

**BOROUGH OF WESTWOOD  
ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING  
MINUTES**

**June 6, 2011**

**APPROVED 8/1/11**

**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.

Notices have been filed with our local official newspapers and posted on the municipal bulletin board.

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL:**

**PRESENT:** Robert Bicocchi  
Christopher Owens  
Michael Bieri  
Raymond Arroyo, Vice-Chairman  
William Martin, Chairman  
Vernon McCoy (Alt #1)  
Matthew Ceplo(Alt #2)

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

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

**4. MINUTES** - The Minutes of the 5/2/11 meeting were approved on motion made by Mr. Arroyo, seconded by Mr. Owens and carried on roll call vote.

**5. CORRESPONDENCE:**

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1. Memo from Steve Lydon, Burgis Associates, dated 6/6/11  
RE: 410 Center Street, LLC;

2. Report from Louis Raimondi, Brooker Engineering, dated  
5/18/11, RE: Belle's Little Learners;

6. **VOUCHERS:** A motion to approve vouchers totaling \$3,690.00  
was made by Mr. Arroyo, seconded by Mr. Biccocchi, and carried  
unanimously on roll call vote.

7. **RESOLUTIONS:**

1. **DePaola, 112 Prospect Avenue - Certification of Non-Conformity** - Mr. Rutherford read an overview of the Resolution of Approval into the record. Mr. Rutherford would check with Linda Koch the Affidavit of Service. A motion for approval was made by Mr. Bieri and seconded by Mr. Oakes. There were no further questions, comments or discussions. On roll call vote, Mr. Biccocchi, Mr. Bieri, Mr. Arroyo, Mr. Owens, Mr. Ceplo, and Mr. Martin voted yes. Mr. McCoy was not eligible to vote.

2. **Stewart, 463 Fairview Avenue - Certificate of Non-Conformity** - Mr. Rutherford read an overview of the Resolution of Approval into the record. The Affidavit of Service was received. A motion for approval was made by Mr. Bieri and seconded by Mr. Oakes. There were no further questions, comments or discussions. On roll call vote, Mr. Biccocchi, Mr. Bieri, Mr. Arroyo, Mr. Owens, Mr. Ceplo, and Mr. Martin voted yes. Mr. McCoy was not eligible to vote.

3. **Migliore, 4 Kingsberry Avenue, Block 1601, Lot 1 - Variance** - Mr. Rutherford read an overview of the Resolution of Approval into the record. A motion for approval was made by Mr. Bieri and seconded by Mr. Oakes. There were no further questions, comments or discussions. On roll call vote, Mr. Biccocchi, Mr. Bieri, Mr. Arroyo, Mr. Owens, Mr. Ceplo, and Mr. Martin voted yes. Mr. McCoy was not eligible to vote.

8. **PENDING NEW BUSINESS:**

1. **Fodor, 43 Clairmont - Hardship Variance** - Scheduled  
for 7/11/11;

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

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS

The Board Professionals were sworn in.

**1. Berkoben, 57 James Street, Block 1404, Lot 16 - Variance;** Berkoben - L. Scott Berkoben, Esq. represented himself as applicant. Mr. Fethes, previously sworn, was present for any questions or clarifications. The members of the public were present regarding the spruce tree and presented a report from Michael S. Kopas, Certified Tree Expert, of M.S. Kopas & Associates, LLC. Mr. Nussman stated they chose not to have Mr. Kopas or the surveyor present, due to the expense. They felt they should not have to bear this expense to support an ordinance. Mr. Martin stated their concern was for the tree as they testified at the last meeting, but it was not their burden of proof. Further, he deferred to Mr. Rutherford, who advised in the absence of Mr. Kopas, they were not able to consider this report in absence of the witness, since the Board cannot question the witness as to the assumptions and conclusions in the report. The burden of proof is always on the applicant. There are facts and circumstances for the Board to grant variance relieve. Mr. Rutherford reviewed as to the criteria.

Mr. Martin commented we left off at the last meeting with a discussion of the disturbance that the driveway creates at the surface. He asked how deep it is going and can we keep it at a surface level. Mr. Fethes responded there would be about 4-6' of excavation then topping over that. They do not want to have a water problem. It is generally a shallow excavation. The driveway is 7.4' off the property line. Mr. Arroyo and Mr. Ceplo questioned Mr. Fethes. Mr. Raimondi asked and he responded it would be blacktop and then grass. Mr. Nussman felt it was not a good reason to break the ordinance.

Mr. Fethes outlined his testimony as to the positive and negative criteria. The photos were also reviewed. They are trying to bring the property in conformance with the zoning ordinance. They currently have 1.5 parking spaces, and they will have 2.5 parking spaces, bringing it into conformance for a four bedroom house. Mr. Martin clarified with Mr. Lydon that a two car garage is required to accommodate a four bedroom house. Mr. Fethes continued. They are removing a concrete walkway around the house, providing a benefit of not increasing the

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impervious area, which is within the requirements. They will be at 22.1% and the ordinance allows approx. 40%. The driveway is on the same side as the neighbors' driveway.

Mr. Nussman questioned when it became a four bedroom house, why this was coming up now. Mrs. Berkoben stated it was built that way. Mr. Martin stated the ordinance was updated in 1994. Mr. Lydon commented zoning ordinances change according to current conditions. There is a non-conforming use structure strategy, but if an owner seeks to increase the home, a variance would be necessary. Mr. Nussman stated they were good neighbors and were afraid that the tree would be in danger and may fall on their house. They felt this was a serious problem. Mr. Martin stated they are asking the applicant to take care with this proposal.

There were no further questions. Board discussion followed. A motion for approval was made by Mr. Owens with second by Mr. Ceplo. On roll call vote, Mr. Bicocchi, Mr. Bieri, Mr. Arroyo, Mr. Owens, Mr. Ceplo, and Mr. Martin voted yes, with the conditions that applicants would take every step to exercise care with respect to any anchor roots during excavation. Mr. Nussman thanked the Board for its patience and care. Mr. Martin commented it was past the drip line.

The Board took a recess from 9:00-9:07 p.m.

**2. Bell's Little Learners, 410 Center Avenue, Block 802, Lot 17** - Mr. Lafferty reviewed from the last hearing and they submitted revised plans, revised to 5/23/11, eliminating parking from behind Center Avenue. The circular driveway was eliminated. The children would be dropped off by the parents coming in off Center Avenue. There are 11 spots with an entrance along Irvington Street.

The Board Professionals commented on the revised plans. Mr. Lydon acknowledged the revisions to the drawings, and therefore, the variances have changed. He reviewed his report dated 6/6/11. An amended variance would have to be requested, as the ordinance provides that all parking stalls have aisles providing direct access to individual parking stalls. The first two rows do not provide for direct access to each parking stall; thus, variance relief is required. The applicants will control the other by using it for employee parking. The next variance

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was necessary for two stalls since the ordinance prohibits designs that encourage the backing of vehicles into a street. The proposed parking stalls in parallel rows that are closest to Irvington are just 10' from the street and lack turnaround space. Drivers of vehicles parking in these stalls will be encouraged to back out into Irvington Street. A variance is necessary for these two stalls.

Next, the ordinance prohibits off street parking within five feet of any side or rear property lines. The three parking stalls proposed in the western stack are shown with a zero buffer to the property line, and a variance is required. The ordinance also prohibits the location of parking within 10' of a front yard lot line. The proposed parking stall closest to and parallel with the Irvington Street curb line is set back one or two feet from the property line, and so it is not in compliance with this provision and variance relief is necessary for the construction of this proposed parking stall.

Lastly, the ordinance requires that parking areas with less than 20 spaces shall be screened from the street with landscaping, fencing or a wall. No such screen devices are proposed. Variance relief is required or the plans need to be revised to include such screening devices.

Mr. Lydon suggested a rain garden. Raimondi reviewed his report dated 5/18/22 and also recommended a rain garden. He would also rather see the handicapped space closer to Irvington. The storm water plan was satisfactory, especially if they install the rain garden.

Michael Morgante, P.E., continued under oath. He discovered an existing dry wall when doing test pits, and it has no problems controlling the flow. As for the rain garden it would have to be 700-800 sq. ft., at least 10' off the existing foundation. He was concerned about the extent of the size. A rain garden of 2' deep is not practical with children playing nearby. Mr. Martin asked Mr. Lydon if he felt it was a good fit for a rain garden. Mr. Lydon deferred to Mr. Raimondi, as to whether or not the drainage is sufficient. He would then request a landscaping plan. Mr. Raimondi commented he would have to agree with a landscaping plan. Mr. Lafferty responded they would be happy to provide a landscaping plan. Mr. Martin asked him to forward to the Board Planner for review. They would

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accept this condition. Also, applicant would testify how the parking layout would work out.

Questions of Mr. Morgante followed. Tom Smith, 424 Center Avenue, asked if there was a traffic study done, and the response was no. Mr. Martin stated there was a day care before, and this is a day care. The expansion is not of the building, not of the site. There is a parking deficiency, but what they are proposing is an improvement. He did not know a traffic study would provide any useful information. Mr. Smith was concerned about traffic flow in and out on Irvington. Mr. Morgante would address the question. Mr. Arroyo questioned Mr. Morgante about the parking circulation and would like to hear from Ms. Bell. Tom Callahan, 410 Center Avenue, asked how the dumpster would be picked up and emptied. Mr. Morgante said it would be done in early morning hours before business. John Suran, 415 Center Avenue, asked what they would do with the snow.

Ms. Bell continued under oath. She indicated it would be dumped in the playground, since they do not use it in winter. She spoke about how she would manage and control the parking. If an employee had to run out to move a car for five minutes, they would be fully covered inside. Employees and parking would be in shifts. Mr. Suran came forward and expressed concern about parents parking in driveways when dropping off or picking up their children, as well as safety. Ms. Bell assured them that there would be signage and a parent handbook that would address these concerns. Mr. Suran also asked if there would be a plan for shrubbery. He also asked about handicapped parking. There were no handicapped employees.

Mr. Martin called for comments from the public. Mr. Smith was sworn in and commented it was a great plan and wished them luck. It is a better use of the property than what was there before. Jack Suran, 415 Center Ave stated he hopes the garbage dumpster remains there and that the construction is completed soon.

Mr. Lafferty's presentation was complete and he summed up. They feel they have done their best and compromised on the parking issue. He gave an overview. They will certainly be happy to remind parents not to block driveways with signs and notation in the parent handbook.

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Board Members commented. Mr. Arroyo noted it is a big improvement. Mr. Martin stated it is an improvement to the property. Mr. Lydon commented if this application is approved, and the two trees do not survive, it would not be practical to replant them in the same place, but rather at a different location, probably on Center Avenue in the site triangle. Mr. Martin recommended the applicant provide a landscaping plan for review by the planner and engineer and if any trees come down, they would replace them one for one, at an alternate location.

A motion for approval for the Board Attorney to prepare a Resolution was made by Mr. Bicocchi and seconded by Mr. Bieri. Mr. Rutherford gave an overview of the conditions in a Resolution of Approval in detail. A revised plan would be submitted 10 days prior to the next meeting. There were no further questions, comments or discussions. On roll call vote, Mr. Bicocchi, Mr. Bieri, Mr. Arroyo, Mr. Owens, Mr. Ceplo, and Mr. Martin voted yes.

**10. DISCUSSION:**

**1. An Update on Master Plan Re-Examination** - Mr. Martin gave an update as to the Planning Board's discussions at the last meeting.

**11. ADJOURNMENT** - On motions, made seconded and carried, the meeting was adjourned at approx. 10:25 p.m.

**Respectfully submitted,**

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