is considered an inherently beneficial use, and the need is to focus on the negative aspects of the case which involves the SICA test, he outlined the variances being sought. In response to a question, he said as this is an orthodox community members will walk, he felt 240 spaces is excessive, as this is an orthodox community and when people do attend they come more than one to a car, one space for every 10 seats in the sanctuary seems reasonable, it is the square footage that puts them over on parking. If the use was not an orthodox or an other religious affiliation, the parking would be difficult a few times a year, but for most of the year he did not feel there would be an impact on the parking provided; based on the ordinance is the number of spaces per seat were the only item required, there would be enough spaces.

There were no questions from the audience.

Mr. Hals Board Engineer said from the previous hearing there was some discussion as to how the east and north property lines would be buffered from the neighboring Tenaflly properties, there was also mention of some conditions that Englewood would impose on the east property line, also the north property line buffer varies from 4' and narrows to a sliver about 1.5' and on the east, 2' from east prop line; a landscape buffer is not proposed along the property line, but nothing has been presented. The storm water run off is being collected in the front yard and will be piped towards Englewood with no impact on Tenaflly, impact on north property line has no green area; he felt the biggest impact is the lack of a 25' buffer which is one of the conditions of a conditional use.

After some discussion it was agreed that Mr. Hals will meet with the Englewood engineer to make sure landscaping, fencing, the lighting and sidewalk requirements are all coordinated.

There were no questions from the audience.

There were no comments on the application from the audience.

Prior to going in to deliberative session, Mr. Urdang explained the RLUIPA standards, the two different parking standards as the lot is in two towns, the variances are site specific, the reason for the variance specifically parking is this is an orthodox community in which members walk; and. the blue Victorian house is not historic, as Englewood does not have a statutory historic preservation commission.

There being no further questions, Mr. Urdang 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 he felt they had done a good job in addressing the board's concerns on the lot, but felt the biggest issue was the lack of parking, but maybe they will do what the Lubavitch does and when the parking lot is full close it off; he also expressed concern about the lot coverage and impervious coverage, but did feel the two engineers would address these issues; generally he was in favor.

Minutes approved: 10-3-11

Mr. Lieberman said if the parking lot is closed off when it is full that would be a good idea, but was still concerned about parking on high holy days; he hoped the engineers could agree on screening.

Mr. Kominsky said he was opposed to the application as they had not satisfied the lot coverage and parking requirements, and also expressed concern about the wording for a future use on this site.

Mrs. Crook agreed with Mr. Brensilber's comments adding she was in favor of approval.

Mr. Farrell said there were several 'pain points' he had, first if the design of the building would have been different if the blue building had not been there, and second, the burden on Tenafly of impervious coverage and parking which he felt are negative criteria.

Mr. Levene was concerned about the possible sale of the blue building which would be two separate entities combined into one.

Mrs. Gilbert said she had mixed feelings, and expressed concern that in time if a different use is proposed for this site there would be a substantial burden especially as relates to parking on site and in the area; she felt there was also inconsistency with the blue building and the proposed new building; she asked if there could be wording in the resolution regarding a future different use that would require more parking.

Mr. Grossman pointed out that a variance is granted for ever, he was concerned with the burden on Tenafly adding that one day he will look at the site as not being in two towns, like Temple Sinai; he said a future use if it is not orthodox would require greater parking, at this time we are stuck with what we have and the variances would be site and use specific.

Mr. Ritvo explained how a house of worship is given preferential treatment by Federal and State authorities, and suggested the wording in the resolution could be that any future change in use must come back to this board for review, he also suggested the following be included in the resolution: a developers agreement, any change in use must come back to this board; signage must be reviewed by the board, all items in the Englewood resolution except Item 6, be included in the Tenafly resolution, the two spaces in the front yard are removed and marked "for future parking", the Tenafly and Englewood engineers would coordinate all site activities, and once construction is completed the blue building be removed.

Motion by Mr. Brensilber second by Mrs. Crook to approve the application with the items suggested by Mr. Ritvo.

Roll call vote:

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

Opposed: Mr. Kominsky.

Conditional use with various stipulations and variances agreed 6-0.

CLOSED SESSION – there was none.

ADJOURNMENT

Motion by Mr. Brensilber second by Mrs. Crook to adjourn the meeting. All members on a voice vote were in favor, the meeting adjourned at 11:15PM.

Minutes approved: 10-3-11

Respectfully submitted,

Lindsay Graham
Board Secretary