

**BOROUGH OF WESTWOOD
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
MINUTES
July 6, 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
Dan Koch
Eric Oakes
William Martin, Chairman
Joseph Frasco, Vice-Chairman
Christopher Owens
Robert Bicocchi (Alt #1)
Michael Bieri (Alt. #2)

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

ABSENT: Guy Hartman (excused absence)

4. MINUTES - The Minutes of the Special Meeting of 5/18/09 were approved on motion made by Mr. Arroyo, seconded by Mr. Koch, and carried. The Minutes of the 6/1/09 Regular Meeting were approved on motion made by Mr. Owens, seconded by Mr. Bicocchi and carried.

5. CORRESPONDENCE: As listed on Agenda and read:

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1. Letter from Maser Consulting dated 5/28/09 RE; Petrina, 118 Third Avenue;
2. Letter from Wilfredo Ortiz, Esq. dated 6/16/09 RE; Salerno, 175 Third Avenue (matter dismissed);
3. Letter from Maser Consulting dated 6/22/09 RE: LaDuca, 80 Ash Street;
4. Letter from Burgis Associates dated 6/25/09 RE: LaDuca, 80 Ash Street;

6. **VOUCHERS:** None

7. **RESOLUTIONS:**

1. **Albert's Westwood Cycle, 182 Third Avenue - Use Variance Approval** (Dan Koch and Eric Oakes recused) - 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. Owens and carried unanimously on roll call vote.

2. **Harold Keller, 16 Brookline Avenue - Application for 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.

3. **Pagliocca, 112 Third Avenue** - 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. Koch and carried unanimously on roll call vote.

4. **F&A Woodland Associates, 309 Kinderkamack Road - Use Variance** - Mr. Rutherford read the Resolution of Denial into the record. A motion for approval of the Resolution of Denial was made by Mr. Frasco and seconded by Mr. Oakes and carried unanimously on roll call vote.

8. **PENDING NEW BUSINESS:**

1. **J. LaDuca, 80 Ash Street - Appeal** - Set for 8/4/09;
2. **Petrina, 118 Third Avenue - Variance** - Set for 8/4/09;
3. **Borduin, 325 Lafayette Avenue - Application for Certification of Non-Conforming Use** - Set for 8/4/09;

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

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS

The Board Professionals were sworn in.

1. Paragon Federal Credit Union, Washington Avenue - Updated Plans - Mr. Zenn reviewed the changes to the plans per the last Board meeting. Mr. Raimondi advised he met with Mr. Napolitano, and he submitted a new plan dated 6/30/09. Mr. Raimondi reviewed his report dated 7/6/09 in detail based on these updated plans. Mr. Napolitano was present. More clarification and details were needed. Mr. Koch suggested having the Historic Preservation Commission review the plans and issue a memo for discussion by the Board. Mr. Oakes and others expressed concern about the delay to the applicant in awaiting the Historic Preservation Commission's review. There were no further questions of the witnesses. Mr. Zenn advised they would be committed to the approval by the Historic Preservation Commission. Mr. Rutherford advised an approval could be granted subject to same. Mr. Raimondi asked if the Bergen County Planning Board approved the connection. Mr. Napolitano responded he did not receive anything from them yet.

Questions, comments and concerns by Board Members followed. A suggestion was made to remove the stockade fence detail. Mr. Martin suggested leaving it to the Historic Preservation Commission to see what should be repaired and replaced. Mr. Zenn commented they need to see if it made sense from a cost approach. Mr. Koch expressed concern that the Historic Preservation Commission has not defined or what they want to see this house look like. He recommended the Commission review this and come back to the Board with its input. Mr. Martin commented the suggestion is a good one.

The matter was opened to the public for questions of the witness. Laurie Charkey and Mark Becker questioned the traffic studies. Brian Dempsey, Traffic Engineer, was present to address the questions. Mr. Zenn pointed out there was significant discussion about this with a review by the Police Department. Mr. Dempsey explained there would be no left turns permitted out of the driveway onto Washington. There was extensive testimony a few months ago for approximately one and one-half hours. Ms. Charkey and Mr. Becker asked what they were planning to do to offset the removal of the trees from the site.

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Albert M. Demerick, Licensed Landscape Architect, was sworn in, qualified and accepted. He testified that the Norway Maples would be replaced with Red Maples, which are more desirable. They are keeping the large trees to the East and left side and are waiting to hear from the Shade Tree commission as to additional fill. There were no further questions of the witnesses.

The matter was opened to the public for comments, but there were none.

Mr. Zenn summed up his presentation and thanked the Board for its time. He set forth and summarized the changes and asked for approvals by the Board subject to the conditions agreed to, including a review and approval by the Historic Preservation Commission, and if in disagreement, they would return to the Board; and approval of the variances.

On discussion by Board Members, Mr. Oakes commented all conditions and wording by the Board's Engineer this evening should be kept in mind. Mr. Arroyo suggested a condition that applicant affirmatively agrees to abandon the residential use in the historic structure. Mr. Rutherford read from his list of conditions, including applicant complying with the conditions of approval for use and all testimony this evening that the residential use is abandoned. The Board Members commented favorably. Mr. Martin commented the bifurcated use was approved last Fall. The negatives have been turned into positives, and he complimented them on their design and stated it ties in with the historic structure and adds to the streetscape in a positive way. There were no further comments. The Chairman called for a motion.

A motion for approval was made by Mr. Frasco and seconded by Mr. Oakes, with conditions as noted. On discussion, Mr. Owens commented he would have liked to see the three houses remain. There were no further questions, comments or discussions. On roll call vote, all members voted yes. Mr. Biccocchi was not eligible to vote.

2. Liberty Associates, 225 Kinderkamack Road - Application for Certification of Non-Conforming Use - Robert J. Mancinelli, Esq. represented the applicant. Gregory Van Cleef, Principal Partner of Liberty Associates, residing at Graney

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Drive, River Vale, NJ. The exhibits were marked. He purchased the property in 1977, and since that time the property has always been used as a two-family home. Photos were taken approximately five months ago. Mr. Martin commented Mr. Mancinelli's package is very complete and compelling for his case and recommended proceeding with questions from the Board. Mr. Van Cleef stated one tenant has been living there since 1975 and another for 25 years. He never lived there himself. No further questions from the Board and none from the public. A motion for approval was made by Raymond Arroyo and seconded by Dan Koch. On roll call vote, all members voted yes, with Robert Biccocchi abstaining.

The Board took a recess from 10:10-10:20 p.m.

3. Jack Riggi, 27 Lester Avenue - Variance approval - William Martin recused himself and stepped down from the dais. Joseph Frasco chaired the meeting for this application. Robert Zampolin, Architect, was sworn in, qualified and accepted. He presented a photo board with three photographs of the subject property. The purpose of the addition is for a new master bedroom suite on the second floor and a family room on the first floor. Two variances are being requested; one for the combined side yard setback, a pre-existing condition. Additionally, they are seeking a small variance for lot coverage, wherein 22% is allowed, and they area seeking 22.48%. He discussed the roof line, with a slight height increase. Mr. Zampolin gave details of the plans. The exhibit was marked A2.

Mr. Raimondi referred to his report of 5/11/09 and requested a survey. Mr. Zampolin advised they dropped one off at Borough Hall and could submit another. Mr. Riggi stated he also brought the survey to the Building Department. Mr. Lydon noted Mr. Zampolin needed to put his proofs on the record as to the variances. Mr. Zampolin recited the positive and negative criteria in support of the variances requested. A visual buffer is created by this addition for the apartments, in keeping with the bulk requirements for height. The FAR allows 40%, which allowed a structure 3,750 sq. ft. This building is less than 3,350. sq. ft., significantly lower, and does not affect the light and air characteristics. Mr. Lydon reviewed Mr. Zampolin's testimony regarding the three purposes of the MLUL land use that would be furthered: creating a more modern dwelling, more desirable visual environment for the neighbors so they do not

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see the apartments, and preservation of light and air. He inquired about a reduction in the impervious coverage.

The matter was opened to the Board for questions. To remove the cantilever would bring them down 3'. There were no questions from the public.

Mr. Zampolin's testimony was complete, followed by Board discussion. He would provide an updated survey to show the fence if required. Mr. Raimondi suggested flipping the side yards, i.e., 15.3' on the garage side and 10' on the building side. Also, the fence is to be added. Mr. Frasco commented if he could have the plans amended to show these changes.

Vice-Chairman Frasco commented the matter was carried to the next meeting. Mr. Hartman commented he did not like to see the applicant delayed for the survey. Mr. Rutherford suggested preparing the Resolution for next month, and they would not lose any time. Mr. Rutherford stated he would incorporate the dates into the Resolution.

The matter was carried to the 8/3/09 meeting with no further notice.

Chairman Martin stated he would remain in the audience, and Vice-Chairman Frasco could chair, since there was a full complement of seven, and the alternates would get a chance to participate fully.

4. Kevin Seger, 56 Hillside Avenue - Variance approval - Nancy Saccente, Esq. represented the applicant. Mr. Rutherford reviewed the publication documents and found them to be in order. A question arose as to the whether the home is a one or two family home. One of the Board Professionals had requested the status be determined. Ms. Saccente advised the applicant would be filing for a Section 68 Certificate; however, at present their application before the Building department requires them to come before the Board. Mr. Frasco questioned whether they should appear as a one or two family. Applicant's position was that it is a two-family, but they have not gotten proper approvals. They do have proofs necessary for the approval. Mr. Frasco deferred to the Board Attorney. Mr. Rutherford advised the application is based on an expansion of a non-conforming use. Ms. Saccente advised their pool application

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requires a side yard setback. Mr. Frasco commented it was too borderline and recommended declaring it as a two-family status. Mr. Rutherford advised there could be a D2 variance as well as a Section 68 Certificate. Mr. Frasco felt the certification was necessary before moving forward and polled the Board. The Board agreed. Ms. Saccente asked if the application could be combined, and Mr. Rutherford advised yes and to include the pool in the notice. The matter was carried to 8/3/09 with renote and republishing required.

Mr. Martin returned to the dais.

Mr. Owens will have an excused absence for the 8/3/09 meeting.

10. DISCUSSION: None.

11. ADJOURNMENT - On motions, made seconded and carried, the meeting was adjourned at approx. 11:55 p.m.

Respectfully submitted,

MARY R. VERDUCCI, Paralegal
Zoning Board Secretary