BOROUGH OF WOODCLIFF LAKE
ZONING BOARD OF ADJUSTMENT
JUNE 28, 2011
MINUTES

Call to Order:
The meeting was called to order at 7:30 p.m. by Vice Chairman Bongard.

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 25, 2011, 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:

Christine Hembree, Chairwoman	Absent	
Victor Bongard, Vice Chairman	Present	
Lynda Heinemann	Present	
John Spirig	Present	
Robin Effron-Malley	Absent	
Brian Boffa	Absent	
Wilson Castrillon	Present	
Dana Cassell	Present	
Jay Ferreira	Present	
Sal Princiotto, Esq.	Present	
D. Holmqvist, Planner	Present	
J. Pavlovich, Traffic	Absent	(not requested)
Elliot Sachs, Engineer(Boswell)	Absent	(not requested)
Kathy Rizza, Secretary	Present	

Minutes:

The minutes from May 24, 2011 will be approved at the July meeting due to a lack of quorum at the time of approval.

New Business:

Cherkas
41 Birchwood
Block 1701, Lot 2.06
Deck

Mr. Cherkas was present to request a side yard variance of 10'6" for a deck out to the side of his property. Notice and proof of publication had been submitted and was found to be sufficient. The following exhibits were submitted:
A-1 property survey
A-2 site plan showing measurements from structure to property lines
A-3 photo of home
A-4 photo of side of home showing existing deck in the rear
A-5 photo of rear of home showing planters and bench with deck and stairs
A-6 photo of deck from the side
Mr. Cherkas was questioned by the Board as to why he did not request the deck to go towards the rear of his property. Mr. Cherkas responded that there is a utility easement in the rear and Mr. Saluzzi informed him that he could not build in this area. Attorney Princiotto stated that he feels this applicant should be able to expand his deck onto this easement, but if the town should require access to the easement it may have to be torn down. Mr. Ferreira stated that he is familiar with this subdivision and feels that the Board should obtain a site plan, resolution and developers agreement from the Pearson Subdivision to see exactly what is on this site. Mr. Cherkas stated that he would prefer to build to the rear if possible, but would still pursue going out to the side if it is not possible to go to the rear.

This matter was opened to the public on a motion from Ms. Heinemann, seconded by Mr. Ferreira, and carried.

Mr. Robert Gervase, 37 Birchwood – Stated that he is against the deck going to the side of Mr. Cherkas' property. Mr. Gervase feels that this proposal leaves him no privacy since his deck and pool are on the same side and the proposed deck is so close to the property line.

This matter was closed to the public on a motion from Mr. Spirig, seconded by Ms. Heinemann, and carried.

It was decided that a copy of the site plan, resolution and developers agreement from the Pearson Subdivision will be obtained to see exactly what is on this site. This matter will continue to the July meeting. Mr. Cherkas will be contacted when the documents are obtained so he can consult with Mr. Saluzzi and his contractor and then he can decide if he wishes to amend his application or not.

Douglas
63 Glen Road
Block 1805, Lot 7
Front porch

Mr. Douglas and his Attorney, Mr. Demetrakis of 1000 Portside Drive in Edgewater, were present for this application. Mr. Douglas needs a variance to cover an existing front porch. Notice and proof of publication were submitted and found to be satisfactory. Side yard variance of 12'8" and a minimum both side yard variance of 38'2" is requested.

The property has a hardship being the width is only 50'. It was stated that all neighbors have a similar situation in the front of their homes.
The following exhibits were marked into evidence:
A-1 tax map copy with property highlighted
A-2 picture of the front porch that exists
A-3 side view picture
A-4 picture of the front of the existing porch with car in the driveway
A-5 picture of the front of the home with existing porch
A-6 picture of neighbors up the street
A-7 rendering of the desired roof
A-8 site plan showing dimensions prepared by homeowner
A-9 footing diagram for roof structure
A-10 material sample (not kept on file)

Mr. Douglas was sworn in by Attorney Princiotto. He is the owner of this property. Mr. Douglas stated that the house has a new roof and the proposed roof over the porch will match. All sketches were prepared by the homeowner and submitted to the building department. A permit was issued and later withdrawn. All drawings submitted were sufficient for the issuance of a permit. Referring to Exhibits A-7 and A-9, the deck is 8'9" from the homes, 27' across, 3'8' from the side, 47' from the property line and 5' from the stairs. Footings and supports were shown. All photos were taken by Mr. Douglas on 6-21-11. Exhibit A-6 shows the neighbor in the blue house at 65 Glen. The front porch is 17'5" to the property line on this side. Exhibit A-2 shows posts that were installed by Mr. Douglas. He has not proceeded since the job was stopped by the Construction Code Official. Mr. Douglas would like this variance because he feels this would be an improvement to his home. Mr. Bongard asked if the porch will be enclosed. Mr. Douglas responded no. Mr. Cassell asked if railings will be installed. He was told yes. Mr. Ferriera amended the denial letter to show the correct minimum front yard measurement.

A motion to open to the public on this application was made by Mr. Spirig, seconded by Mrs. Heinemann, and carried.

With no one from the public wishing to be heard, a motion to close the meeting to the public was made from Mr. Ferreira and seconded by Mr. Cassell, and carried.

A motion to approve this application with two variances for a roof over an existing porch was made by Mr. Ferreira, seconded by Mrs. Heinemann and carried by roll call vote as follows:

Mr. Spirig	Yes
Mr. Castrillon	Yes
Mr. Cassell	Yes
Mrs. Heinemann	Yes
Mr. Ferreira	Yes
Vice Chairman Bongard	Yes

The resolution will be prepared by the Board Attorney and will be read at the July meeting.

Potomac Homes
290 Werimus Road
Block 1701, Lot 3.02
Additional Resident

Board member Jay Ferreira excused himself from this application since he lives next door, and left the building. Attorney Robert Mancinelli was present on behalf of the applicant. Mr. Ben Pearce, the Present and CEO of Potomac Homes was also present. Mr. Cassell had a question for the Board Attorney concerning the fact that his wife is a sometime distant associate of Mr. Pearce. It was determined that Mr. Cassell could still be involved in this application as long as he felt he could be fair and impartial. Mr. Mancinelli had no objection to this since only an actual conflict would be the issue. Attorney Princiotto stated that this since this application may not finish tonight he will look into this issue further. Mr. Boffa and Ms. Effron Malley and Chairwoman Hembree will need to listen to the tapes of this hearing in order to be eligible to vote on this application. Mr. Mancinelli stated that this is the first town to deny this application and send it to the Zoning Board. He further stated that if the Board feels this is an expansion of a D variance he will obtain the services of a Planner. He feels that he only has to prove that there is no negative impact. He spoke regarding the 2009 amendment and quoted the code 40:55 D4 in the Cox book page 205, section 75.1 that speaks to group homes and the inherently beneficial use. Attorney Princiotto stated that there is a restriction for a limit of 15 residents. The applicant is here to increase the residential capacity to 16 to allow for Medicare patients. Mr. Mancinelli stated that the applicant has been to 5 other towns and that this Board is the first one to treat this application as a use variance. Mr. Ben Pearce was sworn in by Attorney Princiotto. He is from 38 North Central Avenue in Ramsey. Mr. Pearce is the President and CEO of Potomac Homes. Potomac Homes is for Alzheimer and dementia patients in a small residential setting giving the patients more care access. The have eight homes in the following towns: Cresskill, Paramus, Park Ridge, Woodcliff Lake, Ramsey, Mahwah, and two in Hillsdale. In 1998 the Planning Board granted conditional and site plan approval. There have been no changes since the building was built. They are now seeking to increase the number of residents by one. The Medicare reimbursement system drives this need. Mr. Pearce stated that they do not want to move one patient out – it is not good for the patient or the family. He stated that if he receives a positive vote, no change is needed at all the facility. There is no need to construct a wall; interior space will just be reallocated. There will be no change to staffing and/or parking. He also stated that there will be no impact on the surrounding community. Mr. Pearce stated that his patients are not terminally ill or head injured. He also stated that no additional signage is needed. Attorney Mancinelli referred to the NJAC 8:36-5.1 (h) and the NJSA 26:2H-12.16 for state requirements. Mr. Mancinelli addressed the letter from Donna Holmqvist, the Borough Planner. Mr. Cassell questioned where the 16th bedroom will be. He was told that the office will be made into this additional proposed bedroom. Anything that is in

the office will be moved into the pantry area. Mr. Pearce referred to Exhibit A-3. Mr. Mancinelli stated that additional escrow will be sent.

The following exhibits were marked into evidence:
A-1 Application
A-2 Survey
A-3 Floor plan
A-4 Affidavit
A-5 Denial letter
A-6 June 7th letter to Mr. Saluzzi from Mr. Mancinelli
A-7 Property owners list
A-8 Photos
A-9 Taxes paid certification
A-10 Resolution
A-11 Ordinance
A-12 License to operate
A-13 License to own

Mr. Cassell asked if all residents are ambulatory. He was told some are and some need assistance. When a patient has no functionality they need to go to a nursing home. Mr. Princiotto stated that a parking waiver was granted in 1998. Mr. Mancinelli stated that there are four staff members on duty at one time and the parking is adequate. Mr. Pearce stated that he is at the site two times a week to meet with families and give tours and to train employees. Deliveries are done in the front of the building and do not block parking spaces. Deliveries usually take approximately eight to ten minutes. The population ratio was discussed. The Planning Board approval of an assisted living facility at Glen Road and Chestnut Ridge Road was discussed. Attorney Princiotto spoke regarding conditional use A variances which are for exceeding maximum number of residents. Mr. Mancinelli spoke regarding D1 and/or D2 variances regarding this application. The Board Secretary was instructed to submit this application request to the Police Department, the Volunteer Fire Department and the Tri-Boro Ambulance Squad for comments. Mr. Mancinelli doesn't feel the town ordinance applies to this application. Mr. Pearce stated that his licensed facility is a Class C Boarding House for Alzheimer's and dementia patients. The facility is licensed by the NJDCA. They will apply to the NJDCA for the increase when the town has given their approval. The Americans with Disabilities Act and the Fair Housing regulations allow this facility to operate. Mr. Mancinelli stated that he is surprised that the 1996 ordinance has never been challenged. He also stated that he believes this application is a D2 variance. Board Attorney Princiotto stated that research needs to be done on this issue. He further stated that he does feel that the Zoning Board of Adjustment has jurisdiction and that it is a D3 variance for conditional use. Mr. Pearce stated that the facility benefits Woodcliff Lake citizens who live in the home. He also mentioned that they have a waiting list of up twelve people. Mrs. Heinemann asked if there are no Medicaid patients wishing to live in this home, can the room be used for someone else not on Medicaid. This could be done only if there was no demand for rooms for Medicaid patients. Right now there is a waiting list for Medicaid patients. Ms. Holmqvist asked how long a resident usually stays at a Potomac Home. Mr. Pearce

stated generally about 21 months, either they expire or the need major care from a skilled facility. The average patient age is 83. Attorney Princiotto asked for a copy of the license to operate and the license to own. These were provided and marked into evidence. It was decided that a Planner from the applicant may be useful in this matter. Mr. Mancinelli totally agrees except where it pertains to the 2009 amendment, but he will bring a Planner. Attorney Princiotto asked if the master plan had been reviewed regarding this. He was told not at this time. State statutes will be looked into by both Attorneys. This matter will return at the next meeting of the Board.

Since there was no one present in the audience, **this matter was not opened to the public.**

The meeting was adjourned on a motion from Mr. Cassell, seconded by Mrs. Heinemann and carried.

Respectfully submitted,

Kathleen S. Rizza, Secretary