

**TENAFLY BOARD OF ADJUSTMENT  
REGULAR PUBLIC MEETING  
7:30 P.M. June 4, 2012  
MINUTES**

**ROLL CALL**

Present: Mr. Brensilber, Mr. Babcock, Mr. Farrell, Mr. Fox, Mrs. Gilbert, Mr. Kominsky, Mr. Lieberman, Mr. Levene, Mr. Grossman.

Absent: None.

Also present: Mr. D. Lenner, Mr. M. Kates.

**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 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** – there were none.

**APPROVAL OF MINUTES**

Motion by Mr. Brensilber second by Mr. Fox to approve the minutes of May 7, 2012. All members on a voice vote were in favor the minutes were approved.

**MOTIONS FOR ADJOURNMENT**

**UNFINISHED BUSINESS**

Resolution to be memorialized:

Approved: 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.)*

The resolution was not seen by all members, and would be presented at the next meeting – June 18, 2012.

Carried from May 7<sup>th</sup>, 2012.

Farley, 89 Highwood Ave 1602/14.

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

Request from Mr. Leibman to adjourn the matter, as he had not had time to read documents he had requested from an OPRA request. Motion by Mr. Fox second by Mrs. Gilbert to carry the application to August 6<sup>th</sup> at 7:30PM or as soon thereafter as the matter could be reached with no further notice required by the applicant. All members on a voice vote were in favor.

**NEW BUSINESS**

Taketa, 27 Wight Pl – 204/7.

Front yard setback. ZB2012-10. *(Rec'd 5/24/12 decision by 9/21/12)*

To avoid any possible conflict Mr. Lenner was present to hear this matter as Mr. Kates had prior dealings with Mr. Taketa the applicant. Mr. Greg Taketa, the homeowner was sworn in. He stated they had

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previously received a variance for front yard setback when they had done an addition in 2008; now the Final As-Built had been submitted the setback was now 4.5" closer to the street than had been previously granted. Mr. Taketa said the visual increase in the setback is negligible, and there is no negative impact on the streetscape; adding it would be somewhat difficult now to remove that portion of the house that exceeds the previous set back.

Some board members expressed their frustration at the contractor not ensuring the setback was met; Mr. Taketa did not recall the contractor's name.

There were no questions or comments from the public.

Mr. Taketa gave a summary.

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

Mrs. Gilbert said she felt 4.5" was minimal and there was no malicious intent to violate the previous variance, she would be in favor of granting the additional setback.

Mr. Grossman said he had driven past the house and the difference was not visible.

Motion by Mrs. Gilbert second by Mr. Lieberman to approve the additional 4.5" front yard setback.

Roll call vote:

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

Opposed: None.

Application to allow a front yard setback of 24.83' as shown on a Final As-Built dated February 4, 2010, carried 7-0.

Mr. Lenner left the dais and Mr. Kates took his place.

Laug, 262 Hudson Ave – 2605/10.01.

Impervious coverage. ZB2012-13. (Rec'd 5/22/12 decision by 9/19/12.)

Present for the applicant was Mr. Urdang who said his witness would be the engineer Mr. Hubschman and the homeowners were present.

Michael Hubschman, gave his business address, was sworn in and deemed an expert in the field of engineering. Mr. Hubschman offered as a colorized Site Plan that was marked A-1; this was the same plan that had been distributed to the board. He described the location and topography of the lot; the portion of the property that borders Wood Road is quite steep and they have installed various retaining walls and changed the slope of the land to make the rear yard more useable. The circular driveway consists of 2100SF and it is circular as there is a slight bump in the road that makes the sightline difficult; the house was built on 2000/2001; the property did conform to the ordinance prior to last July when the total impervious coverage ordinance took effect. He explained the overage is about 1525SF, on a lot this size the ordinance permits 8100SF and the applicant is asking for 9639SF. The pool patio is not oversized and there is an at grade patio that will be expanded somewhat into a terrace, that will now be flush with the first floor of the house. Mr. Hubschman said he supports the variance under c '1' due to the topography of the property and the bump in Hudson Avenue; they will meet all engineering standards and if necessary install another seepage pit.

Mr. Kominsky said the pool is under construction yet the rear yard is small. Mr. Hubschman said the homeowner will address the pool.

Marked as A-2: five photographs marked P1 to P5;

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And as A-3: a Microsoft aerial view of the property showing the old patio.

Mrs. Gilbert said she understands the driveway coverage it is the pool creating the variance, the terrace and pool patio have not been started as they know they need variances. Mr. Urdang said the pool conforms now; the applicant wants the pool patio and terrace.

Mr. Grossman confirmed with Mr. Hubschman the lot coverage calculations are on the entire property

Mr. Lieberman asked why all the work was not done at the same time? He was told Mrs. Laug would answer that question.

Mr. Fox said he looked at the property from the neighbor on Wood Road and it appears the slide that has been installed is very high and seems very close to the side yard. Mr. Hubschman said this would be screened and the setback meets the code.

Mr. Farrell asked about the water/utility box in front of the house and if a traffic study had been done to show any danger. Mr. Hubschman said the utility box is in the Borough right-of-way and the applicant has tried to screen it. Mr. Hubschman confirmed he was not involved in the design of the house, and then explained the design of seepage pits.

Mr. Kates confirmed with Mr. Hubschman the slope in the road creates a site disturbance.

There were no questions from the public for this witness.

Evelyn and Thomas Laug the homeowners were sworn in. In response to questions from the board they said they had bought the house in 2002, in July 2011 they wanted to add a bedroom as they were expecting another baby; plans for the pool and addition were submitted but they were a little unclear on exact dates of submissions of the two projects specifically relating to the change in the ordinance; the pool was started first as the contractors had said once the addition was done, they would not be able to get equipment into the rear yard to construct the pool.. Mrs. Laug explained the traffic coming down Hudson Avenue consists of people going the wrong way looking for a cut through to Route 9 and visitors to and from the Nature center; in the summer she uses the northern leg of the driveway and in the winter when there is ice and snow she uses the southern leg of the driveway as the north side tends to be very icy. Mrs. Laug confirmed there will be landscaping along the property line with the neighbor on Wood Road; the patio consisting of 682SF was removed and they would like to construct a larger terrace.

Mr. Grossman asked the applicant if they could revise anything. At 8:46PM there was a private discussion between the applicants and their professionals. At 8:53PM Mr. Urdang requested the matter be carried to another meeting, so the applicant could try to reduce the overage. All members were in agreement the matter was carried to July 2<sup>nd</sup> with no further notice required by the applicant.

Kim, 26 Washington St – 1011/4.

Use. ZB2012-14. (Rec'd 5/22/12 decision by 9/19/12.)

Present for the applicant was Mr. Urdang. Mr. Urdang said this property is setback from Washington Street and has been the subject of two prior use variances; in 2003 it was granted a variance for a Children's Party Gallery, and in 2007 a variance for a Music Academy. The applicant now wants to use the property for SAT preparations and enrichment; these classes would take place on the first floor only, the second floor will remain one room for music lessons by a piano teacher, one student at a time.

Sun Mi Kim, gave her address as 46 Sherwood Ave, Teaneck and was sworn in. Mrs. Kim said upstairs would be for piano instruction, only one music teacher and only one student at a time. Hours of operation would be Monday through Thursday 3:00PM to 7:00PM, Saturday 9:00AM to 3:00PM, they would be closed on Fridays and Sundays; students would be mainly high school students, with a few middle school

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students, sessions would last two hours, parents would not wait and each teacher would have 1 or 2 students, maximum 7 students for the entire building; ages for piano students would be 9-12 years. There are 5 parking spaces behind the building and two municipal lots nearby; four rooms would be used for instruction, adding the wall between rooms 3 and 4 will be removed as these rooms were very small; the lobby would be in front.

In response to questions from the board Mrs. Kim said they do not schedule classes on Fridays as most students cancel, upstairs would be one student and one piano teacher, her experience is at Wayen Green Academy and she has worked in an SAT institution.

There were no public questions or comments.

Mr. Urdang gave a summary of the application.

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

Mr. Babcock said he would be in favor and felt many children would use the facility.

Mrs. Gilbert said she was not concerned with parking as there were two municipal lots nearby.

Motion by Mr. Babcock second by Mrs. Gilbert to approve the use variance.

Roll call vote:

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

Opposed: None.

Use variance carried 7-0.

Choksi, 18 Lindley Ave – 702/13.

FAR, multiple bulk. ZB2012-12. (Rec'd 5/22/12 decision by 9/19/12.)

Present for the applicant was Stanley Turitz of the firm Ferrara, Turitz, Harraka & Goldberg; he said his witness would be Mr. Jagdish Shah the architect who is licensed in the State of New Jersey, and the owner was also present. The application is for the owner, Mr. Choksi to revert the home back to a conforming one family and the proposed addition is necessary due to the size of the owners family and it is what the owner wants; this home is one of five in the neighborhood that are three and a half stories. Mr. Turitz offered in to evidence the property survey and five pages of architectural drawings – this was marked A-1; Realty Appraisal page was marked as A-2.

Mr. Brensilber said the lot is small and this feels like overbuilding. In response Mr. Turitz said it will fit in with the neighborhood in which there are a lot of renovations occurring.

Mr. Shah was offered as a witness he was the architect of the drawings. Mr. Shah explained the proposed alterations and addition to the house; he said the ordinance definition of a basement makes this a three and a half story house, only because the basement is raised more than halfway out of the ground, the side yard variance is required as the side yard is pre-existing. In his opinion the lot could accommodate the increase in FAR and the increase in lot coverage, the proposed addition will improve the property and bring it to compliance by converting back to a one family dwelling; adding there are several houses on Roberts, Lindley and Leonard Roads that have basements that are more than 50% above grade; the FAR does not include the basement or attic as the ceilings are less than 7' high.

Mr. Turitz said the Zoning Board has the ability to grant variances from the Code requirements, and he felt the board should take into account that the applicant is now going to conform to the ordinance and convert the home to a one family.

There followed some discussion on what changes could be made to the addition so the numbers and variances were not so large. Mr. Shah said they could set the second floor addition back from Lindley so that it conforms to the 25' setback and reduces the FAR.

There were no questions for this witness from the audience.

Mr. Choksi, 42 Brook Way, Demarest, New Jersey was sworn in. He said he would agree to the changes that would be made, and accepted the amended plan.

Peter Quinn, 16 Lindley Avenue, Tenafly was sworn in and spoke in favor of the application.

There were no other comments from the public.

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

Mr. Brensilber said he would agree to the changes made verbally at this meeting, the house is going to conform to the ordinance and revert back to a one family; the applicant is asking a lot of this board, but the amended plan would be acceptable.

Mr. Kominsky said he would be in favor of the amended plan.

Mrs. Gilbert suggested the plans be amended, sealed by the architect and re submitted so exact numbers of each variance could be determined, and made a motion to carry the decision on this application to June 18<sup>th</sup>, with no further notice required by the applicant. All members were in favor.

## **ADJOURNMENT**

Motion by Mr. Brensilber second by Mrs. Gilbert to adjourn the meeting. All members on a voice vote were in favor, the meeting was adjourned.

Respectfully submitted,

Lindsay Graham  
Board Secretary