

**BOROUGH OF WESTWOOD  
ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING  
MINUTES  
July 2, 2012**

**APPROVED 9/10/12**

**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 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:** William Martin, Chairman  
Raymond Arroyo, Vice-Chairman  
Robert Bicocchi (arrived 8:20 pm)  
Michael Bieri  
Vernon McCoy  
Eric Oakes  
Christopher Owens  
Matthew Ceplo (Alt #1)

**ALSO PRESENT:** David Rutherford, Esq., Board Attorney  
Louis Raimondi, Brooker Engineering,  
Board Engineer  
Kevin Cane appeared on behalf of  
Steve Lydon, Burgis Associates,  
Board Planner

**ABSENT:** Guy Hartman (Alt #2) (excused absence)

Matthew Ceplo stated he listened to the tape of the 2/27/12 meeting and signed a certification.

**4. MINUTES** - The **Minutes of the 6/11/12 meeting** was approved on motions made by Mr. Bieri, seconded by Mr. Arroyo and carried. The Meeting of 6/4/12 was canceled due to lack of applications to process.

**5. CORRESPONDENCE:**

1. Report from Brooker Engineering, dated 5/14/12  
RE: Niarra;

2. Memo from Burgis Associates dated 5/17/12 RE:  
Foody;

3. Memo from Burgis Associates dated 5/12/12 RE:  
Millennium Health Care;

4. Memo from Burgis Associates dated 6/6/12 RE:  
Foody;

5. Memo from Burgis Associates dated 6/26/12 RE:  
Foody;

**6. VOUCHERS:** A motion to approve vouchers totaling \$12,545. was made by Mr. Arroyo, seconded by Mr. Owens, and carried unanimously on roll call vote.

**7. RESOLUTIONS: None**

**8. PENDING NEW BUSINESS:**

1. **Van Grouw, 27 Ruckner Road - Appeal-** Scheduled for the 8/6/12 meeting;

2. **Niarra, 312 Kinderkamack Road - Variance -** Scheduled for the 8/6/12 meeting;

3. **Sickinger, 484 4<sup>th</sup> Avenue - Variance and Site Plan Application -** Scheduled for the 8/6/12 meeting;

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

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

1. **KMACK South, 40 Kinderkamack Road, Block 1607, Lots 12, 13 & 14 - Variance & Site Plan Approval -** Carried to the 8/6/12 meeting at the request of the applicant, with no further notice.

**2. Care One at Valley, 300 Old Hook Road - Variance & Site Plan Approval, Block 2001, Lots 51 and 64** - (Robert Bicocchi recused). Applicant's attorney, appearing on behalf of Donna Erem, Esq., came forward. Mr. Rutherford advised that only five members eligible to vote were present. All but Mr. Oakes and Mr. Owens were eligible, and some of the eligible Members would be absent for the 8/6/12 meeting as stated. The applicant discussed same with their attorney and indicated they would like to carry to the 8/6/12 meeting. Mr. Oakes, Mr. Owens and Mr. Bieri will not be present and Mr. Bicocchi was recused, Mr. Rutherford advised. Applicant's counsel stated they would like to be carried to 8/6/12, but would probably then carry to 9/10/12. The matter was so carried as requested, with a time extension through 9/10/12 and no further notice required.

**3. Kowal, 98 Cypress Street, Block 404, Lot 19 - Appeal** - Gary J. Cucchiara, Esq. represented the applicant. John Kowal, the applicant, and Anthony Klymenko, of Element Architectural Group were present and continued under oath. They stated initially it was thought that a floor area ratio "FAR" variance would be required, but after a further review, it was determined that no FAR variance was required. Therefore, they are left with three bulk variances. Mr. Raimondi commented he had requested calculations regarding the seepage pit, and the plan was submitted to him, but he would like to add to the record the new plans, survey and drainage calculations. There is no longer a D4 variance. The existing structure is a legally existing non-conforming condition, Mr. Martin commented, and he asked if the Board or Professionals had any questions. Mr. Cane acknowledged it was only a "C" variance now.

Mr. Raimondi had no issues with the drainage calculations stated, but had one comment. On the last page, there was a note that the pit is to be inspected by the Borough Engineer before back filling, but it should be before they start to dig.

Applicant's attorney gave closing comments. There were three bulk variances, for maximum building coverage, maximum impervious coverage, and side yard setback on the West side. The seepage pit will be installed as per Mr. Raimondi's recommendation. The variances can be granted

without substantial detriment to the public good and zoning ordinances. The zone plan and ordinances are not impaired. The streetscape and view of the property should not be affected. The construction provides for a larger side yard. For all those reasons, clearly, there is a hardship present. The width is two-thirds of what is required in the zone. The addition would meet the requirements if the lot were not undersized.

There were no further questions, comments or discussions. A motion for approval was made by Mr. Owens and seconded by Mr. Bieri. On roll call vote, Mr. Bieri, Mr. Bicocchi, Mr. Arroyo, Mr. McKoy, Mr. Oakes, Mr. Owens, Mr. Ceplo, and Mr. Martin voted yes. For conditions, it was stated that applicant must conform to latest plan revised to 6/18/12, install a seepage pit on the plan and contact the Borough Engineer at the appropriate time for an inspection.

**4. Foody, 1 Brookside Avenue, Block 706, Lot 12 - Variance Application** - William Foody, the applicant, and Jeffrey Houser, applicant's engineer, were sworn in. Mr. Houser gave his credentials and was accepted. Mr. Foody provided the Affidavits of Publication and white slips. Mr. Rutherford advised any action taken would be subject to receipt of a formal Affidavit of Service. Mr. Foody proposed to build a new garage, measuring 24' x 20' for a total of 480 sq. ft., 5' from the westerly property line and set back 25.5' from the front lot line on Lake Street. He distributed plans and noted the only issue/variance was for the garage. The plans were dated 1/9/12, revised to 4/12/12, consisting of seven sheets. A NJDEP permit was provided along with a zoning denial by Mr. Marini, a Notice of Appeal, photos, and letter from Houser Engineer. Mr. Foody passed out a photo of a two car garage, a set of nine photos, and a two page plan, including a floor plan and building section plan.

Mr. Houser gave a brief overview. The garage would be built outside the flood zone, and is at an elevation that is higher than the NJFHA elevation. It will be flush with the setback of the existing home. This also minimizes the length of the driveway and reduces impervious coverage. The purpose of the NJDEP Floor Hazard Permit was to remove the existing garage door, construct a new, detached garage and demolish the existing pool and patio. Also, a portion

of the existing pavement leading to the garage would be removed.

Mr. Raimondi reviewed his report of 5/23/12. Mr. Foody distributed a signed and sealed copy of the survey as requested. Mr. Cane also commented. Mr. Rutherford noted from Mr. Lydon's 6/26/12 report there was mention of a proposed retaining wall. Mr. Foody stated it was removed. Mr. Rutherford noted per the ordinance, a structure over 400 sq. ft. must be set back of 10' or 5' resulting in an additional variance. Board comments followed. Mr. Bieri commented it did not appear to affect the neighbors. Mr. Arroyo commented if they set the garage back further, there would be more macadam needed. There were no further questions, comments or discussions.

A motion to approve the application was made by Mr. Bicocchi and seconded by Mr. Oakes. On roll call vote, Mr. Bieri, Mr. Bicocchi, Mr. Arroyo, Mr. McKoy, Mr. Oakes, Mr. Owens, and Mr. Martin voted yes. Mr. Ceplo was not needed to vote.

**5. Niarra, LLC, 312 Kinderkamack Road/199 Fairview Avenue, Block 811, Lots 4 & 12 - Variance** - Brian Chewcaskie, Esq. represented the applicant and gave an overview. Applicant proposed to renovate the existing building and partition the current single tenant space to create three independent tenants spaces. This property is in the CBD zone, and a use variance is necessary, since one of the proposed uses is not permitted in the zone.

Vincent Cioffi, R.A., applicant's architect, was sworn in and accepted. He reviewed the floor plans for the building, dated 4/1/12 and explained, they do not intend to increase the square footage of the building, but rather separate it into three individual tenancies. They would provide proper fire ratings. The character is going to remain as it is now, but they would paint and add an entrance from Kinderkamack Road. Signage in front would be added, to be discussed. In the rear they would put entrances from the parking area and include canopies, per Mr. Cioffi's Elevation Sheet A1.03. In terms of the site plan, they addressed the proposed refurbishing and replacing. They would maintain the existing parking layout, but there is a two way right-of-way, and they would resurface and restripe it, adding signage and replacing existing lighting.

Mr. Cioffi described the theater. They are short parking by floor area. Ingress and egress was discussed. There were 31 parking spaces shown on the plan. Mr. Raimondi recommended a proper site plan submission due to drainage, landscaping and lighting. Mr. Martin commented some aspects may be waived since this is existing. Mr. Cioffi would amend the plan with these items and show the parking. Mr. Martin inquired of Mr. Rutherford if the applicant should consult with the Parking Authority. Mr. Rutherford advised yes, the Board has the right to ask the applicant to do so. Mr. Martin explained they should contact the Parking Authority and obtain feedback.

There were no further questions of Mr. Cioffi and the applicant.

Ray Walsh, 81 Dearborn Avenue, Ramsey, NJ, was sworn in. He is the proposed tenant for one of the spaces to operate a movie theater. Having just retired, he would show two movies per night, Wednesday through Saturday, from 7:00 pm to 12:00 am., and have a concession stand. He would show DVD's, with a computerized projector from his private collection. It would be too small for a 35mm projector. Mr. Walsh intends to show films from the Golden Age of Hollywood, from the 1940's and 1950's. He would be closed two weeks in the spring and two in the fall. Mr. Martin asked if there was enough of a market for this, and Mr. Walsh hoped so, adding it is called a Revival House. He also asked if there were any copyright issues and if so, Mr. Walsh would have to reach an agreement with each one. He would not show any first-run movies. It would be open opposite the hours of the other two uses. Mr. Martin commented it sounded interesting, but more details such as parking would have to be worked out. Mr. Arroyo asked about sound attenuation. At present there was none. Mr. Raimondi had a report dated 5/22/12. Mr. Cioffi would make changes to the site plan which would answer many of the questions.

There were no further questions and none from the public. The matter was carried to 8/6/12.

**6. Metro PCS New York, 182 Center Avenue - Variance and Site Plan Approval** - Mr. Owens recused himself from the Metro PCS application since his relative owns property within 200'. The application commenced at 10:05 p.m. Mr. Biccocchi departed for business reasons.

Reginald Jenkins, Esq. of the firm Price Meese Schulman & D'Argenio represented the applicant in a request to install wireless telecommunications equipment in and on the rooftop of the Pascack Theater building. Electronic equipment and battery packs were proposed for the inside of the front of the building in a room on an upper floor. Antennae were proposed, extending above the roof on a mounting pole. This is not a permitted use. Metro PCS had approached the Borough for a site, Mr. Jenkins has explained, but they were unsuccessful. Chairman Martin commented the ordinance states the applicant must first go to the Governing Body first to determine if there are any monopoles. Mr. Jenkins said they are still in the process of doing so and will testify as to their efforts. On one of the sites, there is no more room. Mr. Rutherford advised the ordinance does impose this upon the applicant, and the applicant will have to address this requirement. Mr. Jenkins said their testimony will also show this was a compliance application that should have been approved. The appeal process was a timing issue.

Robert Toms, of MTM Design Group was sworn in, qualified and accepted. Mr. Toms described the plan, drawing Z3, dated 7/8/11, last revised to 1/5/12, and marked Exhibit A1. The two equipment cabinets and two battery cabinets are proposed to be supported within an approximately 9'7" x18'4" room that was originally used as a projector room. There will be a concrete floor at 182 Center Avenue. Mr. Rutherford advised Mr. Tom to address the entire site plan packet.

Mr. Toms testified as to the plans and described how they would construct the facility and receive radiofrequencies. The building is structurally adequate and conforms with the Code. There are no issues with parking. It would not interfere with sound or any other radios. The equipment cabinets have a fan, but make minimal noise. This is a contained space with concrete ceilings and floors. Three photo simulations were marked A2, 3 and 4 and described.

Mr. Raimondi reviewed his report dated 3/22/12 and asked about the existing steel W8 beam. Mr. Toms testified the beam will safely accommodate the antenna. Mr. Martin questioned the applicant. He asked what effect if any it would have on the surrounding buildings. That would be answered by the RF witness, he was informed. Mr. Martin

(ZB 7/2/12 Minutes)

asked why they could not make the municipal monopole taller to accommodate this one. Mr. Toms said the roof structure of the firehouse would have to be reinforced, and the monopole would have to be extended. The dialogue with the Mayor and Council is ongoing, and Metro PCS tried twice, but was rejected. Mr. Martin commented he did not understand the process and needed more information. There were no further questions or comments, and no interested parties. The matter was carried to the 8/6/12 meeting.

**10. DISCUSSION:** None

**11. ADJOURNMENT** - On motions, made seconded and carried, the meeting was adjourned at approx. 11:07 p.m.

**Respectfully submitted,**

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