

**BOROUGH OF WESTWOOD
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
MINUTES
August 4, 2014**

APPROVED 9/8/14

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
Eric Oakes, Vice Chairman
Guy Hartman
Matthew Ceplo
Chris Montana
H. Wayne Harper
George James (Alt #2)

ALSO PRESENT: David Rutherford, Esq., Board Attorney
Louis Raimondi, Board Engineer
Sean F. Moronski appeared on behalf of
Steve M. Lydon, Burgis Associates,
Board Planner

ABSENT: Vernon McKoy (excused absence)
Marc Truscio (Alt #1) (excused absence)

4. MINUTES - The Minutes of the **7/7/14 Regular Meeting** were approved on motion made by Mr. Montana, seconded by Mr. Oakes, and carried on roll call vote. The Minutes of the **7/21/14 Special Meeting** were schedule for 9/8/14.

(ZB 8/4/14 Minutes)

5. CORRESPONDENCE:

1. Letter from John J. Lamb, Esq., dated 7/31/14 RE: Westgate;

2. Letter from Louis Raimondi, dated 7/28/14 RE: ETD Discount Tire Centers, 22 Kinderkamack Road;

3. Letter from Louis Raimondi, dated 8/1/14 RE: Westgate;

6. VOUCHERS: NONE

7. RESOLUTIONS:

1. **WW Madison Realty, LLC and 11 Madison realty, LLC (Westgate), 11 Madison Avenue, Block 806, Lot 4 and 37 Irvington Street, Block 806, Lot 2 - Application for Use and Bulk Variances, Subdivision and Site Plan - (Approved below)** Board Attorney Rutherford read the Resolution into the record. A motion for approval was made by Chris Montana and seconded by Guy Hartman. There were no further questions comments or discussions. On roll call vote, Eric Oakes, Guy Hartman, Chris Montana, Matthew Ceplo, Wayne Harper, George James, and William Martin voted yes.

8. PENDING NEW BUSINESS:

1. **Polak, 34 Kaufman Drive, Block 2203, Lot 4 - "D" Variance** - Not yet complete - Carried to the 9/8/14 meeting; (Notice will be required)

2. **Vassallo, 71 Sixth Avenue, Block 902, Lot 5 - "C" Variance** - Not yet complete - Carried to the 9/8/14 meeting; (Notice will be required)

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

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS

The Board Professionals were sworn in.

1. **WW Madison Realty, LLC and 11 Madison realty, LLC (Westgate), 11 Madison Avenue, Block 806, Lot 4 and 37 Irvington Street, Block 806, Lot 2 - Application for Use and Bulk Variances, Subdivision and Site Plan - (For**

(ZB 8/4/14 Minutes)

closing statement/summation, discussion and vote only) All seven members present were eligible to vote. Guy Hartman commented he listened to the C/D of the 7/7/14 Zoning Board Meeting.

John J. Lamb, Esq. gave a closing statement on behalf of the applicant. Mr. Rutherford clarified there were seven members present, and all seven were eligible to vote, having either been present at the 7/7/14 and 7/21/14 meetings or if absent, having listened to the C/D of the meeting. All exhibits were entered into evidence.

Mr. Lamb advised they complied with Mr. Raimondi's comments in his report dated 7/24/14, as set forth in his letter of 7/31/14. They are still working on the environmental issues. In addition to the cleanup, they want to have an access point to the railroad, and hopefully NJ Transit will permit a direct access to their platform. They have provided a direct pathway. The County asked them to round off the corner and facilitate a pedestrian walkway from the corner of Madison to the Triangle Realty building. They have agreed. In beautifying this street, they are challenged. They look at the back yards of the buildings that front on Washington Avenue. In addition to the trees they propose, they also have proposed similar trees on the other side of Madison, which will either be donated or provided by the applicant. This is a low traffic generator. They provided the proofs necessary for the variances as testified to, and ask for the Board's consideration and approval.

Board commentary and discussion followed. Mr. Harper agreed they are taking an eyesore and beautifying the site, and he likes the concept of mixed use. However, he is concerned about traffic flow and would have liked to hear further testimony on traffic. They are making traffic worse in a small town.

Mr. Oakes agreed there will be some impact and that the two uses create less of an impact. The car dealer or old use would be worse.

Mr. Martin asked the traffic expert about the level of service, and going West was the only change. The level of traffic of the storage facility and the residential units is the lowest level of service. The contamination will be cleaned up and removed before development.

(ZB 8/4/14 Minutes)

Mr. Rutherford advised traffic is a relevant consideration, but the Board has to be careful to distinguish between existing conditions and prior conditions. The fact that Westwood could be a bottleneck at times is not necessarily the applicant's problem. The Board has to focus its traffic analysis on the effect this particular use would have on the Borough. The Chair's comments on the level of service were just enough to push it from a "B" level to a "C" level of service.

Mr. Montana commented they are reducing impervious coverage. The traffic will be there whether or not this project is built. It really is the full package and creates a nicely upgrade to the westerly entrance to the CBD Zone. The remediation of the site at their expense, the beautification, donation of trees, and really fitting in to the look and feel of the Westwood character says a lot. He thinks it is a sound project and one that is pleasing to himself on the Board.

Mr. Oakes asked for details of the drainage, and if it was all to Mr. Raimondi's satisfaction. They are still working on it on Irvington Street, it was noted, and additional time is needed to address it. Mr. Martin stated it will be a condition that drainage be addressed to the satisfaction of the Board Engineer.

Mr. Oakes asked if there were any responses from the Borough Departments. Mr. Martin responded the Chairman of the Parking Authority was concerned about public parking on Madison--that it would remain. He assured him it would not change. No parking will be lost on Madison. There will be additional trees. No other departments commented, so it would seem there were no other concerns.

Mr. Hartman commented it is a good project. It is a difficult piece of property. A smaller project could generate more traffic. It is a substantial investment in the town.

Mr. James commented the way the project is presented - it is a very difficult site. We have a concern about traffic, but the way the applicant presented it is in good character for the town. Applicant could add more greenery. Chairman Martin reviewed the landscaping improvements and trees to be donated on the opposite side of Madison.

(ZB 8/4/14 Minutes)

Mr. Ceplo commented he liked the project. It is actually like Stage 1 - it may open up access for more retail. The applicant made a very good case for it being a hard area to develop and came up with a great use. Even if the train does not stop here, the separation between buildings is nice. He does not think the entire site is totally finished.

Chairman Martin commented this project anticipates the train stopping here at a platform, but it was not approved yet. It is not an issue for the Board in relation to this application.

There were no further questions, comments or discussions. The Chairman called for a motion.

A motion for approval was made by Chris Montana and seconded by Eric Oakes, subject to the conditions and provisions as stated. Mr. Rutherford would then recite the conditions and distributed copies of a proposed Resolution sent to the Board earlier today. The conditions appeared on Page 9. Mr. Rutherford reviewed the conditions and recommended the Resolution be adopted that evening. There was a substantial amount of testimony about the suitability of this site for the proposed use and the non-suitability of the permitted use. Mr. Oakes asked for clarification on #10, the 38.1' height of the self-storage facility, which was clarified by Mr. Lamb. Mr. Rutherford advised all of the recent changes to the plans were incorporated into the Resolution to be adopted. An additional change was made to paragraph 11 to insert "and" between lobby and garage.

The conditions and change were accepted by Mr. Ceplo and Mr. Oakes. There were no further questions comments or discussions. On roll call vote, Eric Oakes, Guy Hartman, Chris Montana, Matthew Ceplo, Wayne Harper, George James, and William Martin voted yes.

2. Murphy, 185 Roosevelt Avenue, Block 1407, Lot 9 - Single Family "C" Variance Addition - John J. Lamb, Esq. represented the applicant in a continued hearing and gave an overview of the application and unchanged plans. The clients have previously appeared before the Board pro se. There were issues of completeness. He met with the clients to achieve their main objectives while addressing the Board's comments. He is trying to bring this to a

(ZB 8/4/14 Minutes)

conclusion. Mr. Lamb asked if the Board was receptive to this application, prior to having any witnesses/experts appear to testify. He would then incorporate any comments into the plans. The major issue driving this is to have the area for the client's mother, who can no longer live by herself

Chairman Martin commented the Board is not entering into any negotiations as to variances or magnitude of variances. The criteria do not have anything to do with personal situations. This addition could be accommodated very easily with a conforming application, and that is what the Board is interested in hearing about. If you have a reason why the bedroom must be located in a certain space under the MLUL, the Board is receptive to hearing that.

Mr. Lamb talked about taking 2' off the side and 3.2' in the back, as he illustrated their proposed changes on the marked-up plan.

Mr. Martin asked why this cannot be designed to comply with the zoning setbacks. If this can be made conforming, why are they asking for a variance, Mr. Martin questioned. They could bring a conforming application directly to the Building Department. Applications come in with legitimate hardships. Here is an application that could very easily conform with all the zoning requirements, which is really the better zoning alternative.

Mr. Lamb felt that would wipe out the rear yard. Mr. Martin questioned how it would benefit the neighborhood to have a very long house on a deep lot. He is talking about a benefit only to the applicant. The focus should be on the character of the neighborhood if he wants to come back in September, there should be more emphasis on a conforming application, which is where it was left off at the last hearing. We want the applicant to explore a conforming application. Mr. Lamb stated they could come back with a rendering of what it would look like if totally conforming.

Mr. Rutherford advised it appears to be a C2 variance argument, with benefits outweigh detriments and the required proofs. Mr. Martin and the Board agreed.

The matter was carried to 9/8/14, with no additional notice, and an extension of time was granted by Mr. Lamb on behalf of the applicant.

(ZB 8/4/14 Minutes)

3. Zamora - 24 Ash Street, Block 401, Lot 12 - Application for a Driveway Expansion - L. Scott Berkoben, Esq. represented the applicant in an application to widen his driveway and pave other walkways on the property, together with other relief. A variance is requested to permit the driveway to be widened beyond the width of the garage.

Andrew Fethes, NJ Licensed Architect, was sworn in and accepted. The plan prepared by him was revised to 7/10/14. This is a five bedroom home with a one car garage, Mr. Berkoben advised. Mr. Zamora's neighbor was also present and requested to move the driveway over 2' towards the center of the house in order to give him more room. They are proposing a 3' setback.

Jose Zamora, owner, was sworn in. Four bedrooms are on the second floor, and one bedroom is on the first floor. Mr. Martin commented the only issue is the width of the driveway and pavement.

Mr. Fethes distributed two photos of the front of the house. There is no impervious coverage issue. Eleven of the homes on Ash Street have driveways wider than the homes. It is a five bedroom house with a one car garage, Mr. Martin commented. The zoning only allows the driveway to be as wide as the garage.

Mr. Raimondi commented the pitch goes toward the garage and asked how they would handle drainage. Mr. Fethes responded there was a system that would handle in and Mr. Zamora could explain further. Mr. Raimondi said it should be on the plan. He also asked about the vinyl shed shown on the plan. Mr. Fethes advised it was moved from its original position to where it is now shown.

Mr. Martin and Mr. Raimondi said they were concerned about drainage and asked about the seepage pit. It was agreed the driveway would shift an additional 2' to the West. They would put a seepage pit in the front yard with a trench drain to the garage. Those changes would be incorporated.

There were no further questions by the Board. Mr. Berkoben asked for the Board's consideration in granting the variance.

(ZB 8/4/14 Minutes)

The interested party, the neighbor to the East, Don Smith, 16 Ash Street, came forward and was sworn in. They discussed the project and came up with an amiable situation. Their homes are very close and always had a 5-1/2' buffer zone, as they were concerned about noise and pitch. The neighbors have been very cooperative. If they move it over 2', they have a buffer zone, and they already addressed the drainage. He was satisfied with 3' from the property line and edge of his driveway.

Mr. Raimondi asked if there were any trees to be affected, and the response was no. There were no further questions, comments or discussions.

A motion for approval with compliance with plans and revised plans was made by Eric Oakes and seconded by George James. There were no further questions comments or discussions. On roll call vote, Eric Oakes, Guy Hartman, Chris Montana, Matthew Ceplo, Wayne Harper, George James, and William Martin voted yes.

10. DISCUSSION:

1. ETD Discount Tire Center - 22 Kinderkamack Road -
Louis Raimondi updated the Board on the County's request, per changes, that a crosswalk be installed from the southwesterly corner of Kinderkamack Road and Lester to a handicapped ramp in front of the cemetery, including a 30' piece of sidewalk to connect to the Goodyear property that will have a sidewalk. Because of that crossing, he felt it was necessary for the Board to review it. Also, the architect never modified this plan to reduce the northerly side yard from 6-8', which would violate the side yard setback on the North property line. A leveling line should be put between the seepage pits. In addition, an elevation at the sewer connection should be shown. The architect's plans should be changed. He understands they are in the process of signing the Developers Agreement, so this should be put in. Mr. Rutherford would contact Mr. Huntington, who is aware of the County's requirement for a crosswalk. It is in the County's approval letter. Mr. Martin gave an overview of the County Planning Board review and approval procedures, as it has jurisdiction over County roads. They have the right to ask for changes. In this case, he does not feel a crosswalk is a reason to reopen a hearing. Mr. Rutherford advised this happens often. No Board action is necessary, Mr. Martin commented with Mr. Rutherford's

(ZB 8/4/14 Minutes)

agreement. Mr. Raimondi commented he just wanted to make sure it is included in the Developers Agreement. There were no further discussions.

11. ADJOURNMENT - On motions, made seconded and carried, the meeting was adjourned at approx. 10:00 p.m.

Respectfully submitted,

MARY R. VERDUCCI, Paralegal
Zoning Board Secretary