

**BOROUGH OF WOODCLIFF LAKE
ZONING BOARD OF ADJUSTMENT
JUNE 23, 2015
7:30 P.M.
MINUTES**

Call to Order:

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

Adequate Notice Statement:

The Chairman 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:

Christine Hembree, Chairwoman	Present
Marcia Denbeaux	Absent
Gary Newman	Present (7:40 p.m.)
Robin Effron-Malley	Present
Brian Boffa	Present
Justin Cohen	Absent
Dana Cassell	Absent
Victor Bongard	Present
Jay Ferreira	Present
S. Robert Princiotta, Esq.	Present
John Pavlovich, Traffic	Absent (not requested)

Joe Vuich (Neglia Eng.) Present
Kathy Rizza, Secretary Present

Resolution:

Ennis

51 Woodcrest Drive

Block 104/lot 7

Addition and Alterations

The resolution was read by all members present.

A motion to approve the resolution was made by Mr. Ferreira, seconded by Mr. Bongard, and carried by roll call vote as follows:

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

The resolution will be published and kept on file at Borough Hall as required.

Old Business:

Valley Chabad

10 Overlook Drive

Block 908/lot 1

Change of Use/Site Plan Application with variances

Mr. Cassell has recused himself from the application.

Mr. Elliot Urdang was present as the Attorney for the applicant. Regarding Shade Trees Mr. Urdang asked that Mr. Bosch contact him.

The witness for this meeting will be Joseph Burgis of Burgis Associates in Westwood. Mr. Burgis was sworn in by Attorney Princiotto. Mr. Burgis is the President of Burgis Associates. His educational credentials and his work experience were given to all Board members present. He has a Master's degree in Planning from Rutgers in 1975. He has owned his own firm since 1988. Mr. Burgis represent 35 towns in New Jersey and New York. His firm handles housing elements, fair share plans, and master plans, in addition to representing applicants. Mr. Burgis was accepted as an expert witness. Attorney Diktas had no objection. Statutory criteria and a D1 variance was discussed. There are five specific critical areas

- 1- Municipal Land Use Law MLUL
- 2- SEEKA test
- 3- Coventry test
- 4- 'D' height variance
- 5- Religious Land Use and Institutional Person Act RLUIPA

Regarding the MLUL special reasons, negative criteria, and inherently beneficial use was discussed. It was stated that Houses of Worship are not listed as examples in the MLUL. Mr. Burgis stated that there is no substantial impairment to the community. The SEEKA test will the detrimental effects and weigh the positive and negative criteria. A D3 variance is needed. The Westwood Coventry apartment case was explained to all. Mr. Urdang clarified the information from Mr. Burgis. Additional case law was also discussed. Mr. Newman asked Mr. Urdang how he is dealing with the variances needed compared to a 50 story skyscraper – he would like some case law on frontage, height and side yard variances. Attorney Urdang explained state law regarding C & D variances. Mr. Newman would still like case law in the future from Mr. Burgis or Mr. Diktas. The RLUIPA impact was discussed next. Attorney Princiotto stated that he has read case law on this that says the initial burden is on the applicant then the Borough.

The four parts of the SEEKA test were given as follows:

1 – identify that public interest is at stake. Religion is the highest order of public interest.

2 – identify substantial negative impacts such as land use compatibility. Wall height was discussed since a height variance is requested. Mr. Burgis gave a formula for determining height.

3- intensity of the use – many functions but not at the same time.

4 – engineering and water run off

In addition, positive and negative criteria must be weighed. Mr. Burgis stated that this facility has been a synagogue for 15 years. Mr. Newman stated that testimony was never given as a synagogue. Mr. Burgis stated that when all is weighed the weight falls in favor of the applicant. Mr. Urdang questioned Mr. Burgis on the amount of use of Chabad facilities and asked if they design for extraordinary use or usual use. He was told usual use. Mr. Burgis stated that they have safe and efficient design of parking areas and there is no visual impediment pulling out of the parking lot. Mr. Urdang is concerned with the issue of people walking on Overlook Drive. Mr. Diktas objected to the comment and stated that Mr. Burgis should talk about the Master Plan since he wrote it. Mr. Burgis stated that walking on Overlook is not dangerous. Mr. Diktas objected to the site distance talk – he is not an engineer. Mr. Urdang stated that Mr. Burgis is an expert. Attorney Princiotto stated that Mr. Burgis is not an engineer and that this is a conditional use and a conditional use is a permitted use.

Daniel Block, the Borough Planner from Maser Consulting, asked if the applicant is familiar with an ordinance for conditional use with variances outside the zone. He was told yes. The conditions were explained.

The variances applied for are as follows:

Minimum lot area – 3 acres are needed or a religious institution in a residential zone.

Front and rear yard setbacks

Side yards

Rear yard

Building coverage

Parking spaces 73 proposed where 108 is required.

There was a discussion on whether the applicant or the application is judged. Mr. Burgis stated that it is about the applicant. Different scenarios were discussed. Mrs. Hembree asked about the impact to the farm property to the south. She was told there will be no adverse effect on future redevelopment of that site. Attorney Urdang stated that landscape will soften the effect. Mrs. Hembree assumes someone will buy this property eventually and build homes there. Borough Engineer Joe Vuich asked how does the height effect the potential new neighbors on the farm property in the future.

There are six Houses of Worship in Woodcliff Lake, three of them on less than three acres. Mr. Newman asked how wide the shoulder is on Overlook Drive. This was not known. Mr. Block asked about other bulk variances. He was told a waiver is needed for parking lot landscaping, solid fence height, steep slope disturbance, buffer to the residential zone and retaining wall. Mr. Urdang stated that they are focusing on the C-2 criteria – benefits outweigh the detriments. Further scenarios were given and discussions were held.

Mr. Diktas asked Mr. Burgis of Burgis Associates how long he worked for Woodcliff Lake. Mr. Burgis responded six years. The Master Plan was done under him and was signed by him. Mr. Burgis told Mr. Diktas that he believes the Master Plan to be a solid planning tool for the Borough. Mr. Diktas questioned Mr. Burgis on denial criteria and the purpose of the slope ordinance. Limiting erosion and preserving vegetation were discussed. Mr. Burgis thinks the application should be approved. All variances were again reviewed.

Lot area – Mr. Burgis spoke of other sites with houses of worship on them.

Lot width – required is 400', proposed is 337'. Mr. Diktas asked why not reduce the size of the building by 22%.

Front yard, side yards, rear yard – Mr. Diktas asked if they were significant or modest. Mr. Burgis stated they are deminimis.

Building height, building coverage, impervious coverage – the site will be left 25% green.

The Master Plan was discussed, in particular the goals. Mr. Diktas asked if the Temple could be served if the building was smaller. Mr. Burgis replied theoretically maybe, but with the needs of this congregation – no. Mr. Diktas asked Mr. Burgis if he met with Attorney Urdang and the Rabbi before this meeting. Mr. Burgis replied yes. He also asked if the Master Plan and borough ordinances were discussed. He was told yes. Mr. Diktas asked what was discussed. Attorney Urdang objected to this question. Regulating controls and opinions on non-compliance were discussed. A break was taken at 9:43 p.m. for 5 minutes.

Meeting resumed with attendance unchanged. Overlook Drive was discussed. Mr. Burgis was asked if they checked with the Police Department to see how many accidents occur on this road. Mr. Burgis replied no. Mr. Burgis stated that Overlook Drive has the standard width for pedestrians- one lane in either direction with 40' width – 10'-11' for cars – 18' – 20' for pedestrians but added that sidewalks would be beneficial. A sidewalk donation was suggested. Parking was discussed. The parking standard is 1 space for every 3-5 seats and employee parking is 1 space for every 3 employees. Mr. Burgis stated that this is the standard for all towns. Regarding parking lot landscaping, Mr. Urdang stated that they are submitting a landscape plan. Attorney Princiotta stated that it should be 20 sq. ft. of landscaping for each parking space. Fence height was discussed – 5' is allowed, 6' is proposed. There will be a 25' wall with 6' of fence on top equaling 31' at the highest point. Tree caliber and slope categories were discussed. How the retaining walls will affect the adjacent lot in the planning sense was discussed. Mr. Burgis stated that the plan reduces the ability to provide landscaping. Going to zero lot lines was discussed. Buffer areas and why Planners recommend buffer areas was also discussed. They provide physical separation between properties. Positive and negative criteria regarding sign square footage was discussed. Mr. Burgis did not recall the location of the refuse area. Regarding illumination the applicant is asking for more than what is allowed. Mr. Burgis stated that all variances asked for meet with the

critical criteria of Coventry and SEEKA. Mr. Diktas asked why the first floor can't be used for parking. Mr. Burgis stated that is an architect question. The applicant is short 34 spaces. Mr. Diktas asked if the applicant is aware that the Rabbi has been cited in the past for having too many people at one event. This was not known. One use at time versus more than one use at a time was discussed.

A motion to go into public session was made by Ms. Malley, seconded by Mr. Newman, and carried by all.

Rob DeScherer – 24 Wildwood Drive – applauded Mr. Burgis for the slope ordinance and asked if all trees will be cut down. Mr. Burgis stated that the site will be altered significantly. Parking on three busy days of the year was discussed. Mr. DeScherer challenges this – he sees a lot of religious celebrations going on.

Cliff Levy – 68 Mill Rod Ext. - Asked where it says in RLUIPA that a board has to ignore the safety and welfare of a resident. It does not say that, but it acknowledges that a municipality has to be mindful of the residents. Mr. Levy was concerned with people walking on Overlook Drive in the dark – there are dump trucks that travel this road and it is not a broad road. He asked the Board do its homework.

Bob Fischer – 60 Mill Road Ext. – Mr. Fischer has lived here 33 years. Confirmed that there will be a wall on the south side of the property. Was concerned with how his neighbor to the south will feel about this. Mr. Fischer asked the Board members how they would feel if they lived there and stated that it could be made more attractive.

Minnie Yu – 69 Mill Road Ext. – addressed the speed on Overlook Drive – very dangerous. Stated that there is already overflow parking on her street and asked the Board if they are ready to compensate for that.

Matthew Bonanno – 9 Heather Hill Road – spoke regarding the water run off increase, a holding tank and engineering compliance with the Borough and the State.

The public session was closed on a motion from Mr. Ferreira, seconded by Mr. Newman and carried by all.

This matter will return on July 28th with Mr. Burgis and the Engineer will be present with a revised site plan. The Shade Tree Committee will be contacted. Mr. Diktas will have witnesses to present also. Attorney Urdang waived the time limits.

The meeting was adjourned on a motion from Mr. Ferreira, seconded by Ms. Malley and carried by all.

Respectfully Submitted,

Kathleen S. Rizza, Secretary