

**BOROUGH OF WESTWOOD  
ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING  
MINUTES  
May 4, 2015**

**APPROVED 6/8/15**

**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 (departed 8:35 pm)  
Eric Oakes, Vice Chairman  
Matthew Ceplo  
Marc Truscio  
H. Wayne Harper  
George James  
Cynthia Waneck (Alt #1)  
Michael Klein (Alt #2)

**ALSO PRESENT:** David Rutherford, Esq., Board Attorney  
Louis A. Raimondi, Board Engineer  
Steve Lydon, Burgis Associates,  
Board Planner  
Michele S. Austin, Esq. Substitute Board  
Attorney for MedExpress Application

**ABSENT:** Guy Hartman (excused absence)

**4. MINUTES:** A motion to approve the Minutes of the 3/30/15 Special Meeting was made by Eric Oakes, seconded by Cynthia Waneck, and carried unanimously on roll call vote. A motion to approve the Minutes of the 4/6/15 Regular Meeting was made

(ZB 5/4/15 Regular Minutes)

by Cynthia Waneck, seconded by Michael Klein, and carried unanimously on roll call vote.

**5. CORRESPONDENCE:**

1. Memorandum dated 4/7/15 from Steve Lydon RE: Marrero, 86 Westwood Boulevard;

2. Report of Louis A. Raimondi, dated 4/7/15 RE: Fernandez;

3. Report of Louis A. Raimondi, dated 4/7/15 RE: Westwood Valley Properties;

4. Report of Louis A. Raimondi, dated 4/7/15 RE: TSI Westwood/MedExpress;

5. Report of Louis A. Raimondi, dated 4/8/15 RE: Marrero;

6. Report of Louis A. Raimondi, dated 4/10/15 RE: Third & Elm;

7. Memorandum dated 4/16/15 from Steve Lydon RE: Westwood Properties, 43 Sullivan Street;

8. Memorandum dated 4/16/15 from Steve Lydon RE: Third & Elm;

9. Letter from John Lamb, Esq., dated 4/28/15 RE; TSI Westwood/MedExpress;

**6. VOUCHERS:** A motion of to approve Vouchers as follows was made by Eric Oakes, seconded by Wayne Harper, and carried unanimously on roll call vote: Burgis Associates - \$2,562.50 (Maxim Self Storage vouchers were excluded as non-applicable, as they belonged to the Planning Board); Louis A. Raimondi - \$2,700.00; and David L. Rutherford, Esq. - \$790.00.

**7. RESOLUTIONS: NONE**

**8. PENDING NEW BUSINESS: NONE**

**1. VRS 40 Kinderkamack, LLC and MedExpress Urgent Care-New Jersey, P.C., 40 Kinderkamack Road, Block 1607, Lots 12, 13 and 14 - Site Plan/Use Variance - Withdrawn without prejudice;**

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

**SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS  
The Board Professionals were sworn in.**

**William Martin recused himself on VRS/Med Express, Bartlett and Pieretti (his office is across the street) and stepped down from the dais.**

**1. VRS 40 Kinderkamack, LLC and MedExpress Urgent Care-New Jersey, P.C., 40 Kinderkamack Road, Block 1607, Lots 12, 13 and 14 - Appeal of Zoning Officer's Decision** - David Rutherford, Esq. recused himself and stepped down from the dais. Michele S. Austin, Esq. took his place at the dais as Board Attorney for this application. William Martin, recused himself and stepped down from the dais. Eric Oakes chaired the meeting for this application.

Carmine R. Alampi, Esq., appeared on behalf of the applicant, VRS 40 Kinderkamack, LLC, the contract purchaser, and Med/Express Urgent Care-New Jersey, P.C., the end user. John J. Lamb, Esq. represented the objector, Westwood Taxpayers Alliance.

Mr. Alampi advised he was present to address his letter of withdrawal sent prior to the last special meeting. Mr. Alampi was present and advised in order to save the expense of the Board's special meeting, the matter was carried over to tonight. It does not matter if it is dismissed with or without prejudice. What is important is there was an application for variance that was pending the appeal, and that should be withdrawn without prejudice. They simply ran out of time under the terms of the contract in which they were a contract purchaser. It cost their client a great deal of money, but under the circumstances, and time constraints, they withdrew. Mr. Lamb agreed with Mr. Alampi. Chairman Oakes stated the Board accepted their withdrawal without prejudice in both applications. Ms. Austin advised the Board can place any conditions on the withdrawal, and that any outstanding professional fees would be paid by the applicant. Mr. Alampi advised the applicant would address any balance. A motion to accept the withdrawal without prejudice was made by Mr. Oakes, seconded by Mr. James and carried unanimously on roll call vote.

Mr. Rutherford returned to the dais.

**2. Bartlett and Clarke, 447 Fairview Avenue, Block 709, Lot 1 - Variance** - William Martin previously recused himself and was not present at the dais. Mr. Rutherford reviewed the publication documents and found them to be in order. Nancy Saccente, Esq. represented the applicant. Mr.

Bartlett was sworn in. Mr. Rutherford advised that the Resolution was approved at the last meeting but the applicant was to go back to Mr. Marini to clarify the coverage calculations. The ramp was not included in the coverage calculations. Mr. Saccente advised they have returned for approval of the building coverage being 29% in lieu of 27%. It is a pre-existing ramp. It was approved on the basis of being a temporary structure, Mr. Bartlett explained. Mr. Rutherford asked Mr. Saccente to confirm the lot and impervious coverages as approved and as they now seek it. Ms. Saccente advised building coverage was approved at 27%, and they are now seeking 29%; with 42.7% and 43.3% for impervious coverage.

The matter was opened to the public, but there were no interested parties. A motion for approval of the amended application was made by Mr. James, seconded by Mr. Ceplo. On roll call vote, Eric Oakes, Matthew Ceplo, Wayne Harper, Marc Truscio, George James, Cynthia Waneck, and Michael Klein voted yes.

**3. Pieretti, 20 Boulevard, Block 902, Lot 53 - Section 68 Certificate** - Mr. Martin previously recused himself and was not present at the dais. Cynthia Waneck recused herself and stepped down from the dais. L. Scott Berkoben, Esq. represented the applicant. Mr. Rutherford reviewed the publication documents and found them to be in order.

Marilyn Pieretti, present owner, was sworn in. Mr. Berkoben presented the application and his proofs by way of tax records. The house is and has always been a two-family house. It was built in 1960, and her parents moved in to the property in 1960. It was always used as a two-family home since that time. Photos with multiple users were shown. The matter was opened to the public, but there were no interested parties. A motion for approval of the amended application was made by Mr. Harper, seconded by Mr. Ceplo. On roll call vote, Eric Oakes, Matthew Ceplo, Wayne Harper, Marc Truscio, George James, and Michael Klein voted yes. Cynthia Waneck was recused.

**Ms. Waneck and Mr. Martin returned to the dais.**

**The Board took a recess from 8:40 to 9:40 pm.**

**4. Bogush, 43 Sullivan Street, Block 2110, Lot 22 - Use Variance** - Holly Schepisi, Esq. represented the

applicant. Mr. Rutherford reviewed the publication documents and found them to be in order. James Bogush, residing at 257 Crest Road, Ridgewood, and principal of Westwood Valley Properties, LLC, at 43 Sullivan Street, was sworn in. A request for a waiver of producing new architectural plans was proposed. Applicant testified there were no alterations since the date of the plan in 2010. Mr. Raimondi asked for clarification of the title of the plans, which were dated 1/4/10. Applicant responded. They were prepared by The Cybo Group, PA, by Bogdan C. Cybulski, Architect AIA. Updated plans were not required, as there were no changes since those plans were made and no changes are being proposed.

A motion for approval of the waiver was made by Cynthia Waneck and seconded by Wayne Harper. On roll call vote, all members voted yes.

Ms. Schepisi advised applicant was seeking a very narrowly tailored "D" use variance in the LM District, for the sale of collectible cars already stored on the property. Traffic flow will not change, and you will not see used cars on the property. Applicant testified he owned the property since 2009 and brought a series of four photos of the "before and after" condition of the property, marked Exhibit A1-A4. Mr. Bogush continued. The business would be operated by appointment only, Monday to Saturday, 9am to 6pm. The maximum number of employees would be three to four, starting with himself and one other person. The cars are strictly for investment and collectability. The vehicles are typically not driven, as it depreciates the value. There would be no "for sale" signs.

Questions by Mr. Lydon about the collectible cars followed. Mr. Lydon asked how the vehicles would be maneuvered when the owners come to view and take the cars. The visitation is very infrequent, maybe every six months to a year, Mr. Bogush explained. Everything is planned for. The owners like their vehicles started every once in a while so as not to have the engine deteriorate. Mr. Lydon asked the applicant about marketing. Mr. Bogush assured the Board it is not like a used car dealership on Route 46. All vehicles are kept in a climate and temperature-controlled building. You will see no cars on the outside. There will be no banners. He is the sole occupant of the building. He intends to remain there. Mr. Martin expressed concern as to the future use of the property. Ms. Schepisi suggested certain restrictions and conditions of a Resolution, setting forth stipulations

made this evening. The Affidavit of James Bogush and Plans mentioned in the Affidavit were marked Exhibit A5.

Questions by Board Members followed. There will be no oil changes, and if the vehicles need work, they go out elsewhere. No gas changes are done at the premises. There were no interested parties with questions of the witness.

Ms. Schepisi advised the applicant's Planner and Engineer were present to answer any questions as well. Peter F. Pulice, 344 Broad Avenue, Leonia, NJ, Registered Architect and Licensed Planner in NJ for the past 32 years, was qualified and accepted. Exhibit A6, dated 4/15/15, was the Site Plan, prepared by Costa Engineering. Mr. Pulice did not prepare the exhibit, but he reviewed the exhibit and would comment. Mr. Costa had a conflict. It is a corner property, a one-story brick and masonry building in the industrial zone. Parking consists of 11 spaces on the East side. The building is well-suited for this use. It is accessible, with multiple areas of ingress and egress for these collectible vehicles. The building is very highly maintained with beautiful landscaping and pavers---a very nice enhancement in the zone. It is a model applicant and model building. There is nothing garish, and it is a very upscale and handsome building, as he saw from his visit. As a professional planner, the granting of this variance would be an enhancement. He noted the Master Plan Re-examination encouraged the reuse of structures. Even though the strict interpretation requires a D1 variance, he believes it is an appropriate use. It is a good use of the building, exactly as it was presented in 2009 and does not affect the zone plan. This is a far better and limited use than what is permitted in the zone. This is a low intensity use. It is consistent and less intrusive use of the property, with very little impact to the public. This has elevated property values. There is no substantial detriment to the public good or surrounding properties and would not impair the zone plan.

Mr. Martin commented applicant is asking to put a used car lot in a zone where it is not permitted. This transfers with the property. He is looking at this with a raw exercise in planning. He wants to hear how the negative criteria is addressed. Mr. Pulice stated this is not identifiable as a used car lot. No cars are stored on the lot; all cars are within the building, by appointment, and not open to the general public. It is not something on a highway geared towards the average consumer. It is directed towards

investments. No investor would put a collectible car on an average lot. He believes there is no negativity. They are stored and will continue to be stored. The sales would be strictly interior. That really in essence makes this application a lot better, with positive criteria. It is not possible to see the cars from the outside. You would never be able to market vehicles by even driving by. Scissor lifts are utilized for the storage and rotation of vehicles very infrequently. To correlate this with used cars would be inappropriate--this is a totally different animal.

Mr. Martin asked Mr. Lydon to comment on his concerns and the witness' testimony. Mr. Lydon thought the planner would offer stipulations to be attached to a resolution so the negative criteria would be met, i.e., days and hours of operation, no signage, no mechanical work, car washing, lot storage, etc., as stated. Perhaps the planner has some type of definition for the collectible cars. Mr. Pulice responded either 25 years or older. Mr. Lydon commented that would be antique. Mr. Pulice stated, either limited edition, factory specials, historical significance or vintage. Mr. Martin asked Mr. Rutherford if it could be translated into some type of language in a resolution. Age and limited production fall into a collectible category, Mr. Rutherford advised, and he would formulate this all into a resolution. Ms. Schepisi commented the Blue Laws prevent any sales to take place on Sundays; however, clients may come on Sunday to pick up their vehicles. There were no further questions of the witness. There were no interested parties.

Mr. Raimondi's comments followed. There should be a seal on the survey, and there was no reference on the site plan. Mr. Costa should make a reference to it on the plan. Mr. Raimondi inquired about attic storage noted on the plan. Mr. Bogush was recalled to provide an explanation. Car covers would be stored in the attic. Mr. Oakes asked about tires. Mr. Bogush did not believe he would be storing tires. Just accessories would be stored. There were no further questions of Mr. Bogush.

Chairman Martin called for any interested parties wishing to address the Board to come forward. Jay Ferrara was sworn in and spoke in favor of the application. He gave clarification, stating he is a car guy/investor and a neighboring property owner. What James the applicant is proposing he was wishing someone would be doing for years. It is not something that would be advertised on Craig's list.

Mr. Ferrara said he wants an agent he can call and depend on. It is the most state-of-the-art facility you could find. His cars would be stored in this building. There is a high demand for this. Mr. Bogush was sworn in and spoke in favor of the application as well, reiterating all that was said before.

Board comments and discussion followed. Ms. Waneck gave comments in favor of the application, and the Chairman asked her to formulate her comments into a motion. A motion for approval was made by Cynthia Waneck and seconded by Wayne Harper. Mr. Rutherford recited the extensive stipulations and conditions for the Resolution. There were no further questions, comments or discussions. On roll call vote, Eric Oakes, Matthew Ceplo, Wayne Harper, Marc Truscio George James, Cynthia Waneck and William Martin voted yes. Mr. Klein was not needed to vote.

**5. Fernandez, 125 Lake Street, Block 710, Lot 21 - Site Plan** - Mr. Rutherford advised the matter would be complete by the next meeting; Carried to the 5/4/15 meeting; FERNANDEZ - David Repetto, Esq., Harwood Lloyd represented the applicant. Mr. Fernandez was present. Mr. Rutherford reviewed the publication documents and found them to be in order. Mr. Petrone, applicant's architect was present. Chairman Martin asked if he was a planner. The Master Plan did not promote expansion of two-family homes. If Mr. Petrone is not a planner, perhaps, they should adjourn until June to obtain a planner. Mr. Repetto conferred with his client and then requested an adjournment until 6/8/15. He would advise Mr. Rutherford as to the name of their planner.

**6. Athanasopoulos, 17 Gritman Court, Block 1108, Lot 6 - "C" Variance** - Mark Raimondo, Esq. represented the applicant. Mr. Rutherford reviewed the publication documents and found them to be in order. The applicant was seeking to build a second story addition over his existing garage. The property has an irregular shape and configuration. There is an existing non-conforming rear yard setback of 13.9', where 30' is required in the zone.

Joseph A. Buda, AIA, applicant's NJ Licensed Architect, was sworn in, qualified and accepted. The Site Plan was dated 1/2/14 and described by Mr. Buda. Applicants are newlyweds and wish to renovate the home and construct the addition. The addition would offer a bigger bedroom and office space. The addition goes right over the edge of the existing garage, taking the ridge line and matching everything. It would match

the existing profile of the home. None of the setbacks are changing. If they did anything to the back, it would trigger a variance. The non-conformity is the only variance. Mr. Raimondi commented he did not believe it was a variance, taking the definition of lot depth and width in the ordinance. He had the architect do additional calculations. By his explanation, the 13.9' is a side yard. Mr. Martin commented if what Mr. Raimondi is saying is correct, there is no variance. Rather than complicate matters, the Board should proceed anyway. There are not many lots like this anyway. Mr. Raimondi stated he always uses the definition. Mr. Martin had that thought, but felt it was better to proceed as is. Mr. Raimondi raised a concern the drainage structure is not within the easement.

There were no further questions, comments or discussions. A motion for approval was made by George James and seconded by Wayne Harper. On roll call vote, Eric Oakes, Matthew Ceplo, Wayne Harper, Marc Truscio George James, Cynthia Waneck and William Martin voted yes. Michael Klein was not needed to vote.

**7. TSI Westwood/NY Sports Club** - Not heard; Withdrawn by applicant.

**8. Marrero, 86 Westwood Boulevard, Block 1907, Lot 15 - "C" Variance** - Not present; Carried to the 6/8/15 meeting;

**9. Hendrickson, 68 Wheeler Street, Block 204, Lot 8 - Section 68** - Not heard; Carried to the 6/8/15 meeting;

**10. Bedekian, LLC, 9 Glen Court, Block 302, Lot 11 - Section 68** - Not Present; Carried to the 6/8/15 meeting;

**10. DISCUSSION:** Discussed 3rd and Elm. Mr. Martin saw activity on the site. Mr. Lamb was present. He would be in next meeting.

**Eric Oakes loophole re**

**11. ADJOURNMENT** - On motions, made seconded and carried, the meeting was adjourned at approx. 10:35 p.m.

**Respectfully submitted,**

---

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