

**BOROUGH OF WOODCLIFF LAKE
ZONING BOARD OF ADJUSTMENT
JANUARY 22, 2008, 7:30 P.M.
MINUTES**

Call to Order:

The meeting was called to order at 7:30 p.m. by Chairwoman Christina Hembree.

Adequate Notice Statement:

The Chairwoman announced this meeting, in accordance with the Open Public Meetings Law, P.L. 1975, Chapter 231, at the Reorganization Meeting of January 23, 2007, in the Municipal Building. Notice of this meeting was posted and two newspapers, **The Record** and **The Ridgewood News**, were notified. The public was advised of the Zoning Board's rule that the meeting will conclude at 7:30 p.m.

Flag Salute

Oaths of Office forms were administered to Mrs. Hembree, Mrs. Heinemann and Mr. Cassell by Board Attorney Princiotto. These will be forwarded to the Borough Clerk for filing.

Roll Call:

Christine Hembree, Chairwoman	Present	
Victor Bongard, Vice Chairman	Present	
Lynda Heinemann	Present	
John Spirig	Present	
Natalie Efron	Absent	
Richard Purcell	Absent	
Wilson Castrillon	Absent	
Jacob Rak	Present	
Dana Cassell	Present	
Sal Princiotto, Esq.	Present	
D. Holmquist, Planner	Absent	(not requested)
J. Pavlovich, Traffic	Absent	(not requested)
E. Sachs, Engineer	Present	(in audience)
Kathy Rizza, Secretary	Present	

Minutes:

The minutes from the December Zoning Board of Adjustment were approved on a motion from Mr. Bongard, seconded by Mrs. Heinemann, and carried by all, with Messrs. Spirig and Cassell abstaining.

Reorganization:

Christina Hembree was nominated for the position of **Chairwoman** on a motion by Mr. Bongard, seconded by Mrs. Heinemann. Being no other nominations, Mrs. Hembree was named Chairwoman of the Zoning Board for the year 2008 with all members present in favor.

Victor Bongard was nominated for the position of **Vice Chairman** on a motion by Mrs. Heinemann, seconded by Mr. Cassell. Being no other nominations, Mr. Bongard was named Vice Chairman of the Zoning Board for the year 2008 with all members present in favor.

Sal Princiotta, Esq. was nominated for the position of **Zoning Board Attorney** on a motion by Mrs. Heinemann, seconded by Mr. Cassell. Being no other nominations, Mr. Princiotta was named Zoning Board Attorney for the year 2008 with all members present in favor.

Elliot Sachs, of Boswell McClave Engineering, was nominated for the position of **Zoning Board Engineer** on a motion by Mrs. Heinemann, seconded by Mr. Bongard. Being no other nominations, Mr. Sachs was named Zoning Board Engineer for the year 2008 with all members present in favor.

Donna Holmquist, of Burgis Associates, was nominated for the position of **Zoning Board Planner** on a motion by Mr. Spirig, seconded by Mrs. Heinemann. Being no other nominations, Ms. Holmquist was named Zoning Board Planner for the year 2008 with all members present in favor.

John Pavlovich, of Jacobs, Edwards and Kelcey, was nominated for the position of **Zoning Board Traffic Engineer** on a motion by Mrs. Heinemann, seconded by Mr. Spirig. Being no other nominations, Mr. Pavlovich was named Zoning Board Traffic Planner for the year 2008 with all members present in favor.

Kathleen S. Rizza was nominated for the position of **Zoning Board Secretary** on a motion by Mrs. Heinemann, seconded by Mr. Cassell. Being no other nominations Ms. Rizza was named Zoning Board Secretary for the year 2008 with all members present in favor.

The **2008 Schedule of Meetings** was approved, as revised, by all members present on a motion by Mr. Spirig, seconded by Mrs. Heinemann. Meetings will start at 7:30 p.m. and end at 10:30 p.m.

Old Business:

07-83 Alex Feldman, 39 Woodcrest Drive, Block 105, Lot 1

Mr. and Mrs. Alex Feldman were present for the continuation of discussion regarding their application for replacement of a non-conforming 12' x 12' metal shed. Variances required are rear yard setback of 48.8' and side yard setback of 18.4'. Original application was for a 12' x 18' shed, since revised to 12' x 12'. It was determined that there are enough qualified members to vote on this application at this time.

Mrs. Feldman reminded the Board what they are here for. Copies of the proposal were distributed to Board members present. This was read into the record by Mr. Feldman. Mr. Cassell stated that he was in Borough Hall today to listen to the tapes of the last meeting, but had not seen the pictures that were presented. Mr. Feldman showed him what he had not seen at previous meetings. Mrs. Heinemann questioned whether or not there is a foundation at the site of the old shed. She was told no, just stones. Mr. Cassell spoke regarding a discussion he heard on the prior meeting tapes about restoration vs. repair vs. reconstruction. Attorney Princiotto stated that the applicant said it was impossible to restore, so they took the old shed down completely and starting constructing a 12' x 18' shed and were notified that they needed to file with the Zoning Board. The plan then went back to 12' x 12'. The ordinance allows for a 10' x 10' size shed, but the grandfather clause may allow for a 12' x 12' shed. Mr. Cassell asked that since the shed was taken down, does that void the grandfather clause? The Board Attorney stated that this would be the Boards decision, it could go either way. Mr. Cassell asked the applicant if they ever explored the possibility of repairing the metal shed. They had not. Mr. Bongard asked if the floor of the new shed will be in the same location. He was told yes, nothing has changed, the blocks for the foundation are still there. Chairwoman Hembree stated that the Board needs to examine the ordinance and why it was written – the new ordinance says the shed must be away from the property line, the shed in question is on the property line. Mr. Cassell stated that the applicants should have consulted an attorney and/or a land use professional as to whether the shed could have been repaired and also for proper advice as to how to go about the zoning process. At this time the Board Attorney researched definitions for structures and non-conforming structures. No definition was found for foundation. A foundation makes a shed a permanent structure. Borough code states that sheds must comply with setbacks in the zone as per the code.

Mr. Cassell verified that the applicants want the 12' x 12' shed on the same location as the old one. Therefore, the issues are size and location. Mr. Bongard stated that he visited the site today and feels the location is perfect. It is blocked by trees. He feels that it is somewhat of a hardship for the applicants and it is not obtrusive. A neighbor has a child playhouse near the property line. Chairwoman Hembree stated that these playhouses are considered structures in some towns. She referenced a friend in another town with this issue. The Chairwoman stated to all the structure was taken down and that the applicant is rebuilding the shed. This is specifically forbidden without a variance from the Zoning Board. Mrs. Heinemann stated that a variance for size and location is

needed. Mr. Feldman stated that he is looking for a decision from the Board at this time. Mrs. Feldman expressed her opinion that they are restoring the shed back to original condition. Mr. Cassell spoke regarding the word 'restore'. Again he stated that the applicants should have consulted a professional for this matter. Mrs. Heinemann agrees with Mr. Cassell, feels that there are too many complaints regarding sheds that are too close to the property lines. Mr. Princiotto stated that this same issue has been before the board in the past. It is controversial in nature. Mr. Cassell stated that partial destruction of the shed was caused by nature. Mr. Cassell asked the Board Attorney if the Board voted in approval of grandfathering would we setting a precedent. Mr. Princiotto responded possibly.

Mr. Rak asked what the reason for the ordinance change was. Mr. Princiotto informed all that the Mayor and Council stated that sheds should meet the size and location requirements as stated in the ordinance. He reminded all that the Zoning Board does not pass ordinances, only the Mayor and Council do. Mr. Rak stated that he has been to the site twice, he sees no other suitable location. Mr. Rak was unaware of any complaints, but was advised by fellow board members of at least one.

Chairwoman Hembree stated that the issue is whether or not the applicant should be allowed to rebuild a shed on the property line which is against the current zoning code. Hardship has not been proven to the Board. Mr. Cassell stated it could go where the garden is located. Mr. Rak stated that there are other possible locations, they just may not be better. Mr. Princiotto stated that there is a restoration ordinance. The Board would have to make a finding that there was a partial natural destruction and the shed could not be restored, only by rebuilding. The Chairwoman stated that this is not a restoration, it is a rebuilding. The Board needs to adhere to the current zoning ordinance. Granted, the applicants have good intentions. The possibility of putting the shed near the pool was discussed.

A motion to deny the 12' x 12' shed on the property line was made by Mrs. Heinemann, seconded by Mr. Cassell. Roll call vote was taken as follows:

Mr. Rak	No
Mr. Bongard	No
Mr. Cassell	Yes
Mrs. Heinemann	Yes
Chairwoman Hembree	Yes
Mr. Spirig	abstained.

Motion to deny was carried. Mr. Princiotto advised the applicants of the appeal process that is available to them and suggested that they speak with Nick Saluzzi, the Zoning Official.

A motion to adjourn was made at 9:10 p.m. by Mr. Spirig, seconded by Mr. Cassell and carried by all present.

Respectfully Submitted – Kathleen S. Rizza