

**BOROUGH OF WESTWOOD  
ZONING BOARD OF ADJUSTMENT  
SPECIAL MEETING  
MINUTES  
June 21, 2021 (VIA ZOOM)**

**APPROVED 8/2/21**

**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/87184680949?pwd=QTFaMjBSMU1VOTNBR2pzTzh0azhkZz09> Meeting ID is: 871 8468 0949 Password: 092743

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 **SPECIAL 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 (arrived 8:25 pm)  
Alyssa Dawson  
Gary Conkling  
H. Wayne Harper  
Michael O'Rourke (Alt #1)  
Tom Smith, (Alt #2)

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

**ABSENT:** None

4. **MINUTES:** The Minutes of the **6/7/2021** were held for the next regular meeting.
5. **CORRESPONDENCE:** None
6. **VOUCHERS:** None
7. **RESOLUTIONS:** None
8. **PENDING NEW BUSINESS:** None
9. **VARIANCES, SUBDIVISIONS AND/OR SITE PLANS, APPEALS, INTERPRETATIONS:**  
SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS

**The Board Professionals were sworn in.**

1. **45 Old Hook WW, LLC-45 Old Hook Road - D1 Use Variance and Site Plan - Special Meeting 6/21/21 - Senator Holly T. Schepisi, Esq. represented the applicant.** Board Attorney Rutherford advised the notice and publication documents were received and in order. Ms. Schepisi thanked the Board for having a special meeting and presented the application. The property is located in the HSO Zone, comprised of 37,044 sf. The building has a total of 1,900 sf, with an office and warehouse on the first floor and two offices on the second floor. The contract purchaser has two other businesses, one in Westwood and one in Parsippany. They are appealing decision of the Construction Code Official and seeks an interpretation and variance relief for outdoor storage. Trucks and leased vehicles are stored on the property pursuant to prior resolution in 5/9/1996, for Flyte Tyme Limousine. They are seeking no additional parking spaces. The proposed variance is a use variance, and no bulk variances are required. Bill Severino, applicant's architect and his planner will testify. Ms. Schepisi outlined the application and all attachments and exhibits. Applicant is seeking a waiver from forms 9 and 10, and it has been deemed complete.

Applicant is appealing the Zoning Officer's decision under 70A and if upheld, applying for a D1 use variance. Chairman Martin deferred to Mr. Rutherford as to how to proceed. Since testimony will be common to the appeal and use variance, Mr. Rutherford advised he recommended proceeding with testimony that would serve both aspects. Ms. Schepisi stated she has three witnesses.

Steven Jomides, Applicant and President of Lawns by Yorkshire and 45 Old Hook WW, LLC, was sworn in. He is a service provider

for commercial landscaping and snow. He owns both businesses. Lawns by Yorkshire will be occupying the space and providing services to corporate settings, with no residential service. There are several facilities they operate out of such as Westwood and Parsippany. He described the outdoor storage facilities he has. He anticipates having approximately 10 employees with operating hours of 8:30 am to 4:30 pm. The Westwood site would be the main, corporate headquarters office and property for his business. They are looking at about eight light-to-medium trucks and ten heavy trucks. They will not have any materials on them when they are parked on site. There are plans for converting the vehicles to electric format. He is under contract to purchase from Guy Carnazza, Cinemacar Leasing. The current use is for leasing selling and storing vehicles that come off lease. They will not store any materials on site. There will be one same-size dumpster. Trucks will come in and out sporadically in the morning to late afternoon. There will not be an issue with parking on site. This will house his corporate offices. There will be no storage of biologicals or mulch on site. Testimony was complete.

William G. Severino, Little Ferry, NJ licensed Architect, was sworn in, qualified and accepted. Ms. Schepisi questioned the applicant and inquired as to the reports issued by Mr. Lydon and Mr. Raimondi. Mr. Severino reviewed Mr. Raimondi's letter and addressed same. The arborvitaes are being planted in the right-of-way and approved by the County as soon as they could be removed, if necessary, which could be done easily. Mr. Severino's plan dated 1/25/21, last revised 6/4/21 was marked Exhibit A1. He showed the plan and reviewed the Zoning Schedule. They currently have 24 parking spaces and plan to stripe an additional nine for a total of 34 parking spaces. They would put the striping and symbol in the location shown and request a waiver. He showed the spaces planned and location of arborvitaes. Mr. Severino also pointed out the flood zones. Testimony was complete.

Ms. Schepisi asked for the prior Resolution marked A2. Mr. Rutherford advised also received was the letter of denial, application, site plan and survey, review memos are all part of the record. They also submitted photographs.

Charles Heydt, PP, AICP, was sworn in, qualified and accepted as applicant's licensed, NJ Professional Planner. Mr. Heydt testified the applicant has a commercial landscaping business. The business he intends to use the property for falls into the office category and this will be his corporate headquarters. No outdoor storage of supplies and the fleet vehicles parked outside is more of an office use. He feels a D1 use variance is not

required based on this. Applicant has other locations to store heavy outdoor vehicles. Mr. Heydt reviewed the prior Planning Board Resolution No. 96-40 dated 5/9/96 specifically allowed automotive leasing on site with two conditions pertaining to no modification of 22 parking space and no more than nine cars stored on site. Based on such, they believe there is no bearing of intensity and feel a use variance is not required, but they are applying for a use variance. They are located in the HSO Zone that does permit offices and commercial landscaping businesses. They have more than double the land required in the zone. He showed the zoning table. They comply with all other requirements and no changes are needed to comply. It is comparable with adjacent land uses, and he described the surrounding commercial and office uses. The site is isolated and that is another reason why it is particularly suitable. Mr. Heydt reviewed the Master Plan and how this complies. The property did have a prior approval for the outdoor parking component use. This proposed use would benefit from the same Master Plan recommendation. Ms. Schepisi asked if the application would result in any detriment to the public good. Mr. Heydt stated this is a much more organized use than the prior use and less vehicles moving on and off the site. The improvements of additional parking and arborvitae will reduce the impact, and there would be no impairment to the zoning ordinance or zone plan. They believe this is an office use and the Master Plan does recognize it for office use. This use is recognized in the Master Plan and no bulk variances are required. Testimony was complete.

Mr. Rutherford advised each witness should be open for questions by the board and members of the public. Then the Board should consider the appeal, whether a use variance is required, and if so, they would proceed with that, and if not, then this would be concluded. The testimony addresses both issues. We should finish the public portion and then deliberate. It was noted Mr. Grefrath, who arrived at approximately 8:25 pm, would not be eligible to vote, since testimony started at 8:05 pm.

Questions of each witness individually by the Board followed. The owner Steven Jomides was first. Mr. Burgis asked if the number of employees included staff and those picking up vehicles, and the response was yes, and not many visitors come to the site if any. Mr. Burgis asked why they are increasing the parking. Mr. Schepisi advised that the overnight number of parking spaces for the truck would be more 18 inside, 10 against the retaining wall, so the parking question was clarified. The existing lighting by PSEG via telephone poles would not be changing. Mr. Raimondi asked for intensity and hours. Ms. Schepisi would provide this info and comply with required hours. Mr. Oakes asked if the vehicles would

be maintained on site, and it was not their intention. He asked if deemed a D1, would it be a new use, and the response was yes. The Chairman asked about the medium duty and pick up trucks noting they are pretty large. Mr. Jomides said they fall in between light and medium duty. They are a brand-new model. He asked about snow services. Mr. Jomides stated the majority of facilities are along the turnpike and run out of a different region. The equipment never comes here. No snow plows will be stored on premises. Chairman Martin was questioned the intensity due to the vehicles parked on site. Ms. Schepisi reviewed the parking and that this is ancillary to the corporate headquarters. The trucks are owned by the entity. He was concerned they are very large vehicles that generate noise on the residential side. He didn't hear the planner address negative criteria. If there were no trucks it would be an easy application. What if they only parked the electric vehicles or could they park the trucks on another site. Mr. Jomides said it is not that simple to get them. Less than 20% of these vehicles are coming out of Westwood. These are very small pickups. Ms. Schepisi asked how loud are these vehicles and if they are used before 8am could they be moved to another location. Mr. Jomides said the equipment is pretty new and quiet. There are less than 10 diesels in their fleet and will probably never make it to 07675. They can definitely move vehicles around to use gas engines. Chairman Martin stated the owner is not a sound expert and his concern is the close proximity to the residential buildings and he sees unaddressed negative criteria. He still has concerns. Mr. Raimondi asked if any law mowers are stored inside the truck overnight. There is one in a sprinter vehicle, parked overnight. Mr. Raimondi asked if it was allowed by the fire code. They did not have the answer. Mr. O'Rourke asked if he considered not parking a diesel vehicle. They generate a lot of noise when they start up in the morning. Mr. Jomides stated they have so few diesels that they can eliminate having any diesels on site and will have no diesels on site. There were no further questions from the Board.

The matter was opened to the public for questions of Mr. Jomides. There were none.

Questions of Mr. Severino followed. Mr. Raimondi asked for a signed and sealed plan. They would be amenable to replacing the arborvitaes if they are removed from the utility company. They have not been to the Bergen County Planning Board. Ms. Schepisi would agree to a condition in any approval. There were no further questions from the Board.

The matter was opened to the public for questions of Mr. Severino. There were none.

Questions of Mr. Heydt followed. Mr. Burgis questioned his reference to the incidental use, particularly how trucks are considered. Mr. Heydt stated this is a commercial office/corporate headquarters/commercial landscaping related use. The owner will go out to service the clients. Mr. Jomides jumped in and stated there could be days or weeks that the trucks do not go out. Mr. Burgis asked if they service Bergen County and the response was very little; the majority of the corporate campuses are out of the area, and that is where their business is focused. Ms. Schepisi stated they would be strictly in compliance with idling/noise laws, and there would be a remedy for the Borough via summonses. There would be no diesel, and the goal is to convert the fleet to electric over the next couple of years. Possible charging stations was discussed. It was not on the plan. Chairman Martin asked if it was a special reason, they would need details. Mr. Conkling asked if there was a no left turn coming out of the property, and Mr. Heydt believed there was. Mr. Oakes asked about adding vegetation for noise buffering. Mr. Heydt stated the noise was regulated by ordinance. Ms. Schepisi stated there are strict idling laws, and they recognize that. In comparison to the prior use, there are certainly large vehicles transporting other vehicles, and this site will definitely not have those types of vehicles. As for landscaping, there is more than 15' in elevation and the steep slope would absorb much of the sound. Putting up a wall would create a canyon effect with sound bouncing. Strick idling compliance is key. Ms. Schepisi stated regarding the prior historical uses, not only were there trucks services on the site, but a fleet of limousines and tractor trailers coming in and out. Mr. Oakes asked about D1 testimony and proofs. Mr. Heydt gave testimony. If the Board wants to be very specific about the approval it can, and he feels that it can go forward. Mr. Ceplo suggested the northerly part of the property and behind the building are both far away from the neighbors. Mr. Heydt recognized that and it could be a condition of approval. There were no further questions from the Board.

The matter was opened to the public for questions of Mr. Heydt. There were none.

Ms. Schepisi summed up and for reasons stated regarding the office and accessory use, the D1 use variance is not required, if deemed required, the applicant agreed to concessions/conditions as stated, per concerns raised. They met the positive and negative criteria. Since 1996 there has been a storage of vehicles,

limousine service and repair and car dealership. This will be a lesser use. They would comply with noise idling laws. It would be aesthetically pleasing and in compliance with Westwood's ordinances. She respectfully hoped to get the Board's approvals.

The matter was open to comments from the public. There were none.

Board Attorney Rutherford instructed the Board. The application filed a 70A appeal with an interpretation of the ordinance. They provided expert testimony. In the alternative, if the Board determines a use variance is necessary, then they have already provided appropriate testimony. This is a usual procedure. Five affirmative votes are required. If no use variance requirement is found, then the matter is concluded. If the Board were to act favorably on the matter there would be a list of conditions, which Mr. Rutherford read.

The Board deliberated on the application. Mr. Oakes had questions and comments on the procedure and the D1 use variance. Chairman Martin commented the board has to make two decisions, one on the appeal and one on the D1. Mr. Rutherford concurred.

**Appeal of Zoning Officer's decision** - Eric Oakes made a motion to uphold the Zoning Officer's decision. Michael O'Rourke seconded the motion. Mr. Conkling asked for clarification. Mr. Rutherford advised the Board has to decide whether the trucks present are incidental to the permitted use, i.e., office, or part of the commercial landscaping use. There were no further questions, comments or discussions. On roll call vote, Eric Oakes, Matthew Ceplo, Michael O'Rourke, Tom Smith, and William Martin voted yes to uphold; Wayne Harper and Gary Conkling voted no. the motion to uphold the Zoning Officer's decision carried. Peter Grefrath was not eligible to vote. The Board proceeded to vote on the D1 use variance.

**D1 use variance** - Eric Oakes made a motion to approve the D1 use variance with conditions as stated, with second by Michael O'Rourke. Mr. Rutherford outlined the conditions as including: No equipment or machinery stored on site, no maintenance or repairs except emergency, no storage of equipment or mulch, no diesel trucks parked on site, plantings meeting with County's approval if required, handicapped space by side of building adjacent to dumpster, compliance with idling and noise standards and restrictions, trucks being parked away from residential, landscaping along Crest Street, a maximum of 18 trucks, parking in front by employees. Mr. Rutherford advised the D1 use variance

requires five affirmative votes. There were no further questions, comments or discussions. On roll call vote, Eric Oakes, Matthew Ceplo, Wayne Harper, Gary Conkling, Michael O'Rourke, Tom Smith, and William Martin voted yes. Peter Grefrath was not eligible to vote.

**10. DISCUSSION:** None

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

**Respectfully submitted,**

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**Mary R. Verducci**  
**Zoning Board Secretary**