

**BOROUGH OF WESTWOOD
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
MINUTES
March 1, 2021 (VIA ZOOM)**

APPROVED 4/1/21

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/83368343534?pwd=bi96M3I5dkVwWk91eU4rRkZ6ZFliUT09> - Meeting ID: 833 6834 3534; Password: 728880

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
Peter Grefrath
Alyssa Dawson
Gary Conkling
Michael O'Rourke (Alt #1) (arrived 9:08pm)
Tom Smith, (Alt #2)

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

ABSENT: None

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4. **MINUTES:** The Minutes of the **2/22/2021 Special Meeting** were carried to the next meeting.

5. **CORRESPONDENCE:** None

6. **VOUCHERS:** None

7. **RESOLUTIONS:**

All carried to 4/1/21; not ready since approved last week:

1. 459 Broadway Realty, 459 Broadway, C & D Variances;
2. Ahluwakshi Investments, LLC, 75 Bergen Avenue; Subdivision and Bulk Variances;
3. Cuomo, 10 Westervelt - Bulk Variances;
4. Haenschen, 17 Woodland Cross - Widen Driveway - C1 Variance;

8. **PENDING NEW BUSINESS:**

All carried to 4/1/21; all still incomplete:

1. Toflec Properties, LLC, 140 Carver Avenue - Bulk Variance;
2. Hodges, 44 Second Ave., Bulk Variances;
3. 15 Westwood Realty- 269 Westwood Avenue - Use Variance and Site Plan;
4. Capasso, 577 Broadway - Use Variance and Site Plan;

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

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS

The Board Professionals were sworn in.

1. **Anthony Errico, 23 Second Avenue - Driveway width wider than garage** - Santo T. Alampi, Esq., Attorney for Applicant, was present. Anthony Errico was also present with Mr. Alampi. The Notice and publication documents were accepted, found to be in order and marked into the record. Applicant, Anthony Errico, 609 Alacci Way, River Vale, NJ was sworn in by Board Attorney Rutherford. Mr. Alampi advised he submitted an as built survey by Schwanwede Hals Engineering dated 6/29/18 last revised 10/6/2020, and a drawing known as a Driveway Offset Survey dated 10/22/2020. The exhibits were marked A1 & A2 respectively. The exhibits were shown by way of a shared screen. The brook is on the right side of the property. There is a riparian buffer in between that and the

property, which cannot be disturbed. He built the home on the subject property. The driveway is on the right. Applicant cannot extend the house to the right to accommodate the driveway due to the buffer. Mr. Schwanwede prepared an exhibit removing the buffer lines to show the distance to the brook. The property is actually five times the size permitted. His building and impervious coverages are 4.2% and 8.5% where 22% and 40% are permitted. There are signs with restricted parking on Second Avenue due to the school. Mr. Alampi submitted that this is a hardship. It is an exceptional piece of property with an exceptional shape due to the riparian buffer and brook, and he believes the Board can grant the variance. He also has photo exhibits.

Questions by the Board followed. Mr. Raimondi asked about the shed on the property that is not on the survey. Mr. Alampi stated based on a conversation with Mr. Marini, the shed is being relocated. The driveway requires a variance, but the shed does not based on the drawing showing where it will be relocated. Chairman Martin commented he could see that if approved, a condition of approval would be showing the shed on the survey. Chairman Martin asked about a permit. Mr. Errico said the Borough Hall was shut down, and he was advised by the contractor it was not needed. He does not have a neighbor that he is encroaching on. Mr. Grefrath noted this is the second application in two weeks that an applicant in the pandemic went ahead and made improvements. Mr. Rutherford addressed the comment, stating the Zoning Board is not an enforcing agency. The fact that he went forward without a permit for whatever reason, is really irrelevant to the Board's determination. We do not punish people that go ahead and do work, nor reward who waits. The Board is tied to the justification for the variance. Mr. Oakes asked if cars can back out easily, and applicant confirmed it does. Mr. Ceplo asked how many bedrooms were in the house, and the response was three. It has a two car garage as it should. Mr. Lydon confirmed this and that no variance for garage or driveway was needed.

There were no further questions. Mr. Alampi gave closing comments and justification for the true C1 hardship variance. Mr. Smith having dropped off his children at the school in the area, he believes this is a good use and can be granted. Mr. Harper agreed. Both his children went to the school and he is familiar with the parking challenges, it is more than a hardship, and he would support it. Mr. Lydon concurred about

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hardship and environmental impacts created by the brook and configuration. Chairman called for a motion.

A motion for approval with the condition that the shed be shown on the survey as stated, was made by Eric Oakes and seconded by Wayne Harper. On roll call vote, Eric Oakes, Matthew Ceplo, Wayne Harper, Gary Conkling, Peter Grefrath, Alyssa Dawson, Tom Smith, and William Martin voted yes.

2. 561 Broadway, PD387, LLC - D & C Variances with Site Plan - Mr. Rutherford gave an overview of the issues and how they would proceed. Legal Counsel would put their appearances on the record. Santo T. Alampi, Esq. appeared as Attorney for Applicant. John J. Lamb, Esq. was representing objectors within 200', all to be named. Steve Lydon would need to recuse himself, and we would need to have Kathryn Gregory appear as Substitute Planner. Some of the application exhibits were not published on the website. The Notice and publication documents would be reviewed for acceptance, and then we can proceed to public hearing on 4/5/21.

Mr. Alampi stated in their view the application is deemed complete, and they are ready to move forward. As for the Burgis conflict, if another planner needs to be sought, he is not clear as to how that came to be. Although he can appreciate what Mr. Rutherford has stated, the Burgis review Memo was received, and their plans were revised specifically addressing issues raised and resubmitted. Notice was made and the application was deemed complete. The Notice was very thorough and has been circulated. Chairman Martin stated this recusal is consistent with past behavior for Burgis Associates.

Mr. Lamb stated Mr. Lydon advised he did not see any revised plans despite his Memo. Mr. Lamb sent an email this morning quoting there are 13 items of insufficient items of information, including not getting documents on the Borough website. There was a posting but with missing information. He was looking for the Board Planner's and Engineer's reports, but has them now. As for all the deficiencies, he has never seen a Checklist and Application so deficient.

Chairman Martin stated Ms. Gregory will submit a report on completeness. If Mr. Lamb has a list, he could submit it to Ms. Gregory and copy Mr. Alampi. Mr. Rutherford agreed, but also said there may be a disconnect, not to the fault of the applicant, but he does not have the 1/15/21 revised

Architectural Plans and 1/22/21 Azzolina Site Plan. Mr. Alampi stated they were submitted, and are both on the website. Ms. Gregory should be sent the plans. Mr. Lamb had a list of deficiencies regarding the Notice, which Mr. Martin asked him to outline in a letter. Mr. Lamb would wait for Ms. Gregory, but gave an overview of the deficiencies he was claiming. Mr. Alampi was perplexed about someone objecting to an application that they do not know what it is for, as Mr. Lamb states. With most cases he handles, the use variance creates other variances, because the use is not permitted in the zone. This Board is more than familiar with the concept and hurdle. The application is for the nature stated. Mr. Rutherford stated the applicant must meet the burden of proof, and that is for the Board to determine. The Board proceeds. Mr. Lamb is outlining some of the issues with the Notice, and Mr. Alampi has taken notes and can respond or renote. The way to get this to move forward is to get all the application materials and plans to Ms. Gregory as quickly as possible. Chairman Martin commented then Ms. Gregory can respond.

Mr. Alampi stated he believes the application is deemed complete, it is on the Board's agenda, and the applicant is ready to move forward. Everything can be addressed through testimony. Mr. Martin stated Ms. Gregory will issue a report, and they will proceed. Mr. Lamb stated it is a 12 unit apartment building. He cited case law. He requested copies of everything Mr. Alampi submits and said the Notice is deficient. Mr. Alampi inquired if submittals should be electronic or otherwise and asked for clarification. Mr. Alampi also asked for Mr. Lamb to disclose all parties they are representing. Mr. Lamb asked that the applicant extend the time past the 4/5/21 hearing date, such as a day after the May hearing date. Mr. Lamb would disclose the clients. Mr. Rutherford stated 12/30/2020 may be the date it was deemed complete, so we should extend through 5/4/21. Mr. Alampi stated Mr. Lamb does not have the right to ask for that, but since the Chairman and Mr. Rutherford asked, he will grant the time extension. Mr. Martin stated we will have to manage the time for the next meeting, as there is a busy agenda.

Mr. Rutherford advised formally that this matter was carried to the 4/5/21 meeting with a time extension granted and not necessarily with a new Notice. Mr. Lamb reserved his right to object to any new Notice and to receive a copy in advance. Mr. Alampi asked if the Board may consider a special meeting, and the Chairman responded yes.

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5. **Brown - 20 Westwood Boulevard- Bulk Variances - Matthew S. Capizzi, Esq. is Attorney for Applicant - Scheduled for 4/5/21;**

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) - Scheduled for 4/5/21;**

7. **Bross, 60 Boulevard - Bulk Variances, Driveway wider than Garage - Scheduled for 4/5/21;**

8. **Perrino, 125 James, Bulk Variance - Scheduled for 4/5/21;**

10. DISCUSSION:

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

CLOSED SESSION - The Board went into Closed Session upon motion made, seconded and carried, to discuss pending litigation at 9:25 pm.

OPEN SESSION - The Board returned to Open Session on motion made, seconded and carried, and adjourned at 9:40 pm.

11. ADJOURNMENT - On motions, made seconded and carried, the meeting was adjourned at approximately 9:40 pm.

Respectfully submitted,

**Mary R. Verducci
Zoning Board Secretary**