

ZONING BOARD OF ADJUSTMENT  
VILLAGE OF RIDGEFIELD PARK  
Bergen County, NJ

Minutes of Regular Meeting  
June 20, 2006

The Chairman, Mr. Cathcart, called the meeting to order at 8:05 p.m. in the Municipal Building.

The Chairman announced that this meeting is being held in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., notice of which was published in the Record on the 16th day of December 2005.

Roll Call: Present: Messrs. Cathcart, Morton, McCormack, Voorhees, DellaFave, MacNeill, Wohlrab, Spontak & Ms. Perrotta.

A motion was made to accept the minutes of the May 16, 2005, meeting as prepared; all in favor with the exception of Mr. Cathcart, who abstained.

Correspondence:

Permit Fee Log & Certificate Log from Bldg Department – May 2006  
Planning Board Minutes – May 1 & 15, 2006  
Notice regarding pending application to Little Ferry Zoning Board of Adjustment  
Copy of letter to Mayor Fosdick from State Department of Environmental Protection,  
Re: National Flood Insurance Program  
Memo from Village Attorney, re: National Flood Insurance Program  
New Jersey Planner – May/June 2006 issue  
Letter from Zoning Board attorney, re: Case # 1384 – RHY Construction

The Chairman read the Rules of Procedure.

The Chairman announced that there were three applications to be heard at the meeting as well as two resolutions from previous months to be read.

**Case no. 1387 – MELILLO – 182 Hobart Street, Block 111, Lot 12**

**Case no. 1388 – LANE – 186 Overpeck Avenue, Block 69, Lot 17**

**Case no. 1389 – LUIGI'S – 54 Mt. Vernon Street, Block 65, Lot 18**

Attorney Michael DeMarrais made a comment on Case No. 1384 RHY (181 Teaneck Road) that after sitting down to prepare the resolution and having received a telephone call from counsel for RHY looking at the application and the comments of Boswell Engineering, it was clear that although this was not a use variance application, the application called for greater density than the code requires. Because of that, a vote of five votes was necessary. There was a vote taken, not memorialized by resolution, at the conclusion of the case in which four people were favorable and three were against.

Attorney DeMarrais has prepared a resolution assuming someone introduces it favorable and if it gets four votes, in his opinion, it does not pass. Counsel has called Mr. DeMarrais indicating that he would like to give a brief presentation regarding his opinion on this matter and adding further comments.

Attorney Christopher Minks was advised that a brief presentation would be allowed. Last month the applicant RHY was present at the meeting seeking approval of four townhouses on Teaneck Road as well as a D-5 variance in order to permit a density, which is 13.64 units per acre instead of the 12 units that are permitted under the zoning code. At the end of the presentation, four members voted in favor of the presentation (Morton, Vorhees, McCormack, MacNeill) and three members voted against the application (DellaFave, Perrotta, Wohlrab). The only reason he is here this evening is there seems to be some confusion as to whether the applicant had secured the necessary votes to approve the project. Under the municipal land use law, the applicant is seeking a D-5 variance to permit the density for the town house project. The four votes in favor of the application will certainly carry the C variances but the D-5 density variance is where they fell short and did not get five votes. Attorney DeMarrais is correct that without the five affirmative votes the project cannot proceed with four townhouses.

Attorney Minks wanted to address the Board on that issue alone. The question is whether or not the D-5 variance should be granted with five votes instead of four. With respect to the density, the testimony indicated that on both sides of the subject property are much denser uses than are proposed by the applicant. All of the issues raised by the Board were addressed by the applicant. Testimony was given with respect to buffering and types of buffering as well as amount of open space provided and the general character of the neighborhood as it exists. Taking into totality, the applicant proffers that D-5 density variance to permit a density of 13.64% where 12 is permitted is in essence is a small variance, which will allow the application to proceed. At this time, the applicant answered some questions from the Board regarding size. The applicant explained that they were only off by half a unit and it would not be economically viable to continue the project with only three units.

A motion was made by Mr. Morton and seconded by Mr. Vorhees to approve the resolution as prepared. The resolution was read into the record by Mr. Morton.

Roll call:

Morton – Yes	MacNeill – Yes
McCormack – Yes	Wohlrab – No
Vorhees – Yes	Perotta – Yes
Della Fave - No	Spontak – Abstain

**Case no. 1387 – MELILLO – 182 Hobart Street, Block 11, Lot 12**

An application for a variance at 182 Hobart Street in which the applicant proposes the expansion of an existing non-conforming use of the property located at 182 Hobart Street. The applicant, Carl Melillo (180 Hobart Street, Ridgefield Park), was sworn in, as was Anthony Garrett (Bilow Group, 161 Main Street, Ridgefield Park), AIA, Planner. The

Board was furnished with proof of taxes paid, service and publication. Anthony Garrett gave his credentials and his qualifications were accepted.

Mr. Garrett said his client seeks approval of a D-2 variance as well as some relief of a front yard setback. It is an existing building and photographs were provided to the Board. Site plan SP100 prepared by Mr. Garrett was offered as Exhibit A-1. The applicant is seeking a variance to extend the second floor on top of the existing building. It is a large lot approximately 29,000 sq. ft. There are three structures on the site. The structure that is subject to this application is a two story framed structure with a two story masonry structure in the rear. It is in rather dilapidated shape and is over 100 years old. It has existed as a commercial use and is currently a steel detailer. There is an office and shop area in the back, which is the two-story masonry structure. There is also a 2-½ story framed dwelling, it is a two family unit. All have predated the zoning ordinance although they are in an R-2 zone and it is a permitted use. In addition, there is a one story framed dwelling in the back, also which predated the adoption of the ordinance and it is a single-family dwelling. All of these structures are located on one lot.

This is a classic case of an existing non-conformance use since it predated the ordinance. The ordinance allows for the continued use of this non-conformance. This property has been in the Melillo family for over 100 years. The business basically makes drawings and there is minimal fabrication of minor steel parts in the back. There is no structural steel on site. There are no cranes or anything of that type. The proposal has nothing to do with the two wood frame structures. They will continue to exist in their current existence. The proposal is to expand the second floor of the building, which is depicted on Ex. A-2,3 a drawing that the Board has before it (A100 – floor plan). What exists is a second floor loft type structure. There is an attic space with a loft in the back. The applicant plans to create a three bedroom dwelling unit that Mr. Melillo plans on residing in for his on personal use. His father will remain at 180 Hobart Street and he will reside at 182 Hobart Street. Parking will be provided to support both the commercial and residential use of the property in accordance with the Village ordinance. They just want to establish a formal recording of the existing non-conforming use on the ground floor, which existed but Mr. Garrett does not think there has even been any submission before a Board in the Village on the existing property.

The applicant wants to make aesthetic improvements, which are part of the special reasons they feel will support the granting of this variance to create a much more residential character structure to this R-2 neighborhood. They want to tear off the roof of the front section and construct a double gable dormer in the front with shingles, some decorative accents, new stucco facade, get rid of the old cement board siding that exists now and eliminate the trap doors and make it look like a much more residential building. They are also proposing a new private entrance to the second floor of the building. Along the east side of the building they will add some decorative elements to make it look less like a 1920 industrial building and more like a residential building that might be constructed today.

On the rear of the building, they plan to add a balcony. The applicant will change some of the doors to really dress it up and on the east side, a small dormer will be added with pediments. The other variance the applicant seeks is for the existing front yard. It is an existing non-conformity where 20 feet is required in the zone. The existing setback is 1.37 feet. They are not proposing to tear the building down to get back to the 20 feet. They are proposing extending the second floor to align with the front wall of the building.

It is a little questionable as to whether it is a C variance or a D variance needed because what the applicant is extending is a residential use, which is not in the zone. They are not planning to expand the commercial use, which exists on the property and that is not permitted in the zone. Mr. DeMarrais advised that a case just came down and a variance is needed. It is being presented as a D-2 variance and the applicant will offer up special reasons. In addition, they are requesting a C-1 variance for the front yard as it is hardship because it is an existing condition. The existing site plan was marked as Ex. A-4. The application is not seeking any height variances. There are some aesthetic benefits to raising the roofline. The ground floor will stay as is and the second level will increase 10 feet in width.

This is in R-2 zoning, which would allow a home occupation in this zone. The proposal would meet six of the eight bulk requirements. The main one that they can't conform with is that home occupation cannot exceed 25% of the principal dwelling area. They exceed that; it is about 50/50. The residential unit will be 1,680 sq ft. The existing commercial space on the ground floor is 1,400 sq. ft and the dwelling is 1,600 sq. ft. There is a 600 sq. footprint in the back. They analyzed the zoning as best they could and for a 2-family dwelling the minimum lot size is 10,000 sq. ft. and for a single family dwelling it is 7,500 ft. If they were to do an analysis, they would be required to have 25,000 feet to support these two dwellings and they have a 29,000 sq. ft. lot. They are not overbuilding the lot.

The property is categorized as F-2 by the Village (light manufacturing). They are looking for continuation of non-conforming use and maintain the status quo. They are proposing facade treatments, new rooflines, balconies, decks -- all of which are residential in nature. They will provide six parking stalls and have room to add two more if necessary, but would prefer to keep as much green as possible. Historically there have never been more than two or three vehicles at a time.

Positive criteria in support of the variance is that the applicant feels he has a hardship on both variances. As far as D-2, the property was zoned into utility when the ordinance was adopted and this was no longer a permitted use. With regard to the C variance, it is a hardship variance as the existing structure is at 1.37 ft. and proposing to change it would only make it worse. The applicant plans on making the structure more residential. Special reasons in support of the variance is that it is an oversized lot and there are multiple uses on the property. The property has special considerations because of its size. The properties to the east are public and will remain open. They are not increasing the use of this property and are not proposing any signage, just aesthetic uses. The land use ordinance 96A31 mentions that when there is home occupation in a business structure,

you should strive to make it look more residential. They do conform to many of the bulk requirements and will not create any impairment.

The Board asked several questions as to measurements and parking requirements.

**Case no. 1388 – LANE – 186 Overpeck Avenue, Block 69, Lot 17**

An application for a variance for a 2 ft. cantilever and 2 ft. added over the front door. The applicant, Lauren Lane (186 Overpeck Avenue, Ridgefield Park), was sworn in. The Board was furnished with proof of taxes paid, service and publication. The applicant explained that this was a typical colonial house. Her son's bedroom measures only 8' x 10' and is quite small. Her daughter's bedroom is 10' x 11' and would make both bedrooms about 11' x 12'. She also plans on adding another 7' x 12' room to use as a computer room. There will be an additional 2 ft. cantilever and 2 ft added over the front door for weather protection. Lauren Lane submitted drawings A-1 (front), A-2 (interior floor plan) and A-3 to the Board. No one appeared to be heard regarding this application.

**Case no. 1389 – LUIGI'S – 54 Mt. Vernon Street, Block 65, Lot 18**

An application for a use variance. Ed Alfieri (154 Ft. Lee Road, Teaneck) was sworn in. The applicant, Ashraf Shaker (125 Hudson Avenue, Ridgefield Park), was sworn in. The Board was furnished with proof of taxes paid, service and publication. Mr. Shaker was informed that since Mr. Alfieri was not an attorney or professional that it would be necessary for him to make the presentation since Mr. Alfieri did not have the right to make testimony on behalf of Mr. Alfieri. Mr. Shaker said it was not a problem for him to present the case.

Mr. Shaker is seeking a use variance to allow guitar music in the restaurant from 7-9 p.m. on Thursday nights. He would like to have soft guitar player to enhance the business. He brought a sample of the type of music to be played in the restaurant for the Board to hear. The existing Muzak machine no longer works. The music will be played on the premises, which means both inside and on the patio to the applicant. He might like to have music on the patio in the future. There will be no dancing. No one appeared to be heard regarding this application.

At this time, the Board went into work session.

Case no. 1387 Melillo was discussed. The Board would like to see ten parking spaces on the premises as required by the ordinance.

Case no. 1388 Lane – there were no problems with this application.

Case no. 1389 Luigi's – The flyer states music only on Thursday nights. The applicant really would like music six days a week from 7-9 p.m. The Board would like it stipulated that the music be confined only to the inside of the restaurant. Mr. DeMarrais did not prepare a resolution as he was not sure if it would pass and what conditions would be part of this resolution. The Board decided that since the notice given to people within 200'

did not specify the time of music that it would allow for the application to be amended to avoid Mr. Shaker having to reapply.

Case no. 1374 Nextel – The proposed resolution will be read into record by Cheryl Perrotta during public session. The Board would like one addition as they do not feel that granting the variance will fully correct the problem they complain of. The Board would also like an addition that it feels that the occupants of the co-op should be notified.

The Board came out of work session to question Mr. Shaker on times of music. Mr. Shaker would like music six days a week from 7-9 p.m. Mr. Shaker said he felt that the guitar players change on Thursdays and his intention was to have nightly music.

The Board went back into work session and wants to make sure the volume of music is low (not to exceed 40 watts). Since the people were never notified that music was only on Thursday nights, the Board will allow music nightly from 7-9 p.m. Conditions of the resolution are that the music must be confined to the interior of the restaurant, music shall be permitted nightly from 7-9 p.m. and the amplifier cannot exceed 40 watts.

The Board came out of work session.

Case no. 1374 – Nextel - Cheryl Perrotta read the resolution into public record. An additional Paragraph M (which will be sent to counsel) was added as follows: Nextel experts testified the proposed antennas would not cover the alleged gap so allowing such antennas would not correct the alleged problem.

A motion was made by Cheryl Perrotta and seconded by Mr. MacNeill to deny the application of Nextel. All voted in favor of denying this application with the exception of Mr. Morton, who abstained.

Case no. 1388 – Lane – Mr. McCormack read the resolution into public record. A motion was made by Mr. McCormack and seconded by Mr. Morton to approve the resolution as read. All were in favor of this motion.

Case no. 1389 – Luigi's – Mr. Cathcart read the resolution into public record. A motion was made by Mr. Cathcart and seconded by Mr. DellaFave to approve the motion as read. All were in favor of this motion with the exception of Mr. Vorhees, who voted no.

The meeting adjourned at 10:20.

Respectfully submitted,

Barbara DeLuca  
Acting Secretary

Tape #455 & 456