

**BOROUGH OF NORWOOD
ZONING BOARD OF ADJUSTMENT
January 22, 2015
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 OF 2015 BOARD:

Chairman Robert Trapani	Present
Mr. Christofer Deschler	Absent
Mr. Anthony Foschino	Present
Mr. Michael Casey	Present
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. Dan Kaufman	Board Engineer

Chairman Trapani asked for a motion to approve the minutes of the October 2, 2014 meeting. Mr. Foschino made a motion to approve the minutes which was seconded by Mr. Straub. All members voted in favor of the motion.

VARIANCE APPLICATION ZBA #15-03

Block 88, Lot 13
55 Walnut Street
Old Tappan Haebub Math Tutoring Center

Mr. Jin Hong Park, an attorney, came forward to represent Old Tappan Haebub Math Tutoring Center. A use variance is being requested to change this rental space from Light Industrial to Education. Applicant would like to provide tutoring services for students in 4th to 11th grade. Three tutors would each be instructing 1 or 2 students at a time in three separate rooms.

Chairman Trapani confirmed with Board Secretary that all services were in order.

Mr. Kaufman explained that this application made no exterior changes to the building and his engineering review only needed to address sufficient parking for all tenants in this building. He provided a summary of current tenants based on information from owner, Bob Ghia. Mr. Kaufman's summary calculated a need for 105 parking and 112 parking spaces are provided.

Mr. Nobile questioned calculation for parking spaces for Body Chemistry. Mr. Kaufman explained that Norwood Ordinance is not clear on requirements for parking necessary for gyms. Mr. Kaufman used the standard of 5 parking spaces for every 1,000 square feet allowing 30 spaces for Body Chemistry. Mr. Nobile stated that part of Body Chemistry has classes with 25 or 30 people and this does not account for customers in the gym area. Mr. Nobile believes that 30 parking spaces for Body Chemistry is a bare minimum. Mr. Kaufman stated that all of his calculations were conservative and rounded up for parking requirements.

Mr. Nobile questioned parking allocated for another tenant with a limousine service. Mr. Kaufman noted that 2 specific spaces have been designated for limousines. Mr. Kaufman then used the office space to calculate one parking space per 250 square feet and noted that 12 additional parking spaces have been included in his parking summary.

Chairman Trapani confirmed that Mr. Kaufman was comfortable with the parking necessary and provided at this location. Mr. Kaufman confirmed that he believes there is sufficient parking for the current tenants as detailed.

Chairman Trapani questioned why there were other schools or instructional services operating at this location and they have not come before the board for approval. Mr. Nobile stated that he believes there is only one or two light industrial tenants and all other tenants are office or gym and the use of the whole building should be questioned.

Chairman Trapani explained that he had no concern with adding an education use for this building because it was previously Bergen County Technical Schools. He believes that the other uses allowed in this building need to be reviewed.

Mr. Nobile questioned legal process for changing the use of a building designated as light industrial but clearly is being used for other zoning uses. Mr. Conte explained that this is a use variance which must meet the positive and negative criteria and education is an inherently beneficial use. Mr. Conte explained that, if needed, the Mayor and Council must change the designated zone.

Ms. Leeman questioned whether the approval of this use variance would change the use for the whole building. Mr. Conte advised that approval would only change the use for this specific tenant and space. Ms. Leeman asked if approval for this application would grand-father other educational uses in this building. Mr. Conte advised that the uses be reviewed by the Building Official.

Mr. Casey questioned whether a change in tenant would require new approvals. Mr. Conte explained that once this space was granted approval for an educational use, then a new tenant would need to apply for Zoning Use Permit but that education would be a permitted use in that specific space. Mr. Conte clarified that if the size of that space increased, then they would need to reapply due to expansion.

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Mr. Park, applicant's attorney, confirmed total size of 737 square feet in three rooms. Mr. Park questioned if the applicant would need to re-apply for another space in this building and he was advised that he would need to re-apply for any other space in the building. Mr. Park was finished with his presentation.

Chairman Trapani requested a motion to open the meeting to the public for any comments on this application. Mr. Casey made a motion and it was seconded by Mr. Foschino. All board members were in favor of opening the meeting to the public..

No members of the public came forward to comment on this application. Ms. Leeman made a motion to close the meeting to the public and it was seconded by Mr. Straub. All members voted in favor, none opposed.

Ms. Leeman stated that since this building does not conform to allowed uses that board should re-visit the approved uses before deciding on this application. Ms. Leeman is concerned that approval of this application may affect the status of other tenants for education who have not been approved by the Board.

Mr. Casey stated that since this applicant followed the correct procedure and since this approval would be specific to this space that the board should consider approval of this application. Delaying this application would cause waste of time and money to the applicant.

Chairman Trapani suggested voting on this application but having the Building Inspector review any other tenant that does not match with the light industrial designation and require them to come before the board for approval. Mr. Nobile stated that many of these tenants have been there for a long time. Chairman Trapani stated that he was surprised that the designation for this building had not been changed previously since it had been an educational facility in the past. He stated that Building Inspector researched history of the building but could not find that it was ever zoned for education.

Mr. Bass commented that it is not just this building that doesn't conform to the light industrial zone. He stated that other buildings in the area are used for day care and pre-school and that zoning for the whole area needs to be addressed. Chairman Trapani believes that the day care / pre-school may have come before the board for approval.

Chairman Trapani stated that he believes Bergen County Technical Vocational School operated for about 20 years. It was a satellite school visited by neighboring academic facilities to train in specific trades like electrical and automotive repair training.

Mr. Foschino would like to wait two weeks to the next meeting and have the Building Inspector present to address the board concern about approved uses

in this building. It is agreed by several board members that while there is no particular concern with this application, they are concerned about the precedent being set and implications with other tenants with educational uses existing in this building.

Chairman Trapani stated that he is concerned about holding up this applicant. Mr. Straub agreed that waiting on this application does not have any bearing on other uses by tenants in the building.

Mr. Conte again stated that this application is for a change of use in a specific space and would not set a precedent regarding other tenants in the building.

Chairman Trapani requested a motion on this application. Mr. Bass made a motion to approve this variance application and it was seconded by Mr. Straub. Ms. Leeman stated that regardless of the vote for this application, she believes it is necessary for the Board to pursue and question the uses in this building with the Building Official.

Chairman Trapani invited building owner, Robert Ghia, of 22 Brickell Ave, Westwood, NJ to address the Board. Mr. Ghia stated that he and his father built the building at 55 Walnut Street and that he currently owns it with his brother and sister. Mr. Ghia stated that every tenant in the building has zoning approval from the Building Inspector. Mr. Ghia stated that original tenant in the building was a distributor of china. Following that tenant, Bergen County Schools occupied the building from 1970 until the late 1980's. At that time the building was renovated into smaller rental spaces. Approximately 5,000 square feet is currently unoccupied.

Mr. Foschino stated that he would like clarification from the Building Official about the approved uses in this building and why this application is before the board. He would like the applicant to come back to next meeting when Building Official is present.

Chairman Trapani reminds the board that a motion has been brought and seconded for approval of this application and that there needs to be a vote. A roll call vote was taken and Mr. Bass, Mr. Straub, Ms. Leeman, Mr. Casey and Chairman Trapani voted in favor of this application. Mr. Foschino and Mr. Nobile voted against this application. With five affirmative votes, the motion to approve this application passed.

Chairman Trapani confirmed that he will ask Building Official, Mr. Paul Renaud, to attend the next meeting and address the concerns of the board regarding uses in this building.

VARIANCE APPLICATION ZBA #15-02

Block 100, Lot 12, 13 & 14

445, 455 & 457 Livingston Street

Mr. Straub requested to be recused from this application. His request was accepted by Chairman Trapani who asked that Mr. Saccoccio fill in as an Alternate Board Member.

Carmine Alampi, an attorney with Alampi & DeMarrais in Hackensack, represented the applicants, 445 – 465 Livingston Street Associates. The applicant has purchased the Boccino property and has a contract to purchase the white framed two family house currently operated as a business, Telescript. The purchase of this property is conditional upon approval of this application.

Mr. Alampi announced that proper notice had been provided and publication had been completed. Chairman Trapani confirmed with Board Secretary that all services were in order.

Mr. Foschino questioned notice for the Gulf Station which is owned by the Norwood Fire Department. The address for this mailing was detailed as NFD/ Cumberland Farms at an address in Massachusetts. Chairman Trapani explained that this information is the address on record with the Tax Assessor. Chairman Trapani stated that in the future we will try to ensure that copy of notice involving the Gulf Station also be provided directly to the Norwood Fire Company at their Broadway address in Norwood. Mr. Conte further explained that Cumberland Farm is a triple net lease tenant and tax bills go directly to them. If the owner consented to the tax bills being sent to Cumberland Farm then their address for notification purposes is what is on record for tax billing.

Mr. Dominick Congiusti, President of Norwood Fire Company, stated that he was not notified about this application until yesterday. He stated that the Norwood Fire Department was left the Gulf Station property in 1971 and is the legal owner. Cumberland Farms is leasing the property from the Norwood Fire Department. He stated that the Borough and Tax Assessor are aware of ownership. Mr. Congiusti stated that Building Department had contacted the Fire Department when there were problems at the Gulf Station. Mr. Congiusti disagreed with the implication that Cumberland Farms has control of that property. He repeated that Norwood Fire Department owns the Gulf Station property and that Cumberland Farms has a lease until 2032. He stated that the notification list was not correct and residents are being misled about the correct ownership of that property.

Mr. Congiusti stated that as a land owner the Norwood Fire Department has the right to give their opinion just like any other neighboring property. Mr. Congiusti apologized for the Fire Review being submitted late but explained that he did not receive plans for this application until last Monday. He further expressed concern that Norwood Fire Department members were not given the notification needed to come and voice any concerns with this application.

Chairman Trapani confirmed with Mr. Conte that notification was done correctly and Mr. Conte explained that the applicant has the right to rely on

the official list provided by the Tax Department. Mr. Conte stated that the application could proceed.

Mr. Alampi explained that the property in this application is in commercial zone and that this project proposes retail on the ground floor and residential on the top two floors. Residential is not permitted in the commercial zone and therefore this application must come before the Board for a use variance. A height variance will also be required with this application. Mr. Alampi explained that five affirmative votes from the Board will be needed to grant these variances. Mr. Alampi stated that other variances needed are detailed in the notification and in the publication and a chart provides comparison between existing and proposed.

Mr. Alampi introduced his witnesses Mr. Mark Virgona, architect, Mr. Robert Costa, site engineer planning consultant and Mr. Klein traffic consultant.

Mr. Alampi confirmed that he had received reviews from the Norwood Fire Department, Norwood Environmental Committee and from Neglia Engineering.

Mr. Bass questioned whether this property would be rental units or condominiums. Mr. Alampi stated that a final decision has not been made but explained that in today's economic environment it is difficult to finance the building and sale of condominiums and that they would most likely be rental properties.

Mr. Virgona was sworn in and explained that he is a registered architect with Virgona and Virgona in Edgewater. He has been practicing for more than 20 years. His credentials were accepted by the board.

Mr. Virgona explained that there are commercial buildings to the north and the south of the property, as well as across the street. The architectural rendering and plans being presented are marked A-1. Another drawing is marked A-2 and represents the engineer site plan which has been enlarged and colorized. Mr. Virgona stated that the property is approximately 289 feet wide and 200 feet deep. The rear of the proposed property is abutting residential homes. Mr. Virgona explains that part of this proposed building will incorporate existing retail space with three existing businesses. The concept of this project is to build around the existing retail space and reface this portion with an added column to match design of the new section.

The first floor of the proposed structure will be retail. On the right or north side this would be existing businesses. On the left or south side three more retail locations would be built with similar square footage. Total proposed area for retail space would be approximately 6,727 square feet. The two retail sections will be connected above by the residential units. There will be two openings, an ingress and an egress, on the lower level to provide access to residential parking under and behind the building. An entry tower for residential units will be between the openings. Clearance will be

approximately 13 foot 6 inches in these openings and this will allow trash and services to access the rear of the building.

Mr. Virgona detailed three entrances / exits to residential units, two in the rear of the building and one in the front. There are 17 proposed units on each of two residential floors. This consists of five one bedroom units and twelve units with one bedroom and den. Area of these units ranges from 720 to 940 square feet. Mr. Virgona detailed distance from the center of the residential floors to each of the stairwells ranging between 40 and 100 feet.

Mr. Virgona addressed a concern in the Neglia report that the units with the den could be considered two bedrooms. The intent is for these spaces to be used as home offices not as second bedrooms. These spaces do not have closets and are envisioned with French doors as a continuation of the living space.

Mr. Virgona detailed many of the multi-unit developments that he has been part of planning. He testified that most of these buildings have a demand for office space and sometimes people purchase a two bedroom to allow for this extra space needed.

Mr. Virgona explained that with an elevator in the building that all residential units are handicap accessible. Space clearances in bathroom, kitchen and laundry area and handicap adaptable bathrooms provide access for disabled residents. All units have washer and dryer, and an open kitchen with island or breakfast bar. Mr. Virgona testified that all requirements of the Uniform Commercial Code for barrier free space have been met in the stores and common areas.

Mr. Virgona detailed the height of the building as 37 foot 11 inches. This is calculated by the average grade to the high point of the roof. While the actual roof is virtually flat with a slight slope, the impression given is a pitched roof. This roof will be replicated on the back of the building.

Mr. Virgona explained that this building has no attic and that there is nowhere for fire to travel horizontally, as happened recently in a major Edgewater fire.

Mr. Virgona detailed the exterior of the building as masonry base with precast or stone and red brick on the main body. The roof will be asphalt shingle. Accent metal roofs detail the three towers and small areas of horizontal siding. Mr. Virgona stated that this will match with the character of many Norwood homes.

Mr. Virgona stated that materials used in the front will wrap around to the back of the building.

Mr. Virgona detailed front setback from the main entrance to the residential space to be about 38 feet, but further explained that the main part of the building by the retail stores have a setback of 50 feet.

Mr. Bass commented that it is highly unusual to leave an older structure and build around it, especially while expecting these businesses to remain open during the construction. Mr. Virgona stated that the applicant must plan this way because of the leases held by the current retail tenants. Mr. Bass stated that he believes that there are safety concerns with having the retail stores open for business during construction. Mr. Virgona stated that a platform would be built above the stores with a covered scaffold which would create a safe area for customers to enter the retail stores. Mr. Virgona stated that this is not the way that they wanted to plan construction but they must legally provide for these stores to remain open. He stated that it is much harder and more expensive to have to plan construction this way. Mr. Virgona does not believe that there is any other option than to build around the existing retail building and have it remain open during construction.

Mr. Nobile stated that applicant is opening themselves up for legal liability because the tenants are being effectively evicted due to limited access during construction. Mr. Virgona stated that they must keep access to these retail stores to maintain the lease obligations.

Mr. Bass questioned whether there are tax implications / savings by keeping the footprint of the building. Mr. Alampi responded that this plan is not motivated by tax savings but by the contractual obligation of the long term leases of current tenants. Mr. Alampi also stated that this type of construction is done in New York all the time.

Mr. Bass stated to Chairman Trapani that he is very concerned with safety issues and would like safety concerns to be addressed before a final vote.

Chairman Trapani asked for a motion to open the meeting to the public. Motion was offered by Ms. Leeman and seconded by Mr. Saccoccio.

Mr. Congiusti came forward and questioned fire sprinklers. Mr. Virgona responded that the building is fully sprinklered in retail and residential space and in the underground parking.

Mr. Tom Brizzolara, 320 High Street, came forward and explained that he is a residential home located directly behind the proposed structure. He questioned whether or not they anticipate a restaurant as a prospective tenant in the new retail space. He stated that issues have arisen in the past between restaurant and residential and have been brought before the Planning Board. Mr. Brizzolara is specifically concerned with a problem with odors. Mr. Alampi explained that if they wanted to bring in a restaurant as a tenant that they would have to come back before the Planning Board for permission because it would require additional parking. Mr. Alampi explained that the town / board would retain control of this issue because applicant would have to return for permission from a board with an amended site plan. Mr. Alampi however did not rule out the possibility of a restaurant.

Mr. Casey questioned if there is a different formula to calculate parking for a take-out restaurant vs. a sit down restaurant. Mr. Alampi explained that

parking for a take-out restaurant falls under a retail category for this calculation while a sit down restaurant must be calculated by using the number of seats.

Mr. Congiusti wanted to hear how this development would benefit Norwood and not about other developments done in other communities.

Mr. Virgona presented an aerial photo of the site on Livingston Street and labeled it A4. He outlined perimeter of the property and described the existing properties. The existing homes are in disrepair and the existing retail is an older structure.

Mr. Nobile questioned building over the existing retail space and asked if the existing roof would be removed. Mr. Virgona explained that a steel floor would be placed above the existing roof and that existing roof would not be removed. Mr. Nobile asked how this space would be handled after tenants leave. Mr. Virgona believed that it will be renovated and kept similar to existing space but there would be no need to demolish that existing section.

Mr. Virgona stated that he believes that this structure will fit in with the community. It will give cohesiveness to the property and will improve the streetscape. He predicted that new residents will bring new business to the area.

Mr. Nobile questioned the layout of the D & F units and why these dens have a door and wouldn't be considered a bedroom. Mr. Virgona explained the units without a window did not have a door because of a light issue. Applicant is not opposed to changing layout and removing door or possibly having access from the living room with a glass door.

Mr. Nobile questioned the demographics and the need for 34 one bedroom units in a suburban area like Norwood. Mr. Virgona explained that in the past most residential structures built were predominantly two bedrooms with a few one bedrooms. He explained however that this has been changing and more one bedroom units are in demand.

Mr. Foschino asked whether they have researched the rent which would be paid for these units. Mr. Virgona said that he had not researched this but that the planner would address this issue.

Mr. Nobile questioned whether the limited parking impacted the decision for one bedroom vs. two bedroom units. Mr. Virgona stated that the design was not based on the parking. He believes that a two bedroom unit would require approximately 1200 square feet in order to be marketable and these units would have a second bathroom. Mr. Virgona also explained that the parking ratio does not always improve with more one bedroom units and could be better with fewer one bedroom and some two bedroom units. Mr. Nobile stated that he does not understand why all of these units proposed are one bedroom and why some of these units would not be two bedroom units.

Mr. Bass questioned access for emergency Fire and EMS vehicles and the height of the roof. Mr. Virgona stated that the parapet roof height is 42 feet and that the Fire Department review asked that all window sills on the third floor be below 35 feet to allow access to residential units with a fire truck ladder. Access to the roof would be through the third floor stairwell.

Mr. Congiusti addressed concerns about access from the fire department. He confirmed that the Fire Department review recommended that the bottom of the top floor window sill be no more than 35 feet. This would allow access to the third floor from a ladder truck. An operation needed to be done on the roof would be performed by an aerial mutual aid system. Standard would be to allow the fire truck distance of two and a half times the height of the building. With the height of this proposed structure a ladder truck would need to be stationed on Livingston Street. Mr. Congiusti stated that the Fire Department does not have a problem with the height of this structure.

Ms. Leeman questioned how it was determined that 34 one bedroom units would benefit Norwood. Mr. Virgona stated that an architect does not always determine the scope of a project. He feels that the size and use of the building is appropriate and the scope is dictated by the size of the property. Mr. Virgona stated that the owner feels that there is a market for these one bedroom units.

Chairman Trapani stated that the size of the building seems large and questioned if it would be possible to lower the number of units and soften the look of the structure. He stated that this would help with the parking variance needed. Mr. Nobile commented that the size is limited by the existing structure. Mr. Virgona stated that there are things that can be done to lower the number of units and that this is something that the applicant would have to think about.

Suzanne DiBiasa, 500 Summit Street, commented that she is not against the project or development of the area but believes that this proposed project is too big. She believes a smaller project with fewer variances would make more sense.

Wendy Heffernan, 374 Summit Street, questioned how long it would take to build this project. She also stated that Norwood is a family town and she doesn't believe that one bedroom units make sense. Mr. Virgona stated that the construction on this project would take approximately 18 months. Mr. Virgona believes that the one bedroom units would be suitable for kids returning from college.

Mr. Nobile stated that college kids do not return to Norwood. Mr. Nobile will follow up this question with the planner because he is concerned with this number of one bedroom units in Norwood.

Mr. Foschino stated that the market does call for one bedroom units and other developments in town which have just received approval will address three

and four bedroom properties. He stated that more than one bedroom units can cause issues with population in the school system. Mr. Foschino stated that he had no problem with the proposed one bedroom units. He stated that Sutton Place and other rental buildings in the area have waiting lists.

James Kim, 463 Livingston Street, came forward and questioned the name of the LLC formed for this project. The Applicant formed an LLC named 445-465 Livingston Street Associates. Mr. Kim's property address falls in between these numbers and wanted to know why they chose this name. Mr. Alampi stated that he made up the LLC name randomly.

Mr. Bass requested that the Planner focus on the Norwood school issues and not present about national studies and information. Mr. Alampi explained that expert testimony on school issues will be presented by the planner but must be based on accepted criteria and recognized studies. Rutgers University studies will be the criteria used by the planner. Demographics of Norwood will be introduced as it relates to these studies.

Mr. Congiusti questioned whether the applicant will address other issues raised by the Fire Department in their review. Mr. Congiusti stated that the opinion of the Fire Department members was not being heard because they were not being recognized as the land owners of the Gulf Station.

Mr. Foschino stated that even though notification was not sent directly to the Fire Department, any member wanting to express an opinion would be heard by the board.

Mr. Congiusti again questioned notification done by the applicant and questioned tax assessor's information and attorney's knowledge of deed and lease for the Gulf Station property. Mr. Congiusti stated that if project goes forward against Fire Department wishes, then the Fire Department could go to court to question notification. He explained that this would cause hardship to the applicant, the town and the Fire Department and should have been avoided.

A motion to close meeting to the public was offered by Ms. Leeman and seconded by Mr. Bass. All members voted in favor.

Chairman Trapani explained that another application was scheduled to present at the next meeting on February 5, 2015. Mr. Alampi suggested dividing the meeting into two sections to accommodate both applications with one and a half hours each. Mr. Bass stated that it would be too difficult to divide the meeting. Mr. Foschino suggested adding a special meeting to hear this application.

Ms. Leeman made a motion to continue this application at a special meeting on February 26, 2015. The motion was seconded by Mr. Casey and approved by all members.

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Chairman Trapani announced that this application, The Grande at Norwood, would continue to be heard at a special meeting scheduled for Thursday, February 26, 2015 at 7:30.

The meeting was adjourned at 10:50pm with a motion offered by Ms. Leeman and seconded by Mr. Bass. All members were in favor of adjournment.

Respectfully submitted,

Meg Smith
Board of Adjustment Secretary