

**BOROUGH OF WESTWOOD
ZONING BOARD OF ADJUSTMENT
REORGANIZATION & REGULAR MEETING
MINUTES
January 11, 2021 (VIA ZOOM)**

APPROVED 2/8/21

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/85889739589?pwd=Ujlaa3htOXVZNTVMV1F6Mmh3d20vZz09> - Meeting ID: 858 8973 9589; Password: 377483

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 **Reorganization & 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
Peter Grefrath
Michael O'Rourke
Gary Conkling (Alt #1)
Tom Smith (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)

4. REORGANIZATION MEETING:

SWEARING IN OF MEMBERS BY BOARD ATTORNEY:

- **Matthew Ceplo - Regular Member - 1/1/21 - 12/31/24**
- **Gary Conkling - Regular Member - 1/1/21 - 12/31/21 (unexpired term)**
- **Tom Smith- Alternate Member #2 - 1/1/21 - 12/31/21**

NOMINATIONS FOR CHAIRMAN OF THE ZONING BOARD:

David Rutherford, Esq. called for nominations for the position of Chairman of the Zoning Board.

Upon nomination by Eric Oakes, seconded by H. Wayne Harper, with no further nominations, **William Martin** was nominated as Chairman of the Zoning Board. On roll call vote, all members voted yes.

NOMINATIONS FOR VICE-CHAIRMAN OF THE ZONING BOARD:

Chairman William Martin requested a nomination for the election of a Vice-Chairman:

Upon nomination by William Martin, seconded by Peter Grefrath, with no further nominations, **Eric Oakes** was nominated as Vice-Chairman of the Zoning Board. On roll call vote, all members voted yes.

NOMINATIONS FOR APPOINTMENT OF ATTORNEY FOR THE ZONING BOARD: Chairman Martin requested a nomination for the appointment of an Attorney:

Upon nomination by Eric Oakes, seconded by H. Wayne Harper, with no further nominations, **David Rutherford, Esq.** was nominated to continue as Attorney for the Zoning Board. On roll call vote, all members voted yes.

NOMINATIONS FOR APPOINTMENT OF PROFESSIONAL ENGINEER FOR ZONING BOARD:

Chairman Martin requested a nomination for the appointment of a Professional Engineer:

Upon motion of Eric Oakes, seconded by H. Wayne Harper, with no further nominations, **Louis A. Raimondi, PE, LS, CME** was nominated to continue as Professional Engineer for the Zoning Board. On roll call vote, all members voted yes.

NOMINATIONS FOR APPOINTMENT OF PROFESSIONAL PLANNER FOR THE ZONING BOARD:

Chairman Martin requested a nomination for the appointment of a Professional Planner:

Upon motion of Eric Oakes, seconded by H. Wayne Harper, with no further nominations, **Steve Lydon, PP, Burgis Associates**, was nominated to continue as Professional Planner for the Zoning Board. On roll call vote, all members voted yes.

NOMINATIONS FOR APPOINTMENT OF RECORDING SECRETARY:

Chairman Martin requested a nomination for the appointment of a Recording Secretary:

Upon motion of Eric Oakes, seconded by H. Wayne Harper, with no further nominations, **Mary R. Verducci**, Paralegal, was nominated to continue as Recording Secretary for the Zoning Board. On roll call vote, all members voted yes.

ADOPTION OF 2021 MEETING DATES:

Approved at last meeting;

ADOPTION OF PROCEDURAL RULES & BY-LAWS:

The Procedural Rules & By-Laws were carried to the 2/1/21 meeting.

David Rutherford reported that there have been no changes. Mr. Martin inquired if language should be incorporated regarding holding zoom meetings. Mr. Rutherford responded that we could revise on an as-needed basis. He can prepare a resolution authorizing zoom meetings until the pandemic is over. Mr. Martin asked if Mr. Rutherford advises the Board to take this direction. Mr. Rutherford stated yes; we can formalize the use of virtual meetings. Mr. Martin polled the Board members; all members agreed.

ADOPTION OF THE ANNUAL REPORT OF THE ZONING BOARD FOR 2020:

The Annual Report was carried until the 2/1/21 meeting.

Mr. Rutherford advised that the Annual Report lists all actions taken by the Board in 2020.

REGULAR MEETING

5. MINUTES: A motion to approve the Minutes of the **12/7/2020** meeting as amended, was made by Eric Oakes and seconded by Gary Conkling, carried unanimously on roll call vote by those eligible to vote.

6. CORRESPONDENCE: None

7. VOUCHERS: None

8. RESOLUTIONS: None

9. PENDING NEW BUSINESS:

Mr. Rutherford reviewed each pending new business application previously with Mr. Martin and Mr. Lydon.

1. Cuomo, 10 Westervelt - Bulk Variances - Nancy Saccente, Esq. - Ready for 2/1/21.

2. Bross, 60 Boulevard - Bulk Variances, Driveway wider than Garage - incomplete;

3. Perrino, 125 James, Bulk Variance - incomplete;

4. Hodges, 44 Second Ave., Bulk Variances - incomplete;

5. 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) Deemed incomplete a revised plan is needed and application forms. Ms. Gladwell (on the phone) confirmed that she is aware of the requirements.

6. Haenschen, 17 Woodland Cross - Widen Driveway - C1 Variance - Set for 2/1/21;

7. Brown - 20 Westwood Boulevard- Bulk Variances - Set for 2/1/21.

8. 15 Westwood Realty- 269 Westwood Ave.-Use Variance, Site Plan - Mr. Lydon is waiting for revised plans - possibly heard at March meeting.

9. 23 Second Avenue- Anthony Errico - Driveway width wider than garage - recent application;

10. 561 Broadway- PD387, LLC- D & C Variances with Site Plan - incomplete but recent application.

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

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS

The Board Professionals were sworn in.

1. 459 Broadway Realty, 459 Broadway, C & D Variances - Richard Conte, Esq. applicant's attorney. Carried to February 1 at the request of the applicant.

2. Toflec Properties, LLC, 140 Carver Avenue - Bulk Variance - Carried to 2/1/2021 at request of the applicant with time waiver. Waiting for revised plans.

3. Ahluwakshi Investments, LLC, 75 Bergen Avenue - Subdivision and Bulk Variances - Dean Stamos, Eq. represented the applicant.

Block 1407; Lot 11 - corner /oversized lot - minor sub-division to create two conforming lots of 7500 sq. ft. With the floor area ratio (FAR) 40% is permitted, we are requesting 41.5 %. On the second floor plans 46% is permitted and 48.7% is requested- we are speaking about lot A. (corner lot) With the interior lot; lot B, we have a ratio 41.4% where 40% is permitted. On the second story it is 49.2% where 46% is permitted. We have our professionals here to testify; Engineer, Perry Frenzel; Architect, Stephanie Pantelli; Planner Harry Tuvel. All were sworn in by Board Attorney David Rutherford. Notice is in order. Qualifications were presented and accepted by the Board.

Mr. Frenzel testified that his firm prepared the plans for this application. He is familiar with the property and the proposal. He described it as a 150 x 100 ft. lot with a 150 ft. frontage on Bergen and 100 ft. on Roosevelt Avenue. A two and one-half story dwelling exists on the property. He referred to a minor sub-division map for 75 Bergen Street dated 11/21/2019 last revised 8/25/2020. The one-page plan was marked as Exhibit A-1. Mr. Frenzel continued stating that the lot is flat and slopes toward Bergen Street. The plan is

to split the property. Stormwater management will comply; seepage pits are proposed. Mr. Frenzel reviewed Mr. Raimondi's July 3, 2020 report and saw no issue that cannot be complied with. Utilities are existing. Mr. Rutherford asked that the site plan dated February 27, 2020, last revised August 13, 2020 is 2-page plan the first being a site plan and the second a landscape plan. Mr. Stamos replied that there are 2 site plans. The site plan for lot A (corner lot) was marked as Exhibit A-2 and the landscape plan was marked as Exhibit A-3. For lot B (interior lot) the site plan was marked as Exhibit A-4 and the landscape plan as Exhibit A-5.

Mr. Frenzel commented that both houses would have their front entrance facing Bergen Street. Lot A (corner lot) would have its driveway opening on Roosevelt Avenue. The drainage is located in the rear yard. The front yard setback to Roosevelt has a variance condition; we are showing 24.75 ft. (corner lot) The other variances are the FAR. The calculation for the (interior lot) Lot B gives us a front setback of 22 ft. minimum and 35 ft. maximum - no variance required.

Mr. Stamos asked about driveway drainage. Mr. Frenzel responded that the way the driveways are configured they flow towards the house downhill any run-off would be captured by a trench drain and into seepage pits.

Ms. Pantelli, Architect prepared the plans and described what is proposed to be constructed. Both houses are 3,100 sq. ft., four bedrooms, center hall colonial type. Two sets of architectural drawings. Exhibits marked as A-6 - 2-page architectural drawings for corner lot A. Exhibit A-7 2-page architectural drawings for interior lot B. Dated March 1, 2020 revised August 10, 2020.

Ms. Pantelli reviewed interior first and second floor plans and garage locations for both lots. We are 113 ft. over for FAR on the corner lot; 46% is permitted on the second floor and we are at 48.7. For the interior lot, we are slightly over for the FAR. On the interior lot there are no setback variances. There is a setback variance on the corner lot due to 2 front yards. We are keeping the concept in mind with the neighborhood we might be slightly wider but this is an average home in the area.

Mr. Tuvel, Planner advised that he reviewed the plans and letters from Mr. Raimondi and Mr. Lydon and is familiar with the variance relief being sort. The application is for a minor

sub-division of an existing one family lot creating two 75 x 100 ft. lots in a residential zone; very sub- dividable property. Mr. Tuvel reviewed variances being requested. He reviewed positive and negative criteria under the Municipal Land Use Law adding that the benefits out-weigh any negative criteria; good planning. The lot is conforming the only exception is due to the front yard requirements for a corner lot. The variances requested do meet the statutory criteria under C-2 by demonstrating that the property can accommodate the proposed development as testified by the Architect and Engineer.

Mr. Martin asked if there were any interested parties on the zoom call meeting. There was a neighbor, Sharon but she stated she had no questions.

Mr. Martin asked if there were questions by Board members.

Mr. Oakes commented that it seems like we will be putting in a second curb cut into the corner property he inquired of Mr. Raimondi if this would cause a problem. Mr. Raimondi will check. Mr. Frenkel advised that the driveway itself as it is proposed is about 47 ft. from the front property line and 57 ft. from the Bergen Street curb. Mr. Raimondi asked how far from the stop sign. Mr. Frenkel responded about 48 ft. from the stop sign. The driveway is setback about 18 ft. from the property line and 22-23 ft. from the next door driveway. Mr. Oakes commented on the Roosevelt side the corner lot would be too close to the stop sign. Mr. Frenkel advised that we could move it over by 2 ft. to meet the 50 ft. set back.

Mr. Lydon commented to Mr. Oakes that you sighted a 50 ft. separation from the stop sign could that be the parking provision in front of the stop sign and not a limitation on a driveway location. Mr. Oakes responded it could be both. Mr. Raimondi asked that Mr. Frenkel investigate that especially since the driveway has a steep slope backing out of it. Mr. Conkling commented that the stop signs in town say no parking within 50 ft. there are driveways close to them, especially a corner lot. Mr. Raimondi apparently did not have a current plan; Mr. Stamos advised that full plans were submitted and will provide to Mr. Raimondi.

Mr. Oakes asked if there is something that can be done to bring the houses into FAR compliance. Ms. Pantelli will speak with the client. Mr. Martin asked why the houses were not designed to meet the FAR limit. Ms. Pantelli responded that

the design was at the request of the client. Mr. Martin felt it could be designed to meet the FAR; and asked that this be considered to comply with our Zoning. Mr. Oakes commented that maybe they should consider not splitting the property.

Mr. Conkling commented that the garage is one ft. higher than the basement. Ms. Pantelli responded that we would put a lip at the door. It is not an egress door and there is one egress window.

Mr. Grefrath inquired about landscaping and trees to be removed. He noted 6 large trees on the property. On the new plan on the corner lot a 10" caliber tree is designated to be removed. He asked how many trees will be removed on the corner lot. Mr. Frenzel advised of the trees to be removed and the ones that will stay. Mr. Grefrath commented on our tree ordinance as to how many trees can be removed before having to donate to the tree fund.

Mr. Martin asked Mr. Tuvel if there was a reason why houses conforming to the zoning can't be constructed on these properties. Mr. Tuvel responded that we are determining the averages and conforming with the averages on both lots. Mr. Frenzel commented that on the interior lot we came up with a minimum of 22 ft. and that is what is proposed and that applies to the front face of the house on the corner lot.

Mr. Martin asked why can't we have two new homes on proposed vacant property conform with the FAR limitation. He asked that this seriously be considered.

Mr. Lydon stated to Mr. Tuvel that he testified that he reviewed the review letters, engineers letter but did not mention that he reviewed the Master Plan of Westwood. Mr. Tuvel responded that he is familiar with the Master Plan of Westwood. He does not recall reading anything specific in the Master Plan that would pertain to this application in negative criteria.

Mr. Lydon commented on the corner lot plans showing shade trees in the Roosevelt Avenue right-of-way coming down but not planted. Mr. Frenkel advised what would be planted. Mr. Lydon asked about relocating the water line to allow an existing tree in the area to remain. Mr. Frenkel advised that could be done.

Mr. Lydon commented on the proposed houses being built at 113 sq. ft. they are 106 sq. ft. larger than the FAR would allow. Is that both aspects of the FAR. Ms. Pantelli responded that she was only aware of one FAR. When she set 113 and 106 sq. ft. that was an overall FAR. She spoke with her client about the 2nd floor FAR.

Mr. Martin asked if there were any further questions by Board Members. There were none. Mr. Martin asked if there were any interested parties that have questions for the applicant's professionals. There were none.

The application will be continued at the February 1st meeting with no further notice required.

4. Hodges, 105 Center Avenue - Use Variance-D1, Bulk Variances - Mr. Rutherford advised that he will send a letter to the applicant that a revised application needs to be filed - deemed incomplete.

5. Pacicco - 436 Center Avenue, Bulk Variances - Mr. Rutherford advised that the application was heard in December at which time additional information was requested and since received by Mr. Rutherford. Scheduled for 2/1/21 without further notice.

10. DISCUSSION:

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

2. Completeness issues - Mr. Rutherford advised that the Land Use Law empowers the Board to grant waivers. We have a number of pending matters that, as discussed earlier, are incomplete for one reason or another. The Board can choose to allow applicants to request a waiver. The Board can make that waiver process known to applicants. If the applicant chooses to do so, a notice of publication is required. The applicant can prepare a notice indicating the nature and extent of the relief that is required and what waiver they are seeking from the checklist requirements. Mr. Lydon can declare the matter complete subject to the Board granting the requested waivers. If the Board chooses to grant the waivers, the applicant would appear for public hearing. If the Board denied the waiver request, the application would remain incomplete. The applicant should be made aware of the waiver process.

(ZB 1/11/2021 Reorganization & Regular Meeting Minutes)

Mr. Martin suggested a paragraph insert in the review letter regarding waivers making it clear that they can request a waiver. Mr. Lydon suggested an instruction sheet attached to the checklist. Mr. Ceplo suggested a letter in standard form to apply advising that the waiver may or may not be granted. Mr. Martin suggested a cover letter explaining the waiver process as an avenue they can pursue.

Mr. Rutherford will prepare a cover letter for applicants to assist with the waiver process.

11. ADJOURNMENT - On motions, made seconded and carried, the meeting was adjourned at approximately 10:30 pm.

Respectfully submitted,

Sylvia Kokowski
Interim Zoning Board Secretary
For 1/11/21 meeting