

**TENAFLY BOARD OF ADJUSTMENT
REGULAR PUBLIC MEETING
7:30 P.M. October 18, 2010
MINUTES**

ROLL CALL

Present: Mrs. Crook, Mr. Fox, Ms. Gilbert, Mr. Grossman, Mr. Kominsky. Mr. Lofberg, Mr. Lorenzo.
Absent: Mr. Brensilber, Mr. Farrell.
Also present: Mr. Mottola, Mr. Ritvo.

OPEN PUBLIC MEETINGS ACT STATEMENT

Chairman Lorenzo 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 24, 2009, and the Record on January 6, 2010 and posted on the bulletin board in the lobby of the Municipal Center."

COMMUNICATIONS

APPROVAL OF MINUTES

Motion by Mr. Fox second by Mrs. Crook to approve the minutes of October 4, 2010. All members who had been present voted in favor.

MOTIONS FOR ADJOURNMENT

SMSA d/b/a Verizon. 2902/23.

Remand hearing as directed by the Appellate Division to hear testimony, as to the availability of alternate site. ZB2007-09. Information packets received 10/5/10.

Request dated October 8, 2010 from Stuart Lieberman, Esq representing the homeowners in the area to adjourn this matter. Application now scheduled for November 8, 2010.

Motion by Mr. Fox second by Mr. Kominsky to adjourn the above matter to November 8th at 7:30PM in the Council Chambers with no further notice required by the applicant. All members present on a voice vote were in favor. The matter was adjourned.

UNFINISHED BUSINESS

Resolutions to be memorialized:

Denied: Asulin, 41 Farview Rd – 2901/16.
Side and rear setbacks for accessory structure.

Approved: Wanderman, 55 Farview Rd – 2507/21
Appeal of Zoning Officer determination.
Rear yard setback, rear yard coverage- existing tennis court. ZB2010-13.

Motion by Mr. Fox second by Mr. Grossman to memorialize the resolutions. All members who had been present voted in the affirmative.

NEW BUSINESS

Rho, 32 Lylewood Dr – 308/4.

Average front yard setback 27.8'. ZB2010-26. (Rec'd 10/6/10 decision by 2/1/11.)

Present for the applicant was Mr. Urdang. Mr. Urdang said the application is for a new dwelling that had a tree fall on it in the storm in mid March this year; one bulk variance is required for a front yard setback average. His witness would be the architect Mr. Indyk.

Gary Indyk gave his address as 95 Franklin Turnpike, Allendale, New Jersey, was sworn in by Mr. Ritvo, gave a summary of his education, experience and background as was accepted as an expert in the field of architecture and planning.

Mr. Indyk said he had prepared the plans, and was familiar with the site; the existing house was built in the 1950s and faces Lylewood Drive; it is setback 28.7' from Lylewood Drive; with regard to the proposed new dwelling the front yard setback is proposed at 27.8' with the garages facing Woodmere Lane. Mr. Indyk said he had prepared data on 24 properties in the neighborhood; the average lot size is 11,900SF; and the average front yard setback is 27'; the problem lot is lot 3 adjacent to the property in question, that particular lot is 186' deep with a front yard setback of 52.5', this distance makes the front yard average setback 38.75', which due to the shallowness of the property in question is a hardship; all the bulk requirements of the zone have been met, the front yard average setback is the only variance being requested. In his opinion there was no impairment to the zone plan, or ordinances, and the proposed house conforms in lot size, size of house and setbacks with the other houses in the area.

There was a question regarding the size of the building envelope. Mr. Mottola offered his site plan marked up, Mr. Ritvo marked the marked up Site Plan as B-1.

Mr. Kominsky said the existing house does not conform, and asked if the proposed house could.

Mr. Indyk said the existing house is at 28.7', and it would be difficult to move the house back and rotate it to meet the existing setback, or even build within the allowable building envelope.

Mr. Lorenzo asked about the kitchenette in the basement and what facilities this involves.

Mr. Indyk said there would be no cooking facilities, only a fridge, sink and countertop.

Mr. Grossman asked for clarification on the number of bathrooms.

Mr. Indyk said there will be two and a half, even though three and a half are shown on the plans, bathroom #3 on the second floor will be removed and the closets made larger, adding the final construction plans have not been finalized.

Mr. Urdang said final construction plans are not required for this hearing as the exterior of the house is what will be built, but the interior usually has changes made before the permits are applied for; full construction plans are not required for a Board of Adjustment variance application.

Chair Lorenzo asked if there were any questions from the audience. The following members of the public asked questions – Nissim Gershon, 48 Lylewood Drive, Walter Kosman, 31 Woodmere Lane, Elizabeth Lifset, 9 Ravine Road, Anne Bergman, 38 Lylewood Drive, Warren Tritt, 25 Lylewood Drive, Elaine Sippach, 44 Lawrence Parkway.

Mr. Indyk in response to questions from the public said he did not calculate the square footage of each individual house in the area; a house of about 3931SF could be built on the site, a house of 3894SF is proposed; there are four bedrooms and three and a half baths, there is a study in the basement, this is a

Minutes approved: 11-8-10.

single family dwelling and will remain as such, no apartment is proposed for the basement; the driveway, patio and walks are included in the coverage for the lot and conform to the Code; the height allowed is 30' and the Borough Engineer requires seepage pits be installed to handle run off which has to be zero; the setback on Woodmere Lane is 33.8'.

The following members of the public were sworn in individually and all spoke against the application:

Nissim Gershon, 48 Lylewood Drive, Walter Kosman, 31 Woodmere Lane, Elizabeth Lifset, 9 Ravine Road, Warren Tritt, 25 Lylewood Drive, Anne Bergman, 38 Lylewood Drive, John Chi Liao, 19 Lylewood Drive, and Philip Ma, 11 Woodmere Lane.

Mr. Urdang gave a summary of the application.

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

Mr. Kominsky said in his opinion it was the setback of the neighbor that causes the hardship, the lot is shallow, and he would vote in favor of the application.

Mr. Grossman eloquently explained the average front yard setback requirement of the code; adding he felt there would be no visual impact on the lot of less than a one foot difference in the location of the existing house and the proposed house; the proposed house could be larger and fill more of the lot and appear more bulky, but it does not; he would vote in favor of the application.

Mrs. Gilbert said she is concerned with the bulk of a building; the variance is for a front yard setback, if the applicant only built within the 21' envelope the house would be bulky and ugly, she too would vote in favor of the application.

Mr. Fox said the setback on Woodmere is improved and a variance for less than 1' difference between proposed and existing is negligible; he asked for wording in the resolution regarding the possibility of an apartment in the basement.

Mrs. Crook agreed with her colleagues.

Mr. Lorenzo expressed concern about the change in character of the neighborhood and said he would vote against the application.

Motion by Mr. Grossman second by Mr. Lofberg to approve the application with the stipulation that this is a one family dwelling and no apartment is allowed in the basement.

Roll call vote:

In favor: Mr. Grossman, Mr. Lofberg, Mrs. Crook, Mr. Fox, Mrs. Gilbert.

Opposed: Mr. Kominsky, Mr. Lorenzo.

Average front yard setback variance approved 5-2.

CLOSED SESSION – there was none.

ADJOURNMENT

Motion by Mrs. Crook second by Mr. Lofberg to adjourn the meeting. All members on a voice vote were in favor; the meeting was adjourned at 8:50PM.

Respectfully submitted,

Lindsay Graham, Board Secretary