

**TENAFLY BOARD OF ADJUSTMENT
REGULAR PUBLIC MEETING
7:30 P.M. May 7, 2012
MINUTES**

ROLL CALL

Present: Mr. Babcock, Mr. Brensilber, Mr. Farrell, Mr. Fox, Mrs. Gilbert, Mr. Levene, Mr. Lieberman.
Absent: Mr. Kominsky, Mr. Grossman.
Also present: Mr. Kates.

OPEN PUBLIC MEETINGS ACT STATEMENT

Acting Chair Brensilber 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 Record on December 30, 2011, posted on the bulletin board in the lobby of the Municipal Center and posted on the municipal web site."

COMMUNICATIONS

1. NJ Planner, March/April 2012.
2. Correspondence from H. Ritvo to M. Kates re: hearing date for Bozzo v. Board of Adjustment scheduled for May 9th at 3:30PM.

APPROVAL OF MINUTES

Motion by Mr. Fox second by Mr. Lieberman to approve the minutes of April 23, 2012. All members on a voice vote the minutes were approved.

MOTIONS FOR ADJOURNMENT – there are none.

UNFINISHED BUSINESS

Resolution to be memorialized:

Approved: Lubavitch on the Palisades, 11 Harold St – 1105/26.01 et al.
Expansion of a non-conforming use, amended site plan, various parking variances.
ZB2012-09.

Motion by Mr. Fox second by Mr. Levene to memorialize the resolution. Those members who had been present at the meeting voted in favor. The resolution was memorialized.

NEW BUSINESS

Yang, 140 Newcomb Rd – 124/1

Front yard setbacks (Newcomb Rd & Esmond Pl), rear yard setback. ZB2012-11.

(Rec'd 4/26/12 decision by 8/24/12.)

Present for the applicant was Jordan Rosenberg the architect. Mr. Rosenberg gave his business address, a brief summary of his education, experience and was accepted as an expert in the field of architecture. Mr. Rosenberg said the property is on the corner of Esmond Place and Newcomb Roads, the applicant proposes adding a bedroom over the existing sunroom, a front porch and a rear addition. Three variances are required for setbacks, on Esmond Place, Newcomb Road and a rear yard setback.

Mr. Rosenberg said they propose expanding the master bedroom suite on the second floor with a new balcony, and add an additional bedroom over the sun room, the second floor addition will be setback 4' from the existing sunroom; there is no bathroom on the first floor, and the proposed additions include a new front entry and front porch, the door for the front entry will face the driveway and access from the driveway or garage to the house will be along this front porch area. In the rear on the first floor the kitchen/dining area will be expanded and a powder room will also be added.

In response to questions from the board, Mr. Rosenberg said the tree at the side will remain, only the branches over hanging the house will be trimmed; a rear yard variance is needed due to the shape of the lot, at that corner the house is only 25' from the property line, the existing house is non-conforming, the proposed rear addition is the best place with the least impact, and will not be visible as the property is well screened. The property on the left is set back 3" further than the property in question, the measurement was done from the foundation of the house to the curb.

There followed some discussion on the lots, and if lot 2 could be sold as a buildable lot.

There were no questions or comments from the audience.

Mr. Rosenberg gave a summary of the application.

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

Mr. Levene said he felt the variances were minimal beyond the intention of the ordinance especially the front additions but was concerned about the rear addition.

Mr. Lieberman said it was close, but with only one bathroom on the second floor, the half bath on the first floor is needed, it is a pretty house but close to the street.

Mr. Fox understands his colleagues concerns, the house is under on FAR and lot coverage, but he looks with sympathy on the applicant who is trying to preserve the look of the house, he would be in favor.

Mr. Farrell agreed, he felt there was a thoughtful approach to the front addition, did not have a problem with the application and felt it would in keeping with the street; he would be in favor.

Mr. Babcock agreed adding the house was nicely maintained and the additions would keep the character of the house.

Mr. Brensilber said the addition is only 497SF, and only setback variances are needed, the design was sensitive to the house and area.

Motion by Mr. Lieberman second by Mr. Farrell to approve the bulk variances.

Roll call vote:

In favor: Mr. Lieberman, Mr. Farrell, Mr. Brensilber, Mr. Fox, Mr. Babcock.

Opposed: Mr. Levene.

Three bulk variances approved 5-1.

Farley, 89 Highwood Ave 1602/14.

Interpretation. ZB2011-26. (Rec'd 4/27/12 decision by 8/25/12.)

Present for the applicant was Mr. Leibman, who said this application is an interpretation of the term residential purposes. He continued that this term is not defined in the MLUL, nor in the Moscowitz Book of Definitions, nor in the Tenafly Code. What is proposed is electric, gas and a 3" sewer line to utilize the space above the garage as sleeping quarters.

George Farley the homeowner was sworn in by Mr. Kates who asked why this additional space is needed. Mr. Farley said he has 6 children and nine grandchildren and there is not enough room for everyone when they come to visit once or twice a year. The existing house has 6 bedrooms and 4 bathrooms.

There was some discussion on the carriage house having the basic necessities and the problems of enforcement and the approval is granted would run with the land; even if a deed restriction was made, there would still be problems with enforcement.

Douglas Doolittle gave his business address, was sworn in and deemed an expert in the field of planning and as an engineer. Mr. Doolittle said a residence and a dwelling are the same thing, this space is unfinished, Anderson windows are installed on the second floor; in his opinion a 3" sewer pipe would be sufficient for one bathroom; the bathroom would be a convenience; in his opinion a bathroom and kitchen are needed for this to be called a dwelling unit.

In response to questions from the board, Mr. Doolittle said a 3" sewer pipe could accommodate more than one bathroom, for example a shower, toilet and dishwasher, he confirmed a water heater would be installed, there are no doors inside the garage as the framing has not been completed.

There were no questions from the audience.

There was some discussion between the board members that this is an additional bedroom for the primary residence, there were concerns about cooking facilities, the consensus was that a microwave would suffice for cooking; in general there were concerns.

Paul Roden 93 Highwood Avenue and was sworn in; he said he is the neighbor, they use their loft in their garage/carriage house for the grandchildren to sleep in when they visit, they put sleeping bags down for them. He was in favor of the variance and felt the board was being unfair to Mr. Farley.

Bruce Morrissey, 10 Sisson Terrace was sworn in; he said his concern is when the house is sold, and felt a deed restriction should be in place.

Jonathan Kendall, 446 Tenafly Road was sworn; he spoke against the application, adding the board would be setting a precedence for future use of this structure to be used as a second dwelling unit at all times, making enforcement difficult; two prior applications were denied by the board ZB2005-43 (50 Highwood Ave) and ZB2009- the latter ended up in litigation. Mr. Leibman questioned Mr. Kendall about his presence as his address is not on the 200' list, and where he lives, gets his mail and the relationship of Mr. Kendall's mother with his client.

At 9:00PM the board took a five minute break for Mr. Leibman to talk to his client.

Mr. Leibman said he had more questions for Mr. Kendall. Mr. Kates said he did not want a cross examination on a personal relationship.

Mr. Leibman recalled Mr. Farley to question him specifically on his relationship with Mrs. Whitney. He was told this application was for an Interpretation only and if there were no other questions regarding the application he should summarize.

Minutes approved: 06-04-2012.

Mr. Kates said the board would be creating a precedent if they approve the limited sphere, once electric is there you can cook; the board's decision is one of law. Mr. Leibman said this application is different from the others. Mr. Leibman asked for the application to be carried to the next available meeting as he had further investigations to make and further discussion with his client.

Motion by Mr. Farrell second by Mr. Babcock to carry the application to June 4th to be heard at 7:30PM or 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.

ADJOURNMENT

Motion by Mr. Lieberman second by Mr. Farrell to adjourn the meeting. All members on a voice vote were in favor the meeting was adjourned at 9:20PM.

Respectfully submitted,

Lindsay Graham
Board Secretary