

**BOROUGH OF WESTWOOD
PLANNING BOARD MINUTES
REGULAR PUBLIC MEETING
NOVEMBER 19, 2015**

APPROVED 12/3/15

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 Public Meeting** of the Planning 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: Robert Bicocchi, Councilmember
Daniel Olivier, Vice Chairman
Jaymee Hodges, Chairman
William Martin
Richard Bonsignore
Thomas Constantine
Ann Costello
Keith Doell (Alt. #1)
Yash Risbud (Alt. #2)

ALSO PRESENT:

Thomas Randall, Esq., Board Attorney
Kathryn Gregory appeared on behalf of
Ed Snieckus, Burgis Associates, Board Planner
Louis Raimondi, Board Engineer

ABSENT: Mayor John Birkner (excused absence)

The meeting of 11/5/15 Worksession Meeting was canceled due to lack of applications to process.

4. MINUTES: The Minutes of the 10/22/15 meeting were tabled to the next public meeting on 12/17/15 on motion made by William

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Martin, seconded by Dan Olivier, and carried unanimously on roll call vote.

5. CORRESPONDENCE:

1. Reports of Louis Raimondi dated 11/13/15 & 11/14/15 RE: 142 Westwood Avenue & 301 Center Avenue properties;

2. Letter from John J. Lamb, Esq. dated 11/10/15 RE: 142 Westwood Avenue & 301 Center Avenue properties;

6. RESOLUTIONS:

1. **Estate of Marion Joy Brussa, by Jaimie Rae Padilla, Executrix, 56 Cypress Street, Block 405, Lot 23 - Minor Subdivision** - The Board Attorney read the Resolution of Approval into the record. There were no questions, comments or discussions. A motion for approval was made by William Martin and seconded by Ann Costello. On roll call vote, all members voted yes.

7. PENDING NEW BUSINESS: None

8. VOUCHERS: None

9. VARIANCES, SUBDIVISIONS AND/OR SITE PLANS - NONE

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS

The Board Professionals were sworn in.

1. **142 Westwood Avenue & 301 Center Avenue - Block 808, Lots 3, 10, 16 & 17** - Chairman Jaymee Hodges stated before we hear the matter, there seems to be a question of where this application should be before the Planning Board or Zoning Board. **A discussion ensued.** Louis Raimondi, Board Engineer, submitted a report, and commented the building that is going to be split results in two buildings on one lot. The Land Use Ordinance states you cannot have two buildings on one lot, and you must have street frontage. That raises the question of whether this is the proper Board or whether it must go to the Zoning Board for a use variance. Jaymee Hodges stated we should hear from the Board Planner. Mr. Randall also stated that was his concern. There are two principal uses on one lot. Mr. Martin commented this is a worksession for this matter. Mr. Hodges confirmed same. We must straighten this out and then move forward.

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Kathryn Gregory, substituting as the Board's Planner, commented she had discussions with the Board Engineer, and the question is that the lot abuts another property, and the MLUL states there must be a street. The MLUL says it must have emergency access. The buildings are connected with a corridor between Lots 17 and 16. The back building does not have access to Westwood Avenue. Does this Board have jurisdiction to make this determination, she questioned, and she deferred to the attorneys to interpret and advise if there is any case law on the matter, and to determine what the threshold is to go to the Zoning Board. Mr. Randall advised when looking at the MLUL it is different from the general interpretation. It says the Planning Board could have jurisdiction over these matters, only if there is no Zoning Board in the town. It seems to keep the fronting of the street separate and with the Zoning Board. There are two buildings, yes, and they are tearing down part and they do not in any way communicate with each other. You must enter the back through the back of the building. Two buildings on one lot would need to go to the Zoning Board. If it is determined that it doesn't have to front on a street, it could come back here.

Board Members required more information. Mr. Lamb, representing the applicants, stated they understand the issues, but taking the building first, and if this is two separate buildings, he agrees only one principal building on one lot is permitted. They are prepared to testify they are knocking down approximately 2,500 sf of the rear of the building, and the buildings connect with a common corridor. You can go to the front portion or the back section. There is no space or separation. It is a single building, and they are prepared to provide proofs. If there was no corridor, it would be a separate building. Next, Mr. Lamb looked at whether there was a public access and in doing so, he did not want to go before the Zoning Board if he didn't have to. So if this is a single building, this building has access on Westwood Avenue via the corridor. There is an alleyway from Westwood Avenue to the rear, but that will be closed. They must also have an easement from Center Avenue through the Center Square parking lot so they have access to the public street. They have to have the easement for parking. They need the Center Square property for this to work. This is no different than a flag lot. Mr. Lamb continued. Essentially, if they need a variance, for access or a single building, the Planning Board can make the determination and

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grant the variance. Can the Planning Board make an interpretation, he noted Mr. Randall questioned. There are three cases in NJ that deal with Planning Board making such determination that was upheld by the Appellate Division. Mr. Lamb gave details of the cases. They have to have a permanent easement to Lot 3. Before he filed the application, he reviewed this in detail, as to whether there is public access, and they determined there was. He feels the Board is safe and can listen to the proofs.

The Board deferred to Mr. Randall. Mr. Randall stated the questions are whether the Board is comfortable to vote if this qualifies as a single building, whether it is comfortable with the issue of access and whether it satisfies the MLUL and ordinance for access requirements. Does the Board want to proceed, he asked. Mr. Raimondi commented he was interested in hearing from the architect as to how the buildings are going to be connected. Mr. Martin felt there was no issue as to this being two buildings. It is connected, and the current building is being reconstructed. It has access to Westwood Avenue. There are many buildings on Broadway that have access through the rear parking lot. Mr. Raimondi asked if someone comes in from Westwood Avenue can they go straight through to the rear building in case of fire or otherwise. Mr. Martin said it is one building with one access.

Mr. Bonsignore commented it is interesting Mr. Lamb stated we can use the power of interpretation of the Planning Board to make that decision, but yet there are no defined tenants that we are asking to give an approval on. The safety of pedestrians, location of the refuse, as well as deliveries are his concerns, and it can become an obstacle course. On one hand it is truly a guessing game--not knowing the tenants can have an impact on this. Mr. Olivier asked, in figuring if it is one or two buildings, and with the Planning Board's decision coming into play, how does the Board decide if it is one or two buildings. It is a legal issue. It would be nice if it were black or white as it is too great for him to say whether the Board has jurisdiction to make this decision. He defers to the attorney and professionals.

Mr. Bicocchi asked if the Zoning Official sent it here to the Planning Board. Mr. Randall advised Mr. Marini was not involved. Mr. Hodges asked Mr. Lamb if he determined he would

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bring it here. Mr. Lamb said he never goes to Mr. Marini. He identifies the variances on his own and files the application accordingly. There are a bunch of legal issues, to be addressed one at a time. It would be the same thing if they had a fire. They want to make the building more attractive. The plans show the buildings are connected. It is the same footprint. The ordinance says the single building must have access to the street. It has access to Westwood Avenue. Mr. Raimondi commented in case of a fire, the easement would allow the emergency access. Mr. Randall read from the MLUL.

Mr. Doell inquired about the deliveries as did Mr. Bonsignore earlier. This would be discussed during the review, he was informed. Mr. Doell was concerned that the Zoning Official did not yet review the application. Mr. Randall advised the burden is on the applicant if he is wrong in his determination. Mr. Constantine, Ms. Costello, Mr. Risbud and Mr. Olivier agreed it is one building. Mr. Doell was confused and abstained from an opinion. Mr. Bicocchi and Mr. Bonsignore considered it one building as well. Mr. Hodges also abstained with Mr. Doell.

Mr. Hodges asked the Planner if it was deemed complete. Mr. Gregory referred to her report on Page 2. She requested a zoning table for Lot 3. They are asking for waivers, and essentially she did not see a problem but wanted Mr. Raimondi's input for items 18-29. Mr. Raimondi advised he was reviewing her report, which he only received today. He would defer to testimony for now. The application was deemed complete.

A motion for approval for this to be considered one building was made by Dan Olivier, provided during testimony if it is determined to be two buildings instead of one, the approval does not stand. Attorney Randall advised Mr. Bonsignore stated we should be in worksession for this application. Mr. Bonsignore commented, with all due respect, I think we should banter amongst ourselves and give the Board the opportunity to put forth its questions and concerns. **We only received the planner's report this evening, Mr. Hodges stated, and Mr. Raimondi only received it a few moments ago. It was not received 10 days in advance.** Mr. Bicocchi knows about the Planning Board's tradition of worksessions, and he feels the gentlemen came here and the Board should hear the matter. The holidays are coming up, and we should go forward. **Mr. Doell**

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commented this is always his concern; we are always rushing through without having everything. It has happened more than once. He doesn't know where the structure is anymore. Do we do things on the fly, he asked. We have procedures set in place as guidelines to give Board Members a chance to review and digest the information. He did not get time to read all this information. We are just agreeing. Mr. Bonsignore agreed with Mr. Doell, stating he is absolutely on target. It has been a decaying type of procedure with pushing things through too quickly. He can give examples but won't. It is not in the best interest of Westwood, and the voices should be heard. That is the benefit of the worksession. With Mr. Bicocchi's statement, it is 9:00 pm, and it will be getting too late to hearing testimony now. Mr. Lamb asked the Board, let us start and give a flavor. Mr. Bonsignore suggested it is better for the Board to get its own flavor. He went through the packet, but did not think all the others did. There is a real meaning of a "worksession". Mr. Lamb appealed to the Board to hear them, being just a 500 sf building. Everybody would come back the next meeting, he offered. Mr. Bonsignore said they are asking for a lot more than just a 500 sf building. **Mr. Constantine asked if the submission was done within the time frame. Chairman Hodges responded no; we only received the planner's report on the dais now, and he recommended to at least go into a worksession in keeping within the rules.** Mr. Constantine recommended keeping with the rules of the worksession and reviewing all the submissions and coming back for the hearing.

Mr. Martin asked if they noticed for the meeting. Because of the somewhat unusual nature of the configuration of the building, the applicant would benefit from the Board's worksession. It would give the Board Members time to adequately review the information. The applicant would benefit from the comments of the Board. It would not add any time to the review, as we are not reaching a decision tonight. Mr. Lamb stated if the Board feels uncomfortable, they would agree. **It was agreed to proceed in a worksession for this application, not a public hearing.** The applicant's experts were released, and they departed.

The Board took a recess from 9:15-9:30 pm.

The Board continued in Worksession with discussion as to this application. The Board commenced on the review of the site

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plan. Mr. Raimondi discussed his report dated 11/4/15 as to safety of pedestrians. That is the main thrust of his report. Now that it is going to be a focal point for a store, he made a sketch for a walkway. The rest of the report deals with technical issues for the dumpster, which will be removed. Mr. Raimondi's second report dated 11/13/15 responded to Mr. Lamb's letter addressing his 11/4/15 report.

Ms. Gregory gave an overview. Her report was dated 11/19/15. Mr. Raimondi was more familiar with the site. She stated she is looking forward to hearing testimony from the applicant to make the access issues very clear.

Board Member discussion followed. Mr. Doell asked for a view of the rear of the building. Mr. Meisel noted the architect would bring the elevations, and the drawings were included in the architect's plans. The excess height shown will be eliminated and will be 18'4" lower. Mr. Bonsignore expressed concern about traffic and what type of tenants would be in the two stores in the rear and the second floor. He was not concerned about the stores on Westwood Avenue. He was also concerned with deliveries. The store is not level with grade. Mr. Meisel had explained to him there would be a few steps. He had some questions on the architectural plans. On the site plan he asked about the set of stairs shown. Lastly, on the stage loft that is being demolished and replaced by a new building, he sees the material only extends to the stage loft and questions why. Mr. Meisel asked if he could speak and wondered if Mr. Bonsignore was concerned about it being a food use. Mr. Bonsignore was concerned about that. Mr. Meisel was prepared to put on record that he would not put a food use on the first floor unless he came back to the Board. The second floor would not be retail. Mr. Bonsignore would like if any of the tenants are food use, he would have to come back to the Board. Mr. Meisel said he already had three food uses, and a fourth would not be proposed. Mr. Lamb would send a letter confirming no food use. Ms. Costello asked to see the building elevations on the drawings.

Mr. Martin noted it is difficult to read the plan and suggested the site plan and floor plan be laid out all on one page as a supplemental sheet. The dumpsters are being relocated, and the area is being neatened up. Mr. Meisel noted the mature trees are being preserved. Mr. Martin commented providing the

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impact of the use is not overly intense, as mentioned by Mr. Bonsignore, it is a good building. Mr. Meisel said it is very hard to rent a store more than 2,000 sf, and going back more than 70' in depth for a store is obsolete. The rear of the building is basically unusable in its present state. Mr. Hodges reviewed the plan as to whether they can get their fire apparatus in there. Mr. Martin said they have to have a fully sprinklered building. Mr. Zampolin is to confirm this. Mr. Hodges commented it seems to be in order. The size and location of dumpsters are to be reviewed in detail. Mr. Hodges commented it appears to be a great project. Mr. Gregory questioned whether there would be a variance for the setback.

Mr. Hodges stated all Borough Departments would need to review the plans and provide comments. Mr. Hodges would follow up. There were no further comments.

The matter was set for public hearing on 12/3/15.

10. DISCUSSION:

Brief discussion by Chairman Hodges:

1. **COAH** - No updates;
2. **Streetscape** - It was noted that if any trees are damaged they will be replaced in the spring. Lights will be able to be placed on the trees. Per Mr. Meisel in the audience, the project was paid for by the property owners;
3. **Vertical Signage** - No updates;
4. **Overnight Parking** - This has been banned in the Borough.

11. ADJOURNMENT - On motions, made seconded and carried, the meeting was adjourned at approximately 10:20 p.m.

Respectfully submitted,

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