

**BOROUGH OF NORWOOD
ZONING BOARD OF ADJUSTMENT
October 2, 2014
REGULAR MEETING**

The Public Meeting of the Zoning Board of Adjustment of the Borough of Norwood was held at Borough Hall on the above date.

Chairman Trapani stated that the meeting was being held in accordance with the Open Public Meetings Act and indicated exit locations.

Roll Call Board:

Chairman Robert Trapani	Present
Mr. Christofer Deschler	Present
Mr. Anthony Foschino	Present
Mr. Michael Casey	Absent
Mr. Murray Bass	Present
Mr. Carol Leeman	Present
Mr. John Straub	Present
Mr. Sal Nobile, Alt. #1	Present
Mr. Joseph Saccoccio, Alt. #2	Present

Also Present:

Mr. John Conte	Board Attorney
Mr. Paul Niehoff	Maser Consulting, Board Conflict Engineer
Ms. Darlene Green	Maser Consulting, Board Conflict Planner

Chairman Trapani asked for a motion to approve Maser Consulting as Special Conflict Engineer and Planner for the Reduce Application. Mr. Deschler made a motion to approve, seconded by Mr. Bass, and the motion was approved by all.

Minutes for the July 10, 2014 meeting were approved by the Board with a correction needed for spelling error on page 3. The motion was made by Ms. Leeman with a second from Mr. Straub. All board members were in favor, none opposed.

Chairman Trapani requested a motion to appoint Meg Smith as Board of Adjustment Secretary. Mr. Foschino made a motion to approve and Mr. Deschler seconded. All Board members approved the appointment on a roll call vote.

RESOLUTION OF APPROVAL
Variance Application #ZBA-14-04
JARROD KHOURY
20 Demarest Street
Block 153, Lot 2

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Mr. Straub noted that a page number was missing on page 2 of the resolution and Chairman Trapani noted that the ZBA number should be 14-04 not 14-03. Mr. Conte will re-submit pages 1 and 2 of the resolution with these revisions. Mr. Straub made a motion to approve the resolution with noted changes. Ms. Leeman made a motion to second. All board members voted to approve the resolution, with the exception of Mr. Foschino who was absent during testimony and abstained from voting.

Chairman Trapani noted that the publication for the Reduce Application had a meeting start time at 8:00pm instead of 7:30pm. Testimony for this application therefore would not be heard until 8:00pm.

Chairman Trapani reviewed purpose and procedure of the Board of Adjustment to give the public an overview of the application and review process.

Chairman Trapani confirmed with Meg Smith that all services were reviewed and were in order.

VARIANCE APPLICATION ZBA # 14-02

Reduce Construction Corp.
217-227 Railroad Ave West
Block 93, Lots 14, 15 & 16

At 8:00pm, Chairman Trapani introduced Bruce Whitaker of McDonnell & Whitaker, legal representative for the applicant, Reduce Construction Corp. Mr. Whitaker explained that this property is approximately 36,000 square feet in an R10 zone currently approved for single family dwellings. The applicant is seeking a use variance, (D variance), to demolish 2 homes currently on the property and construct a multi-family. Application requests 22 units.

Mr. Whitaker provided an overview of application which included:

- (1) D1 use variance for use not currently permitted
- (2) D5 variance because the number of units requested conflicts with density permitted
- (3) Multiple C variances to address setback and bulk requirements
- (4) Several waivers involving design criteria

If approved, applicant will comply with soil movement request per Mr. Whitaker. He explained that the Zoning Board has jurisdiction over Site Plan approval and details for drainage, traffic, lighting and landscaping will also be presented.

Mr. Whitaker stated that applicant seeking use variance for this property matches with Master Plan's purpose of providing different types of housing in Norwood. He also stated that property's proximity to center of municipality makes it a proper location for this type of property per the NJ State Development and Re-Development Plan.

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Mr. Whitaker explained that he will have testimony from the Planner first, followed by the Architect and then the Engineer. Although this is different than the usual procedure of concluding with the Planner's testimony, Mr. Whitaker wanted the Planner and Architect to present their analysis and development of this plan and wanted to hear comments from the board and the public. Mr. Whitaker said applicant may consider modifications, if needed, after hearing any concerns before the Engineer testifies.

Mr. Whitaker introduced Mr. Burgis as Planner for the applicant, and was sworn in by Chairman Trapani. Mr. Burgis, President of Burgis Associates in Westwood, provided details of his education and experience and was accepted as an expert.

Mr. Burgis stated that he has visited the property location and surrounding development and has reviewed the zoning regulations and the Master Plan for Norwood. No report was submitted to the Board by Mr. Burgis. He gave summary of property size and elevation and described surrounding properties. Mr. Burgis stated that the last several Master Plans have encouraged a variety of housing types and a need to address affordable housing.

Mr. Burgis explained that municipalities are changing constantly and many towns are moving toward multi-family construction due to changes in demographics and changes in society. He detailed that Norwood population has changed from 4,400 to 6,100 between 1980 and 2010. The number of persons per household in Norwood has changed from 3.42 to 2.8 and median age has shifted from 33 to 46 during this same time frame. Mr. Burgis stated that these demographic changes require different housing. Mr. Burgis claimed that many residents no longer need larger houses with more property and that they want to downsize and stay in the community. Mr. Burgis also claimed that children raised in the community could return and have an affordable housing option with this type of construction.

Mr. Burgis stated that he will testify again at a later date and address how this application meets the statutory burden. He explained that municipal land use law requires the applicant to address both positive and negative criteria. Positive criteria must show that special reasons exist to warrant the granting of this variance. Negative criteria must show that there is no substantial detriment to the public good and no substantial impairment to the intent of the Master Plan and Zoning Plan in the community. Mr. Burgis will discuss the use of "substantial" in the statute but wants to point out that some impact is allowable to the Master Plan or public good.

Mr. Burgis testified that under the positive criteria requirement of the statute an applicant must address case law and since this application is for a non-inherently beneficial use that the Medici test would be the standard. Under the Medici test one must show that the application is not inconsistent with the intent of the Master Plan and that the site is particularly suited for the use. Mr. Burgis stated that when he presents at a later date he will show the relationship of this site to the business district and detail why a multi-family

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residential development on the edge of a business district meets sound planning criteria.

Mr. Burgis finished his testimony and asked if there were any questions. Mr. Whitaker responded that he had no questions.

Mr. Burgis was asked when he would be submitting his Plan and he responded that he would have it ready 10 days prior to the next meeting. It was stated that the next scheduled meeting for the Zoning Board of Adjustment was November 6, 2014.

Mr. Burgis was asked why he hadn't submitted a Plan and Mr. Whitaker responded that he wanted Mr. Burgis to present an overview of the application first and then incorporate any possible modifications addressed during the overview into that Plan. Mr. Whitaker also stated that he wanted all of the borough reports to be included in Mr. Burgis' analysis, and the Environmental Commission Report was only received the day before the meeting.

Ms. Leeman asked Mr. Burgis the source of his information for the numbers he presented on Norwood demographics. Mr. Burgis stated that the numbers quoted came from Census material and the 1990-1994 Master Plan.

Mr. Foschino noted that a general basis / overview had been provided by Mr. Burgis for this application, and questioned if the Board can evaluate the general concept at this time.

Mr. Burgis responded that often in these proposals the board doesn't get to hear the underpinning of the proposal – why the multi-family makes sense in this location. Mr. Burgis stated that changes in community and societal changes warrant consideration for this application.

Mr. Foschino suggested that before going into depth and detail that it might make more sense for the Board to discuss whether the concept proposed for this application fits the property. Mr. Foschino questioned whether this application represented apartments or condos. Mr. Whitaker confirmed that this application is for condominiums.

Mr. Burgis stated that a multi-family residential construction on the edge of a business district provides walk in traffic for surrounding businesses.

Mr. Foschino pointed out that the surrounding businesses to this proposed multi-family construction include a gas station, a sanitation company, a bus garage, an abandoned railroad and several warehouses. He again requested a discussion on the concept for this property in this location. He questioned how in depth the Board has to go if the concept does not fit the property.

Mr. Burgis reiterated that often the reasoning for this type of development is not offered. He stated that demographic changes warrant different types of

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housing. He countered that expert testimony from the Architect and the Engineer will detail other necessary information.

Mr. Foschino stated that if the Board cannot accept the change of use for this property then he doesn't think that the details on how it will look will affect any decision on the application.

Mr. Burgis countered that the architecture and engineering details do impact the negative criteria and that this proposal has merit whether in this design or a modified configuration.

Mr. Bass questioned the total number of variances being requested in this application. After some discussion and explanation among the Planners and Engineers it was stated that 28 deviations, which include variances and waivers, are being requested.

Mr. Burgis explained that by approving the D variances, case law can allow the C variances to be subsumed. He explained by changing the structure allowed on the property it is usually necessary to change the zoning requirements.

Ms. Leeman stated that if the D variance is not acceptable then the requested C variances don't have any bearing. She believes that the starting point should be the applicant trying to explain why it is beneficial for Norwood to have a multi-family construction on this site.

Mr. Burgis stated that the Planner usually goes last. The Planner pulls information from other experts and ties presentation together. With this application, Mr. Burgis was presenting first and trying to provide an overview of why municipalities get this type of application.

Mr. Foschino believes that the applicant's presentation and discussion should focus on the D variances being requested. He stated that if the Board can reach a consensus and sees merit in the application then other details can be presented. However, he noted that if the Board cannot accept the concept being proposed then the rest of the details won't matter.

Mr. Whitaker stated that he acknowledged the issue being raised by the Board and understood the direction that was being proposed. He requested a five minute break to discuss this with his client, the applicant.

Mr. Deschler made a motion for a short break, and Mr. Straub seconded the motion. All Board members voted in favor of the short break.

Upon return from the break, Mr. Whitaker requested that the Board bifurcate this application. Mr. Whitaker would like to proceed with review of the D variances only and would submit a Planner's report. Mr. Burgis would return to continue his testimony.

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Mr. Whitaker requested that this application be carried to the November 6, 2014 meeting. The Planner's report would need to be submitted 10 business days prior to the meeting to allow sufficient time for review. Therefore, the applicant's plan would need to be submitted by Wednesday, October 22, 2014 in order for discussion at the November 6, 2014 meeting. It was agreed that no new notification would be necessary. If the applicant is not ready to present at the November meeting then the Board would have to announce the continuation of this application for the December 4, 2014 meeting. It was agreed that if the application was handled in this way, then no new notification would be needed.

There was a discussion regarding the need to switch the next meeting to a larger venue, but it was decided that this venue was able to satisfy the public and there would be no need to change venue for the next meeting.

Chairman Trapani confirmed that Mr. Whitaker did not want to open the meeting to the public at that time. Mr. Whitaker responded that this different approach to the application requires it to be presented as a use variance and his expert, Mr. Burgis, has not finished his testimony. Mr. Whitaker proposes that this meeting be adjourned and the applicant will submit a plan and continue testimony. After testimony the Board and the Public can raise questions.

A motion to adjourn the meeting was made by Mr. Deschler and seconded by Mr. Foschino. All Board members were in favor of the adjournment.

Meeting ended at 9:06pm.

Respectfully submitted,

Meg Smith
Board of Adjustment Secretary