

**BOROUGH OF WOODCLIFF LAKE  
ZONING BOARD OF ADJUSTMENT  
SPECIAL MEETING  
SEPTEMBER 24, 2015  
MINUTES**

**Call to Order:**

The meeting was called to order at 7:30 p.m. at Borough Hall 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 27, 2015, 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 10:30 p.m.

**Flag Salute**

**Roll Call:**

Christina Hembree, Chairwoman	Present
Marcia Denbeaux	Present
Gary Newman	Present
Robin Effron-Malley	Present
Brian Boffa	Absent
Justin Cohen	Present
Dana Cassell	Recused
Victor Bongard	Present
Jay-Ferreira	Present
S. Robert Princiotta, Esq.	Present
Joseph Vuich	Present
Daniel Bloch, Maser Consult. Planner	Present
John Pavlovich, Traffic	Not Requested
Tonya Tardibuono, Secretary	Present

**Old Business:**

**Valley Chabad  
100 Overlook Drive  
Block 908 / Lot 1  
Change of Use / Site Plan Application with Variances**

Mr. Joseph Vuich, the Borough Engineer, spoke about being in contact with the applicant's Engineer Mr. Jeffrey Martel about obtaining a copy of the survey of the property that was used as the base map. It does not have any mention of title searches that showed any recorded deeds for easements. Based on survey information it only shows physical structure in the field to confirm where the location of the manholes are. DPW then went into the field and physically opened up the manhole covers to take a look at the structure at the corner of the driveway between 100 Overlook Drive and 88 Overlook Drive. From there they determined there was a connection across Overlook Drive; directly across the lanes of travel there is a catch basin there, with a 24-inch pipe coming into that catch basin, which is believed to be from the Temple Emanuel property and possibly connected to a development further up. DPW still needs to locate the rest of that network. There is also a 12 inch line coming up from the north. It appears it may connect to Mill Road Ext. They have yet to locate the upstream manhole. Mr. Chris Diktas, the Attorney for the Woodcliff Lake opposing residents, asked if the Board was going to direct the applicant to videotape the lines with a GPS. Mr. Princiotto said I don't believe we are done with this issue yet, we will look at this issue again at a later date when the applicants Engineer can be present.

Mr. Diktas introduced his first witness. Mr. Marc Boggio. Mr. Boggio was sworn in. He is a resident of Woodcliff Lake and is a partner in a landscape design firm for the past 25 years. Mr. Diktas said at the last meeting the applicant presented the concept for the building of the wall. Mr. Newman asked if he was a fact witness, or an expert witness. Mr. Diktas replied a fact witness, that he was here at all meetings and an expert witness as to Keystone walls. Mr. Diktas had Mr. Boggio explain his experience to the Board. Mr. Diktas asked that the Board accept Mr. Boggio as an expert witness. Mr. Boggio said after he heard the testimony regarding the wall he called Keystone himself and asked about this type of wall. Exhibit 08, an e-mail from Keystone was presented to the attorneys. Mr. Boggio said that a representative from Keystone said that the proposed wall is not built in the Northern states of the Country. The Board and Attorneys argued that this e-mail is only hearsay. Mr. Boggio said it is his understanding that the plant material will not survive in this part of the country and he cannot purchase the material for the wall here. Mr. Bongard asked if you could find any plants that would survive. Mr. Boggio replied he doesn't think any plants will survive. Mr. Newman asked why. Mr. Boggio said because of the harsh winters we have here, there is no soil base.

Mr. Diktas introduced his next witness. Ms. Brigitte Bogart of Brigitte Bogart Planning and Design Professionals LLC. located at 648 Godwin Ave, Suite #2, Midland Park, New Jersey. Ms. Bogart was sworn in by Attorney Princiotto. Ms. Bogart has a Bachelor's in Environmental Design and Architecture from North Carolina State University and a Masters in Planning from the University of Pennsylvania. She has been a practicing Planner in the state of New Jersey for the past 15 years. She was a partner at Burgis Associates for 12 years and has owned her own firm for the past 3 ½ years. She currently works for the Borough of Park Ridge, Borough of Emerson, Township of South Hackensack and Borough of River Edge.

Mr. Diktas asked if Ms. Bogart looked over Woodcliff Lake's master plan. She replied that she had. She then spoke in detail about the history of houses of worship from past to present. Ms. Bogart then explained RLUIPA (The Religious Land Use and Institutionalized Persons Act) to the Board. She explained the five standards of RLUIPA. She said that the most important is substantial burden. It is written that no government shall impose or implement a land use

regulation in the manner that imposes substantial burden on a religious facility, unless the government (this Board) demonstrates that the imposition of burden on that person, assembly or institution is in furtherance of a compelling government action. She feels from a planning perspective, a compelling government action is zoning purposes. When you start to look at the specifics of this application she thinks you should have to weigh the compelling regulations of the zoning ordinance against RLUIPA. This is something that the applicant's planner already pointed out. She believes that we have to review our zoning regulations and how this proposal affects the municipality and our zoning ordinance. She said currently this application requests 2 D variances, 7 C variances and 12 waivers. Perhaps this is a hint that this proposal doesn't fit into Woodcliff Lake's master plan. A land use plan and proposed zoning map prepared by Burgis Associates and was included in the 2002 master plan, was introduced as exhibit 09. Ms. Bogart's opinion from a planning perspective is when the Board reviews this application they should be looking at the elevation of houses of worship and how they have gone from sanctuaries to all of these accessory uses, and review the five standards of RLUIPA.

Mr. Diktas asked if there were sites in excess of 3 acres that are available in Woodcliff Lake. Ms. Bogart believes that there are a couple of sites available. Mr. Newman asked how many specifically. She said she is unsure. Ms. Bogart gave a general description of the property in question and pointed out that this proposal does not meet one of the zone requirements for the R-30 zone. Ms. Bogart then went into detail about all of the conditions they were not meeting and the variances they were requesting. She specifically spoke about the decks, buffers, impervious coverage, parking, landscaping, and steep slopes. Ms. Bogart stated that she has a hard time understanding how the applicant does not feel that there is no substantial detriment. They need 19 variances and waivers and they don't comply or they are completely opposite from the town's goals and objectives as indicated on the 2002 master plan. One waiver by itself could be nothing, but when you look at them all together and the proposal they will have a significant impact on the site itself.

Mr. Diktas asked Ms. Bogart to give her opinion on why this Board should not grant the variances. Ms. Bogart replied that the applicant has relied only on RLUIPA. She does not believe the Board should give these variances because as it stands, this application does not make sense for this site.

**The meeting was open to the public to ask any questions of Mr. Boggio, on a motion from Mr. Ferreira, seconded by Mrs. Denbeaux, and carried by all.**

**Cliff Levy, Woodcliff Lake** – Mr. Levy asked what specifically the representative from Keystone told him. Mr. Princiotta said it has yet to be decided if questions for Mr. Boggio regarding Keystone is appropriate yet or not. He questioned why the applicant can put the wall in a brochure and it's allowed but the e-mail isn't permitted? Mr. Princiotta said it comes down to legalities at this point as to what is allowed and what is not.

**Roberta Green, Woodcliff Lake** – Mrs. Green said if you open the questioning to Mr. Boggio and you can't ask him about what he spoke about then why would you open the questioning? Mr. Princiotta explained that you can ask him questions only about what he testified about. Mrs. Green asked why he went on his own to check out the location of the proposed wall. Mr. Boggio said because he never heard of this type of wall in this area so he followed up.

**David Kosoff, Woodcliff Lake** – Mr. Kosoff showed pictures and asked if the wall would look something like what is shown in the pictures. Mr. Ferreira said the picture is not what they are proposing, they are proposing a plantable wall. Mr. Kosoff asked if the wall would be scaleable. Mr. Boggio replied to the picture that you showed me, no.

**Matthew Bonanno, Woodcliff Lake** – Mr. Bonanno asked if the witness believed the walls were not available in these areas because of expansion and contractions. Mr. Boggio replied no.

**The meeting was closed** to the public to ask questions of Mr. Boggio on a motion from Mr. Newman, seconded by Mrs. Denbeaux, and carried by all.

Mr. Ferreira spoke about why plants in the planter wall would not survive in this parts of the country year round.

**The meeting was open to the public** to ask any questions of Ms. Bogart, on a motion from Mrs. Denbeaux, seconded by Mr. Bongard, and carried by all.

**Joe LaPaglia, Woodcliff Lake** – Mr. LaPaglia got up to speak but was reminded he could only ask a question of the witness. He said thank you for your testimony Ms. Bogart.

**The meeting was closed** to the public to ask questions of Ms. Bogart on a motion from Mr. Ferreira, seconded by Mr. Newman, and carried by all.

Mr. Urdang asked if Ms. Bogart had anything to do with the master plan while working at Burgis Associates. Ms. Bogart replied, no. Mr. Urdang asked if she had any idea when the ordinance was adopted in its present form. Ms. Bogart replied, no. At this time Mr. Urdang has a discussion with Ms. Bogart regarding her professional opinion and this application.

At this time a break was taken from 9:35 pm until 9:44 pm.

Mr. Urdang continued to question Ms. Bogart about why she feels this application is not good for this site. He asked her if a SEEKA test would be appropriate, she replied yes.

Mr. Newman asked Ms. Bogart to point out 5 sites on the map exhibit 09 that would comply with the ordinance. Ms. Bogart said she did not look at the lot areas. Mr. Newman asked in our Borough we permit this in a residential zone. Ms. Bogart answered, correct. Mr. Newman said the number of lots available in a residential zone is important whether or not the 3-acre requirement is reasonable. Ms. Bogart answered that's correct. Mr. Newman said if the number of 3-acre lots that would meet the requirements under our ordinance is less than 10, to strictly enforce that 3-acre requirement, wouldn't that be a burden on the exercise of religious rights. Ms. Bogart answered yes, she would agree that could potentially be, but the question is when you look at all of the other regulations. Mr. Newman asked if it's true that our ordinance is local law, and state law takes precedent over local law, and federal law takes precedent over state law. Ms. Bogart agreed. Mr. Newman pointed out that there is no neighbor to the north, the neighbor to the east is the Garden State Parkway, the neighbor to the south is currently an egg farm and nearby across the street there

is another house of worship. He asked Ms. Bogart to confirm his statements, she answered that is correct. Mr. Newman said leaving aside the size of what the applicant wishes to do, is this an appropriate site for a house of worship. Ms. Bogart replied yes, and she testified to that. Mr. Newman asked her what the government needs to show to demonstrate a compelling governmental interest. Ms. Bogart answered that as she previously stated it would be the Board's job to identify the purposes of their zoning ordinance and identify the zoning regulations.

Mr. Ferreira asked Mr. Urdang if he received the paperwork from the Garden State Parkway Authority authorizing the applicant to drain onto their property. Mr. Urdang replied he has not, but will check with his engineer. Mr. Urdang also stated that he believes his engineer testified that we will not get anything unless an application is filed.

Mr. Diktas asked Mr. Urdang if they can obtain a copy of the last set of plans that was distributed. Mr. Urdang replied that as he stated previously, if Mr. Diktas gives him Ms. Bogart's address he will have a set of plans mailed to her.

This application will continue at the next Board of Adjustment meeting scheduled for October 27, 2015.

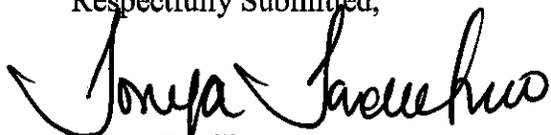
**Minutes:**

The minutes of June 30, 2015 were approved as amended on a motion from Mr. Newman, seconded by Mr. Bongard and carried by a roll call vote as follows:

Gary Newman	Yes
Robin Efron-Malley	Yes
Victor Bongard	Yes
Jay Ferreira	Yes

**The meeting was adjourned** on a motion from Mrs. Denbeaux, seconded by Mr. Ferreira, and carried by all.

Respectfully Submitted,

  
Tonya Tardibuono