

**TENAFLY BOARD OF ADJUSTMENT
REGULAR PUBLIC MEETING
7:30 P.M. May 3, 2010
MINUTES**

ROLL CALL

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

OPEN PUBLIC MEETINGS ACT STATEMENT

Vice Chair Gilbert 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

1. NJ Planner, April 2010.
2. Memo from Borough Clerk re: Ord No. 10-14/Rescind Ord No. 08-16/Establish a Parking Trust Fund.

APPROVAL OF MINUTES

Motion by Mrs. Crook second by Mr. Grossman to approve the minutes of April 12, 2010. All members on a voice vote were in favor.

MOTIONS FOR ADJOURNMENT – none scheduled.

UNFINISHED BUSINESS

Approved: Golden, 31 Cypress St – 2302/18.
Front yard setback. ZB2010-06.

Denied: Miller, 22 Oak St – 706/2
Right side yard, FAR. ZB2010-07.

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

NEW BUSINESS

Block, 161 Tekening Dr – 2503/4.
Front yard coverage by driveway. ZB2010-09. (Rec'd 4/20/10 decision by 8/18/10.)

Present for the applicant was Elliot W. Urdang. He said his witnesses would be the homeowner and the Engineer/surveyor.

Yale Block gave his home address as 161 Tekening Dr and was sworn in by Mr. Ritvo. Mr. Block said during construction of the master bedroom addition in 2008 they had problems with the builder who left the job as he went bankrupt; part of the renovation process was to create a circular driveway to make access to the garage easier from Highwood Avenue. The

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garage was renovated and the doors were moved from a side entry on the south property line to one facing Tekening. Mr. Block had his landscaper do the cut out/edging for the driveway as the builder was no longer on the job; it was only when the Final As-Built was submitted that the Zoning Officer told him the front yard coverage had been exceeded.

A copy of an approved and conforming circular driveway was offered into evidence, this was marked A-1.

There followed some discussion on the circular driveway and whether it was on the plans submitted for the prior variance for the addition in 2007; Mr. Mottola confirmed the circular driveway plan that had been submitted and approved for zoning was on the original plans for the addition; and further explained that part of the project had been to attach the detached garage to the house, once this was done, the area of the front yard of the property became smaller as the front yard area was now calculated off a corner of the garage closest to the front property line, rather than the front of the house.

There were no questions for the homeowner from the audience.

Ernest Myhren gave his address as 265 Atlantic Street, Oradell, was sworn in and accepted as an expert in the field of engineering. Mr. Myhren said he had prepared the Final As-Built; if the garage had been in line with the house the circular driveway would comply with the 30% front yard coverage, he did not feel he could eyeball the coverage and come up with an amount of square footage the driveway is over; there are trees and landscaping on the surrounding properties; the south side of the property is a retaining wall as the land slopes down towards Highwood Avenue.

In response to questions from the Board Mr. Myhren said if the board denies this application there would have to be re-grading of the driveway, and again said he felt there would be no drainage problems from the 400SF additional coverage he did not feel the additional square footage was perceptible to the neighbors or from the street; plans with drainage calculations were submitted to the Borough Engineer for his review and approval, and felt the seepage pit could handle the additional run off.

In response to questions from Mr. Grossman and Mr. Kominsky Mr. Mottola said if the garage was not attached to the house, the front yard calculation would be from the front of the house; and he accepted the square footage calculations of the licensed surveyor for his denial.

Mrs. Gilbert asked why a circular driveway and what the practical difficulty is as mentioned in the statute.

Mr. Urdang said the immediate access into the garage makes the most sense to use the closest access to the garage which is off Highwood Avenue, and there are older parents who visit and getting to the front door with the circular driveway makes it easier access.

Mr. Myhren stated he felt the seepage pits that had been installed would handle the additional square footage of the driveway.

There were no questions for this witness and no comments from the audience on the application.

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Mr. Urdang gave a summary of the application.

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

Mrs. Crook said she saw no significant harm to the zone plan or neighbors in granting the variance, adding she did not feel there would be a drainage problem, the whole hill appears to be a drainage problem; but was hung up on the positive aspects of the case.

Mr. Farrell said the applicant had eluded to a drainage problem in the back, but did not feel the plan had demonstrated this and was not sure where the additional square footage would drain to; he was not sure if there was proof that no one else would be affected, he felt there was always an affect on someone somewhere else down the hill; if you can't tell the difference, why do we need it, and he did not see the practical difficulty in getting in and out of the driveway.

Mr. Fox said if this plan was here out of the blue on it's own, many of us would have a concern with the size of the driveway and would be concerned, feeling the driveway would be burdensome to the front yard; he would vote against the application as he could not see what benefit this size driveway would have on Tenafly.

Mr. Brensilber said he felt the benefit was only to the homeowners; if the driveway had not been built, it would not be here, he felt the hardship will be its removal; even though the lot is minimally oversized, this application would not be here, it would have to conform.

Mr. Grossman said he felt the driveway was too big and that size should be the focus, not the garage location and it's attachment to the house; would vote against it.

Mr. Kominsky felt this was an extraordinary exceptional situation the orientation of the garage and its attachment, the board should grant variances for situations like this, it is unfortunate situation, but that is why the Zoning Board is in existence.

Motion by Mr. Kominsky to approve the variance; there was no second to the motion. Motion failed.

Motion by Mr. Grossman second by Mr. Farrell to deny the variance.

Roll call vote:

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

Opposed: Mrs. Crook, Mr. Kominsky.

Front yard coverage by driveway denied 5-2.

ADJOURNMENT

Motion by Mr. Brensilber second by Mr. Grossman to adjourn the meeting. All members voted in favor, the meeting was adjourned at 8:45PM.

Respectfully submitted,

Lindsay Graham
Board Secretary