

**BOROUGH OF WESTWOOD
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
MINUTES
June 9, 2014**

APPROVED 7/7/14

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
Matthew Ceplo
Guy Hartman
Chris Montana
Marc Truscio (Alt #1)
George James (Alt #2) (departed 9:20 pm)

ALSO PRESENT: David Rutherford, Esq., Board Attorney
Not Required:
Louis Raimondi, Brooker Engineering,
Board Engineer
Steve Lydon, Burgis Associates,
Board Planner

ABSENT: Vernon McKoy (excused absence)
H. Wayne Harper (excused absence)
Eric Oakes, Vice Chairman (excused
absence)

The following Members were sworn in:

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Wayne Harper was appointed as a Full Member
Marc Truscio was appointed as Alternate #1
George James was sworn in as Alternate #2

4. MINUTES - The Minutes of the **5/5/14** meeting were approved on motion made by Mr. Montana, seconded by Mr. Hartman, and carried unanimously on roll call vote. Mr. James was not eligible to vote.

5. CORRESPONDENCE:

1. Letter from Louis Raimondi, dated 5/19/14 RE: Roche;

2. Letter from Carmine R. Alampi, Esq., dated 5/21/14, withdrawing the application of MVJ Holdings, LLC, without prejudice;

3. Letter from Steve Lydon, dated 5/229/14 RE: Roche;

4. Letter from Louis Raimondi, dated 5/27/14 RE: 39 Kinderkamack Road;

6. VOUCHERS: A motion to approve vouchers totaling **\$3,898.75** was made by Mr. Hartman, seconded by Mr. Truscio and carried unanimously on roll call vote.

7. RESOLUTIONS: None

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.

The matter of **MVJ Holdings, LLC** was withdrawn without prejudice, per correspondence above.

1. **D'Amato, 157 Lexington Avenue, Block 1408, Lot 3 - Section 68 Certificate** - Stephen F. Pellino, Esq. represented the applicant for a Certification of Non-Conforming Use for the two-family home. Mr. Pellino provided documentation and photographs as listed in and provided with the application. The home has been utilized as a two-family from the time it was built, in approximately 1928. The owners purchased the property in 1984 and continuously used it as a two-family. The publication documents were found to be in order.

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Elisa D'Amato, property owner, was sworn in. She testified that she owned the property with her husband, Richard, since 1984, and she has continuously used the property as a two-family home and rented it as such. There are two electric panels, two kitchens and two bathrooms. Chairman Martin noted the extensive documentation submitted, which was a positive. The house was purchased by them as a two-family house. The tax records showed that it was continuously assessed as a two-family house before 1967. There are two electric meters. It has all the characteristics of a two-family house. The documentation was complete.

Chairman Martin opened to the Board for comments or questions. The town has recognized prior to and post that it is a two-family home, Mr. Montana commented.

The matter was opened to the public. Matt D'Elia, a neighbor, came forward and was sworn in. He questioned whether it was a two-family home from the beginning. Chairman Martin clarified the applicants are before the Board to confirm the paperwork and that the house is a pre-existing, non-conforming two-family house. The Borough allowed conversions up until 1967, and the Land Use Law came into existence in 1976. They are here because property owners must appear before the Board if the time is after one year of the ordinance change, which states they must confirm a two-family status.

Roberta Cozic, a neighbor from across the street, came forward and stated they did not have luck with the renters residing there. Chairman Martin commented the Board does not pass judgment on the occupants. It is concerned with documentation. There was a question regarding abandonment of use. Attorney Rutherford advised there would have to be a subjective test. The occupants do not matter. The Board is concerned with the physical design.

Ms. Ramirez, a neighbor, asked why the certification is necessary at this time and not at a prior time. Chairman Martin explained that the Borough records were incomplete, so a way to correct the records was to have people without certifications come before the Board for a review of the records. Mr. Rutherford gave a definition of a pre-existing, non-conforming use, per her request. The ordinance was amended in 1967 to not allow two-family

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homes. Thereafter, property could go to the Zoning Officer within a year for certification and thereafter, come to the Zoning Board. Mr. Martin also reviewed same adding, a few years ago the Borough did a review of the two-family homes in the Borough, and that is why they are here for applying for a certification.

There were no further questions or comments from the public.

A motion for approval was made by Guy Hartman and seconded by Marc Truscio. On roll call vote, Chris Montana, Guy Harman, Matthew Ceplo, Marc Truscio, and William Martin voted yes. George James abstained.

2. Fernandez, 125 Lake Street, Block 710, Lot 21 - Section 68 Certificate - Attorney Rutherford found the publication documents to be in order. Dave Repetto, Esq. of Harwood Lloyd represented the applicant. The Tax Assessor was away and he received the property record card today. They owned the property since 1997 and used it as a two-family property, occupying one of the units. The applicants and their architect, Mr. Petrone, were present.

Roberto Fernandez, property owner/applicant, was sworn in and testified he purchased the property in 1997 as a two-family home prior to being married. He then occupied the property on the first floor, and has a tenant on the second floor. There are two electric meters and the proper proofs and documentation were provided.

The matter was opened to the public, but there were no interested parties. There were no further questions or comments from the public.

A motion for approval was made by Chris Montana and seconded by Matthew Ceplo. On roll call vote, Chris Montana, Guy Harman, Matthew Ceplo, Marc Truscio, and William Martin voted yes. George James abstained.

3. Roche, 115 Berkeley Avenue, Block 1404, Lot 4 - "C" Variance - Donald Nemcik, Esq. represented the applicant in an application for a "C" variance for an above-ground pool on a long and narrow lot. Chairman Martin called for Mr. Raimondi's recommendations on the waivers. Mr. Raimondi commented there did not appear to be any reason why the Board should not accept the waivers. Mr.

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Lydon requested clarification on the waivers. Mr. Nemcik responded here is an existing block wall, and they want to remove it so people don't try to jump off of it. They also added spaces for signatures on the plan, and the proposed excavation of 6" will not affect the topography or the pool. The Chairman asked for any comments from the Board. It is related to a pool installation.

A motion to accept the waivers and deem the application complete was made by Matthew Ceplo and seconded by William Martin. On roll call vote, Chris Montana, Guy Harman, Matthew Ceplo, Marc Truscio, and William Martin voted yes. George James abstained.

Rosemary Roche, property owner, was sworn in and questioned by Attorney Nemcik. She acquired the property from her daughter. She is seeking to install a pool. Side yard variances are requested. There is a 13' variance on one side and an 11' variance on the other side. The pool installers are Mt. Everest Pools. The pool will be installed according to the specifications. There is a self-closing lock.

Mr. Raimondi noted the specs call for a 5' clearance around the pool, and was concerned about safety. Mr. Nemcik said normally if too close to the house, there could be issues relating to electric lines for the filter. Mr. Raimondi questioned why this was not being adhered to and recommended getting something from the pool company.

Chairman Martin stated the conclusion is if you do not follow the specifications, it is not safe. It only violates about 15% circumference of the pool, Mr. Nemcik stated, and suggested putting fencing in the corner. There is more than 5' in the other areas. Chairman Martin suggested putting a condition on an approval that applicant comply with safety standards and specs of pool company, and the Building Department will address it. Ms. Roche said it is an above-ground pool, and she is not going to put her grandchildren at risk, but the slope of the property doesn't allow another pool.

Mr. Raimondi suggested shifting it over to the right, 1' to the South, which would make the 11' dimension 10'. The applicant, with Mr. Nemcik felt it was a good compromise and accepted the recommendation.

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Board Member commentary followed. There were no objections to the recommendation. Chairman Martin commented it should be installed with all safety conditions of the pool company. Mr. Raimondi asked if there was fencing around the top of the pool, and their response was no. There were no further questions, comments, or discussions.

A motion for approval was made by Chris Montana and seconded by Marc Truscio. On roll call vote, Chris Montana, Guy Harman, Matthew Ceplo, Marc Truscio, and William Martin voted yes. George James abstained.

Mr. Nemcik stated the applicant waives the 45' day appeal period and thanked Mr. Raimondi and Mr. Lydon for their input.

The Board took a recess from 9:10 to 9:20 pm.

George James was excused for the remainder of the meeting.

4. Murphy, 185 Roosevelt Avenue, Block 1407, Lot 9 - Single Family "C" Variance Addition - Sandy Murphy, the owner/applicant, and Joseph M. Donato, Licensed NJ Architect were sworn in. Mr. Donato was qualified and accepted as such. Mr. Rutherford reviewed the Notice and publication documents and found them to be in order.

Mr. Donato presented the application for an addition to the South side of the house and to demolish the existing deck. The architectural drawings were dated 10/17/13. Mr. Donato described the plans in detail, starting with the first floor. Room for an in-law suite was proposed. That being, the existing side loaded, two-car garage would become living area for applicant's mom. A 20'2" front load, two-car garage with work area was also proposed. An extended kitchen and family room were proposed. The addition is 1,260' total. Side yard variances are existing conditions, but the total side yard requires a variance. They have 19.61' where 35' is required.

On the second floor, they proposed an extension to the master bedroom and a new bathroom over the current garage. They are not adding any additional basement area. He also showed a roof/attic plan. Access to the attic currently is via a small panel. There is no additional living space in the attic.

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The engineering plan/survey dated 1/28/14 signed by John J. Butler, PLS and John J. Rauch, PE was reviewed. The engineer could not be present. They proposed a seepage pit. Mr. Donato reviewed the Zoning Schedule and variances. There may be another variance for maximum front yard setback for 41.10', where the average on the block is 33.4'. Mr. Lydon believed a variance was required.

Questions by Board Members followed. Mr. Hartman and Mr. Montana had questions. There would be no outside entrance to the in-law suite. There will be one electric meter. Ms. Murphy requested a door to go from the back yard into the work area of the garage. There would be no wall between the work area and garage.

Chairman Martin had questions. They spoke about open space, but they are building closer to the neighbors. He questioned why they did not go back instead. The existing garage could remain, and the in-law suite could go out the rear. He suggested they could redesign this to maintain the open space and side yard needed. Mr. Donato responded they tried that, but the kitchen and family room would not be connected to the main part of the house. You could still achieve your addition and stay in compliance with the zoning, Mr. Martin added. If there is a viable alternative that meets the zoning requirements, they should think about doing so. They are doing it this way because they want to, not because there is no other way to do it. This is not the best alternative per a zoning or planning perspective. They should take another look at it. Mr. Donato would have to discuss this with the applicant. Mr. Montana asked if there would be a separate entrance to the garage and storage area, and the answer was no.

Mr. Martin continued with questions on the second floor. He asked how high the space was, and the response was 8'. Mr. Martin commented the house becomes very long with what they propose. Tucking it behind would further their goal. He asked them to redesign their addition to preserve the side yard setback. Mr. Montana agreed with the Chairman. They have to look at the impact on the neighbors. Going back is a reasonable request.

Ms. Murphy commented going back takes away from the yard. Mr. Martin indicated it is not ideal for the neighbors, and the zoning applies to everyone, and we are

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present to hear about property constraints and configurations. Ms. Murphy commented the current plan allows her to access the main house, front porch and yard. There is a viable alternative, Mr. Martin commented, and he would like to see them come back with a bigger side yard and a plan that fits better in the zone. Mr. Ceplo asked if they redesign it to meet the side yards, would they have to come back. Mr. Martin said no, but they may have a plan that encroaches slightly and still have to return.

Mr. Donato asked what their next step is. Mr. Martin advised they would carry their application to the next meeting. If they still have an encroachment with a redesigned plan, they will be required to return.

Mr. Montana asked, assuming the plans did not change, if the garage was actually conforming with the zoning requirements for a two-car garage. The Chairman stated he was not suggesting that, but felt it was not as functional. Mr. Raimondi asked if there was anything unusual about the topography of the lot. Applicant stated it was a flat lot.

Mr. Russo, applicant's builder, came forward and was sworn in. He asked if they were suggesting they redesign the suite to the left side of the house. Mr. Martin responded they were asking for a redesign of the plan to comply with a better zoning alternative.

There was nothing further. **The matter was carried to the 7/7/14 meeting, with no further notice.** Any redesigned plans needed to be submitted 10 days in advance. Photos should be brought to the meeting.

10. **DISCUSSION:** None

11. **ADJOURNMENT** - On motions, made seconded and carried, the meeting was adjourned at approx. 10:13 p.m.

Respectfully submitted,

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