

# WEST CALDWELL BOARD OF ADJUSTMENT PUBLIC MEETING MINUTES

May 5, 2016

A Public Meeting of the Board of Adjustment of the Township of West Caldwell was held on May 5, 2016 at 7:33 P.M. in the Municipal Building, 30 Clinton Road, West Caldwell, New Jersey. Chairman Steven Backfisch opened the meeting and read the opening statement.

## **ROLL CALL**

Members Present: Mr. Dolan, Mr. Rankin, Chairman Backfisch, Mr. Malia, Mr. Shannon

Members Absent: Mr. Adriaenssens, Mr. McDonnell, Mr. Schott

Advisors Present: Larry I. Wiener, Esq., Lynda Korfmann

## **APPOINTMENT OF BOARD OF ADJUSTMENT SECRETARY**

The Board appointed Lynda Korfmann as the Secretary of the Board of Adjustment unanimously by way of Resolution dated May 5, 2016 for the balance of the calendar year 2016.

## **MEMORIALIZATION OF RESOLUTIONS:**

The Board of Adjustment unanimously approved the memorialization of the Resolution for application Z15-19 Mary Beth Lentine, Anthony Lentine and Guiseppe Lentine, 19 Bond Place, Block 2607, Lot 31, R-4 Zone District.

## **HEARINGS**

### **1.Z16-02 Goldberg Realty 1048 Bloomfield Avenue, Block 1805, Lot 7, B-1 Zone District**

Seeks N.J.S.A. 40:55D-70C variances to replace an existing sign with a new freestanding sign with a proposed square area of 18 square feet and 16 square feet is permitted.(section 20-24.1(h) Sign is limited to name of complex or building and/or street number and leasing information is proposed (section 20-24.4(g) sign content). Sign is proposed approximately 2 feet from right –of-way and 12.5 feet is required (section 20-24.4(g)).

Board Secretary acknowledged that service provided by the Applicant was acceptable.

Present was Elizabeth Durkin, Esq., counsel for the Applicant; Mike Holst of American Woodcarving, LLC, 1123 Rt 23 S, Wayne, NJ, the Applicant in this matter (hereinafter “Witness 1”) and Gina Albowicz, 33 Clinton Road, West Caldwell, NJ, the property manager for Golberg Realty, the Owner in this matter (hereinafter “Witness 2”). Ms. Korfmann stated that the application was properly noticed.

Ms. Durkin made a brief opening statement for the applicant. Evidence marking list was accepted **A-1** through **A-7**, removed exhibit A-8, and added three more exhibits as follows: **A-8 through A-10**. The three new exhibits were color photographs. The first exhibit is a color photograph of the existing sign. The second exhibit is a color photograph of a rendering of the proposed new sign (new color, additional rider on the bottom). The third exhibit is a color photograph containing technical data – specifications on the new sign.

Ms. Durkin stated the following and presented the following witnesses:

- Sign application for size and location for 1048 Bloomfield Avenue referred to as St. Charles Apartments (really four buildings in the complex - 1000 Bloomfield Avenue, 1026 Bloomfield Avenue, 1048 Bloomfield Avenue and 1070 Bloomfield Avenue – 32 residential apartments
- Witness 1 works for the company that will be making the proposed sign and will be providing testimony regarding it
- Witness 1 testified that the new sign is to be installed in the same location, but a different orientation which will be perpendicular to the building and Bloomfield Avenue so it will be visible from both directions on Bloomfield Avenue
- Liz Durkin noted that existing sign has lettering only on 1 side and is set at an awkward position.
- Liz Durkin referred to new Exhibit A-9 – a modernized view of the new sign with a rider along the bottom containing leasing information
- Witness 1 explained the information on the proposed sign and materials to be used; carved and painted sign made of composite material (MDF – medium density fiberboard); typical New England style in two (2) colors
- Witness 1 confirmed no proposed illumination of the new sign; acknowledged no existing illumination on existing sign
- Witness 1 testified the proposed sign is upscale and aesthetically pleasing
- Witness 1 testified that it will be visible for drivers heading in both directions on Bloomfield Avenue whereas the existing sign is only visible for drivers heading in one direction on Bloomfield Avenue

Questions were asked of Ms. Durkin and Witness 1 from the Board and answers were as follows:

- Mr. Malia asked the Applicant to confirm that the sign is a double faced sign and to confirm the placement of the sign
- Witness 1 confirmed placement of sign is east and west
- Mr. Malia inquired about green placement on the sign
- Witness 1 acknowledged the green on the color photograph is just rendering
- Mr. Dolan inquired about the distance from the street – inquired if it will be two (2) feet closer to the street
- Witness 1 confirms approximately two (2) feet closing to the street
- Mr. Malia inquired about the location of the tree – whether it will be in the way
- Witness 1 stated he did not believe
- Chairman Backfisch clarified that the zoning officer noted that the sign will be two (2) feet closer to the right of way

- Witness 1 concurred with the statement made by Chairman Backfisch
- Mr. Rankin asked about the information on the sign – the leasing information on the sign
- Liz Durkin responded that there are two different telephone numbers – one for leasing information and one for the property manager
- Liz Durkin stated that the sign will allow for this information to be shared with the public and obviate the need for “for rent” signs in windows, which are unsightly and aesthetically unpleasing
- Mr. Dolan inquired if any leasing information included on the existing sign
- Liz Durkin confirmed no leasing information is contained on the existing sign
- Mr. Dolan inquired about whether the proposed new sign will effect traffic/people turning right onto Bloomfield Avenue
- Chairman Backfisch stated that the sign is not near any sign triangle from any corner

Chairman Backfisch then asked for comments or questions from the public for Witness 1. No comments or questions were presented.

- Liz Durkin presented her second witness, Witness 2, the regional property manager for Goldberg Realty; in charge of St. Charles apartments; 31 units of 1 and 2 Bedroom units
- Witness 2 testified in the past the superintendent on the site has notified her that people have wandered on the site looking for a rental office and have knocked on the doors of residents
- Witness 2 testified that by including the leasing information on the proposed new sign, people should not have to wander the property looking for a rental office
- Witness 2 testified that there is no physical leasing office on the site
- Witness 2 testified her office is located at 33 Clinton Road

Chairman Backfisch then asked for comments or questions from the public for Witness 2. No comments or questions were presented.

- Liz Durkin provided a concluding statement summarizing the application and witness testimony. She stated the application is for a classic C2 variance, she believes the applicant has met the requirements to approve the application; the existing sign is inferior and old and proposed new sign is needed.

Chairman Backfisch then asked if there were any members of the public who wished to offer any evidence in this case, present any statement or testimony in the case. None was offered so Chairman Backfisch closed the hearing on motion by Mr. Dolan, seconded by Mr. Shannon.

Board members then discussed the application.

Chairman Backfisch summarized application and stated it is a classic a C2 variance. He stated that there is no detriment to anyone, the addition of phone number is an improvement and moving it a small bit closer to the right of way is not a big deal particularly since will trees will continue to block it and there is no detriment to other properties.

Motion was made by Mr. Rankin to approve application as presented. The Board finds that the noncompliance of the proposed new sign is insignificant and offers relief to the [C] variance. The motion was seconded by Mr. Shannon and approved by a vote of 5-0.

**2. Z16-04, Geremino & Julia Hathaway-Maioriello, 6 DeCamp Court, Block 2500 Lot 39, R-4 Zone District**

Seeks N.J.S.A. 40:55D-70C variances to construct a rear patio, expand the front porch and widen the front walkway. The applicant has proposed a porch that has a front yard setback of 22.98', whereas a minimum of 40' is required. Section 20-5.4C2 schedule of district regulations; a plan with lot coverage of approx.33.14% is proposed and whereas 30% is maximum, (Section 20-5.4.) and a rear yard setback of approx. 24' whereas a minimum of 30' is required. (Section 20-5).

Lynda Korfmann confirmed for Chairman Backfisch that the notice provided by the Applicant was adequate.

Mr. Shannon recused himself from the hearing and left as he is included within the notice area for the application.

LarryWiener, Esq. reviews the Evidence Markings – A-1 through A-9 and B-1 and B-2.

- Larry Wiener, Esq swore in applicants Julia Hathaway-Maioriello (“Witness 1”) Geremino Maioriello (“Witness 2”) at 6 DeCamp Court.
- Larry Wiener, Esq. explained the process to the Applicant. He stated that there have been exhibit markings, that the applicant needs to explain to Board what work is being proposed, why that work will need a variance, why the variance should be granted and why if the variance is granted, it will not have an adverse or substantial impact on your neighbors
- Witness 2 provided an opening statement and testifies three ordinances – front setback, rear setback and maximum coverage
- Witness 2 provided history on their ownership of the property. It was purchased last year and it needed improvement. Started with the exterior landscaping. Existing trees were significantly overgrown and were old and crowded the sight line on the street. Specialist inspected and recommendation was to remove the trees and start over. In October, 2015 the trees were removed.
- Witness 2 presented a poster board containing enlarged photographs (same photographs as those submitted in the application and marked as Exhibit A-6) and reviewed each photograph.
- Witness 2 presented ideas for property – plantings bed, expand front porch, new front walkway, new rear patio, rear plantings
- Witness 2 testified as to details of the work: front porch area proposed to be enclosed in pavers to create a sitting area; currently the slab is too small and the existing bow window obscures it (expand about two (2) feet); a new front walkway which entails replacing the existing concrete with a new paver walkway which will be about one (1) foot wider and flare at the bottom; this work also will improve the front door landing area by moving the existing two front steps back a little and providing a larger landing that will allow you to open the door and not have to step back and down

- Witness 2 testified that the existing front walkway awkward and unsafe – trick or treaters fell this past season on the walkway
- Chairman Backfisch held a “corner lot” discussion with Larry Wiener, Esq. and the implication of that designation in the Township
- Chairman Backfisch designated for this application and all future applications for 6 DeCamp Court the front yard, side yards and rear yards (front door faces south, one side yard faces east with door exiting on the side, one side yard faces Runnymede, rear yard faces north) and Witness 1 and Witness 2 acknowledged designations
- Larry Wiener, Esq. confirmed that the zoning officer designated the front yard, side yard
- Witness 2 testified about the rear yard work; add a proposed new patio that is level with the rear door, slight slope with a rock garden, plantings, perennials to provide privacy from the road
- Witness 2 provided a summary statement that the lot needed work, the proposed work is functional for the owners, the work addresses safety issues, adds beauty and charm to the neighborhood and opens sight lines.

Questions were asked of Witness 2 from the Board and answers are as follows:

- Chairman Backfisch asked about the denial letter from the zoning officer and stated that the applicant is seeking to make the front patio three (3) feet closer to the street. The existing patio set back 25.98 feet and the proposed new patio will have a front yard setback of 22.98 feet. Witness 2 agreed.
- Chairman Backfisch inquired about the rear yard setback. The existing is 36.12 feet to the building and the proposed new patio will occupy about 12 feet of the grass area and result in a rear yard set back of about 24.12 feet. Witness 2 agreed.
- Chairman Backfisch discussed the yard orientation as compared to neighboring properties.

Chairman Backfisch asked if the Board members had any questions for Witness 1 or Witness 2.

- Mr. Malia asked about water run off or water control in the back yard by the new proposed patio.
- Witness 2 responded that the property naturally slopes towards Runnymede side and will continue to do so
- Witness 2 stated that the property is slab on grade with no basement
- Witness 2 also stated that some of the leaders will be piped underground toward Runnymede

The Applicant provided no expert testimony.

Chairman Backfisch then asked for comments or questions from the public for the Applicants. No comments or questions were presented.

Chairman Backfisch then asked if any members of the public wish to offer testimony or make a statement for or against the Applicants.

- Larry Wiener, Esq. swore in Leonard Kulesa, 3 DeCamp Court.
- Mr. Kulesa testified that he lives across the street, knows the applicant, likes the applicant and fully support the application.
- Larry Wiener, Esq. swore in Joann LoBiondo, 12 DeCamp Court
- Ms. LoBiondo testified that she is the next door neighbor to the applicants and believes the proposed work will enhance the neighborhood and removed hazardous trees. She feels she is the neighbor most impacted by the work and she fully supports the proposed work.
- Mr. Dolan asked if she sees any negative in the work.
- Ms. LoBiondo stated no.

Chairman Backfisch then asked if there were any other members of the public who wished to offer any evidence in this case, present any statement or testimony in the case. None was offered so Chairman Backfisch closed the hearing on motion by Mr. Malio, seconded by Mr. Rankin.

Board members then discussed the application.

Chairman Backfisch summarized application. He stated that the evidence supports the conclusion that there is no negative impact in this case. He stated that the homeowners who would be on the end of the negative impact, by their own testimony, acknowledge that there is no detriment to anyone. Some grass will be lost with the addition of some impervious surfaces, but the rear yards in this area are smaller and owners should be able to enjoy their property. In this case there only will be twelve (12) feet less grass area.

Motion was made by Mr. Malia to approve application as presented. The Board finds that the variances are to be allowed and agree to provide the requested relief to the front yard, rear yard and impervious coverage variances. The motion was seconded by Mr. Rankin and approved by a vote of 4-0.

**3. Z16-06, Rami F. Rizk, DMD & Aspen Realty Group, LLC, 627 Bloomfield Avenue, Block 803, Lot 19, B-1 Zone District**

Seeks N.J.S.A. 40:55D-70d use variance for mixed occupancy as a conditional use in the B-1 zone to use as a dental office and 2 residential apartments. 40:55D-70c variances are also required for parking in non-residence zones, 90 degree stalls are required to be 10 feet wide by 20 feet deep, aisles for parking must be minimum of 20 feet wide; lot area, lot depth and front yard setback and sideyard setback; HVAC unit installation setback. Applicant is seeking preliminary and final site plan approval. NOTE: application to be carried as Engineer did not have ample time to review

Chairman Backfisch stated that this matter is a D variance is to be carried until the June 9, 2016 at 7:30 pm hearing. Larry Wiener, Esq. noted that this application will not need any additional notice. Chairman Backfisch acknowledged the applicant in the audience.

**INVITATION FOR PUBLIC DISCUSSION**

Larry Wiener, Esq. shared information about Tamara Bross. A resolution for Tamara Bross was discussed.

**ADJOURNMENT**

The meeting adjourned at 8:29 p.m.

Respectfully submitted,

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Lynda Korfmann  
Secretary to the Board of Adjustment