

**BOROUGH OF WESTWOOD
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
MINUTES
September 21, 2015**

APPROVED 10/5/15

1. OPENING OF THE MEETING

The meeting was called to order at approximately 8:00 p.m.

Open Public Meetings Law Statement:

This meeting, which conforms with the Open Public Meetings Law, Chapter 231, Public Laws of 1975, is a **Regular Meeting** of the Westwood Zoning Board of Adjustment.

Notices have been filed with our local official newspapers and posted on the municipal bulletin board.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL:

PRESENT: William Martin, Chairman
Eric Oakes, Vice Chairman
Guy Hartman
Matthew Ceplo
Marc Truscio
H. Wayne Harper
George James
Cynthia Waneck (Alt #1)
Michael Klein (Alt #2)

ALSO PRESENT: David Rutherford, Esq., Board Attorney
Louis A. Raimondi, Board Engineer
Steve Lydon, Burgis Associates,
Board Planner

ABSENT: None

4. MINUTES: A motion to approve the Minutes of the 8/3/15 Meeting was made by Guy Hartman, seconded by Michael Klein, and carried unanimously by those eligible to vote. **A motion to approve the Minutes of the 8/10/15 Meeting** was made by Eric Oakes, seconded by Matthew Ceplo and carried unanimously by those eligible to vote.

5. CORRESPONDENCE: None

6. VOUCHERS: A motion to approve Vouchers totaling \$3,560.00 was made by Guy Hartman, seconded by H. Wayne Harper, and carried unanimously on roll call vote.

7. RESOLUTIONS:

1. 90 Center, LLC, 90 Westwood Avenue, Block 807, Lot 20 - Board Attorney Rutherford read the Resolution of Approval into the record. A motion for approval was made by Eric Oakes and seconded by Marc Truscio. There were no further questions, comments or discussion. On roll call vote, Eric Oakes, Matthew Ceplo, Wayne Harper, Marc Truscio, Michael Klein, and William Martin voted yes.

2. Palisades Land and Management, 54-56 Jefferson Avenue - Sign Variance - Carried to 11/9/15;

8. PENDING NEW BUSINESS: None

9. VARIANCES, SUBDIVISIONS AND/OR SITE PLANS, APPEALS, INTERPRETATIONS:

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS
The Board Professionals were sworn in.

1. Fernandez, 125 Lake Street, Block 710, Lot 21 - Site Plan - David Repetto, Esq. represented the applicant. He distributed Application for Driveway Replacement in 2004, marked Exhibit A1, Zoning Permit for Shed in 2004, marked Exhibit A2 and Zoning Permit in 2012, marked Exhibit A3. William Petrone was sworn in as Licensed NJ Architect and gave his credentials. His qualifications were accepted. Mr. Fernandez testified he was retained to design renovations to their home. They had a very small kitchen as well as bedrooms. The architectural drawings were marked A4. Mr. Repetto described the plans in detail. There was an addition of one bedroom to the first floor for a total of two. The second floor has three bedrooms. There are a total of five bedrooms in the two-family home. They are not seeking any variances, except for the pre-existing, non-conforming use. They tried to be sympathetic to the scale of the neighborhood.

Mr. Raimondi requested some modifications in the numbers, which was done. Mr. Martin questioned the

witness as to the basement. There was also a hatch to access a storage area not shown. He wanted to make sure he fully understood the plan and that it was fully labeled. The Master Plan is very specific about expanding non-conforming uses. There were no further questions of the witness.

Brigitte Bogart, NJ Licensed Professional Planner was sworn in. She used Exhibit A4 to show the key map of the neighborhood. Any development has an impact on the neighborhood itself. All the lots on Lake Street are similar with two-family homes. It is appropriate in this location. Following the development pattern is extremely important. Most of the lots are 50' wide. There are a number of non-conformities, i.e., side yard setback not being changed, existing non-conforming use with Section 68 Certificate. The still comply with FAR, impervious coverage regulations and building height - all key regulations that comply with the neighborhood. The proposal is to upgrade the facilities and conditions. If you look down Lake Street you see a number of homes needing upgrades in their conditions. The purpose of this renovation is to insure the owners of the home have living conditions up to current standards. With a D2 variance, they have to look at how the proposal fits in with the neighborhood and Master Plan. Here they are improving the site and meet the positive criteria. As for negative criteria there is no detriment to the public good or zone plan. They are enhancing the facility from an aesthetic as well as livability perspective. Based on the positive and negative criteria and proofs, Ms. Bogart stated the Board can grant the D2 variance.

Mr. Oakes asked about the permits and how many garages are required. Ms. Bogart responded two. If they wanted to become conforming, can they put in a two-car garage. It was not possible, Ms. Bogart responded. Mr. Lydon commented about parking and the RSIS and asked for clarification of her testimony. Mr. Lydon sees the parking deficiency extremely significant. In light of the rooms all being very tiny, he is questioning whether this should really be a one-family home, especially if the parking on site cannot be accommodated, and they are increasing the number of bedrooms. He cannot see the rationale. Ms. Bogart responded the regulations in the RSIS say 3.5 spaces, and they have it. Chairman Martin read goals and policy statements from the Master Plan, stating the

ordinance discourages expansion of two-family dwellings. Goal 6 was noted. Ms. Bogart responded they are maintaining the same number of units. The most important perspective was the character of the neighborhood. This not mentioned in Goal 6. Mr. Martin asked if any of the two families she identified are expanded. She did not analyze. Basically they have not expanded. This proposal adds bedroom space. The Board in some cases gets applications that enhance the living areas, and here is an application for expansion of bedrooms. The architect is to clarify which building components are new and which are existing. Goal 6 states very clearly the expansion of non-conforming uses are discouraged. She should not discount Goal 6. Mr. Lydon concurred with Mr. Martin that the policy statement does in fact apply. Ms. Bogart agrees living area is more generic, but the owner needs the additional bedroom for the family in an owner-occupied space.

Mr. Martin stated this variance stays with the land, and this is the current situation. We have to look at the land use issues, not just personal hardships. He looks at the land use ordinance and sees a significant issue. The Board Planner sees the same issue. He asks when Ms. Bogart comes back she address how the land use ordinance can be clarified, providing more details on the parking spaces, and the architect is to be more clear on what is happening with the exterior. The matter was carried to 11/9/15.

The Board took a recess from 9:50 to 10:00 pm

2. Marrero, 86 Westwood Boulevard, Block 1907, Lot 15 - "C" Variance - Christopher Marrero, applicant, was sworn in. The Chairman stated the initial survey was submitted and an updated survey dated 8/22/15 was submitted. He asked Mr. Raimondi if it matches up with what is in the field, and Mr. Raimondi responded yes. The Survey was marked Exhibit A3. Mr. Lydon reviewed his report dated 4/7/15. It is a single family dwelling, with shed and in ground pool, in the R1 zone and is a permitted use. The applicant is requesting a variance to maintain the existing driveway. Based on concerns of the Borough about the appearance if its residential neighborhoods and the effect paving may have on flood conditions, limits are placed on width, size and locations of driveways. The applicant has apparently widened the driveway towards the

westerly property line. This is not compliant with the ordinance.

Chairman Martin asked why he needs the large driveway. Mr. Marrero said he purchased the house like this and received a Certificate of Occupancy. All he did was put down pavers. As far as the curb with and everything, it is the same way. He did not expand the driveway or pave more than what was there before. He added Belgium block. Mr. Martin referred to the photo and stated it appears the driveway was extended. Mr. Marrero said he did not extend the driveway. He picked off the pavement and cleaned it up. Mr. Martin said it should line up with the existing curb.

Mr. Raimondi asked Mr. Marrero if he has any proof that the situation was as he stated at the time he bought the house. Possibly the home inspection shows some photos. Mr. Raimondi measured the 2006 survey and the current survey. 2006 shows it narrower. Mr. Martin suggested approving the width as wide as the curb is cut and having the driveway match the curb width. A discussion ensued. He should move the Belgium block over to align with the curb. Ms. Austin requested the Board discuss and address the requirements for the C1 and C2 variances and state whether Mr. Marrero meets the criteria. Mr. Martin commented he did not see any hardships. The driveway is wide enough to accommodate the cars. Mr. Harper commented the expansion does not support the goals of the ordinance.

A motion that the driveway be permitted to be 22' wide, not the current 25' wide, and that the 3' over expansion be matched to meet the curb cut was made by Eric Oakes. Mr. James seconded the motion. On discussion, Ms. Austin advised she would consult with Mr. Rutherford to make sure it is properly addressed in the Resolution, since this requires the applicant to remove a portion of the driveway. Mr. Raimondi noted he will have 13' past the garage. Conditions are 22' wide, line up with curb cut on the West side, and the allotment of the expansion going up against the house 13' is okay. The survey is to be updated to show the new location as described in the Resolution. Mr. Lydon commented it is granting the applicant a variance as well as reducing the width. On roll call vote, all members voted yes.

3. Westgate - WW Madison Realty, LLC, and 11 Madison Realty, LLC, 11 Madison Avenue, Block 806, Lot 4, and 37

Irvington Street, Block 806, Lot 2 - Amended Site Plan and Application for Amended Approval - John J. Lamb, Esq. represented the applicant. Carmine R. Alampi, Esq. represented an interested party. Mr. Alampi advised he appeared on behalf of the objectors. Mr. Steier is now under contract and has established standing. The Board Planner, Steve Lydon, recused himself, stepped down from the dais and departed. The Board's substitute planner was on vacation. Mr. Lamb requested proof as to standing. Mr. Alampi represented he has a signed contract and requested proofs from Mr. Lamb which he did not receive. He would send the signed contract to the Board Attorney for an in camera proceeding and not send it to Mr. Lamb. Mr. Lamb objected. He wants to see the contract signed along with the financial information. He wants to see if there are contingencies in the contract. Further, Mr. Alampi never asked for a copy of a contract, but did make an objection, which was addressed in his letter of 9/4/15. Mr. Martin said he would like to hold this issue in abeyance until the next meeting, so that Mr. Rutherford can review and advise.

Mr. Lamb requested to speak about a special meeting. October 19th was considered. Board Members comments were not in favor of more special meetings. Mr. Lamb tried to say that the Borough is losing money if this application is postponed. That is not a reason, Mr. Martin stated. Mr. Lamb stated the substitute planner is available on that date. A motion to grant a special meeting on 10/19/15 for this application only was made by Mr. Oakes, seconded by Mr. James and carried. Mr. Harper voted no. Mr. Lamb requested to also be carried to 10/5/15. Mr. Harper requested to not hear this application on 10/5/15. Mr. Alampi had an issue with the notice. The matter was carried to a Special Meeting on 10/19/15; Notice to be published;

4. 90 Center, LLC, 90 Westwood Avenue, Block 807, Lot 20 - Sign Variance - Carried to 11/9/15 Regular Meeting;

5. Care One, 300 Old Hook Road, Block 2001, Lot 64.01 - Carried to 9/21/15 meeting - Carried to 10/5/15;

6. Stringer, 103 Mill Street, Block 402, Lot 13 - Interpretation of the Zoning Map/Non-conforming Use - Nancy Saccente, Esq. represented the applicant and submitted the publication documents, which were found to be in order. Grace Stringer, owner/applicant, was sworn in. Ms.

Stringer applied for a CCO for her closing and found that Westwood requires a garage to be used as such. She was seeking a Section 68 Certificate. Ms. Stringer converted the garage to a pool cabana. Mr. Martin advised the zoning changed in 1978, and this was converted prior to that date. It is a pre-existing non-conforming use. She purchased the house in 1950. The size is 60 x 150. A single family home and detached garage existed. The 1950 survey showed same. The fence goes around the pool. She never used the garage to park cars. Her husband installed a bathroom in 1970. The pool house was always used as such. An in ground pool permit was taken out in 1988. There was a fire in 1993. She applied for a permit to repair the damage. Everything was destroyed. In 2005 she paved the driveway. In 2010 they replaced the fence. She is under contract to sell her house and the closing is in October. Chairman Martin asked about the fence and noted the conversion of the garage to a pool house occurred prior to the requirement to have a garage. Since that time she pulled numerous permits, and the Borough was aware there was no garage, but a pool house. In fact, they met at the pool house. Mr. Hartman asked if it was heated. It was not, and there was no stove. Just in the pool house there is a toilet, sink and a refrigerator. It cannot be occupied as a residence. There were no further questions and none from the public. Ms. Saccente distributed the survey.

The next witness was Gail Ruman, applicant's daughter, who was sworn in. She lived there from 1957-1980. The pool was put in, and the garage was never used for cars. Since 1970, it was always used as a pool house.

The next witness was Maria Costello, a neighbor. She lived in the neighborhood for her entire life, since 1968. In the 1970's she was at the household and the pool house was in existence.

The next witness was James Gallagher. He lived at 104 Fifth Avenue from 1966-1982 and he bought his childhood home. He used the pool and the pool house.

There were no questions of the three witnesses and none from the public. Ms. Saccente showed photographs taken by Robert Battle, a family member, who was sworn in. The photos accurately depict the property as he has seen it. The photos were marked Exhibit A1 (a-d) and distributed. The deed and survey were saved from the fire

in the safe deposit box. All proofs were submitted. Ms. Saccente summed up and asked for a vote and approval since the next meeting will be after Ms. Stringer's closing on October 4th. Mr. Raimondi concurred and gave history on the requirement, and the change in the ordinance.

A motion for approval was made by Eric Oakes and seconded by Wayne Harper. On roll call vote, all members voted yes. Ms. Saccente appealed to the Board to approve a memorializing Resolution tonight as well. Mr. Martin consulted with Ms. Austin. She did not think it was a problem, but would advise tomorrow. The Board could approve the Resolution and sign it after. Ms. Austin gave a brief summary of what the Resolution would say. The approval is for a Section 68 Non-Conforming use with general conditions that normally apply. A motion for approval of the Resolution as verbalized was made by Eric Oakes and seconded by Wayne Harper. On roll call vote, all members voted yes.

10. DISCUSSION: None

11. ADJOURNMENT - On motions, made seconded and carried, the meeting was adjourned at approx. 11:00 p.m.

Respectfully submitted,

MARY R. VERDUCCI, Paralegal
Zoning Board Secretary