

BOROUGH OF WOODCLIFF LAKE
ZONING BOARD OF ADJUSTMENT

June 26, 2018

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 23, 2018, 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.

PLEDGE OF ALLEGIANCE

ROLL CALL:

Sanjeev Dhawan	Present
Robin Malley	Present
Emilia Fendian	Present
James Vercelli	Present
Victor Bongard	Present
Robert Hayes	Present
Gary Newman	Present
John Spirig	Present
Christina Hembree, Chairwoman	Present
S. Robert Princiotta, Board Attorney	Present
Sylvia Kokowski, Secretary	Present

APPROVAL OF MINUTES

May 22, 2018

The minutes of May 22, 2018 were tabled.

APPLICATION

Kevin Errico - 18 Martha Street - Block 2707 - Lot 14
Construction of single family dwelling
Variance for Building Coverage, Side Yard and Combined Side
Yard - continued application.

Kevin Errico, applicant was previously sworn in by Board Attorney Princiotto.

Mr. Errico presented front, right and left elevations for a building lot coverage variance as requested by the Board. Mr. Errico is requesting one variance. Front, right, left elevations, design by George Tsairis, Architect were marked as Exhibit A-14. Mr. Newman stated that Mr. Tsairis designed his home but he has no current business with him.

Board Attorney Princiotto reviewed the requested lot coverage variance. The drainage plan is subject to Construction Code Official and / or engineer review. He advised that the applicant needs to meet with the Shade Tree Committee and there may be other obligations as well as conditions listed in the resolution. Mr. Errico was in agreement with the terms.

Ms. Malley asked what the ordinance building height called for. Ms. Hembree stated 32 ft. What's proposed is less than 30 ft. Mr. Errico is not looking for a height variance and will do whatever he has to in order to conform with the height ordinance.

Attorney Princiotto asked if Exhibit A-14 is the proposed design of the structure. Mr. Errico responded yes. And, is the garage door style what is shown on the plans. Mr. Errico responded yes and stated that the material to be used is vinyl, color gray with white trim and a black roof.

Open Meeting to the Public

A motion by Mr. Newman, seconded by Mr. Hayes to open the meeting to the public; on voice vote, all in favor, the motion carried.

Dan Prendergast 20 Martha Street, next door neighbor said that his issue with the side yard variance apparently has been taken care of and the proposal looks good.

Close Meeting to the Public

A motion by Ms. Malley, seconded by Mr. Hayes to close the meeting to the public, on voice vote, all in favor, the motion carried.

A motion by Mr. Newman, seconded by Ms. Malley to approve the application for lot coverage of 19.43%; limitation of

15% variance of 4:43% and with all conditions contained in the resolution;

Roll Call:	Mr. Dhawan	yes
	Ms. Fendian	yes
	Mr. Hayes	yes
	Ms. Malley	yes
	Mr. Newman	yes
	Mr. Spirig	yes
	Ms. Hembree	yes

Mr. Vercelli was not called; Mr. Bongard was not eligible.

WCL Broadway Realty Associates, LLC - 62 Broadway - Block 2708 Lot 1

Construction of Restaurant with Outdoor seating. Variance for Restaurant Use with a variance for total surface, impervious coverage and parking. Continued application.

Ms. Hembree recused herself and left the dais.

Mr. Bongard presided the meeting. He is familiar with the application and has read the transcript of the last meeting.

John Molinelli of Price, Meese, Shulman & D'Arminio was present this evening.

Traffic Engineer Luis Luglio previously sworn present. Mr. Molinelli stated that Exhibit A-4 was modified and marked as Exhibit A-6 which he provided copies of to the Board. Mr. Luglio testified that the reason for the modification is that he performed a trip study on the evenings of May 18 and 19 and on the evening of the 19th, it was raining and the study could be off by 20% on average. Therefore, he prepared a new study on June 16 marked as Exhibit A-6. The time frame was the same, up to about 9:00 p.m.

Mr. Spirig asked if the number of vehicles coming in and out were from both Ray's pizza and the Chinese restaurant. Mr. Luglio responded yes, predominantly Ray's. Mr. Spirig inquired about take-out orders and if they were counted. Mr. Luglio stated that they were counted as coming in and as leaving or parked. Every vehicle was counted.

Mr. Newman asked if there is outdoor seating at the existing location of Ray's pizza. Mr. Luglio responded no.

Mr. Spirig asked if at the time of the study was there a party going on or an event in the dining room. Mr. Luglio responded no, there was no large activity like a party going on. Mr. Spirig asked if there was a party, would there be an impact on parking. Mr. Luglio replied we would have more parked vehicles and more people per vehicle, the numbers would go up but we can accommodate maybe 10 - 15% more (3-4 cars) beyond what we have now.

Mr. Newman asked for clarification of the proposed restaurant having 48 and 48 seats for a total of 96 seats. He was told that there is a total number of 96 seats but in nice weather 16 of those 96 can be outside.

Mr. Molinelli commented on the 96 total maximum seats. We assume all 96 seats would be occupied. That's the variance we are seeking. Even based on that we are talking about 23 vehicles at maximum peak for 10 minutes on a Saturday night.

Ms. Malley commented on the current business and from what she can tell the dining room does not fill up. We are looking at hopefully an expanding business in his new location and we should be concerned with the number of seats.

Mr. Spirig commented that we are asking these questions because if there is a party going on we don't want to see overflow parking on the streets. Especially on Friday, Saturday or Sunday when the parking lot in the rear is filled with residents.

For clarification Ms. Malley asked that we have 48 spaces for patrons and 6 for employees. Mr. Molinelli - correct.

Open Meeting to the Public

A motion by Mr. Newman, seconded by Ms. Malley to open the meeting to the public for questions related to this evening's testimony or from the last meeting pertaining to the parking study; on voice vote all in favor, the motion carried.

Howard Swartzman, 2 Parker Court, Park Ridge. The analysis is based on comparable usage of Hillside and Woodcliff Lake locations. If usage is greater, would you say same number of parking. Mr. Luglio responded that more parking would be required.

Ann Marie Rezen, 21 Columbus Avenue, Hillsdale asked aside from Ray's pizza are there other areas that are comparable. Mr. Luglio responded that we looked at typical type of restaurant use and we can utilize other data but we did the study on Ray's location.

Laura Cullinan, 27 Columbus Avenue, Hillsdale asked during the study, were you inside. Mr. Luglio replied no, he did not have a count on the people inside only cars going in and out of the parking lot.

Kevin McManus, 27 Columbus Avenue asked if the employee head count of 6 included the delivery people. Mr. Luglio responded yes. Mr. Molinelli commented that the 6 employees were counted as utilizing parking spaces.

Howard Swartzman, 2 Parker Court asked what happens if the pizza business does not survive and a new restaurant comes in would the traffic study be mute. Mr. Luglio replied that is correct it would not be comparable.

Close Meeting to the Public

A motion by Ms. Malley, seconded by Mr. Newman to close the meeting to the public; on voice vote all in favor the motion carried.

Mr. Molinelli asked if 90% of the business was take out. Mr. Luglio responded yes, substantial delivery business.

Board Attorney Princiotto asked if when the study was done in Hillsdale were other stores open. Mr. Luglio responded only the Chinese restaurant, other stores were either closed or vacant.

Brian Intindola of Neglia Engineering Associates read the transcript of the prior meeting, Neglia Engineering's letter and the site plan package. The site plan package did not include the hallways and common areas. He reviewed the Borough ordinance and felt that you could not do this. Mr. Intindola will provide a written report.

Mr. Molinelli stated that we had 4,250 sq. ft. remaining retail area and that had the 175 ratio. He asked if the 4,250 was the number Mr. Intindola was questioning. Mr. Intindola stated that this application has a basement kitchen and he was not sure if the existing restaurant has that.

Mr. Newman commented that the study of the trip generation was performed at the existing restaurant. Mr. Molinelli felt that the question here is it is a different location and a different kitchen size, maybe two kitchens instead of one kitchen; is the parking study valid that was done in Hillsdale comparable for Woodcliff Lake which is going to have a different size kitchen.

Mr. Luglio stated that there is no commercial kitchen in the basement and he did not understand where the question is coming from. He described what was in the basement.

As a point of reference, Mr. Luglio stated that if there is a kitchen downstairs and the upstairs is just solely used for seats, in calculating the number of parking spaces for the number of trips it is based on the seats only. The number of 23 parked vehicles would most likely be more but not more than the number of parking we would have on site.

Mr. Molinelli stated that it is the ordinance that controls here. The ordinance does not say that you need a certain number of parking spaces per seats. The study that Mr. Luglio was asked to do is a study of the number of vehicles that were coming in and out of the existing Ray's pizza at peak hours. A trip generation study is a little different. Again, this is not a commercial kitchen.

Mr. Rivera previously sworn and previously testified. He was asked by Mr. Molinelli if he is responsible for finding tenants. Mr. Rivera responded yes; a Wellness Center is rented, a Dentist office is pending and there is one remaining. The dentist office will be open Monday - Friday and Sunday. They will be closed on Saturday. The Wellness Center will operate Monday - Friday from 9:00 a.m. to 6:30 p.m. Mr. Bongard asked what the Wellness Center does. Mr. Rivera responded, nails, pedicures and facials. Mr. Newman asked if hours were restricted. Mr. Rivera responded no.

Open Meeting to the Public

A motion by Mr. Spirig, seconded by Mr. Newman to open the meeting to the public for questions of Mr. Rivera, on voice vote, all in favor, the motion carried.

Howard Swartzman, 2 Parker Court, Park Ridge commented that 2 of the business facilities have been rented or in negotiations and all apartments are rented. Can we assume the area is doing well so far? Mr. Rivera responded yes. Mr. Swartzman asked if the proposed restaurant is turned down would you seek another. Mr. Rivera responded possibly.

Close Meeting to the Public

A motion by Mr. Spirig seconded by Mr. Hayes to close the meeting to the public; on voice vote, all in favor, the motion carried.

Mr. Richard Eichenlaub was previously sworn. Mr. Molinelli asked if Mr. Eichenlaub reviewed the letter dated June 8, 2018 from Neglia Engineering and marked as Exhibit A-7. Mr. Eichenlaub replied yes.

Mr. Eichenlaub referred to his layout plan - outdoor dining marked as Exhibit A-8 and distributed to Board members this evening. He spoke about the retaining wall and abbreviate shrubs tall enough to screen. Mr. Molinelli asked about Mr. Intindola's comment about excluding common areas. Mr. Eichenlaub responded that under the original application we indicated on our plans "for retail space" he is satisfied the application can exclude common areas.

Mr. Spirig asked if the original approval was from the Planning Board or Zoning Board. Mr. Molinelli responded that the original approval was from the Planning Board in 2011 for the office building only. Mr. Newman asked why the gross area of the corridors were not included. Mr. Eichenlaub responded it was not required in 2015.

Mr. Newman asked if not for that, would you have to include those areas in the parking calculation. Mr. Eichenlaub responded we probably would have. Mr. Newman asked how many parking spaces are required for the restaurant. Mr. Molinelli responded 105 total and explained the calculation. Mr. Newman asked how many are there. Mr. Molinelli responded 65.

Ms. Malley asked why this particular space was chosen for the outdoor dining and if it could be moved to the front corner which she felt was more commercial. Mr. Eichenlaub responded that is where the water treatment chambers are located. When originally looked at there was not enough area.

Mr. Dhawan asked Mr. Eichenlaub to explain the water treatment. Mr. Eichenlaub responded that they are low grade filtering systems. There are large man hole covers and access is required to get into them.

Ms. Malley asked about moving it into the sidewalk area. Mr. Eichenlaub stated that the sidewalk is narrow, there is a handi-capped ramp and the sidewalk is not level. Tables would not be in front of the pizza area. The width of the sidewalk is 7 ft. The proposed patio is 7 x 35 ft.

Open Meeting to the Public

A motion by Mr. Spirig, seconded by Mr. Hayes to open the meeting to the public for questions of Mr. Eichenlaub; on voice vote, all in favor, the motion carried.

Alex Couto, 18 Cresskill Court, proposed patio is the view of the south or the west. Mr. Eichenlaub responded both plus east. Mr. Couto commented looking to the south you see houses. Two people would be looking to the west and two to the east. He asked how far from the sidewalk the proposed patio would be. Mr. Eichenlaub responded 14 ft. Mr. Couto thought that was close.

Jim Rezen, 27 Columbus Avenue asked how many persons per table? Mr. Eichenlaub responded 4. Jim asked how far from the side of the building to the curb? Mr. Eichenlaub responded about 30 ft. to the curb; to the sidewalk 20 ft.

Close Meeting to the Public

A motion by Mr. Hayes, seconded by Ms. Malley to close the meeting to the public, on voice vote, all in favor the motion carried.

Joseph Burgis, Professional Planner of Burgis Associates provided his qualifications which were accepted by the Board. Mr. Burgis was sworn in by Board Attorney Princiotto.

Mr. Molinelli asked Mr. Burgis if he is familiar with the application. Mr. Burgis responded that he was in attendance for the April meeting, not the May meeting but he read the transcript. Mr. Burgis stated that he reviewed the application proposed, the focus this evening is on restaurant use, 245 sq. ft. patio, master plan, re-examination plan, zoning where we comply and not comply. According to the Municipal Land Use Law - negative criteria, need to show no substantial detriment. Two bulk variances - parking and commercial. Negative criteria-increase in impervious coverage. Master Plan, Re-examination Plan in 2008, kinds of uses, Broadway corridor.

Mr. Molinelli will this further what the Planning Board envisioned in the Broadway corridor and train station and what the Master Plan and Woodcliff Lake encourages. Mr. Burgis responded yes.

Ms. Malley commented on what the Master Plan encourages; she has not seen a change for restaurants. Mr. Molinelli stated that the 2008 Broadway corridor study is still valid and still a vision the Borough has.

Mr. Newman commented that there are people that live directly above where you are proposing a restaurant; this property has residents; fair to them? Mr. Burgis responded that some would view it as an asset. Mr. Newman commented that since they rented, proposed is outdoor seating, restaurant, this is not Ridgewood, they are paying for peace and quiet. Mr. Burgis replied that people are renting these kind of apartments, easy access to the train station and restaurants, mixed residential usage. Mr. Newman stated that in Ridgewood you have commercial properties and people know that; here in Woodcliff Lake it did not exist when they rented the apartments. He has concern about that. Mr. Molinelli commented that the tenants are the type looking for this easy access and mixed residential usage.

Mr. Spirig commented that he does not want to preempt the Broadway Corridor Committee as to what is going to be the Master Plan for Broadway Corridor. We provide a use variance which also has a parking variance which potentially presents a parking problem and may be a parking problem in a residential area going up and down the streets. This may not be in good faith of what the overall plan is for Broadway Corridor. Of course I want input from our planner and engineer.

Board Attorney Princiotta assuming the Board agrees with the special reasons and we look at the negative criteria; one of the goals of the Master Plan is to preserve the residential areas; he asked Mr. Burgis if he agrees. Mr. Burgis responded yes he agrees. Mr. Princiotta asked if Mr. Burgis considered the size of the restaurant, parking demand and that some of the parking may flow into residential areas. Mr. Burgis spoke about the number of spaces available, peak hours and felt that there is a significant number of spaces to accommodate the restaurant and the retail stores.

Mr. Bongard commented that there was indication that there would be an overflow if the restaurant was totally occupied.

Board Attorney Princiotto added that some other restaurant could occupy the space and have a different demand. Mr. Molinelli replied that if there is a change in use, the Construction Code Official would refer to the Planning Board.

Open Meeting to the Public

A motion by Mr. Newman, seconded by Mr. Hayes to open the meeting to the public for questions of Mr. Burgis; on voice vote, all in favor the motion carried.

Mr. Swartzman asked if Mr. Burgis knew what block the application is in. Mr. Burgis responded Block 2708. Mr. Swartzman stated that Mr. Burgis spoke about the Master Plan and indicated good reason to consider the Broadway corridor. The Broadway corridor resolution 2012-02 states the area did not include Block 2708. You did not meet negative criteria.

Laura Cullinan commented that Nino's Restaurant is right next door and they have outdoor dining, why do we need another restaurant with outdoor dining. This is a negative effect on neighbors. She is concerned with late hours and loitering. Mr. Burgis did not believe the application causes a negative effect.

Jim Rezen asked do you feel this would enhance the neighborhood; what is the positive effect; no substantial deterrent? Does this include parking? Mr. Burgis responded that if the Board approves the application, it will be approved with a specified number of seats and parking.

Close Meeting to the Public

A motion by Mr. Spirig, seconded by Mr. Newman to close the meeting to the public, on voice vote, all in favor, the motion carried.

Mr. Newman asked if Mr. Molinelli found out the size of the former Matsu restaurant building. Mr. Molinelli responded no.

No further comments.

The application will be continued at the July 24th meeting; no further notice required.

Ms. Hembree returned to the dais.

Closed Session

Resolution 18-05

Valley Chabad Discussion

A motion to go into Closed Session at approximately 10:30 p.m. to discuss pending litigation was made by John Spirig; seconded by Robert Hayes; all in favor, the motion carried.

Return to Open Session

A motion by John Spirig, seconded by Robert Hayes to return to Open Session at approximately 10:40 p.m., all in favor, the motion carried.

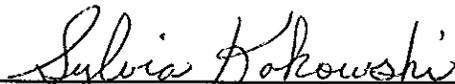
Discussion

Board Members Vacation Schedule

The members discussed their attendance for the July 24 and August 28 meetings. Mr. Newman announced that he cannot attend the July 24 meeting; Ms. Fendian, and Mr. Dhawan cannot attend the August 28 meeting and Ms. Malley and Mr. Hayes may not be able to attend the August 28 meeting.

ADJOURNMENT: On motion made by Gary Newman, seconded by Robin Malley, all in favor, and carried, the meeting was adjourned at approximately 10:45 p.m.

Respectfully submitted,



Sylvia Kokowski
Recording Secretary