

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

Minutes of Regular Meeting  
October 18, 2005

The Chairman called the meeting to order at 8:00 p.m. in the Municipal Building.

The Chairman announced notice of 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 23<sup>rd</sup> day of December, 2004.

Roll Call:      Present: Messrs. Cathcart, Morton, McCormack, Vorhees, DellaFave,  
   MacNeill, Wohlrab, Spontak, and Ms. Perrotta.  
                                 Absent: None

The minutes of the September 20, 2005 meeting were approved as prepared; all in favor.

Correspondence:

Permit fee and C/O log for September 2005  
Planning Board minutes from September  
Letter from Centennial House, re: Case # 1373 – Reading Town  
Letter from Joseph Rotolo, Esq., re: Case # 1371 – Jhin

The Chairman announced that there are three cases set for hearing:

# 1371 – Block 79/Lot 2 – 395 Teaneck Road (Jhin)  
# 1372 – Block 120/Lot 9 – 28 Euclid Ave. (Flores)  
# 1373 – Block 80/Lot 23 – 78 Mount Vernon Street (Reading Town)

The Chairman read the Rules of Procedure

Case # 1371 – Attorney had not arrived yet. It was decided to move on to the next case and go back to this one when the attorney arrived.

Case # 1372 – Flores – 28 Euclid Avenue

An application for a variance to build an addition to the rear of the one-family dwelling at 28 Euclid Avenue, Block 120/ Lot 9.

The applicants, Thelma Flores and her husband, David Tierney, were sworn in. The Board was furnished with proof of taxes paid, service and publication. The applicants explained that they wished to build a second floor addition to their home, which would cantilever out 2 feet above the first floor. This second floor addition would extend the house to within 28 feet of the rear yard lot line (2 feet closer than the allowed rear yard setback of 30 feet). The footprint of the house is staying the same.

The case was opened to the public. No one appeared. The case was set down for the work session.

Case # 1371 – Block 80, Lot 23 – 78 Mount Vernon Street – Reading Town

An applicant for a use variance to use space in the building at 78 Mount Vernon Street, Block 80, Lot 23, to have a tutoring service. Attorney Thomas Blumenthal represented the applicant. The applicant, Tae Ahn, was sworn in. The Board was furnished with taxes paid, proof of service, and proof of publication.

Mr. Blumenthal described to the Board what the applicant's program, Reading Town, would like to do. He provided a brochure, which was marked A-1. They wished to rent three rooms. Each room would have three children and one teacher. They run one-hour sessions, concentrating on improving skills in reading and writing. Mr. Blumenthal stated that he did not feel that there were any negative criteria for this application. There is a parking lot across the street, owned by the building. Parents would just drop off the students and return to pick them up. There would be no need for parking. The applicant, Mr. Ahn, testified that the program is a weekly tutoring program, using certified teachers who are reading and writing specialists. A maximum of 9 students could be accommodated at any given time.

The Chairman indicated that the Board had received a letter of objection from Centennial House, located at 71 Mount Vernon Street, across from the applicant. Mr. Blumenthal indicated he had been given a copy of the letter. The Board asked him to respond. Mr. state that his use would not be a school and felt there would be no impact on parking.

The Board asked for clarification regarding the space this applicant wished to use.

A copy of the floor plan of the first floor was marked A-2 and the Board attorney circled in red on the exhibit those rooms this applicant wished to use (rooms 193, 177 and 100).

The owner of the building, Jason Yu, was sworn in. He indicated the rooms just marked would be used exclusively by the tutoring center. No other tenant would have use of them at the same time.

The Board expressed dissatisfaction with the floor plans submitted with the application, indicating they were identical to those submitted with another application to the Board two months prior. At that time, the owner was told the plans were insufficient.

The Board indicated they needed to know exactly where each current tenant was in the building, their hours of operation, and what type of business they are. The proposed lease for Reading Town gives them 4 parking spaces. It was not clear if there are that many available. There was discussion regarding regulations that might apply to the tutoring service, e.g., handicapped-accessible bathrooms.

Attorney Blumenthal stated that he doesn't think he has to prove his applicant's proposal is not a school.

James Russell, Zoning Officer of Ridgefield Park, was sworn in. He testified that he denied the application on the grounds that it was not a use specifically allowed in the C-1(H) Zone. Therefore, the applicant needed to apply for a use variance. The Board questioned the applicant whether he would accept restrictions on the number of students/teachers, if a variance were granted. Applicant indicated he would abide by any restrictions placed on him.

The applicant and attorney sat down.

Before opening the case to the public, the Board discussed the first case on the agenda – # 1371 (Jhin). It was now 8:45 pm and the attorney for this case had still not arrived. The Board's attorney stated that he had received a call earlier in the day from the applicant's attorney, Joseph Rotolo, indicating he was considering withdrawing the application. Mr. Rotolo was advised by the Board's attorney to attend the meeting. There were approximately 50 people in attendance waiting to express their opinion on the application. The Board decided to dismiss the case. A resolution to this effect would be drawn up by the Board attorney for memorializing at next month's meeting.

The Board returned to Case # 1373 – Reading Town. The case was opened to the public. Within 200' in favor of the application – no one appeared. Within 200' against the application – William Betesh, Esq., representing Centennial House Realty, was sworn in. Centennial House opposes the application on the grounds that it is not consistent with the Master Plan and had not shown itself to be inherently beneficial. Schools are considered to be an inherently beneficial use, but this does not qualify as a school. There are many other uses for the space that would be less intense. The applicant has not brought a planner or other expert to give testimony regarding how the application fits with the town's zoning code and master plan, and why it should be approved. Feels applicant also needs a parking variance – lease indicates three spaces available, not four as indicated in earlier testimony. Concerned building not appropriate/safe for young children. A use variance requires a heightened element of proof to obtain approval. Concerned that once granted, use remains attached to land/building forever.

Outside 200' in favor – no one appeared.

Outside 200' against – no one appeared.

Board went into work session at 9 pm and returned with the following decisions.

Case # 1371 – Jhin – The Board attorney will draft a resolution dismissing the case, to be memorialized at the November meeting.

Case # 1372 – Flores. Mr. Vorhees, seconded by Mr. MacNeill, made a motion to approve the application; all in favor. The resolution was read into the record. A copy is attached.

Case # 1373 – Reading Town. Mr. Morton, seconded by Mr. DellaFave, made a motion to deny the application. On roll call, Messrs. Cathcart, Morton, McCormack, Vorhees, & DellaFave voted "yes"; Mr. Wohlrab voted "no." Motion to deny was carried. Resolution to be prepared by the Board attorney for memorializing at the November meeting.

A motion was carried to adjourn at 9:20 pm.

Respectfully submitted,

Linda Quinn  
Secretary  
Tape # 441

