

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

Minutes of Regular Meeting
November 15, 2011

The Chairman, Mr. Cathcart, called the meeting to order at 8:15 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 seq., notice of which was published in the Record on the 29th day of December 2008.

Roll Call: Present: Messrs. Cathcart, Vorhees, DellaFave, Wohlrab, Miele, Orth,
Ms. Perotta

Absent: Mr. Frontera, Mr. Alberque

Ms. Perotta read the rules of procedure.

Correspondence:

Memo from Michael DeMarrais RE: 162 Main Street, Case #1470
Mayors Advisory RE: Affordable Housing, Appellate Division Rulings
Mayors Advisory RE: New State Plan
Mayors Advisory RE: New Jersey's 2011 Holiday Blood Drive Campaign
New Jersey Planner - September 2011
2012 Zoning Board of Adjustment meeting schedule

***The Chairman announced there is one (1) case to be memorialized.**

Case #1469 65 Central Avenue, Block 9/Lot 17 Variance

Ms. Perotta read the Resolution into the Record.

Roll Call:

Mr. Cathcart yes
Ms. Perotta yes
Mr. Vorhees yes
Mr. DellaFave yes
Mr. Wohlrab yes
Mr. Miele yes
Mr. Orth yes

***The Chairman announced there are two (2) continued cases to be heard.**

Case #1468 54 Mt. Vernon Street Block 65/Lot 18 Variance

Case #1470 162 Main Street, Block 95/ Lot 7 Use Variance

Case #1470 162 Main Street, Block 95/ Lot7 Use Variance

Ms. Misha Lee, Esq. represents Ms. So. Ms. Lee presented a Resolution from the Corporation allowing her to represent. Marked as Exhibit Applicant 1 – November 15, 2011. Mr. DeMarrias stated this was a letter from counsel of Won Buddhism America, Inc. stating Reverend Chong may speak for the corporation and Ms. Lee is retained as the lawyer.

Ms. Lee stated the tenant, Ms. So and Won Buddhism America has entered into a lease. Marked as Exhibit Applicant 2, November 15, 2011.

Ms. Lee presented a Program Schedule of the proposed use of the facility. Marked as Exhibit Applicant 3, November 15, 2011.

Photographs were presented of another facility. Ms. Lee stated they are similar as to what would be done at the property.

Ms. Lee stated they are applying for a meditation center. We are not going to do yoga. It will only be included as stretching before meditation. The Cultural Center was added but only means to use facility and meditation center. They will charge \$20 per hour. Each class can only accommodate 7 – 8 patrons. Ms. Lee presented the proposed schedule of classes.

Mr. DeMarrais requested Ms. Lee present someone to testify under oath. Ms. Lee presented Mr. Paul DeMassi, Planner. Mr. DeMassi was sworn in and accepted at the last meeting. Mr. DeMarrais stated the Board is interested in the operation of the facility. The Planners testimony has already been accepted and heard.

Mr. Cathcart stated Mr. DeMassi will not be able to answer the questions of the Board in reference to the use of the property. What exactly are you going to do? What are the hours of operation? How many people are going to be there?

Ms. Lee stated they are going to accommodate a maximum of 7 – 8 people. The pictures presented are an example of another facility and not this one. The space is too small for any more people.

Ms. Lee then presented Mr. DeMassi. He showed architectural drawings showing occupancy load of the space. The chart Ms. Lee presented to the Board was prepared after consultation with the clients and the property owner in compliance with Mr. Cathcart's request. It indicates a seven day week.

Mr. DeMassi presented the schedule.

Mr. DellaFave asked what is written in Korean? Ms. Lee responded the first line reads write what is in your mind and the second line is you can share if you wish.

Mr. DeMassi stated the entire schedule was in Korean and they had it translated into English.

Ms. Perrotta asked who prepared the schedule and Mr. DeMassi stated it was prepared by the client.

Mr. DeMarrais swore in Ms. Lee as interpreter for Ms. So. Ms. So was sworn in.

Mr. DeMarrais asked who is Ms. So.

Ms. So stated she is the person desiring to operate the meditation center at 162 Main Street.

Mr. DeMarrais asked what is Ms. So's relationship to Won Buddhism America, Inc.? Ms. So is a minister.

Mr. DeMarrais asked if she is the applicant and she stated yes. You have signed the lease? Yes.

Won Meditation Center, LLC is leasing from Won Buddhism America.

Mr. DeMarrais asked who owns the property? Won Buddhism American owns the property with the deed.

Mr. DeMarrais asked Ms. So if her business entity wants to conduct business activities in this property? Ms. So responded yes. You have presented the schedule as the times of different programs will be presented and Ms. So responded yes. The business will be open seven days a week? Ms. So responded yes. Mr. DeMarrais asked how many parking spots are available. Ms. So responded about nine.

Mr. DeMarrais asked how do people become members and who will use the services? Ms. So stated they are planning on advertising and to let people they know know of the facility. Do you get a membership in the center? Ms. So stated not everyone who wants to be a member has to agree to a fee agreement.

Mr. DeMarrais asked How many people can sign up? Ms. So stated it shouldn't be that many.

Mr. DeMarrais asked if there were any limitations to the 6:00 a.m. hour. Ms. So stated she thinks the plan allows up to certain people and allows up to 20 but they don't expect more than 10. She can accommodate six. If I cannot accommodate I will tell them to come to another session.

Mr. DeMarrais asked if there was a cut-off of members. Ms. So stated she will only accept members to the number allowed, but she doesn't think they will show every time. If more, I will make suggestion to go to another session. I will not allow more than allowed or more than I can handle.

Mr. DeMarrais asked about the fee agreement? How do they pay and what are the terms? Ms. So stating they are planning if someone comes in to experience I will charge \$20 per hour but if a person wants to be a member for 1-3 or 6 months the rate will probably be lower.

Mr. DeMarrais stated it is a facility who signs up members and they can use the facility. Ms. So stated in some ways yes.

Mr. DeMarrais asked How are the two women connected to the facility? Are they working there or just living there? We are living upstairs and we are both Won Buddhism of America. We will be program directors. We may in future ask for an accounting director. Because I and Ms. Kim are not use to handling money and in order to get help we will hire accountant for business aspect.

Ms. Perrotta asked if Ms. So and Ms. Kim will be living on the second floor. Will they be sharing a bedroom? Yes, correct. Ms. So stated there are two bedrooms upstairs. Ms. Perrotta asked in case of an emergency who communicates with them? Ms. Lee stated they both speak basic English.

Ms. Perrotta asked if people can come and go as they please. Ms. So stated no a person who wants to use the facility needs to stick to the time of the programs so they will not disturb others.

Ms. Perrotta asked How many people in a class? Ms. So stated 0 per session.

Mr. Cathcart asked if there were any other witnesses.

Ms. Perrotta asked if Ms. So had ever operated this type of facility? Ms. So stated yes in New York and it works. I participated but I did not run my own business. I led sessions in New York.

Mr. Miele asked you prepared this chart? Ms. So stated yes. Mr. Miele asked what happens when the session is over and the doors are closed? Ms. So stated the session is over.

Mr. Cathcart asked if Ms. Lee had any other witnesses to present or would she like to summarize?

Ms. Lee presented her architect to explain the drawings.

The architect was sworn in at the October meeting.

Mr. Miele stated the current attic space has no habitable space. You are increasing the footage? Yes. The client asked for more space for guests and extra room. The two ladies will be living there and they needed more room. The applicants will share a bedroom on the second floor. The basement plan is to convert it to a conference room with a maximum load of 15 persons in that space. They will come to the basement to talk about the meditation. It is not for simultaneous rooms. Mr. Miele stated the applicant needs to know it is not a place of assembly. Once this goes to a certificate of occupancy it cannot be used as a place of assembly.

Ms. Lee summarized her case.

The case was opened to the public within 200' in favor. No one appeared.

The case was opened to the public within 200' opposed.

Ms. Vesna Bernal, 23 Spruce Avenue asked to be heard. Ms. Bernal was sworn in. She stated she is not opposed but is worried about parking.

Mr. Cathcart asked if she only opposing application based on parking and Ms. Bernal answered yes.

The case was opened to the public outside 200' in favor. No one appeared.

The case was opened to the public outside 200' opposed.

Ms. Diane Barbieri appeared. Ms. Barbieri was sworn in at the October meeting. Ms. Barbieri stated as she mentioned in October they are concerned about the parking and the hours of operation. She still does not understand what is going to go on at the property and the hours of use. She does not feel comfortable with what is going on. Who is to say the schedule won't increase and more people will be coming and going.

Ms. Lee wanted to address. It will be open until 9:00 p.m. and it will be for profit.

Mr. DeMarrais stated Ms. Lee may ask questions but you may not make an argument.

The Board went into a work session from 9:25 to 9:30 p.m.

The Board came out of work session.

Mr. Vorhees motioned to deny case. Seconded by Ms. Perrotta

Case #1469 has been denied.

Roll Call:

Mr. Cathcart, Ms. Perotta, Mr. Vorhees, Mr. Dellafave, Mr. Wohlrab - no, Mr. Miele

Case #1468 54 Mt. Vernon Street Block 65/Lot 18 Variance Ashraf Shaker

Mr. Kevin Kelly, Esq. presented on behalf of the applicant. This is the continuation of our hearing. Mr. Kelly would like to make a couple of points and amend the application. Mr. Kelly stated they are willing to change the application from a three family to a two family with two apartments. This will eliminate the parking deviation by eliminating the third apartment. We are requesting a two family to bring it more into conformity.

Mr. Kelly stated he reviewed Mr. DeMarrais' letter from Mr. Boggia and has sent a letter today. We have two entirely different applications now.

Mr. DeMarrais explained to the Board Resjudicata.

The Board took a ten minute break from 9:40 p.m to 9:45 p.m.

Mr. Kelly stated he does not believe that further notice is needed since this is less of an application. Mr. DeMarrais agreed.

Mr. Albert Zaccone was presented. Mr. Zaccone from 6 Casson Lane, North Haledon, NJ was sworn in and accepted as an expert Architect.

Mr. Zaccone prepared the plans. He prepared the original and the new plans revised as of November 15, 2011 revising to a proposed two family resident with restaurant.

Mr. DeMarrais stated he is a licensed Architect in the state of New Jersey and he has qualified as an expert before the Board.

Exhibit A5 – Diagram (last exhibit Mr. Kelly had in October)

Mr. Kelly asked Mr. Zaccone what he did in preparing the plans. Mr. Zaccone stated he met with Dr. Shaker and went over the possibility of reducing the application of a three family to a two family plus restaurant. Mr. Zaccone has been to the site. A5 shows existing conditions.

Exhibit A6 – Revised drawings showing small alterations in creating a two family residence plus restaurant.

The first floor existing conditions shows large room in back. Mr. Amendola stated in October this room may have been added in the 1970's. It was separated by a doorway. We want to take the large room and make it a bedroom and bath. The first floor will be a two bedroom unit with two baths, but no footprint changing. The only thing changing is creating a bathroom on the first floor. The current entrance is actually through the kitchen and we want to open the vestibule back up for the entrance off the driveway at the back of the house.

Ms. Perrotta asked if the door going out of the back bedroom will be closed. Mr. Kelly stated they will discuss but are open to closing the door. Mr. Kelly discussed with Dr. Shaker and they agreed to close the door if it is a concern. The door will be eliminated.

Mr. Zaccone stated the vestibule is existing. This would have been the main entrance and we are looking at re-opening it for the main entrance into the apartment.

Mr. Kelly stated they are not changing the footprint of the building.

Mr. Cathcart asked when was the last time someone lived in the back room? Mr. Zaccone stated there is nothing there. Mr. Kelly stated he consulted with Dr. Shaker and it is currently all used by the current and only tenant in the building.

Mr. Cathcart asked again, when was the last time it was rented out or used as a studio apartment. Mr. Kelly stated it has not actively been rented by Dr. Shaker since he has owned the property.

Mr. Kelly stated the first floor is rented to one family and the second floor is not. We want to re-open the vestibule as the main entrance to the first floor.

The second floor is the second proposed apartment with existing kitchen and bathroom and attic space which has been there for a long time. We are proposing to increase the kitchen, shifting the bath and reducing the size of the bedroom. The kitchen is too small and the bath is oversized. At the top of the stairs there will be a landing. It will be a better and more secure separation at the second floor level.

Mr. Vorhees asked no one will be living on the third floor. Mr. Zacccone stated there is an existing bathroom but I cannot testify to the living space on the third floor.

Mr. Perrotta asked why not remove the bath on the third floor. Mr. Zacccone stated we are not proposing changes.

Mr. Kelly stated the goal is just to use as additional space for the tenant. It will be part of the second unit.

Ms. Perrotta asked why the bath in the attic wouldn't be removed. Mr. Zacccone stated because it is existing and we are not proposing any change. What is the point of the third floor bathroom? Because it is existing.

Mr. Kelly stated Dr. Shaker would like to leave it and they could stipulate it would not be used as an apartment use. Mr. Kelly stated his client would agree if anything was found to not be what was approved and a condition of the Certificate of Occupancy be removed. Dr. Shaker did not finish this, it was done 30 – 40 years ago. Mr. Kelly stated the goal is to be used as additional space to the tenant. The only way to the attic is from the second floor. There could be a condition that the CO be terminated if there is a third tenant in the property and that could be done in the Resolution.

Ms. Perrotta stated you cannot use the attic for living space. It can only be used for storage space. Mr. Kelly stated there is storage space above the third floor. The fire escape was eliminated because the third floor was not identified as a bedroom and we wanted to limit the use of the attic space.

Mr. Zacccone explained the drawings further.

Mr. Kelly asked Mr. Zacccone What variances are necessary? Non-conforming lot area and width; lot coverage front yard, side yard, rear yard. It is existing, but non-conforming. We have a waiver for parking. We have four parking spaces. Two are required for each apartment.

Ms. Perrotta asked if there is a basement and Mr. Zacccone answered yes but most of the basement is for restaurant use or shared mechanicals. It is accessible from the driveway by the enclosed porch. Ms. Perrotta asked if there are stairs and Mr. Zacccone stated the door is on the driveway side and then you walk into Luigi's kitchen. Mr. Kelly stated the basement is ground floor of Luigi's and the basement is all used by Luigi's.

Mr. DellaFave asked if there was an entrance into the basement from the first floor and Mr. Kelly stated no.

Mr. Zacccone agrees with Mr. Amendola that the finishes are from the 40's and 50's.

Nothing further for Mr. Zacccone from Mr. Kelly.

Ms. Kathryn Gregory, of 96 Linwood Plaza #350, Fort Lee, NJ was sworn in as a Planner. She has qualified to this Board before. She is a licensed Planner in New Jersey since August 2000. She is accepted as an expert.

Ms. Gregory has been retained by Dr. Shaker. She stated she conducted a site visit and has photos for evidence.

Exhibit A7 – Photo Exhibit

A7 is an 8 ½ x 14 exhibit. She wanted to give perspective of the site and surrounding area representing North and South side of Mr. Vernon Street along with aerial maps by Google Maps. There are currently three two family homes, one one family home and a commercial building on said street.

Ms. Gregory spoke to the variance. She stated that sometimes what was done 100 years ago does not match today. The house is significantly large and could have easily operated as two units.

Ms. Gregory referenced a Rutgers printing of Who Lives in New Jersey Housing from 2008 to state her point of school age children possibly in the property. There would be less with a two apartment unit than a one family home. The impact is less.

The attic space has large dormers. It was probably always intended as a living space. It could be used as a home office. It is a good multi-purpose area.

Ms. Perrotta asked if the attic space is used would it require a fire escape? According to Ms. Gregory it would not. One and two family homes do not require a fire escape. Three families are under a separate code. That is why the fire escape was eliminated according to Mr. Kelly.

The current driveway is just like most driveways in Bergen County and the tenants would have to coordinate how they would be parking.

Ms. Gregory cited sections of the Master Plan and Zoning Ordinance: #14 Guidelines of C1H district, #6 Housing Opportunities and #17 Efficient Use of Land.

Ms. Perrotta asked if the two families on Mt. Vernon are legal two families. Ms. Gregory stated according to the tax records she pulled they are.

Ms. Perrotta asked how does the restaurant get their deliveries. Mr. Kelly stated mainly through the front door. The side door is for cleaning and maintenance. The kitchen is small and tight and is a step down.

Mr. Kelly asked Ms. Gregory as a Planner, do you believe a one family would lead to policing problems? Ms. Gregory stated she thinks more people would live as a one family rather than a two family. Ms. Gregory stated a two family would give better control and have a lesser impact to the Village.

Mr. Kelly asked Ms. Gregory what is the square footage of the building and Ms. Gregory stated she believes 4000 sq. ft. without the restaurant.

Nothing further from Mr. Kelly for Ms. Gregory.

No questions from the Board for Ms. Gregory.

Mr. DeMarrais discussed a fine on the property which is on appeal. The Board needs to discuss the fine assessed and if they can make the approval a condition of the fines being satisfied. Mr. DeMarrais requested a closed session to discuss. Mr. Kelly objected.

The Board went into a closed session 10:50 p.m. to 11:00 p.m.

Mr. Kelly summarized the case.

The case was opened to the public within 200' in favor. No one appeared.
The case was opened to the public within 200' opposed. No one appeared.
The case was opened to the public outside 200' in favor. No one appeared.
The case was opened to the public outside 200' opposed. No one appeared.

The Board went into a work session.

The case has been approved with the following four conditions:

1. Attic can be used for storage only.
2. Remove the bathroom on the 3rd floor.
3. Close the outside bedroom door on the first floor. Both doors in rear will be sealed. No access from back. Only a common entrance through the front of the property.
4. Resolve fine.

Mr. Vorhees motioned to approve application with conditions. Ms. Perotta seconded.

Roll Call:

Mr. Cathcart, Ms. Perotta, Mr. Vorhees, Mr. Dellafave, Mr. Wohlrab, Mr. Miele

Mr. Vorhees motioned to adjourn meeting. Ms. Perotta seconded.

Meeting adjourned at 11:15 p.m.

(Note: Please refer to the Transcription of the November 15, 2011 meeting for the rest of the minutes.)

Respectfully submitted,

Francine Orovitz