

**BOROUGH OF WOODCLIFF LAKE
ZONING BOARD OF ADJUSTMENT
MAY 24, 2011
MINUTES**

Call to Order:

The meeting was called to order at 7:30 p.m. by Chairwoman 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 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	Present	
Victor Bongard, Vice Chairman	Present	
Lynda Heinemann	Present	
John Spirig	Present	
Robin Effron-Malley	Present	
Brian Boffa	Present	
Wilson Castrillon	Absent	
Dana Cassell	Absent	
Jay Ferreira	Present	
Sal Princiotta, Esq.	Present	
D. Holmqvist, Planner	Absent	(not requested)
J. Pavlovich, Traffic	Absent	(not requested)
Elliot Sachs, Engineer (Boswell)	Present	
Kathy Rizza, Secretary	Present	

Minutes:

The minutes from April 26, 2011 were approved, as amended, on a motion from Mrs. Heinemann, seconded by Mr. Boffa, and carried by all.

Old Business - Continued Public Hearing:

11-02 Kramer

22 Anton Court

Block 2901, Lot 12.01

Site Improvements, Tennis Court and Swimming Pool

Mr. Antimo DelVecchio was again present as the Attorney for the applicant. Board Attorney Princiotta had marked the following exhibits:

A-9 Revised plot plan by Azzolina and Feury, consisting of 2 pages, dated May 6, 2011
A-10 Greenland Landscaping plan – revised April 26, 2011, consisting of 3 pages
A-11 Truss Report date 2-20-11
A-12 Survey by DMC Associates dated 10-12-06
WCL6 – Boswell review letter dated 5-17-11
WCL7 – Woodcliff Lake Volunteer Fire Department letter of May 2, 2011
WCL8 – Letter from Construction Code Official/Zoning Official Nick Saluzzi dated 2-25-11 incorporating an 11-10-11 letter to the applicant and a 4-6-11 letter from the applicant.

Attorney Princiotto stated to all that he has prepared two resolutions for this application; one for approval and one for denial. Each will be reviewed by the Board members before a vote is taken.

Mr. DelVecchio questioned Mr. Feury of Azzolina and Feury on the updates that have taken place. Mr. Feury stated that after the meeting with the Volunteer Fire Department it was determined that the Fire Department would have better access to the property if the driveway was widened to 15'. This has been done. Retaining walls that intruded upon Anton Court were removed as per the request of the Board and the Borough Engineer. Regarding percolation testing and soil logs, it was decided that this was not necessary since soil testing showed that soil was the same over the entire property. Proposed plant material has been removed from the plans in the easement area as per the Board's request. It was stated that whatever remains is the obligation of the homeowner to replace if the town needs access and disrupts what is planted there.

Mr. DelVecchio spoke regarding wall height. All walls and heights were shown to all by referring to Sheet 6 of 6 of the original plans. Attorney Princiotto stated that the schedule of walls is attached to the approval resolution. Mr. Sachs spoke regarding an actual sanitary sewer and storm water easement on the property. Mr. DelVecchio stated that this is on the map, but no document has been located as of yet. If none is found Mr. DelVecchio will draft up an agreement between the applicant and the Borough. Regarding retaining walls, Mr. Sachs stated that he and Attorney Princiotto talked at length today. The Borough ordinance states maximum height at 3' and additionally states that there must be planting in between at specific intervals. Mr. Feury stated that the maximum height of an existing wall is 6.7' causing a 3.7' variance. He further stated that 5.5' is the highest wall proposed for the site. Mr. Sachs stated that the applicant's professional is the responsible party. This professional is the one to sign and seal the wall structures. Ms. Heinemann confirmed that a variance is also requested for existing walls and inquired as to whether or not the Board was setting a precedent. Attorney Princiotto and Mr. Spirig both responded that each application stands on its own. Chairwoman Hembree stated that this is a very unique property. Ms. Malley asked what was holding up the pool and the tennis courts. Mr. Feury responded that terracing and soil grading will support the structures.

The meeting was opened to the public on a motion from Ms. Heinemann, seconded by Mr. Bongard and carried. With no response from the public, the meeting was closed to the public on a motion from Mr. Bongard, seconded by Ms. Heinemann and carried.

Both resolutions prepared by Attorney Princiotto were reviewed and amended by all Board members. At the conclusion of this review, Mr. DelVecchio had two technical questions regarding the resolution. The first was in regard to the easement agreement and the wording that was used in the approval resolution. The second referred to an additional sentence about plantings. Mr. DelVecchio stated that he disagrees with number 10 on the denial resolution and stated that he has been very agreeable during this hearing.

Mr. DelVecchio proceeded with his summary: He stated that the uniqueness of the property pertaining to size and location creates the justification for variance approval. The topography of the property allows for a home structure but lacks useable land for recreational activity. Mr. DelVecchio further stated that it was unfortunate that the disturbance happened without permits being obtained by the contractor. This was not the owner's fault, he relied on the contractor. The Attorney stated that his applicant did everything he could to make all Board members happy. The applicant has now provided a safe environment for his family and he has provided access for the Fire Department to the property in case of an emergency. Mr. DelVecchio stated that the applicant is prepared to fix the Borough drainage pipe whether the problem was caused by him or not. The applicant is committed to providing a true buffer throughout the property. Mr. DelVecchio stated that walls are always an issue and that no one likes to request a variance for walls. The Engineer on this project has done the best that he could to create level areas. The Attorney for the applicant further stated that his client has shown the willingness to make a substantial investment in his property. He reminded all that there was no objection from the neighbors. Mr. DelVecchio thanked the Board for their consideration.

Board questions: Ms. Malley asked if there was any penalty imposed for not taking out the required permits. Attorney Princiotto stated that this Board does not have the power to impose fines and that would have been done by the Construction Code Official. Ms. Malley also asked if the application is denied what happens to all the work that was done without a permit. Mr. Princiotto stated that all would have to be removed. Mr. Bongard stated that it was unfortunate that work was performed without a permit but that the property is unique and the Board has been given good guidance on this matter. He feels the project should be approved. Ms. Heinemann was pleased that more trees are being planted than have been removed. She feels that this is an excellent plan. Mr. Ferreira agrees with Ms. Heinemann and expressed his concern regarding illegitimate contractors.

A motion to approve the application, as per the 'approval' resolution previously drafted, was made by Mr. Bongard, seconded by Ms. Heinemann, and carried as follows:

Mr. Spirig	Yes
Ms. Malley	Yes

Mr. Boffa	Yes
Mr. Ferreira	Yes
Ms. Heinemann	Yes
Mr. Bongard	Yes
Mrs. Hembree	Yes

Resolution:

11-02 Kramer

22 Anton Court

Block 2901, Lot 12.01

Site Improvements, Tennis Court and Swimming Pool

A motion to approve the ‘approval’ resolution for this application was made by Mr. Bongard, seconded by Ms. Heinemann, and carried as follows. This resolution will be published and filed appropriately in Borough Hall for public viewing. The resolution will be distributed to the applicant, the Tax Assessor, and the Construction Code Official.

Mr. Spirig	Yes
Ms. Malley	Yes
Mr. Boffa	Yes
Mr. Ferreira	Yes
Ms. Heinemann	Yes
Mr. Bongard	Yes
Mrs. Hembree	Yes

A motion to adjourn the meeting was made by Mr. Ferreira, seconded by Mr. Bongard, as carried.

Respectfully submitted,

Kathleen S. Rizza, Secretary