

**BOROUGH OF WESTWOOD
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
Municipal Building
MINUTES
June 6, 2022**

APPROVED 7/11/22

1. OPENING OF THE MEETING:

The meeting was called to order at **8:00 pm, at the Municipal Building**, 101 Washington Avenue, Westwood, NJ.

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
Peter Grefrath
Gary Conkling
Tom Smith
Robert Desmond (Alt #1)
Lauren Letizia (Alt #2)

ABSENT: Michael O'Rourke (excused absence)

ALSO PRESENT: Thomas W. Randall, Esq. Interim Board Attorney

NOT REQUIRED: Steve Lydon, Burgis Associates, Board Planner
Louis A. Raimondi, Board Engineer

Lauren Letizia was sworn in as Alternate #2 by Senator Holly Schepisi. The Board welcomed Ms. Letizia.

The Board Members had a moment of silence and reflection for the late David L. Rutherford, Esq., Attorney for the Zoning Board of Adjustment of the Borough of Westwood, with heavy hearts, condolences and gratitude. Chairman Martin gave a Eulogy during the discussion portion of the meeting below.

4. MINUTES: May 2, 2022 - A motion for approval of the Minutes was made by Eric Oakes, seconded by Gary Conkling, and carried unanimously on roll call vote.

5. CORRESPONDENCE:

1. Letter from Bruce Whitaker, Esq., as Legal Trustee for the late Board Attorney David L. Rutherford, Esq., advising he has taken over files for completion of matters before the Board.

6. VOUCHERS: None

7. RESOLUTIONS:

1. Whispering Woods Hearing on the court case of Westwood Investments LLC vs. Borough of Westwood Board of Adjustment - Not ready; Mr. Randall to contact Bruce Whitaker, Esq. Legal Trustee for the late Board Attorney, David Rutherford, Esq.

2. Kathy Drake - 177 Woodland Avenue - Request for an extension of time for approvals - Thomas Randall, Esq. read the Resolution of Approval into the record. A motion for approval was made by Gary Conkling and seconded by Matthew Ceplo. There were no further questions, comments or discussions. On roll call vote, Matthew Ceplo, Gary Conkling, Peter Grefrath, Tom Smith, and Robert Desmond voted yes. The remaining members present were not eligible to vote.

3. KLR 565 LLC, 561-565-Broadway - Seven (7) unit apartment complex, D & C variances, lot consolidation and site plan - Not ready; Mr. Randall to contact Bruce Whitaker, Esq. Legal Trustee for the late Board Attorney, David Rutherford, Esq.

4. Santa, 21 Adams - "C" Variance for Setback to an In-ground pool - Thomas Randall, Esq. read the Resolution of Approval into the record. A motion for approval was made by Gary Conkling and seconded by Matthew Ceplo. There were no further questions, comments or discussions. On roll call vote, Eric Oakes, Matthew Ceplo, Gary Conkling, Peter Grefrath, Tom Smith, and William Martin voted yes. The remaining members present were not eligible to vote.

8. PENDING NEW BUSINESS: ALL APPLICATIONS CARRIED TO 7/11/22:

1. Bauer, 22 Cypress - Driveway wider than the garage without approvals - Carried to 7/11/22 if complete;

2. Cooper, 34 Clairmont - Bulk variances for side yard and combined side yard setback - Carried to 7/11/22 if complete;

3. Regna, 17 Euclid Avenue - "C" variance, building coverage - Carried to 7/11/22 if complete;

9. VARIANCES, SUBDIVISIONS AND/OR SITE PLANS, APPEALS, INTERPRETATIONS: SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS

ALL APPLICATIONS CARRIED TO 7/11/22:

1. Walsh, 196 Sand Road - Bulk variances for a deck which was constructed without permits. The dwelling already had a non-conforming rear yard setback of 20' - (Gregg Paster, Esq.) Not heard; need architectural plans signed and sealed - Carried to 7/11/22;

2. Cruz, 73 Harding - Bulk Variances for a one-story rear addition and driveway expansion (driveway, covered porch and pergola on right side was completed without a permit); Property is in the AE flood zone - (Thomas Garlick, Esq.) Not heard; Carried to 7/11/22;

3. OSM Hospitality, 170 Center Ave - Use Variance and Site Plan Approval, Rooftop Dining - Not heard; Carried to 7/11/22;

5. Tributt Inc., 7 Bergen Street - "D1" Use Variance, "C" Variances and Site Plan - Not heard; Carried to 7/11/22;

10. DISCUSSION:

Chairman Martin gave a **Eulogy in honor of the late David Rutherford, Esq., Board Attorney**, who passed away suddenly, updating the Board Members. There was a special meeting on 4/18/22, and he received a call from David's wife, who stated he had a heart attack. He heard David in the background saying he'd be ok, and we would have Ben Casio, Esq. cover the meeting. The next day David underwent triple by-pass surgery. However, when they concluded the surgery, he did not come out of it. David was then on life support from 4/18/22, through the May meeting, until he passed away on 5/12/22.

William Martin explained this to give the Board a time line. He commented when you sit next to someone for almost 20 years, you kind of take things for granted. He recalled when Thomas Warner became elected as Mayor in 2004, he wanted the Zoning Board to seek new counsel. Mr. Martin proceeded with the story of how Mr. Rutherford came to be just that. In one instance, when David was the Zoning Board attorney for Ho-Ho-Kus, Mr. Martin had to appear before the Board for a variance for his client. There was much opposition to their application. David informed him it was unlikely he could get approval from four of the members. His whole attitude was so calm. Mr. Martin suggested he explain to the objectors that all his client needed to do was to push the garage in 18 inches, and he wouldn't need a variance, which he proceeded to do. Mr. Martin was completely impressed with the way Mr. Rutherford handled this, so when the opportunity came up, he knew exactly who he wanted to call upon for the position of Westwood Zoning Board Attorney. David agreed and became the Zoning Board Attorney, serving from then until now.

David Rutherford had a great way of handling and explaining the law. Mr. Martin was chairing since 1994 and gave accolades to the track record of Mr. Rutherford for defense of minimal lawsuits through the years, in which the Board prevailed. Then there were the details he put into Resolutions. His wisdom and guidance in the Whispering Woods application was enormous and a win. In concluding, David was very unique and in so many ways had everything figured out and delivered it in a calm and kind voice at all times. Mr. Martin expressed he was very sad for himself, the town and all of us. This was not just a political appointment --it happened for a reason. He thanked Mr. Randall for quickly filling in as Interim Board Attorney so we can continue in a smooth manner. He is unsure how we will proceed to fill the spot, adding Mr. Randall can be available as needed. Tom Randall commented the words spoken about David Rutherford are very accurate words. David served the Borough of Ho-Ho-Kus for 32 years. He was certainly a remarkable attorney and person.

11. ADJOURNMENT - On motions, made seconded and carried, the meeting was adjourned at 8:32 pm.

Respectfully submitted,

Mary R. Verducci
Zoning Board Secretary