

**TENAFLY BOARD OF ADJUSTMENT
REGULAR PUBLIC MEETING
7:30 P.M. September 24, 2012
MINUTES**

ROLL CALL

Present: Mr. Brensilber (arr 8:00PM), Mr. Farrell, Mr. Fox, Mrs. Gilbert (arr 8:30PM.), Mr. Kominsky, Mr. Lieberman, Mr. Levene, Mr. Babcock, Mr. Grossman.
Absent: None.
Also present: Alysia Smickley.

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

APPROVAL OF MINUTES – Minutes were not ready.

MOTIONS FOR ADJOURNMENT – there are none.

UNFINISHED BUSINESS

Resolutions to be memorialized:

Approved: Lustig, 19 Woodland Pk Dr – 1911/19
Side yard setback. ZB2012-21. *(Rec'd 7/23/12 decision by 11/20/12.)*

Motion by Mr. Fox second by Mr. Levene to memorialize the resolution. All members who had heard the application on a voice vote were in favor.

Denied: Lichenstein, 16 Stonehurst Rd – 1806/2
Rear yard setback for pool. ZB2012-15. *(Rec'd 6/5/12 decision by 10/04/12.)*

Approved: Aivazov, 294 W Clinton Ave – 405/1
Front yard setback. ZB2012-24. *(Rec'd 8/30/12 decision by 12/28/12.)*

Approved: Kollitides, 164 E Clinton Ave – 1805/11.
Appeal Zoning Officer decision re: 160 E Clinton Ave- 1805/10.
ZB2012-22A. *(Rec'd 8/30/12 decision by 12/28/12.)*

The above resolutions would be ready for the October 15 meeting.

NEW BUSINESS

Weingarten, 77 Norman Pl – 407/35.
Side yard setback. ZB2012-25. *(Rec'd 9/13/12 decision by 1/11/13.)*

Present for the application was the homeowner Nancy Weingarten who was sworn in; her architect Raul Mederos, Imagen Architecture, 233 12th Street, Palisades Park, New Jersey was also sworn in.

Ms. Weingarten said they are seeking a side yard setback variance for an addition to the rear of the house, the lot is narrow, was built in 1913, the lot is 50' wide and 244' deep; the setback variance is the only one needed, they are compliant in all other respects of the zoning code. They are proposing a second floor addition to include a master bedroom suite and on the first floor a family room and expansion of the kitchen, also included will be a full bath and a half bath; the house does not sit squarely on the lot, which has its own drawbacks; there is a slope on the east side of the property, so the addition will not encroach in to that and not extend past the current driveway in the rear of the house.

Mr. Mederos said they had tried to configure the addition at 20' wide without variances, but as the house sits at an angle to the street the proposed addition would be narrow and may have to be a little longer. On the easel was offered a sheet of two photographs – one of the front of the house, and one of the rear of the house; and two architectural drawings showing the proposed final house, this was marked A-1. Ms. Weingarten used the exhibit to explain where the proposed addition would be, and explained the slope on the east side of the property. Mr. Mederos confirmed the proposed addition would be in the rear on the right side of the house; the setback variance is needed on the right side of the property and would not extend past the existing driveway in the rear. If this application is denied they would re configure the plans and make the proposed addition longer and narrower.

Ms. Weingarten said the proposed addition would be more in line with the existing house, it would enhance the street and the TLC would be appreciated by all. Ms. Weingarten said if the variance was not granted the house would narrow towards the rear of the property and not be fully functional.

Mr. Mederos said he is not an engineer, and any drainage requirements in the form of seepage tanks would be complied with.

There were no questions or comments from the audience.

Ms. Weingarten gave a summary of the application.

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

Mr. Kominsky said he had no problem with the proposed addition, and felt the 50' wide lot was a hardship and the addition would not be intrusive to the neighbor.

Mr. Levene said they made an effort to comply and felt there were no negative aspects and the addition would be good for the neighborhood.

Motion by Mr. Farrell second by Mr. Kominsky to approve the side yard setback variance.

Roll call vote:

In favor: Mr. Farrell, Mr. Kominsky, Mr. Fox, Mr. Lieberman, Mr. Levene, Mr. Babcock, Mr. Grossman.

Opposed: None.

Side yard setback variance approved 7-0.

D & K Management, LLC., 20 Washington St – 1011/6
Second floor residential. ZB2012-23. (Rec'd 9/14/12 decision by 1/12/13.)

Mr. Levene recused himself from hearing the application as he lives within 200' and his wife had been noticed. Mr. Brensilber arrived (8:00PM.)

Present for the applicant was Mr. Capizzi; who said this application is in the downtown area and the applicant would like to convert the upstairs to three two-bedroom apartments. He continued there are

existing non-conformities including parking, but the proposed residential use does bring the parking requirement down. He would have three witnesses, the architect, the planner and a principal of Saga Electronics.

Chris Blake gave his address as 155 Washington Ave, Bergenfield, New Jersey, was accepted as an expert and sworn in. On the easel was a set of plans that had been submitted to the board, A-1 and A-2. Mr. Blake described the lot, the current parking and layout of the existing first and second floors of the building. The proposed renovations would be upstairs and consist of three two-bedroom apartments measuring between 650Sf to 800SF.; entry would be from the street entrance up stairs to a small hallway from which each apartment would have a front door, the upstairs will not be expanded, all renovations will take place in the current space.

In response to questions from the board, Mr. Blake said as per RSIS only 6 parking spaces are needed for this residential use, and behind the building there are 11 spaces associated with this building, five for retail and six for the proposed residential use. The proposed apartments are not for any particular market, he was not told to design for a specific market, they are not designed for a family of four due to the space restraints, the building code will be met and he felt they would fit in with the area; he did not feel the apartments were substandard, nor did he believe there were tenants lined up to move in. Mr. Blake explained the views from the apartment windows.

Sean Li, 77 Newcomb Road asked what determines three apartments and not more or less.

Mr. Blake said the NJ International Building Code determines the square footage for the number of people per unit, and for multi-family it is 200SF per person.

8:30PM. Ms. Gilbert arrived.

There were no other questions from the public for Mr. Blake.

Teg Chadha a Principal of Sage Electronics was sworn in. Mr. Chadha described the first floor space which is retail and showrooms, upstairs is another showroom and offices; on any given day there could be 2 or 3 people in the showroom, the vehicles are stored/parked at their location in Englewood.

In response to questions from the board, Mr. Chadha said the space upstairs is really not used; they do not send customers upstairs for retail, storage of equipment is in Englewood downstairs is only showrooms; a benefit to the downtown area would be residents living locally using the downtown stores. After discussion on the ownership of the building, it was determined that Saga Electronics was seeking the variance on behalf of the owners of the property.

There were no questions from the public.

Mr. Capizzi requested a five minute recess to talk to his client.

David Spatz gave his business address, was sworn in and deemed an expert in the field of planning. Mr. Spatz described the location of the property, listed other businesses in the area and said three other buildings in the area have residential uses on their second floors; there are three existing non-conforming bulk conditions, but the applicant is not proposing expanding the building. He felt the use is consistent with the Master Plan, Development and Redevelopment State plan, which talks of the value of having residential units in downtown areas, and they would bring life and vitality to the downtown area; the units would be small and some may only have one car per apartment. He did not feel there would be a negative impact on the area, and residential uses in the form of apartments is considered beneficial in the Master Plan re-examination report done earlier this year by the Planning Board. He continued that if the proposal for second floor apartments had been submitted to the Mayor and Council for their approval, the applicant would not be here. As regards parking, the property with retail use and showroom requires 61 spaces, 38 for the first floor,

and 23 for the second floor; with a residential use proposed for the second floor the parking for those units would be 6, bringing the parking required down to 44 spaces. There are 11 spaces provided on site with two municipal lots and street parking nearby. He felt the size of the units would be typical for the downtown, and suitable for couples without children or local workers, and he added the proposed units were in line with the suggestion from the Planner and Planning Board.

Marked as A-3 was a memo dated September 21, 2012 from Burgis Associates, the Borough Planner.

In response to questions from the board, Mr. Spatz said he had testified on applications he felt had a negative impact, but always tried to use the positives, to have residential uses in the business/downtown district is more of a modern use to keep that area revitalized with people, he did not know why zoning separated residential and business uses, but felt there was no valid reason for the separation; he did check the parking spaces and thought they should be re-striped, they are 1ft short but noted there were no curbs blocking ingress or egress; a variance would still be needed for parking which is for the entire building; he had not done a traffic study as he is not a Traffic Expert; he did not know the sizes of the other apartments in the area, but did feel these were a little small. He was uncertain what the tipping point was for too much retail and more residential, he described the process of the Master Plan recommendations and said the Zoning Board submits an annual report to the Planning Board and Mayor and Council which shows what variances are granted.

There were no questions or comments from the public.

Board member voiced concerns about the size of the units.

Mr. Capizzi asked for the application to be carried so that his client could take into account comments made by the Board.

Motion by Mr. Farrell second by Mr. Kominsky to carry the application to December 3rd at 7:30PM or as soon thereafter as the matter could be heard, with no further notice required by the applicant. All members on a voice vote were in favor.

ADJOURNMENT

Motion by Mr. Brensilber second by Mr. Babcock to adjourn the meeting. All members on a voice vote were in favor, the meeting was adjourned at 10:00PM.

Respectfully submitted,

Lindsay Graham
Board Secretary