

**BOROUGH OF NORWOOD
ZONING BOARD OF ADJUSTMENT
February 5, 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 Board:

Chairman Robert Trapani	Present
Mr. Christofer Deschler	Present
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 (7:34pm)

Also Present:

Mr. John Conte	Board Attorney
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RESOLUTION OF APPROVAL

Variance Application #ZBA 15-03
OLD TAPPAN HAEBUB MATH TUTORING
55 Walnut Street
Block 88, Lot 13

Chairman Trapani asked for a motion to approve Resolution ZBA #15-03 for Old Tappan Haebub Math Tutoring. Motion was made by Ms. Leeman and seconded by Mr. Foschino. All members present voted in favor with the exception of Mr. Deschler. Mr. Deschler abstained from voting because he was not present at the last meeting on January 22, 2015 when this application was presented and approved.

Chairman Trapani then summarized the concern at the last meeting, January 22, 2015, with the current uses at 55 Walnut Street. Chairman Trapani explained that he had spoken with Mr. Kaufman about a chart that was provided as part of the Technical Review done for the Tutoring Center at this location. Mr. Kaufman took the listing of tenants provided by the owner of the property and made a determination of the use in order to calculate parking needed for the building. Mr. Kaufman explained to Mr. Trapani that he took a conservative approach and classified as best he could between educational and business. Educational spaces require more parking than business and

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providing ample parking was the only concern with this application for the Engineering review.

Paul Renaud, Construction Official and Zoning Officer for Norwood, was sworn in and asked to testify about current uses at 55 Walnut Street. Mr. Paul Renaud summarized that Old Tappan Haebub Math Tutoring Center submitted an application for a Zoning Use Permit the first week of January 2015 for space in 55 Walnut Street. On January 7, 2015, Mr. Renaud reviewed and denied this application because a tutoring business with more than 6 students is not a permitted or conditional use in this LI zone. Mr. Renaud noted that the application notes space of about 617 square feet but he had a concern with possible expansion of this space which would change the classification of use for this building to Educational.

Mr. Renaud explained a report given to Board Members detailing uses at 55 Walnut Street. There were 2 denials issued at this property address, one for this tutoring center and one for a food service. Other uses in this building include a use permit previously given for Body Chemistry in 1998. The schools detailed in the Neglia report, including Speech services, were given business classification by Mr. Renaud. Under the Building Code business occupancy includes educational occupancies for students above the 12th grade or training and skill development not within a school or academic program. Further, Mr. Renaud explained that under the Building Code educational occupancy includes use of a building or structure by more than 6 people for educational purposes through the 12th grade. He stated that the application for Old Tappan Haebub Tutoring Center would fall under this educational occupancy classification with more than 6 students and tutoring under the 12th grade.

Mr. Robert Ghia of 22 Brickell Avenue in Westwood, NJ came forward and was sworn in. Mr. Ghia owns 55 Walnut Street with his brother and sister. Mr. Casey questioned Mr. Ghia about previous occupancy at this location by a school. Mr. Ghia confirmed that this whole location operated as a satellite school by Bergen County from about 1970 to 1988. Mr. Renaud stated that he doesn't know if it operated as an educational use or as a non-conforming use in the LI zone during that time. Mr. Renaud stated that he could not find any records that indicated that this property was designated with an educational use.

Mr. Casey questioned when the last time the Master Plan was updated. Mr. Casey believes that this zoning issue should be addressed by the Planning Board or Mayor and Council. Mr. Conte clarified that this building is in the Light Industrial zone and any business in this building that does not conform with the LI zone must come before the Zoning Board for a use variance. Mr. Conte stated that testimony given at the last meeting indicated that the majority of space occupied at this property had a business use. When the Master Plan is re-examined by the Mayor and Council in conjunction with the Planning Board, it could be requested that this and other properties in the

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area be re-zoned for business. Mr. Renaud stated that he has requested this change previously.

Mr. Renaud explained that other permitted uses in the LI zone include indoor racquet recreational facilities such as indoor tennis courts and squash courts. Mr. Renaud stated that judgment is used to some extent to determine allowable uses for this zone and for this building. He stated that if he followed the zoning ordinance to the letter of the law that a lot of these uses would have to come before the Zoning Board and at least half of this building would be unoccupied. Mr. Renaud stated that under the racquet recreational facilities, Martial Arts and Swim Training had been allowed. Mr. Renaud stated that uses in the LI zone need to be changed.

Mr. Foschino questioned Mr. Renaud about changes in zoning that would benefit the town and the business owners. Mr. Renaud stated that he worked with the Planning Board last year and made several recommendations. Mr. Renaud suggested allowing multiple use on Oak and Walnut Street. Mr. Renaud suggested asking the Realtors and the building owners about who is looking to rent.

Mr. Saccoccio questioned Mr. Renaud on other uses at 55 Walnut Street. He stated that he believes about six other tenants should have come before the Board. Mr. Deschler explained that he believes that a certain amount of interpretation is involved in reviewing these applications. Mr. Renaud explained that he is trying to keep the buildings occupied with appropriate uses and allow business owners to pay their taxes. Mr. Deschler believes that a recommendation must be made to Planning Board because the majority of rental space needed in Norwood is not light industrial but business. Planning Board will be reviewing the Master Plan and this should to be referred to them.

Mr. Conte presented a letter that he drafted from the Zoning Board recommending that re-zoning this area be considered by the Mayor and Council and the Planning Board in conjunction with the Borough Engineer and the Borough Planner. Mr. Conte stated that the function of the Zoning Board is only to review applications which request a different use than zoned.

Mr. Straub questioned the size of the rental space for each tenant and how many tenants are currently in the building at 55 Walnut Street. Mr. Renaud clarified that the rental spaces vary in size and that he believes most of the tenants listed in his summary are still actively renting space with the exception of Zenful Holistic.

Chairman Trapani confirmed with Mr. Ghia that approximately 5,000 square feet in the building is unoccupied currently which is down from 18,000 square feet previously. The total building size is 35,000 square feet.

Mr. Nobile stated that the issue of mixed use is not just at 55 Walnut Street but at most buildings in the area. Mr. Conte stated that the letter he drafted

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to request the zoning review references “the surrounding area” in order to address this issue.

Mr. Renaud stated that there is currently a market for rental space for start-up businesses. This building and others in the area could provide the needed space for these start-ups if it was re-zoned for business use.

Ms. Leeman questioned whether or not we would want transient businesses renting in Norwood. Mr. Renaud stated that more businesses in town renting would support the retail locations in town.

Mr. Deschler testified about current business needs in Long Island. He stated that buildings are being divided up into smaller spaces for rental to businesses. These spaces include individual office space, office suites and conference rooms which can be rented as needed by lawyers or other professionals. Mr. Deschler explained that this is an easy way for businesses to find the space they need and an easy way for buildings to stay occupied.

Chairman Trapani questioned how to solve the issue of reviewing Zoning Use applications and trying to keep the buildings occupied. Mr. Renaud suggested a subcommittee of the Zoning Board to meet with him and review applications. If deemed necessary by the subcommittee then the application would need to present to the whole Board.

Mr. Conte explained that while Planning Board is permitted to do review under a work session, the Zoning Board is not set up that way. He stated that this property is zoned light industrial and all other uses must come before the entire Zoning Board for approval.

Mr. Deschler questioned the costs involved for bringing an application to the Board. Mr. Renaud detailed expenses including at least \$500 escrow needed to cover engineering review, legal expenses for counsel to prepare and present, and fees for an architect. Mr. Renaud estimated that this process could easily run a few thousand dollars for the applicant.

Mr. Foschino stated that the current zoning has to be followed and other uses must come before the Board. Mr. Foschino stated that current uses in that building seem acceptable to him. He stated that the Board must rely on Mr. Renaud’s judgment and expects that uses not permitted in these zones will have to appear before the Board. Mr. Foschino agreed that other uses need to be considered in these zones. He suggested that business owners be questioned to see what type of space is needed for rental.

Mr. Conte explained that the purpose of the use variance is to allow the Board to permit different uses in the zone. It requires 5 affirmative votes, not just a majority, because the Board is varying from designated uses provided by Mayor and Council in the Master Plan.

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Chairman Trapani asked the Board to review the letter prepared by Mr. Conte to the Mayor and Council requesting the review of zoning in and around 55 Walnut Street. Mr. Foschino made a motion to send the proposed letter from the Zoning Board to the Mayor and Council. Ms. Leeman seconded the motion. All members voted in favor of the motion on a roll call vote.

A motion was made by Mr. Casey to open the meeting to the public and it was seconded by Mr. Straub. All members voted in favor of the motion.

Mr. Ghia addressed the Board and stated that the current zoning does not fit the needs of the businesses who want to rent in Norwood. Mr. Ghia suggested that the re-examination of the Master Plan allows for re-zoning or additional uses in these zones. He offered his services to help, if needed, with information gathering. Mr. Ghia stated that his family has been in Norwood since the 1940's and he wants Norwood to prosper.

With no other members of the public wishing to be heard, Ms. Leeman made a motion to close the meeting to the public and Mr. Foschino seconded the motion. All members were in favor of closing the meeting to the public.

The Board discussed prior issue with pre-existing homes not conforming with the current zoning requirements. Many applicants had to come before the Board for approval for minor changes. Mr. Renaud stated that many applicants have done a conforming addition in order to avoid coming before the Board.

Mr. Foschino stated that once an application has begun presentation to the Board he would prefer to continue with that application without beginning another until the original application is completed. Mr. Conte reminded the Board that there is a statutory time requirement for applications to be heard. Failure of the Board to act within this statutory time period grants approval for the application. Mr. Conte suggested that an application could begin presenting and if not completed at the initial meeting that the applicant can waive the time requirement and continue at the Board's discretion. Mr. Conte recommended reviewing the applications received and the calendar on a case by case basis to plan accordingly.

With no other business before the Board, Chairman Trapani requested a motion to adjourn the meeting. Ms. Leeman offered a motion to adjourn the meeting which was seconded by Mr. Bass. All members voted in favor of the motion to adjourn.

Respectfully submitted,

Meg Smith
Board of Adjustment Secretary