

**BOROUGH OF WESTWOOD
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
MINUTES
August 5, 2019**

APPROVED 9/9/19

1. OPENING OF THE MEETING

The meeting was called to order at approximately 7:30 p.m.

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 (7:37 pm)
H. Wayne Harper
George James
Michael Klein
Matthew Ceplo
Anthony Zorovich
Beverly Karch (Alt #1
Michael O'Rourke (Alt #2)

ALSO PRESENT: David Rutherford, Esq., Board Attorney
Steve Lydon, Burgis Associates,
Board Planner
Louis A. Raimondi, Board Engineer
Kathryn Gregory, Substitute Planner on
346 KKR, LLC application

ABSENT: None

4. MINUTES: A motion to approve the Minutes of **7/1/19** was made Matthew Ceplo, seconded by Michael Klein and carried unanimously on roll call vote by those eligible to vote.

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5. **CORRESPONDENCE:** None
6. **VOUCHERS:** None
7. **RESOLUTIONS:** None
8. **PENDING NEW BUSINESS:**

The following applications were still incomplete and carried to 9/9/19;

1. **The Andrea & Gatana Bartolotta Irrevocable Family Trust, 252 Fourth Avenue** - Mr. Rutherford wrote the applicant, per the last meeting, requesting them to contact him as to status of their application. There being no response, he will now write them advising if no appearance or communication the Board will dismiss the application without prejudice.

2. **Gadino, 5 Grand Street** - Bulk Variances;

3. **Marin, 57 Addicks Road** - Driveway expansion and shed in the side yard;

4. **Cuomo, 10 Westervelt** - Bulk Variances;

9. **VARIANCES, SUBDIVISIONS AND/OR SITE PLANS, APPEALS, INTERPRETATIONS: NONE**

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS

1. **Bhatia, 81 Westwood Boulevard, Block 2208, Lot 3** - Still incomplete; Carried to 9/9/19;

2. **Marin, 57 Addicks Road - Driveway expansion and Shed in Side Yard** - Withdrawn;

3. **346 KKR, LLC, 346 Kinderkamack Road - Amendment to Use Variance and Site Plan** - Mr. Lydon recused himself and stepped down from the dais. Katherine Gregory was appointed substitute planner by motion made by Eric Oakes, seconded by Wayne Harper and carried unanimously. John J. Lamb, Esq. represented the applicant and submitted the notice and publication documents, which were found to be in order. Originally their approval for daycare and overnight boarding was to be limited to patients of the hospital. This was stipulated in the Resolution of Approval. What that means is a customer with another veterinarian outside Westwood cannot use the facilities. They are requesting that condition be

eliminated. Further, they are limited to 60 suites and 71 animals. They were conservative with the parking requirements and have additional parking. A traffic count was conducted and there is ample parking. There is an average of no more than four cars per hour for this facility. They are now asking for peak occupancy of 96 suites and 96 animals, which they can handle. An amended approval is being requested on that restriction. Also on signage, Mr. Marini reads the ordinance as saying no red color on the awning, but he reads it as on the building, and the planner agrees the ordinance does not apply. Their signs will not be ready until September, so they ask for a 30-day extension on the temporary signs. The Chairman did not recall to any stipulations from the Board, and that they came from the applicant.

Bruce Meisel, Managing Member of 346 KKR, LLC was sworn in and summarized the request and facts, concurring with Mr. Lamb's presentation. They originally were conservative in their request as to not burden the Borough. They have 88 parking spaces. A Chart of Parked Customer Cars for the Animal Hospital/Pet Hotel was marked A6, documenting same. The request for signage includes a very small, Red Cross, since it is the symbol for an emergency. The prohibition of red is for awnings, and this is a wall sign.

Questions of Mr. Meisel by the Board followed. Mr. Oakes asked why he was not asking for 88 suites to match the number of parking spaces. Mr. Meisel said they do not need one space per suite. Mr. Oakes was concerned that this would set precedence. Further, he was concerned with the red on the sign, as per the ordinance, it could interfere with a stop sign. Chairman Martin asked in relation to parking, if there was a possibility any one person could have three animals coming in one car. Mr. Raimondi submitted an updated report dated 7/13/19 and recommended applicant should have a planner testify as to these amendments. The Chairman asked the Board and Mr. Oakes suggested having Ms. Gregory first comment on her report to the Board.

The matter was opened to the public for questions of the witness, but there were none.

Ms. Gregory classified this as an extension of a non-conforming use, even intensity of use, and amendment to the Resolution. The Board's Counsel should advise the Board. Mr. Lamb advised they noticed for all three. Mr. Rutherford advised the jurisdictional requirements have been met. The

use is not changing, and they are increasing the intensity. There should be five affirmative votes like in a use variance on the impact the increase in the number of suites will have. Ms. Gregory spoke to the red lettering and the ordinance restricts a red awning, and perhaps the ordinance was misinterpreted by the Zoning Officer. The Red Cross symbol is important for a veterinary hospital and does not see it as an issue. She indicated the applicant has a very large parking lot and a one-to-one ratio is not necessary. There is more than enough parking. Dropping off a dog is less intense than dropping off a child. A brief discussion ensued. There were no further questions and none from the public. The matter was closed to the public.

Mr. Lamb moved the exhibits into the record. On discussion, Mr. Oakes commented in current day-to-day operations he is seeing no problem with them exceeding 96 suites. He has toured the facility, and it is very clean. He sees it as higher end. The small Red Cross should not interfere with the current stop light on Kinderkamack. A motion for approval for the relief sought was made by Eric Oakes and seconded by George James. On roll call vote, Eric Oakes, Matthew Ceplo, Wayne Harper, George James, Michael Klein, Anthony Zorovich, and William Martin voted yes.

The Board took a recess from 8:25 - 9:25 pm. Mr. Lydon returned to the dais.

4. Nouvelle, 140 Tillman Street, Block 2208, Lot 17 - Matthew Cappizzi, Esq. represented the applicant in a two-lot subdivision of the Westwood Swim Club to create a building lot for a single family home on a 75 x 125 confirming lot with four bedrooms, for persons with physical disabilities operated Cerebral Palsy of NJ. The use is an inherently beneficial use.

Kenneth Dykstra, NJ Licensed Engineer and Planner was sworn in, qualified and accepted as applicant's professional engineer and planner. His plan was dated 4/24/19. Sheets 1 & 2 were marked A1, and Sheets 3 & 4 A2. He testified the property has 3.02 acres in size with 87 parking spaces, a pool and an accessory structure. There is also frontage on paper streets. In the northeasterly corner is a wooded area adjacent to the residential single family homes. Their proposal is to provide a 75 x 125 sf lot, oversized in the R1 Zone. The Swim Club will be left with 2.88 acres for recreational use. The parking lot will be reduced by 8 spaces

to 79 spaces. An enlarged plan for the new building lot was shown. They propose a dwelling under 17' high, a two car garage and a turning area, per comment by Mr. Raimondi. There is a 6' high stockade fence which will be maintained on the northerly border along Westwood Boulevard. The fence along the frontage will be removed. The back will have a new fence, so the Swim Club is enclosed entirely which is required. The front parking lot is not fenced. Mr. Dykstra reviewed the bulk table requirements. They meet all the setbacks. The footprint is slightly over what is allowed. There is a variance for 2% building coverage and for impervious coverage. The group home will have four bedrooms and four residences. They have a van they will use to take the residents to day programs and back at 4pm. The residents will probably not have cars. Ample parking is provided on sight. This is an appropriate use of municipal funds and is an inherently beneficial use. They are providing air, light and open space.

Mr. Dykstra reviewed the reports of the Board's professionals. Mr. Raimondi submitted an updated reports dated 7/19/19 & 7/29/19. Mr. Raimondi requested the witness testify as a planner as to the variances requested. Also he asked them to increase the drainage system, and they agreed. They would increase the number of seepage pits to two. There's a variance request for not replanting trees. They are taking down ten. Ordinance. Says must replant two trees for each one taken down, but there would be no room for the house. Mr. Dykstra commented the fence acts like a buffer and did not see the need for large trees being planted near the house. The Chairman asked if they could save the tulip trees. They are saving an oak and two maples along the property line, Mr. Dykstra stated. Mr. Raimondi asked about corner markers. They will set the points and show an offset. There was nothing major and nothing further.

Mr. Lydon reviewed his report and setbacks. Douglas Street, although not improved, is a street. The existing shed will be removed. On the parking, there is a surplus, and asked if they did an analysis per the ordinance. Mr. Dykstra responded there was nothing specific for swim clubs. Mr. Lydon said there was for clubs and recreation. He noted Mr. Dykstra's testimony was that there is a surplus of parking. Mr. Dykstra confirmed. Mr. Lydon commented briefly on trees. He discussed the variances and reason of inherently beneficial use. He is of the opinion that the Swim Club is also an inherently beneficial use. If you meet all the

requirements of a conditional use, the application goes to the Planning Board, otherwise it does to the Zoning Board under the standard of five affirmative votes. Under this case, the condition that is not being met is the building coverage on the Swim Club lot. There have been a number of additional changes on the Swim Club lot that should they come to the Board, conditions would be imposed. The Board could look at the lot not as a hard number but with flexibility because of the way the site has been developed. Usually you use the Medici standards. We have to look at the negative criteria, he stated, which conforms, setting reasons. They are over on building and impervious coverage. Mitigation could be considered. Mr. Lydon continued with variance discussion at length.

Questions by Board Members followed. Mr. Oakes suggested certain trees that could be replanted towards the rear by the Swim Club, to buffer noise. Mr. Lydon felt it would be beneficial. Mr. Oakes suggested four to six trees along the northerly property line. Also, the spaces the Swim Club will lose, for noise months of the year the parking lot will not be utilized, but for the height of the season all those spaces are used during the swim meets, when they are already short, causing them to find places to park on the residential streets. Mr. Cappizzi acknowledge this and spoke with the Swim Club, who anticipates creating four additional spots elsewhere on the property. Mr. Oakes stated the dumpster also takes up space. It is in the corner, west of the proposed lot, Mr. Dykstra stated. Chairman Martin asked if they could add four spaces in certain locations, thereby picking up the spaces they are losing. There were no further questions.

The matter was opened to the public for questions of the witness and Board's professionals.

Dennis Crute, 21 Westwood Boulevard expressed concern that the trees they want to keep are not in good shape. Mr. Cappizzi stated they will have an arborist come in to inspect the trees and if not in good shape, they will take them down.

Claude Marada, 157 Tillman Street, asked how many actual parking spaces will be on the residentially lot. The response was at least four vehicles--two in garage, two on driveway, and there's the turnaround area. The van will take one side. Five vehicles will fit. He asked about visitors. One or two cars may park on Tillman, but that would be rare. There would

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one-to two employees on site, with the overlap of up to an hour.

June Bauernfeind, 135 Tillman Street, asked about the garage use, and it would be for cars, not storage.

Mr. Cappizzi had no additional witnesses, except the architect testified briefly on the plan, dated 8/1/19, marked A3. Yogesh Mistry, Licensed NJ Architect, of Netcong, NJ was sworn in, qualified and accepted. He testified they are over 190 sf on impervious coverage. This is the minimum size needed to accommodate the requirements. The home is a one-story, ranch-style home, very low. Mr. Oakes expressed concern about occupants getting wet during rain and snow when going into garage from van in driveway. Mr. Mistry explained there was no room for handicapped accessibility to exit into garage and they use large umbrellas during this time. Mr. Ceplo asked if there was a basement. The response was no basement and no crawl spaces. It is designed per the DCA for a government group home, pursuant to the requirements. There is no second floor. As a condition of approval, they would stipulation there would never be a second floor. It would not be a problem. Mr. Cappizzi stated there would be a 30 year deed restriction. They would not be an issue during the. But 30 years from now possibility if it changed hands. Mr. Rutherford advised after 30 years, if applicant wanted a second floor would have to come back. It is rationally related to the building coverage variance being requested. Mr. Harper asked if there were any lighting requirements or signage. The response was no. Ms. Karch asked if they anticipate any ambulance calls, and the response was no.

The matter was opened to the public, and the following persons came forward and were sworn in:

Jackie Crute, 21 Westwood Boulevard, asked if this would cause traffic on Tillman. The response was no; the van would take residents to appointments.

Dennis Crute, 21 Westwood Boulevard, expressed concern about trees. Applicant responded if the trees were in bad shape, they would be removed. Mr. Cappizzi would arrange a site visit with an arborist.

David Bauernfeind, 135 Tillman Avenue, commented there is a notorious parking problem and expressed concern that it might increase. People park in his driveway. Mr. Martin

advised this Board does not enforce traffic laws; it has no jurisdiction. The eight parking spaces being lost will be picked up, and this will be stated in the approval resolution.

Chris Lawrence, 37 Westwood Boulevard, asked if more than four people can live there, and the response was no. They are restricted to one bedroom apartments, with one person per bedroom. He also expressed concern about parking.

Dennis Harrison, 27 Westwood Boulevard, expressed concern about who would maintain the fence. The response was the applicant/swim club is responsible for what is on their property. If it is in need of work, this should be reported to the Building Department for enforcement. This is separate from the Planning Board's duties. He was also concerned about the trees.

Attorney Cappizzi summed up, stating they have an inherently beneficial use, the positive criteria was addressed, the negative criteria is before the Board, and it is a low intensive use. There were no further questions, comments or discussions.

A motion for approval was made by Eric Oakes and seconded by George James with conditions as stated. On roll call vote, Eric Oakes, Matthew Ceplo, Wayne Harper, George James, Michael Klein, Anthony Zorovich, and William Martin voted yes.

5. Imbarrato, 52 Seventh Avenue - Bulk Variances - In process of noticing and publishing for 9/9/19 meeting as applicant did not know he was on the agenda tonight.

10. DISCUSSION: Chairman Martin updated the Board on the Planning Board's ongoing review of the Master Plan. A gentlemen in the audience inquired about application procedures for a property in the LM Zone.

11. ADJOURNMENT - On motions, made seconded and carried, the meeting was adjourned at 10:15 pm.

Respectfully submitted,

MARY R. VERDUCCI, Paralegal
Zoning Board Secretary