

**BOROUGH OF WESTWOOD
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
MINUTES
August 3, 2020 (VIA ZOOM)**

APPROVED 9/14/2020

1. OPENING OF THE MEETING

The meeting was called to order at approximately 8:00 pm
Via Zoom Webinar, Meeting ID/Link#:

<https://us02web.zoom.us/j/89367515378?pwd=MFpWRml6WDZaVFpVUEpzZVppQU9pUT09> The dial-in number for telephone access: 646-876-9923
Meeting ID: 893 67515378; Password: 389895

A court reporter was also present.

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
Matthew Ceplo
H. Wayne Harper
Michael Klein
Peter Grefrath
Michael O'Rourke (Alt #1)
Gary Conkling (Alt #2)

ALSO PRESENT: David Rutherford, Esq., Board Attorney
Steve Lydon, Burgis Associates,
Board Planner
Louis A. Raimondi, Board Engineer

ABSENT: Alyssa Dawson (excused absence)

(ZB 8/3/2020 Meeting Minutes)

4. **MINUTES:** A motion to approve the Special Meeting Minutes of **7/13/2020** was made by Eric Oakes, seconded by Alyssa Dawson and carried unanimously on roll call vote by those eligible to vote. Wayne Harper was not eligible to vote.

5. **CORRESPONDENCE:** None

6. **VOUCHERS:** None

7. **RESOLUTIONS:** None

8. **PENDING NEW BUSINESS:**

1. **Cuomo, 10 Westervelt - Bulk Variances** - Incomplete; Carried to 9/14/2020;

2. **Bross, 60 Boulevard - Bulk Variances, Driveway wider than Garage** - Incomplete; Carried to 9/14/2020;

3. **Jefferson Realty Group, 21-35 Jefferson Avenue, Use Variance-D1 & C Variances, and Site Plan Approval** - (Special Meeting 8/10/2020)

4. **Hodges, 105 Center Avenue - Use Variance-D1, Bulk Variances** - Complete; Set for 9/14/2020;

5. **Ahluwakshi Investments, LLC, 75 Bergen Avenue - Subdivision and Bulk Variances** - Pending completeness review;

6. **Perrino, 125 James Street - Bulk Variance** - Still incomplete; Carried to 9/14/2020;

9. **VARIANCES, SUBDIVISIONS AND/OR SITE PLANS, APPEALS, INTERPRETATIONS: NONE**

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS

The Board Professionals were sworn in.

1. **Canciglia LLC, d/b/a Carture, 354 Old Hook Road, Suite 105, Use Variance - D1** - (Heard 1st) Applicant, Serena Canciglia, 711 Bellaire Drive, Demarest, NJ, with a business address 354 Old Hook Road, Suite 105 Westwood, was sworn in. Her attorney, Mr. Brosenberg, presented the application. Ms. Canciglia moved into the suite, thought her use was permitted and received a letter from Armand Marini, stating her use was not approved, which use is professional design service business for invitations. Ms. Canciglia described her design

business for various events, such as weddings, bar mitzvahs, etc. She seeks to continue to use her suite, consisting of 952.25 sf. The architect's plans were dated 6/24/2020. She has two other employees, and her design service is by appointment. Her store is not open 9-5 for retail. It is by appointment only. She has two colored printers and uses outside printing services. The business does not give off any noise or odors. It is a very benign, professional-type use, not retail.

Chairman Martin asked Mr. Lydon why the applicant was present, since a professional office is permitted in the zone. Mr. Lydon said because the Zoning Officer sent her here, but usually the design services do not require licensing, and it did not fit in with the language of the ordinance. Mr. Martin commented if this is not a use variance, they do not belong here. He asked Mr. Lydon to check the ordinance. It appears the work of a graphic designer would fall into the category of professional office. Mr. Lydon read the list of permitted uses in the HSO Zone - Business offices and medical Offices.

Mr. Raimondi's report found the architect's plans to be satisfactory. Chairman Martin asked if she is selling anything retail, and Mr. Canciglia stated no, and described the procedure. There is no professional license required. She agrees it is a professional service. Mr. Lydon read the description of permitted uses, which includes an office that does not include medical. Mr. Martin asked if it is a D1 variance. If we have no authority to act on it, we can send a Memo to the Zoning Officer. Mr. Rutherford advised the applicant did not actually appeal the decision, but did put in an application. Therefore, the Board can acknowledge it, and based on the facts of this case, the Board determines the use is permitted in the zone. Mr. Brosenberg was in agreement. Mr. Lydon added that the description of the use of business office in the HSO zone indicated it was to support the hospital, and that is probably what Mr. Marini was relying upon.

Board Members comments and questions followed. Applicant has been at the location for several months. Mr. Harper commented it is a professional service and serves the public with a quality product and does not need a professional reading of the Code, with a not-so-strict view, and he agrees with the advice offered by Mr. Rutherford. Mr. Ceplo did not have any issues but perhaps suggest to the Planning Board to make some changes to the HSO Zone. Mr. O'Rourke agreed the

wording was a little restrictive, and that this is a reasonable use, a benefit, and not a detriment. We should give a variance and approve the use. Mr. Lydon recapped it is providing the applicant with what they are seeking, and we should include a note in the end-of-year report to take a look at the uses. Chairman Martin was concerned that if this is the way this zone is interpreted, anyone seeking a use variance may go elsewhere. He would agree to go ahead with the use variance, but let the Planning Board know they may want to recommend to the Governing Body to amend the zone. This would not set a precedence. Mr. Rutherford noted the Board is inclined to vote favorably, and he would also include this in the Annual Report.

The matter was opened to the public for questions by interested parties. There being one, the matter was closed to the public. There were no further questions, comments or discussions. A motion for approval was made by Gary Conkling, and seconded by Michael O'Rourke. On roll call, Matthew Ceplo, Wayne Harper, Michael Klein, Peter Grefrath, Michael O'Rourke, Gary Conkling, and William Martin voted yes.

2. 247 Westwood Ave. Corp., "Five Dimes Brewery", 247 Westwood Ave - Use Variance; Site Plan - John J. Lamb, Esq. represented the applicant, and reviewed from the prior meeting. Mr. Lamb submitted 7/22/2020 letter, containing a Stipulation of Conditions of Approval, if the Board approves the application, which was marked A10. They are amending their application to propose enclosing part of the rooftop by an atrium of about 1,710 sf, so the roof will only be partially open and partially enclosed by the atrium. Further they are reducing their operating hours as follows: First Floor - Monday - Friday 4pm-11pm; Friday and Saturday 12pm to 12 am; and Sunday 12pm to 11pm. Hours of the rooftop would be Monday - Thursday 4pm to 10pm; Friday and Saturday 12pm to 11pm, and Sunday 12pm to 10pm. Additionally, no more than 28 people can be on the open portion of the roof. Exhibit A11 revised plans by Mr. Cioffi, adding an atrium to basically cover some of the rooftop operations and alleviate concerns by adjacent property owners. They added 1,700 sf. Applicant would also install an approx. 6.5' barrier on the southerly and westerly portions of the buildings to provide a buffer from any operations. An amended Notice was sent out.

Vincent J. Cioffi, Licensed Architect, was previously sworn, and described the changes to the drawings, with a revised, updated roof plan. He submitted a separate plan

showing the atrium and cross sections. His plan was dated 7/13/2020, entitled, "Rooftop Atrium Enclosure", "Exterior Elevations A-104.00". Questions of Mr. Cioffi followed below.

Michael Maris, Engineer, previously sworn, testified regarding the addition of the atrium and 14 seats, requiring an additional five (5) parking spaces. Questions of Mr. Maris were not reached and would be held at the next meeting.

Peter G. Steck, Planner, was previously sworn and testified as to additional parking requirement. The application has been improved in terms of protection of the surrounding property owners. The need for an additional five (5) parking spaces is accommodated by public parking. For these reasons the negative criteria is satisfied. Questions of Mr. Steck were not reached and would be held at the next meeting.

Dr. Chris Alepa, Principal, continued under oath. He was amending the application and the applicant stipulated to the provisions of Mr. Lamb's letter 7/22/19 and no more than 28 people sitting or standing on the roof. Dr. Alepa agreed. The hours were reduced by one hour, closing one hour earlier to reduce any noise or activity on the roof. Mr. Lamb noted **Jason Rowley, Brewmaster**, was also present for any questions.

Chairman Martin asked Jeffrey Kantowitz, Esq., attorney for several neighbors, if he had any questions. His clients were satisfied, and he had no further questions of the witnesses, and Mr. Lamb's letter was noted. He represents ELD Group, LLC, owner of 219 Fairview Ave., Westwood, and EMFFB, LLC, owner of property 215-227 Westwood Ave., Westwood, NJ.

Chairman Martin inquired of Mr. Rutherford if they should proceed with questions by Board Members, one witness at a time, followed by questions by any interested parties.

Questions of Dr. Alepa: Mr. Conkling asked Dr. Alepa if the atrium is going to be used year-round, and the response was yes. Mr. Klein asked if there would be any heating. Dr. Klein responded yes. Mr. Grefrath asked if there would be music inside or outside and if live. Dr. Alepa stated they are allowed with the limited brewery license. He does plan to have music. Mr. Grefrath asked when it would cease. There would not be music after 10:00pm was the response. He expressed concern about noise being heard by the second floor

tenant. The Chairman asked about beer-making process from the basement up. Joseph Blundo, of 120 Second Ave, Westwood, with a business address at 257 Westwood Ave, asked about staff and how many wait staff he would have for 60 seats. Dr. Alepa stated a maximum of five. Angelina Happle, of the hair salon next door asked about parking and construction and how he would control that, as well as keep his people from parking in her spaces. Dr. Alepa said he will control it, and they open at 4:00pm. Paul Manke, Hackensack, was with Ms. Happle. He asked what the duration of the construction would be and also inquired about the crane. He was concerned about the construction. Dr. Alepa stated about six months. He would outline where they would park, and their access would not be affected in any way. They would be on top of that and would make sure no one has any complaints or issues. The Chairman stated the Zoning Officer can always be contacted regarding any issues. Camille Sasena, 123 Ash Street, Westwood, asked about smokers. She has issues with people drinking and driving away and wanted to inquire with Dr. Alepa as the project manager. Dr. Alepa addressed the questions. They do not want anyone smoking on Westwood Avenue, but he did not know how they would control smoking. He also noted patrons would bring in food from neighboring establishments. There were no further questions of Dr. Alepa.

Questions of Mr. Cioffi: Mr. Raimondi stated he wrote three review letters, the latest dated 7/29/2020 but not all questions were answered. He did have questions about the roof plan dated 6/11/2020, and whether all the plantings are in pots. Mr. Cioffi stated it would be treated like a green roof, not in pots, but more of a permanent installation. He was not far enough along to put it on the plan just now. He explained how he would proceed. Mr. Raimondi asked about drainage. There would be roof drains.

Mr. Lamb read his email of 7/30/2020 in response to Mr. Raimondi's questions and report dated 7/29/2020. He would stipulate to the planting details as a condition of approval. Mr. Raimondi asked about air conditioning equipment screenings. Mr. Cioffi knows the location, but they have not yet selected the units. They have no doubts they will be able to satisfy his concerns.

Mr. Raimondi continued questioning the witness as to the updated plan. Would there be windows open to the sidewalk. Mr. Lamb stated that was answered on 7/30/2020 in an email that they would not, but Mr. Raimondi noted Mr. Cioffi

previously testified as to the windows. Mr. Cioffi clarified the windows do not open all the way, but there is a lower brick wall 18" high, so as not to let the tables slide out, and there is no access to Westwood Avenue. Mr. Raimondi would want this in any Resolution of Approval as a condition. Mr. Raimondi requested all items in his letter be responded to. Mr. Grefrath asked about a sweet odor release. Mr. Cioffi did not have the answer and said Mr. Rowley could answer that question.

Mr. Conkling asked on A104, elevation of the new enclosure, what is the height in relation to the adjacent building. Essentially the same height, Mr. Cioffi responded, giving details. He also asked about HVAC, and any equipment on the roof would be strictly HVAC equipment. Mr. Ceplo noted equipment would be heavy on the roof, and Mr. Cioffi stated the roof would be replaced. Chairman Martin noted there is significant load with a green roof, and he would think it is yet to be designed. Mr. Cioffi stated they learned a lot from a green roof they recently did, and it is quite a load. Even for the trees, the way you transfer the load down is an interesting procedure. Right now it is a guess, but once they study it better, it will be worth a lot more. Mr. Martin stated the construction drawings would have to be submitted. Mr. Cioffi stated they would satisfy all building codes. Mr. Martin asked if he was concerned, and he was not.

Mr. Martin asked for the difference between the gable and glass atrium and the uppermost gable above Pompilio's. Mr. Cioffi stated Pompilio's was about 28'. There would be another 7'. So, Mr. Martin concluded this building would be 8' higher than the building to the West. Mr. Cioffi stated Pompilio's is 16' higher now, but they are adding a second floor, and it is only the gable portion that would be 8' higher. Would the windows in the rear cause a disturbance in the rear Mr. Martin asked. Yes it would if open. Is that part of the agreement with the interested parties. Mr. Lamb stated there were restrictions on noise, and if there is a complaint, they will close the window. There were no further questions of Mr. Cioffi.

The Chairman noted the time allotted for this application was reached. Questioning of the remaining witnesses would be held at the next meeting. Mr. Rutherford announced the matter would be carried to the next meeting on 9/14/2020, via Zoom, with no further notice.

3. Westwood Investments, LLC, 220 Kinderkamack Rd/459 Fairview Ave - D & C Variances, Subdivision and Site Plan Approval - Donna Jennings, Esq. represented the applicant and gave an overview from the last meeting.

Matthew Fox, Licensed NJ Engineer and Surveyor, was previously sworn and continued under oath. Ms. Jennings questioned Mr. Fox on parking review. The basis for the relief requested is the design--they don't have the room to stack the garage and no room to enter the building if side-by-side. They do comply with number of spaces. The 6' vinyl fence screens the parking from the townhouse area. There would be a planting area by space #9 & #10. That satisfies the screening requirements for the parking lot. They also meet all the setbacks. No loading spaces are existing or proposed. No loading spaces are needed. Since the last meeting they received a 7/14/020 letter from the Board Engineer. Mr. Fox reviewed the six items, which he had no issues with, and they were set forth. The end result is the height would be 1' less. Mr. Fox explained how they would capture water off the premises. There would be no hazardous conditions. He confirmed all by letter. Mr. Fox's testimony was complete.

Andrew Janiw, 315 Highway 34, Colts Neck, NJ, Licensed Professional Planner, was sworn in, qualified and accepted. He was familiar with the subject premises, and he reviewed the ordinances and reports by the Board Professionals. Both lots have frontage on Kinderkamack Road and Fairview Avenue. One lot is improved with an office building and the other with a single family home. They felt they would keep the office building near Kinderkamack Road and the townhouse lot, which would be fronting along Fairview. They are seeking a use variance for a multi-family home, 75' frontage, front yard setback, rear yard setback, FAR, driveway width which triggers a variance, minimum number of parking spaces for commercial building. No loading spaces would be needed.

Mr. Janiw displayed his exhibits and showed Exhibit A5, the surrounding neighborhood uses. Throughout the Master Plan he notes it stresses the neighborhood character. He also noted a density of 23.5 units per acre. Ms. Jennings had submitted an index of exhibits to the Board. A6 shows Block 909, Lot 6 at the corner of Fairview and Bergen, improved with seven apartments, and 23.3 units per acre density. A7 showed Block 909, Lot 7 and Lot 8 were shown. There are 13-14 units. What they are proposing is consistent with the neighborhood. They are proposing a townhouse

configuration, where garden apartments are existing. The building will be serviced exactly the way it is. Mr. Janiw proceeded to review the Master Plans, in support of the application. He read several points and stated there is an indication they are seeing multi-family here. They are on point with the density and character of Fairview Avenue. The Zone recognizes multi-family use. They also have to look to the purposes of the MLUL. They are particularly on point with three: (e), (g) and (i). Also, this is a great area for growth. The site is particularly suited for this use. This use has been verbalized in the Master Plan Re-examination Report. There would be no detriments to the public good or zone plan. The four units would be residential in character and abuts a fueling station. It would not be a nuisance for the area and would provide a buffer. This is on point with the zone plan for the future. They do meet the criteria for the bulk variance. They are mitigating the side yard setback, enhancing landscape, adding screening, and the parking would continue to work with 17 spaces. The benefits certainly outweigh the detriments. They are providing something consistent with Fairview Avenue.

Ms. Jennings stated her witnesses were complete and all witnesses were present for questions, including **Douglas Polyniak, Licensed NJ Civil Engineer, Johnathan Cohen, Principal, Paramus, NJ, and Lawrence Appel, Licensed NJ Architect.**

Chairman Martin questioned the **architect, Lawrence Appel, Licensed NJ Architect,** as to multi-family vs. townhouses, noting they are made to look like townhouses. He asked if there would be fire sprinklers. Mr. Appel stated they could be constructed as 5A, one hour fire suppression or 5B, with sprinklers. Most likely it would be 5A. Mr. Martin commented if they went to three units vs. four, they could provide more green space. Mr. Appel responded there would be a gap, which he would recommend filling. Mr. Martin asked if there would be four bedrooms. Mr. Appel stated it was not intended to be a fourth bedroom, but a study, as it provides access to the yard and does not have a closet. Mr. Martin asked if it could be eliminated. Mr. Appel said the bedrooms upstairs are not large, and to carve out the study would reduce the size of the bedrooms and they need the study to support the upper floors. What about reducing the garage he asked, and Mr. Appel was reluctant to take away space. Mr. Martin was looking at this in the perspective of the neighborhood, not trying to get the biggest building on the lot. The compression could

make a difference in the balance. Mr. Appel said they already scaled down from two additional units, and he did not know about the viability of the project with one less unit. Also a couple of inches would not make a difference in the streetscape. Mr. Martin stated the building is too big for the land. Perhaps it needs a little more work. He is concerned it is all pavement and is asking if this could be examined. Mr. Appel stated the coverage requirements have been met.

Mr. Conkling noted there is a full bath next to the study, a powder room on the second floor and two baths on the third floor. Having a bath next to the study leads him to think it could become a bedroom. Why is there a full bath on the garage level, he asked. If the ground floor was to be used as a study, and often there is a parent or guest that could stay in this room, so they could use the bath, rather than going up two floors. Ms. Jennings added they could also remove the full bath. This was to address people working from home and having a bathroom nearby. Mr. Martin was asking them to take another look at this and try to reduce some of the bulk variances and make it better fit onto the property because of the design and narrowness. Mr. Appel would look but was not sure he could come up with a material change. Let's find a balance between the inside and outside, Mr. Martin stated. They are requesting dimensional variances. Ms. Jennings added if they eliminated the subdivision, four variances would be eliminated. They originally did not ask for a subdivision, but they did so per the Board Professionals. Mr. Raimondi suggested looking at it because some of the residential spilled over onto the office building lot. Mr. Martin stated he asked for the Board Professionals to look at this and provide more detail.

The matter was opened to interested parties for questions of Mr. Appel. There were none. The matter was closed to the public for questions of Mr. Appel. There were no further questions, comments or discussions. **The matter was carried to 9/14/2020, via Zoom, with no further notice, and a time extension granted.** The Board discussed special meetings. Ms. Jennings may request one.

4. 459 Broadway Realty, 459 Broadway, C & D Variances - Robert J. Mancinelli, Esq., attorney for applicant - Carried to 9/14/2020 at request of the applicant, with no further notice, as applicant is in process of revising plans.

(ZB 8/3/2020 Meeting Minutes)

10. DISCUSSION:

1. Submission requirements: Paper vs. Electronic -
Tabled per discussion at prior meeting;

11. ADJOURNMENT - On motions, made seconded and carried, the meeting was adjourned at approximately 11:00 pm.

Respectfully submitted,

MARY R. VERDUCCI, Paralegal
Zoning Board Secretary