

**BOROUGH OF WESTWOOD
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
MINUTES
March 1, 2010**

APPROVED 4/5/10

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: Christopher Owens
Eric Oakes
Michael Bieri
Raymond Arroyo, Vice-Chairman
William Martin, Chairman
Robert Bicocchi
Guy Hartman
Vernon McCoy (Alt #1)
Matthew Ceplo (Alt. #2)

ALSO PRESENT: David Rutherford, Esq., Board Attorney
Eve Mancuso, appeared on behalf of
Louis Raimondi, Brooker Engineering,
Board Engineer
Steve Lydon, Burgis Associates,
Board Planner

ABSENT: None

4. MINUTES - The Minutes of the 1/11/10 were approved on motion of Mr. Oakes, seconded by Mr. Arroyo and carried on roll call voted. The Minutes of 2/1/10 and 2/22/10 were tabled to the next meeting on motion of Mr. Arroyo, seconded by Mr. Oakes and carried on roll call vote.

(WWZB 3/1/10)

5. CORRESPONDENCE:

1. Letter from Burgis Associates, dated 2/17/10, RE: Keynton;
2. Letter from L. Scott Berkoben, Esq. dated 1/19/10 RE: Fahie;
3. Letter from L. Scott Berkoben, Esq. dated 2/23/10 RE: Keynton;

6. VOUCHERS: Mr. Martin stated he received an explanation and was able to sign the Purchase Order for \$1,200., which represents a running total of advertising costs for the Boards that gets carried over to the next year if not used. A motion to approve the said P.O. in the amount of \$1,200.00, was made by Mr. Owens, seconded by Mr. Biccocchi, and carried unanimously on roll call vote. A motion to approve Vouchers totaling \$618.75. was made by Mr. Arroyo, seconded by Mr. Biccocchi, and carried unanimously on roll call vote.

7. RESOLUTIONS:

1. **Anthony Frasco, 268 David Hooper Place - Section 68 Certificate** - Board Attorney Rutherford read the Resolution of Approval into the record. A motion for approval was made by Mr. Bieri and seconded by Mr. Arroyo. On roll call vote, Mr. Biccocchi, Mr. Bieri, Mr. Arroyo, Mr. Oakes, Mr. Owens, Mr. KcKoy, and Mr. Martin voted yes.

8. PENDING NEW BUSINESS:

1. **Retro Fitness** - application received; not scheduled;

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

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

1. **Pompilio's Pizza, Inc., 221-223 Westwood Ave. - Variance for Expansion** - (Steve Lydon recused; David Spatz to be Substitute Planner) - Scheduled for a Special Meeting on 3/8/10

(WWZB 3/1/10)

2. New St. Mark AME Zion Church, 100 Palisade Avenue - Minor site Plan application - Carried to 4/5/10 at the request of the applicant, per letter of L. Scott Berkoben, Esq., with time extension - Mr. Lydon noted the application has been deemed complete and the time clock has been running. Therefore, an extension of time may be necessary. Mr. Rutherford would advise Mr. Berkoben that the matter would be carried with the understanding that the applicant consents to an extension.

3. Keynton, 27 Hillside Avenue - Variance application - Carried to 4/5/10 at the request of the applicant, per letter of L. Scott Berkoben, Esq. with no additional notice required;

4. Fahie, 60 Westwood Boulevard - Application for Certificate of Non-conforming Use - Carried to 4/5/10 at the request of the applicant;

5. Porqui Pas, 31 Westwood Avenue - Appeal/Variance Application - Carried to 4/5/10 at the request of the applicant; Mr. Lamb forwarded a letter requesting an adjournment since he has not yet noticed and the application is being amended

6. Chou, 102 Lake Street - Section 68 - Mr. Rutherford advised he received the application and notices. He explained to the applicants that any action the Board takes should be subject to receipt of an Affidavit of Service. Mr. and Mrs. Chou were sworn in and testified they purchased the property in 1985 as a two-family home, and it has continuously been used as a two-family and rented out as such since that time. All utilities are separate, with separate meters. Mr. Arroyo commented the tax records confirm it has always been a two-family house. There were no further questions comments or discussions from Board Members and none from the public. A motion for approval was made by Mr. Hartman and seconded by Mr. Oakes, subject to receipt of the Affidavit of Service. On roll call vote, Mr. Biccchi, Mr. Bieri, Mr. Arroyo, Mr. Hartman, Mr. Oakes, Mr. Owens, and Mr. Martin voted yes.

7. Apovia Westwood LLC, 224 3rd Avenue - Variance - Incomplete; Mr. Rutherford advised a letter was received; they have not yet noticed - carried to 4/5/10 at the request of the applicant

(WWZB 3/1/10)

8. CVS, 289 Broadway - Application for Development

(Christopher Owens recused) Christopher Owens recused himself and stepped down from the dais 8:22 p.m. Carmine R. Alampi, Esq. represented the applicant and submitted David Caruso, Engineer, previously sworn, for a brief update on his conversations with Mr. Raimondi on 2/25/10 at Borough Hall, regarding his reports and cleaning the existing drainage facilities. He will continue to be in touch with Mr. Raimondi. Further, Mr. Caruso stated, there is a possibility of widening the sidewalk area between the parking lots. Mr. Martin asked if the entrance could be pushed in somewhat as well and if the updates would be documented in time for the architect's testimony. There were no further questions from the Board of the site engineer, Mr. Caruso, at that time.

The matter was opened to the public for questions of Mr. Caruso. Otokar von Bradsky, Westwood, came forward and asked how much of a study did he make regarding the safety issue concerning a drive-through entering into heavy traffic. Mr. von Bradsky was advised that the traffic engineer, who was going to testify next, would be best suited to answer that question. Kevin Funabashi, 30 Westwood Avenue, Westwood, came forward, but then indicated he would hold his questions for the applicant's planner, who would be testifying at a future meeting. There were no further questions of the witness.

Duane Nelson, Fieldcrest Avenue, Edison, NJ was sworn in, qualified and accepted as an expert in Traffic Engineering/Traffic Impact. Mr. Nelson prepared a Traffic Impact Study, marked A5, prepared January, 2010, last revised February 2010. Mr. Alampi questioned the witness as to his report, broken down into different sections, i.e., Introduction, Existing Conditions, Future Conditions, and Traffic Operations Analysis. On Broadway and Washington Avenue is the heart of the CBD, which is approximately 500' from the subject site. For the trip generation, he relied on data compiled by the Institute of Transportation Engineers (ITE) Trip General Manual. Automatic Traffic Recorders (ATR) were also placed on all approaches to the subject intersections to record hourly traffic volumes along each roadway. The Study Areas were the intersections of: Broadway and Jefferson Avenue/First Avenue; Broadway and Westwood Avenue/Washington Avenue; Broadway and the proposed Site Driveway; and Jefferson Avenue and the proposed Site Driveway. Manual turning movement traffic counts indicate that

(WWZB 3/1/10)

there are distinct hours when traffic experiences its highest levels at the subject intersection. Based on the manual traffic count data collected, the following peak hours have been identified: Weekday afternoon peak hour was 3:30 p.m. to 4:30 p.m. and Saturday midday peak hour was from 11:15 a.m. to 12:15 p.m. Traffic volume data was collected from Thursday, 12/17/09 through Tuesday, 12/22/09. Levels of Service (LOS) go from "A" being the best, through "F", depending on the amount of delay. An acceptable of waiting time for delay due to traffic signal or otherwise, would be a "C" or "D" range, 30-40 seconds. The Broadway intersections in the Study Area indicated a "C" level of performance presently. The train affects the operation of the intersection of Jefferson and Broadway. The report sets forth the Level of Service Analysis for each of the intersections, reciting the present and proposed levels of service.

Based on trip generation study, Mr. Nelson's opinion was that CVS traffic will not have an adverse impact on the level of service. CVS will add additional traffic through these intersections, but would not trigger any delays. During the peak hour, the activity level of the CVS is 130 vehicle movements from the entire site and all intersections. Mr. Alampi asked how much is new traffic and how much is existing. Mr. Nelson stated that for the proposed CVS, roughly 50% of the traffic is "pass-by traffic", meaning traffic already passing by, which stops and continues in the same direction; 50% of the traffic would be new traffic. The lowest level is Broadway and Jefferson, the immediate intersection. The witness referred to the first sheet, entitled "Broadway and Jefferson Avenue/First Avenue, Weekend Traffic Counts Summary", as being the busiest time period, with counts between the hours of 11:00 a.m. to 2:00 p.m. on Saturday being shown in the table. Traffic will increase slightly at the intersections.

Mr. Nelson also reviewed the traffic signals and noted the County is working on a project to change signalization due to the train. He reviewed the Site Plan with the Site Engineer and is satisfied with the ingress and egress positions. In his Tables 4 and 5, he did an analysis of the site driveway, traffic flow and traffic exiting the site. He elaborated on how envisioned the drive-through lanes to operate. They estimated the usage, noting that use of CVS drive-throughs is usually light. The reason they use a two-lane drive-through is for

(WWZB 3/1/10)

customer service and did not see any adverse situation. Most CVS buildings in Bergen County are free-standing and not in shopping centers. In the latter, it would be hard to quantify the vehicles coming and going for CVS specifically. In the CVS locations at Teaneck, the drive-through is a single lane, and at Rochelle Park and Cresskill, both are double, all with by-pass lanes. Mr. Nelson said he does not see difficulty with not having the drive-through lanes, because it's usage is very light, usually having no more than 10 vehicles per hour.

Mr. Nelson concluded with discussion of his studies and described the parking. The proposed parking supply is expected to adequately accommodate anticipated demands. There is ample parking on site, as well as the ability to use the municipal parking lot, and on street parking is in close proximity, roughly 500 feet away. He stated he was satisfied he addressed all issues in his report and testimony.

The Board took a recess from 9:33 p.m. to 9:43 p.m.

Questions by the Board followed. Eve Mancuso noted on the plan that typically, you have the option to re-circulate on site, since you cannot make the right hand turn go all around the building on the street and come back in. Mr. Nelson did not think it would be difficult or inconvenient. Asked if there are other CVS with the same traffic pattern, he responded no. Referring to Pages 1 and 2, Ms. Mancuso questioned the analysis and asked if it were reasonable for a person to wait the extra time. Ms. Mancuso also asked if the queue would be backed up by not being able to turn out when the light is red. Mr. Nelson commented he did not see it as a major impact. Mr. Nelson also noted only one or two cars are making a left turn in.

Mr. Lydon asked if he did counts at the drive-through lanes, and Mr. Nelson indicated he did. Mr. Lydon asked how the driveway being blocked as stated for about one or two minutes not affect the operations on site. There is an equal chance to show up when it is not blocked. Mr. Lydon asked what kind of weather there was on the date of the traffic count. Mr. Nelson responded there was a major snow storm that started later that afternoon after the counts were concluded. Mr. Lydon inquired if the snow alert would have affected the traffic. Mr. Nelson said in this case it did not. Mr. Lydon continued with questioning.

(WWZB 3/1/10)

Mr. Oakes asked about the main bus route and if he counted how many busses came through. He asked Mr. Nelson to point it out in the report. Heading up Jefferson making a right onto Broadway is the important question. Mr. Nelson pointed out in the Summary he shows 7% was either truck or bus traffic during the week, and on Saturday it was 2%. From that it was four to six busses during the peak hour. Mr. Oakes was concerned that the bus driver will not be able to see the cars coming out of the drive-through due to the line of sight. He wanted to know if having the Fire Department at two of the exits impacted his study, and the response was no.

Mr. Hartman asked what is the traffic generation for the current CVS vs. the proposed site. Mr. Nelson responded usually a CVS of the same size would generate the same amount of traffic. Mr. Bieri asked, as the driver is coming out of the proposed drive-through, did he take note of the line of sight as it relates to pedestrians, since the cars exit through an alleyway. Mr. Nelson said yes, creating a sight triangle, it does include the sidewalk in both directions, so any pedestrians in that area would be visible to the driver. Mr. Bicocchi asked if the traffic count numbers change when the weather changes. Mr. Nelson said the shopping downtown seems to increase it. Mr. Nelson said the existing CVS had counts done in May, and it was the same. Mr. Ceplo asked if it would be safer to have the drive-through reversed. Mr. Nelson stated not specifically, and the most important aspect is that someone coming out from a stopped position may be better than someone turning in. It could be essentially the same either way from a safety aspect as far as conflict between vehicles and pedestrians. Mr. Arroyo followed up on that issue. He asked if Mr. Nelson was aware that the Master Plan states that drive-throughs are prohibited in the CBD Zone, because the Master Plan is trying to promote pedestrian access.

Mr. Martin asked if having a by-pass lane is better to have than not, and Mr. Nelson answered yes. In terms of having one or two drive-through lane, but it seemed to him if it is important to have a by-pass lane, it makes sense to have one drive-through lane, Mr. Martin added, and to prohibit vehicles from cutting through, you could add speed bumps, at the same time making it safer by slowing vehicles down to a slower pace coming out of that driveway. Mr. Nelson would take it under advisement. Mr. Martin did not see anything in the report about

(WWZB 3/1/10)

vehicles entering from or exiting onto Center Ave. Mr. Nelson said he tried to focus on Jefferson, and the impact from Center would be less. Mr. Martin asked if any traffic in the report is from Center, and Mr. Nelson said 15%. Mr. Martin felt an analysis of the traffic and the levels of service would be important and should be added as a supplement to his report. Also, he asked for statements addressing the impact of emergency vehicles and how long it takes to return to normal flow. Mr. Nelson agreed.

The matter was opened to the public for questions of the Traffic Engineer. Otokar von Bradsky asked considering the traffic on Broadway passing the location of the drive-through, does he consider having a drive-through in this location, a safety aspect. Mr. Nelson responded there is a certain period of time when traffic flow is lower and a right turn only out will mean that someone will not have to navigate traffic from both directions. To conclude, he said, it is not a dangerous situation.

Kevin Funabashi asked if he was familiar with the area and bus routes passing by and if traffic could back up on Center Avenue. Mr. Nelson indicated he was familiar with the area and would provide his response. The County has a plan to improve and increase the radius at the corner. Mr. Funabashi was concerned about elderly pedestrians. Mr. Martin noted citizens using canes would have no way of knowing about the cars exiting at the driveway. Mr. Funabashi also had concerns about the cars backing up into the intersection.

Richard Bonsignore, 39 Terrace Drive, had a number of questions, but was confused about the numbers "six to eight cars per hour" at the exit drive--did CVS provide it from another development, and is that a total number per day that they evenly distributed over eight hours. Mr. Nelson said no, it was based on actual observations. The maximum amount of vehicles was six to eight an hour. For the entire day it was 20 to 30. Mr. Bonsignore noted there could be a high spurt during the early hours in the day due to the elderly and mothers with small children who usually come out in the earlier hours, and he inquired whether it could affect the traffic count.

(WWZB 3/1/10)

Gary Conklin asked if you could make a left into the Seville Diner, and if there is a problem stacking up there. Mr. Nelson responded there are no problems with same.

Mr. von Bradsky commented if the drive-through were eliminated, the building could be pushed back with more greenery added. Mr. Martin commented if the applicant were to eliminate the drive-through, we would lose jurisdiction, because that is why they are here before the Zoning Board. There were no further questions of the Traffic Engineer.

Mr. Martin noted the Traffic Engineer was complete, and that a supplemental report is forthcoming. Mr. Alampi stated they would provide the Board with a Supplemental Report. He requested a Special Meeting on 3/22/10. Mr. Rutherford would advertise. Mr. Lydon would make arrangements for a substitute planner, and Mr. Rutherford would have a substitute attorney on that date. Accordingly, the matter was carried to a special meeting on 3/22/10.

10. DISCUSSION:

1. Adoption of Procedural Rules & Bylaws for 2010 - A motion for approval and Adoption of the Procedural Rules & Bylaws for 2010, with the understanding that same may be amended at any time during the year, was made by Mr. Biccocchi, seconded by Mr. Arroyo and carried unanimously.

2. Mr. Arroyo suggested keeping a list of substitute professionals and their resumes on file if needed;

11. ADJOURNMENT - On motions, made seconded and carried, the meeting was adjourned at approx. 11:15 p.m.

Respectfully submitted,

**MARY R. VERDUCCI, Paralegal
Zoning Board Secretary**