

**BOROUGH OF WESTWOOD  
ZONING BOARD OF ADJUSTMENT  
REORGANIZATION/REGULAR MEETING  
MINUTES  
January 7, 2019**

**APPROVED 2/4/19**

**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 **Reorganization/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:** Eric Oakes, Vice Chairman  
Matthew Ceplo  
H. Wayne Harper  
Anthony Zorovich  
George James  
Michael Klein

**ALSO PRESENT:** David Rutherford, Esq., Board Attorney  
Steve Lydon, Burgis Associates,  
Board Planner

**ABSENT:** Michael O'Rourke (Alt#2)  
(excused absence)  
Louis A. Raimondi, Board Engineer  
(Not required)

**Not yet appointed:**

William Martin  
Beverly Karch

Vice-Chairman Eric Oakes chaired the meeting.

**REORGANIZATION MEETING** - A motion to reschedule the Reorganization Meeting to 2/4/19 was made by George James, seconded by Michael Klein and carried unanimously on roll call vote.

**REGULAR MEETING**

**4. MINUTES:** A motion to approve the Minutes dated **12/3/18** was made by George James, seconded by Michael Klein and carried unanimously on roll call vote by those eligible to vote.

**5. CORRESPONDENCE:** None

**6. VOUCHERS:** Upon motion of Michael Klein, seconded by Matthew Ceplo, all ayes on roll call vote, the Board approved Vouchers totaling **\$5,102.25**.

**7. RESOLUTIONS:** None

**8. PENDING NEW BUSINESS:**

**1. Krawczyk, 270 Washington Avenue - Complete;** Scheduled for hearing on 2/4/19;

**2. Bhatia, 81 Westwood Boulevard - Still incomplete;** Carried to 2/4/19;

**3. The Andrea & Gatana Bartolotta Irrevocable Family Trust, 252 Fourth Avenue - Still incomplete;** Carried to 2/4/19;

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

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS

**1. Barry, 349 Fourth Avenue - Section 68 Certificate - Section 68 Certificate -** Bruce Whitaker, Esq. represented the applicants, Michael J. & Mary M. Barry and gave an overview of the application. An Exhibit List with attachments was provided and distributed as proofs. Included were the applicant's Deed from 1983, stating "subject to existing tenancy"; Survey; original Contract for Sale from their purchase, stating the dwelling is a two-family; Appraisal and Inspection Report stating two-family dwelling; Lease Agreement for 2nd floor apartment; Permit for Pool stating

two-family; Memo from Tax Assessor, Barbara Potash, CTA, dated 6/21/18, indicating the use was a two-family in as far back as 1942, and 1958, 1964, 1978 and 1995; Flood Insurance Policy Declarations Page stating 2-4 family residence; and Tax returns from 1999, 2006, 2007, 2008, 2010, 2012 & 2013 stating two-family; all as evidence that the property was used as a two-family home.

Mr. Whitaker continued. They are here for a Section 68 Certificate with no variances. After 1967, the two-family use was not permitted. Here the use predates the change in ordinance. The use as a two-family has continued throughout to the present time.

Mr. Whitaker reviewed the Exhibit List in detail. Mr. Oakes inquired if there were any fire inspections. Mr. Whitaker responded none have occurred.

Mr. Barry was sworn in and testified under oath as to the authenticity of the exhibits in detail. He purchased the home as a two-family home and always leased it to various families up to the present time. There have been some long-standing tenants. The postmaster resided there for between five and eight years. Mostly there were long-term tenants. The same rooms are there. It has not been expanded, and there are still two electric meters. From 1983 until the present time, it has been rented by him as a two-family home. They never occupied it. There were never any inspections or tax assessor visits, and he was surprised to see the tax assessor memo showing certain years it was listed as a one-family, as it was always rented as a two-family home.

Questions of the Board followed. Mr. Zorovich asked if there were any tax assessors at the property for the last 14 years, noting the tax assessors notation of one-family in years 2004, 2014 and 2018, and the response was no. Mr. Whitaker noted many times, a drive-by appraisal is done, and errors are made. In 1983, this was in fact used as a two-family home and stated as such in the memo. The appraiser walked through the house and described it room by room as a two-family. Mr. Oakes noted in 1990 the permit for pool said two-family.

Mr. Rutherford stated the applicant is doing what they should, coming before the Zoning Board for a Section 68 Certificate. It is a factual issue. The summary from Ms. Potash is a summary of inspections done for reassessments vs.

improvements, such as a new addition, which would generate a visit. The factual issue is whether it is a two-family use and always used as such. Some of the evidence supports the factual finding, and the applicant testified as such. Mr. Oakes commented the permit may have triggered it back to stating a two-family. Mr. Rutherford commented we have had this before, and have seen in a town-wide reassessment, that there were no inspections.

Mr. Whitaker stated the owner has never lived there and always rented it out. Generally, the assessor hires a firm to do the inspections. Sometimes there are college students hired to ring doorbells in summer or just ride by the properties and check the tax records. Nothing has changed since 1983. The building inspector put down a two-family on the pool permit. Mr. Klein noted they had two electric meters. There was one furnace. Mr. Barry testified as such, and he provides the heat. There are two separate living spaces and entrances. Mr. Whitaker stated the reassessment information on the website had no details on any of the properties.

There were no further questions and none from the public. Mr. Whitaker summed up, stating the applicant has met his burden of proof. As far back as 1942, the tax records indicated it was a two-family, and applicant has testified it has always been used as a two-family dwelling. Mr. Barry filed tax returns, and no members of the public have challenged it. He respectfully requested the Board approve their application and issue a Section 68 Certificate.

Board discussion followed. Mr. Harper commented they have seen tax letters such as this one, and there has been substantial testimony and proof submitted. He feels the applicant has met his burden of proof and made a motion to approve. Matthew Ceplo seconded the motion. On roll call vote, Matthew Ceplo, Wayne Harper, George James, Michael Klein, and Eric Oakes voted yes. Mr. Zorovich voted no.

Mr. Ceplo asked if they can request the Tax Assessor to update its records. Mr. Rutherford advised they will make sure the Tax Assessor gets a copy of the Resolution. This could be done for all future Section 68 applications.

(ZB 1/7/19 Meeting Minutes)

**11. ADJOURNMENT** - On motions, made seconded and carried, the meeting was adjourned at approximately 8:45 pm.

**Respectfully submitted,**

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