

**BOROUGH OF WESTWOOD
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
MINUTES
October 5, 2020 (VIA ZOOM)**

APPROVED 11/9/2020

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/89253153698?pwd=NnNlalhtcTEsSlFjc3JYdFk1REtRdz09> Dial-in number: 646 876 9923 US (New York)
Meeting ID: 892 5315 3698; Password: 761010

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
Alyssa Dawson
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: None

Board Attorney advised that per regulations, the Board must adopt a motion to proceed virtually in a Zoom meeting format for tonight's agenda. This would need to be done at the start of each Zoom meeting. A motion was made by Eric Oakes to proceed virtually in a Zoom meeting format, as is necessary since the State of Emergency is still in effect, and per regulations and advice of Board Counsel. The motion was seconded by Alyssa Dawson, and carried unanimously on roll call vote.

4. MINUTES: A motion to approve the Minutes of the **9/14/2020** meeting was made by Alyssa Dawson, seconded by Eric Oakes, and carried unanimously on roll call vote by those eligible to vote.

5. CORRESPONDENCE:

1. Hugerich, 59 West End - Letter from Mr. Hugerich dated 9/28/2020 requesting a one-year Extension of Time for Zoning Board Approvals; Carried to 11/9/2020;

6. VOUCHERS: None

7. RESOLUTIONS: None

8. PENDING NEW BUSINESS:

1. Cuomo, 10 Westervelt - Bulk Variances - Incomplete; Carried to 11/9/2020;

2. Bross, 60 Boulevard - Bulk Variances, Driveway wider than Garage - Ready; Carried to 11/9/2020;

3. Hodges, 105 Center Avenue - Use Variance-D1, Bulk Variances - Ready; Carried to 11/9/2020;

4. Perrino, 125 James, Bulk Variance - Incomplete; Carried to 11/9/2020;

5. Hodges, 44 Second Ave., Bulk Variances - Incomplete; Carried to 11/9/2020;

6. Rise Up Together, LLC- 372 Fairview Avenue- Site Plan to create a parking lot (Zoning application was denied by the Zoning Official which stated that Site Plan approval was required. The applicant started the work anyway, a court summons is pending) - Ready; Carried to 11/9/2020;

7. Pacicco-436 Center Avenue, Bulk Variances -
Incomplete; Carried to 11/9/2020;

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. 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 stated that Mr. Cioffi submitted a clean-up Site Plan, dated 9/28/2020, and that Mr. Raimondi referred to it in his 9/30/2020 report. Mr. Cioffi testified as to the plan. They are proposing to leave the parking as shown and add a handicapped space, but not move the blacktop. Because the dimensions of the spaces are a little short per the ordinance, they would add wheel stops to make sure they do not roll off the slope. One other issue was that Mr. Raimondi recommended putting "Stop Sign Ahead" and restrictive signage. They originally proposed to mount them on the Fernandez building to the West, but they can mount them on their property instead, on poles at the property line. The rest were clarification issues. Mr. Raimondi commented. He asked if "two-way traffic ahead" was also included, and Mr. Cioffi confirmed yes.

Mr. Raimondi continued. Further, with respect to Item #14, Mr. Cioffi recommended Mr. Maris testify that he did not do a traffic flow analysis. Mr. Lamb said Mr. Maris was excused, but he is on the call. He did a parking study but not a traffic study, and could provide some information if needed. Chairman Martin stated they concluded with Mr. Maris, and he had testified he did only a review study. No one had further questions of Mr. Maris, and no additional testimony was needed from him. Mr. Lamb said he brought everyone back on the call just in case. The Chairman asked if any interested parties on the call had questions of Mr. Maris. There were none. Mr. Maris was complete. Mr. Martin asked Mr. Raimondi if his questions were concluded. Mr. Raimondi asked about the curb stops and would want a detail shown as to how they are anchored and held in place. Mr. Martin asked if this could be a condition, and he responded yes. Mr. Lamb also accepted the condition.

The Chairman called for questions of Mr. Cioffi by Board Members. Mr. Oakes asked about anchoring the wheel stops. Mr. Cioffi gave details. Mr. Harper noted there was a question in the chat from a Kimberly Smith, which would be reached. There were no further questions of Mr. Cioffi from the Board. The Chairman called for questions of interested parties. Ms. Smith asked why every detail is discussed over and over again at each meeting. The Chairman said the question will be addressed regarding functions and procedures of the Board. There were no questions of Mr. Cioffi from interested parties. Mr. Cioffi was completed.

Mr. Steck was the last witness to answer questions. He remained under oath. Mr. Lamb asked Mr. Steck if he reviewed changes to the plans and heard testimony on parking as amended, and his opinions and planning comments have not changed. Mr. Steck believed the changes, especially insulating any noise from the upper level results in furthering the satisfaction of the negative criteria and is a positive. Questions by Board Members followed. Mr. Lydon commented on Mr. Steck's 6/29/2020 extensive testimony, noting he did not testify on the second use variance for a commercial use on the building. Mr. Steck testified as to the open air portion of the roof, it is something that enhances the proposed use especially in these times of the virus and preference for outdoor dining. It adds an attractive element to this use, and it is insulated from the other uses. It advances the four purposes he originally mentioned (a), (g), (i) and (m) of the MLUL. The two use variances call for one vote. The Chairman questioned Mr. Steck, if he testified that the use complies with the Master Plan and Re-examination Report. Mr. Steck noted the report acknowledged outdoor dining, and it is compatible with the business district and would not intentionally impair the zone plan and the Master Plan. Mr. Martin called for questions of Mr. Steck from interested parties. Mr. Kantowitz confirmed testimony that the rooftop is limited to no more than 28 persons outside, and the total number of people are 40. Mr. Steck confirmed his understanding and conditions upon which he based his opinion. The Chairman called for questions from interested parties, but there were none. Mr. Steck was complete.

The matter was open to interested parties for opinions and comments on the application.

Joseph Blundo, 257 Westwood Avenue, business, 127 Westwood Avenue, home, was sworn in. He had no objection to the type of business and wishes the owner luck and good fortune; however, his concern is it may be a detriment to the other businesses on the block, specifically parking. The study was done solely at 5:00 pm, not during daytime hours on Fridays and Saturdays. Any adverse impact to parking on the main drag can adversely affect his business and others on the main drag. The data used is self-reported. There are no pictures or valid data and not at a time when businesses are open and not the usual procedure for validating the information. He suggested opening later on Saturday or limiting parking on the main drag for that business. He does not object to the business itself, but it should not be to the detriment of existing businesses. The Board Members had questions of Mr. Blundo. Mr. Ceplo asked about the Five and Dime business. Their traffic was in and out traffic, Mr. Blundo stated, not for hours. Also, the theater was not open during the study. The Chairman noted this storefront has parking behind the building and on Fairview Avenue. Mr. Blundo was aware, but was concerned about the spots on Westwood Ave. Mr. Lamb asked if he was aware the hours Monday - Thursday, the hours start at 4:00 pm., and Friday, Saturday and Sunday at noon. Mr. Blundo was concerned about Friday and Saturday, and spots meant for in and out traffic on the block. Mr. Lamb noted 82 spaces were available. This was also based on prior counts from another project. Mr. Blundo continued to express concerns. Mr. Conkling asked if he has any spaces. Mr. Blundo has two spaces in the rear he uses for employees. If customers parked there, they would have to walk around.

Kimberly Smith, 96 Washington Avenue, was sworn in. She recently moved to Westwood, and seeing this community evolving, wanted to be part of it. She indicated economic impact is substantial in a positive way. She spoke in favor of the business and would spend her money at the businesses in the area. Breweries have become community hubs and have brought life to communities. Chairman Martin noted the applicant had provided a witness that attested to all the comments she made. Also, when an applicant applies to the Zoning Board for a non-permitted use, this is the regular, normal part of the procedure, outlined by State law. Zoom conferences make it all the more difficult. Ms. Smith thanked Mr. Martin for the explanation. Mr. Lamb concurred. Mr. Harper commented we are not charged with analyzing the economics. Mr. Oakes added safety factors are also taken into consideration.

Carolyn Lomolino, 10 Benson Avenue, was sworn in and stated she was on the call for many meetings and kept herself apprised. She is a real estate agent in the area and has concerns about vacancies, and Covid created even more. She hopes the town will welcome someone trying to open up a business such as this. She counted over 14 vacant storefronts in Westwood. Her daughter and friends often go to breweries for tastings and the experience. It would be a great business for Westwood, and she loves the idea of a rooftop with everyone trying to keep their distance. So many guidelines have been offered, and they are working with the town. The town is bustling even at night. The ice cream parlor is open until 11:00pm and has lines. Restaurants will benefit because you could bring food in, and it will be a win-win for the town. She did not feel parking would be an issue.

Patrick Hunt, 372 Kinderkamack Rd, business address, was sworn in. He was watching the proceedings and trying to understand the direction of the Board and decision making process, which he does not understand, but sees the brewery as an opportunity to bring people in from afar, not just from town. He would like to have the opportunity to have another business to frequent. Further, Westwood Avenue is not in the best of shape and needs rejuvenation. These are young guys bringing in a new vibe. He would encourage the Board to vote in favor of this brewery.

There were no further questions or comments from interested parties.

Mr. Lamb summed up and stipulated to conditions proposed and agreed to by the applicant. Mr. Rutherford reviewed the hearing dates were 6/29/2020, 8/3/2020, 9/14/2020, 10/5/2020 and the members eligible to vote. Mr. Grefrath and Mr. Harper were not eligible due to absences. Upon discussion, Mr. Conkling commented favorably, touching on various areas of the application, presentation and testimony. Parking is the way it is on Westwood Avenue, no matter what use moves into this building. Mr. Oakes commented with the ride share generation of today, you will not see as many people as you think parking. The parking has been met. He feels it is a positive for the town. Mr. Grefrath commented he liked the application. Mr. Harper agreed with the Board Members. The other alternative is having another empty business. We heard from welcoming interested parties and will bring other customers and businesses to Westwood. All of the accommodations made shows their desire to be in this community

and support the people and town. Mr. Ceplo commented he had a personal preference for a green rooftop. Chairman Martin commented the application as presented showed there was an effort to address the new Master Plan, acknowledging that we wanted a stronger Westwood Avenue and downtown feeling, and he thanks the applicant for being substantially in accordance with the Master Plan.

Mr. Lydon stated procedurally two votes are warranted, one for the limited brewery and one for the commercial rooftop use, but it can be in the same Resolution. He added Mr. Steck did a good job in his testimony.

Mr. Rutherford instructed the Board. In a D1 use variance, particular suitable lack of detrimental impact must be shown. In this case we have a very recently adopted Master Plan Re-examination, and this use is not inconsistent with it, or the purposes and intent of the Ordinance. He will address the conditions. The applicant needs five yes votes.

Vote #1 - Brewery D1 Variance - a motion for approval with conditions as stated was made by Eric Oakes and seconded by Gary Conkling. There were no further questions, comments or discussions. On roll call vote, Eric Oakes, Matthew Ceplo, Michael Klein, Alyssa Dawson, Michael O'Rourke, Gary Conkling, and William Martin voted yes. Wayne Harper and Peter Grefrath were not eligible to vote.

Vote #2 - Commercial Use of Rooftop Area Variance - a motion for approval with conditions as stated and the site plan was made by Eric Oakes and seconded by Gary Conkling and seconded by. There were no further questions, comments or discussions. On roll call vote, Eric Oakes, Matthew Ceplo, Michael Klein, Alyssa Dawson, Michael O'Rourke, Gary Conkling, and William Martin voted yes. Wayne Harper and Peter Grefrath were not eligible to vote.

Mr. Lamb thanked the Board.

The Board took a five minute recess at approx. 9:45 pm.

2. 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. Peter Grefrath submitted a Certification that he watched and listened to the recording of the 9/14/20 Zoom meeting for this application.

Jonathan Cohen, Principal, 88 Lilac Lane, Paramus, previously sworn, continued under oath. Mr. Cohen showed Exhibit A12, Alternate View of the building produced by him. In the best interest of the neighborhood they believe the latest proposed plan is the best alternative. Exhibit A13, shows two photos of the current site and the landscape. The neighboring property contains a pumping station. The auxiliary building is approx. 84' long and the pumps are further from the site. As mentioned they are open to suggestions from the Board. They changed the plan to add landscaping, and approx. 1,500sf of passive recreation space. They responded to all review letters in writing. They agreed to new curbing and sidewalks required by the County. He hopes that the proposal will be beneficial to the neighborhood. The amendment to the Master Plan considers this type of housing in the neighborhood. He is proud of the project and thanked the Board for their time.

Questions by Board Members of Mr. Cohen followed. Mr. Lydon asked for the date of the revised landscaping plan. They did not have the date but were looking to put in as much landscaping as possible. It did not appear there was a revised landscaping plan. Mr. Cohen stated there were additional shrubs and planters they stated they would add. Mr. Raimondi asked for distances from the pavement strip to the front line of the townhouses. Mr. Cohen responded 20' to the foundation, not including the cantilever. Mr. Raimondi asked for further distance clarifications. He asked to narrow the 24' width driveway. They need 12' for each direction, Mr. Cohen stated. They did not want to reduce the passive recreation space. Mr. Raimondi asked if they could narrow the building, but Mr. Cohen stated they could not. The Chairman stated the Board did not see any alternative layouts mentioned. Mr. Cohen stated the townhouses as proposed was the most favorable. All they did was turn the building 90 degrees. Mr. Cohen agreed they did that per comments and looked at several options when they started. Ms. Jennings stated they came in with their best plan.

Chairman Martin expressed concern there were better configuration alternatives and Exhibit A12 did not address their questions. Mr. Grefrath expressed concern about the lack of landscaping. Four shrubs in front of the four townhouses is not adequate landscaping. For something this size and where it is located, the landscaping is inadequate and not the best it can be. Ms. Jennings stated the applicant can surely work with Mr. Lydon on the landscaping. Mr. Cohen

noted there are hedges, trees and arborvitaes along the sides and rear. He would be happy to plant as many as possible. Mr. Oakes commented there was another project that staggered the units, breaking up the big rectangle. Even "L" shapes work with properties like this. Another look is needed to change it from a long rectangular building on a narrow street. He is also looking for more landscaping as a condition and a revised drawing. Mr. Cohen put up Exhibit A1 to show the rendering. The architect can speak to this. One of the goals is to avoid a rectangular look. They have different architectural features, porches and materials. It will be a beautiful, exciting residence near the train station, Westwood Avenue and the downtown. Mr. Oakes said it does not look broken up enough. If they push pieces back it may help it work on the site. The Chairman commented this is the building the applicant wants. It is very massive. A different building type, rotated in another direction may be better. It is the applicant's choice to make the proposal they want. The issue of landscaping should be addressed. Mr. Grefrath commented there was very attractive landscaping on A1, but he did not see it on a landscaping plan. Chairman Martin commented on the gasoline pump location. His concern is there could be a much better plan that has not been explored.

The matter was opened to the public for questions of Mr. Cohen. There were none. Ms. Jennings requested a five minute recess at 10:35 pm for a brief discussion with her clients.

The applicant was back and Larry Appel, applicant's architect, spoke about various scenarios, but there are benefits to this concept. While he understands the comments, he is balancing out the pros and cons and feels there are strengths in this scheme. Here there is a building with parking on one street and an entrance on the other. Fairview is better suited to the residential, and it takes away an older structure in ill repair and provide a very attractive building on Fairview. There is room to improve the landscaping as conditions, and the applicant will work with the professionals to fine tune it to the best it can be. The application has a lot of strengths and outweighs any negatives discussed earlier. The Chairman commented Mr. Appel did a fine job doing a townhouse building. The Master Plan did not encourage townhouses. Was there any thought to a different building. Mr. Appel said they explored a series of concepts and concluded this was the best fit for the property, and leaving some of the existing office building was beneficial to the property.

Chairman Martin did not feel it was the best configuration from a planning perspective, not due to the architecture. But this is what they are proposing. He is not sure the Board Planner and Engineer would agree to make the landscaping a condition of approval. He asked what improvements would be made to the office building. Mr. Appel stated there were no design improvements planned. A new entrance ramp, parking lot, and dumpster enclosure were included. Cleaning up the site was also planned. Mr. Cohen gave some details. They did many improvements during the two years they have owned it. The County approval is conditioned upon new curbs, sidewalk and a stop sign. They try to power wash the office building and maintain it as needed. There is no plan to redo the façade, however. Mr. Appel noted with a narrow lot, as soon as you put in a drive aisle, you will have a 24' cart way and 18' for parking. They are proposing a 21' building. There are difficult geometry issues, and turning the building sideways would not be a good fit. They felt this was an appropriate and the best solution. There were no further questions.

Mr. Rutherford advised they left off with questions of Mr. Fox and Mr. Appel. There were no further questions.

The matter was opened for questions of Mr. Fox, Mr. Appel and Mr. Cohen, by interested parties. There were none. Ms. Jennings stated there were no further witnesses. Chairman Martin noted at 10:57 pm, the matter would still have to be open to the public for general comments, Board discussion and voting. Therefore, due to the lateness of the hour they would carry the matter to 11/9/2020, to be listed first on the agenda. The applicant consented to an extension of time and to submit a landscaping plan. Ms. Jennings agreed.

3. 459 Broadway Realty, 459 Broadway, C & D Variances - Robert J. Mancinelli, Esq., attorney for applicant - Carried to 11/9/2020 at request of the applicant;

4. Toflec Properties, LLC, 140 Carver Avenue - Bulk Variance - Still incomplete; Carried to 11/9/2020; Notice required;

5. Ahluwakshi Investments, LLC, 75 Bergen Avenue - Subdivision and Bulk Variances - Mr. Rutherford advised the Zoning Board does have jurisdiction; Carried to 11/9/2020; Notice required;

(ZB 10/5/2020 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 10:59 pm.

Respectfully submitted,

MARY R. VERDUCCI, Paralegal
Zoning Board Secretary