

**BOROUGH OF WESTWOOD
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
MINUTES
September 14, 2009**

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.

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

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL:

PRESENT: Raymond Arroyo
Guy Hartman
Dan Koch
Eric Oakes
Christopher Owens
Joseph Frasco, Vice-Chairman
William Martin, Chairman
Michael Bieri (Alt. #2)

ALSO PRESENT: David Rutherford, Esq., Board Attorney
Louis Raimondi, Maser Consulting, PA
Steve Lydon, Burgis Associates
Borough Planner

ABSENT: Robert Bicocchi (Alt #1) (excused absence)

4. MINUTES - The Minutes of the 7/6/09 Meeting were approved on motion made by Mr. Oakes, seconded by Mr. Arroyo and carried. The Minutes of 8/3/09 were carried to the next meeting.

5. CORRESPONDENCE: As listed on Agenda and read:

1. Letter from Louis A. Raimondi, dated 8/4/09 RE; Paragon Performance Estimate and Construction Escrow Fees;

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2. Letter from Donald M. Nemcik, Esq., dated 8/17/09 RE: Pompilio's Pizza, Inc., 221-223 Westwood Ave.;

3. Memo from Burgis Associates dated 9/2/09 RE: Gouraige/Marinaro, 75 Roosevelt Ave.;

4. Memo from Burgis Associates dated 9/3/09 RE: Pompilio's Pizza, Inc., 221-223 Westwood Ave.;

5. Memo from Burgis Associates dated 8/25/09 RE: St. Mark AME Zion Church, 100 Palisade Ave;

6. Letter from Louis A. Raimondi, dated 9/1/09 RE: Gouraige/Marinaro, 75 Roosevelt Ave.;

7. Memo from Robert Hoffman, Borough Administrator, dated 9/3/09 RE: James Strabone, Zoning Official, change in work hours;

6. VOUCHERS: A motion to approve vouchers totaling \$2,642.50 was made by Mr. Arroyo, seconded by Mr. Koch and carried unanimously on roll call vote.

7. RESOLUTIONS:

1. Paragon Federal Credit Union, Washington Avenue - Held until 10/5/09 (being reviewed by Mr. Zen and Board);

2. Kevin Seger, 56 Hillside Avenue - Certification of Non-Conforming Use - Mr. Rutherford read the Resolution of Approval into the record. A motion for approval of the Resolution was made by Mr. Arroyo and seconded by Mr. Oakes. and carried unanimously on roll call vote. On roll call vote, Mr. Koch, Mr. Koch, Mr. Arroyo, Mr. Hartman, and Mr. Martin voted yes. Mr. Frasco, Mr. Owens and Mr. Bieri were not eligible to vote.

8. PENDING NEW BUSINESS:

1. Gouraige/Marinaro, 75 Roosevelt Ave. - "C" Variance - Set for 10/5/09;

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

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS

The Board Professionals were sworn in.

1. Kevin Seger, 56 Hillside Avenue - Variance - Nancy Saccente, Esq. represented the applicant. The Public Notice was

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received, reviewed and found to be in order. The Section 68 Certification approval was received. Ms. Saccente reviewed the history, stating this application was held pending the foregoing certification. The six (6) variances applied for were as follows: A pre-existing for the maximum front yard setback, 38.6' existing where 35' is required; pre-existing variance for height of retaining walls for 18" or 4', which is permitted and existing, except that in two points closest to the house it is 4.5'; pre-existing condition of the shed on the side yard; two accessories where one is permitted for two sheds; and lastly pool in side yard and spa in side yard. Color photographs were submitted.

Kevin Seger was sworn in and testified he owned the property since 1997 and that he made various improvements to the property, including the deck, pool and spa, all with a permit, but the Building Inspector issued a violation for the deck, pool and spa while inspecting for the work being done. The permit dated 6/19/09 signed by Mr. Strabone for replacement of retaining wall was marked A1. Location Survey by Lopatka Associates, dated 10/1/97 was marked A2. This survey was from his closing in 1997. The 20 Photographs Set was marked A3 and described by applicant and Ms. Saccente. Two additional, separate photos A4 and A5. Two sheds were being used and necessary for storage. Applicant stated he also has a two car garage, where he stores tools and his cars.

Questions from the Board followed. Mr. Oakes asked if he intended to move anything to eliminate some of the variances, suggesting moving the pool and spa to a conforming location, such as the yard. However, Mr. Seger responded, there was no yard except for a patio. Chairman Martin suggested leveling some of the property to properly placed the above-ground pool into a conforming location, or remove the pool, deck and spa. Ms. Saccente advised that is what they are here for. Mr. Seger stated he also did not have the money to excavate and the above-ground pool is not the highlight of the property. Mr. Raimondi asked how close to the neighbor's house is the pool. Mr. Seger felt it was about 20', and Ms. Saccente responded the pool is behind the neighbor's house, which is close to the street. Further the trees are evergreens. Mr. Martin noted if he applied for a permit he would have had to choose a different spot for the pool anyway. He would recommend placing them in a conforming area. Mr. Frasco agreed and commented he should

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eliminate the variance. Mr. Arroyo suggested coming back with a reconfigured plan. Mr. Bieri commented the pool and spa were placed in view and where they should be on the site, not up on the hill, and perhaps there is some give and take as Mr. Arroyo suggested. Mr. Oakes suggested moving the pool closer to the patio without disrupting the patio or walkway and not too close to the dwelling could work well. The spa could easily be moved. Mr. Arroyo suggested him getting closer to the 15'. Ms. Saccente advised they appreciated the comments and would discuss same and come back. Mr. Raimondi recommended getting the distance of the neighboring houses. Mr. Martin stated they would be carried to 10/5/09. Mr. Lydon commented there was an additional variance for width of the driveway.

The matter was carried to the 10/5/09 meeting with no further notice. An extension of time was granted by Ms. Saccente.

2. J. LaDuca, 80 Ash Street - Appeal - Incomplete/Carried to 10/5/09 with notice to be sent;

3. P. Petrina, 118 Third Avenue - Variance - Carried to 10/5/09 at request of applicant;

4. Borduin, 325 Lafayette Avenue - Application for Certification of Non-conforming Use - No appearance by applicant/carried to 10/5/09;

5. Bohan, 567 Lafayette Avenue - Variance - No appearance by applicant/carried to 10/5/09;

6. Pompilio's Pizza, Inc., 221-223 Westwood Ave. - Variance for Expansion - Donald Nemcik Esq. appeared with plans to be submitted to Board at hearing. Vincent Benanti, applicant's architect, asked questions and for guidance as to how to proceed with respect to the Historic Preservation Committee per Beth Staples email provided by Mr. Martin concerning same, urging restoration of façade of building so it is cohesive with streetscape. The matter was carried to 10/5/09 for Board and Professionals review. No additional notice to be given.

7. New St. Mark AME Zion Church, 100 palisade Avenue - Minor site Plan application - Mr. Rutherford advised he spoke

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with applicant's attorney, Scott Berkoben, Esq., who did not publish - Carried to 10/5/09;

10. DISCUSSION: Board discussed reinstating docket numbers for the application and escrows. Mr. Martin suggested that the applicant's escrows must be made current prior to being heard and delaying the applications if they are in the negative. Mr. Raimondi is having a meeting on Wednesday with Mr. Hoffman and Councilwoman Waneck.

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

Respectfully submitted,

MARY R. VERDUCCI, Paralegal
Zoning Board Secretary