

WOODLAND PARK  
BOARD OF ADJUSTMENT MINUTES  
September 24, 2012

MEETING CALLED TO ORDER AT 7:40 P.M. by Chairwoman Kallert.

OPEN PUBLIC MEETING LAW: THIS MEETING IS CALLED TO ORDER PURSUANT TO THE NEW JERSEY OPEN PUBLIC MEETING LAW, AND AS STATED IN NOTICES OF THE TIME, PLACE AND DATE PUBLICIZED IN ACCORDANCE WITH THE STATUTE. IT WAS INCLUDED IN A LIST OF MEETINGS FORWARDED TO THE HERALD NEWS AND THE RECORD AS REQUIRED NOTICES. IN ADDITION, THIS LIST HAS BEEN POSTED IN A PUBLIC PLACE BY THE BOROUGH CLERK, AND A COPY OF THIS HAS BEEN FILED IN HIS OFFICE FOR PUBLIC INSPECTION. PROPER NOTICE HAVING BEEN GIVEN, THIS MEETING IS CALLED TO ORDER AND THE CLERK IS DIRECTED TO INCLUDE THIS STATEMENT IN THE MINUTES OF THE MEETING.

MEMBERS IN ATTENDANCE: TRACY KALLERT, RUTH PATTERSON, PHILIP DICRISTINA, JIM IANNIELLO, GIANNI INTILI AND RUSSEL JUZDAN

ALSO PRESENT – JOHN FIORELLO, BOARD ATTORNEY  
BOB PERRY, BOARD PLANNER

FLAG SALUTE

Mr. Fiorello stated that in the minutes it should be noted that memorialization of the resolution was approved and not that the application was approved. A motion to approve the minutes of August 27, 2012 with the correction was made by Ms. Patterson, second by Mr. Ianniello and approved.

**RESOLUTION**

DOCKET # 12-04 – M. RIPINSKY – 32 WILLOW WAY – BLOCK 10 LOT 6 – USE VARIANCE – Memorialization of resolution approved.

**ORDER OF BUSINESS**

DOCKET # 12-03 – M. ROGEL – 452 MT. PLEASANT AVE. – BLOCK 129.01 – LOT 3 – BULK VARIANCE – Applicant was not in attendance at this time. The Board moved on to the next application on the agenda.

DOCKET # 12-07 – MT. PLEASANT ESTATES, LLC – MT. PLEASANT AVE. – BLOCK 54.01 LOT 15 – USE VARIANCE

Mr. Fiorello advised Mr. Petriello, attorney for applicant, that they did not have a full board this evening. Mr. Petriello asked that the application be carried until the October 22, 2012

with no further notice. Mr. Fiorello noted for the public that was in attendance that they would not be notified again and should make a note of the next meeting date.

Chairwoman Kallert announced that notice was deficient for Docket # 12-06 – R. Inge – 345 Rifle Camp Rd. Applicant will publish ad in newspaper for the October 22, 2012 meeting.

DOCKET # 12-05 – A. & J. MITCHELL – 159 JACKSON AVE. – BLOCK 37 LOTS 8,9,23 & 24 – INTERPRETATION OF ZONING ORDINANCE OR IN THE ALTERNATIVE BULK VARIANCE

Mr. Fiorello stated that the application is in two parts. The first is a request for an interpretation of the zoning ordinance to see if they need to proceed with an application for a bulk variance. The interpretation revolves around that fact that this lot is a lot that has for its front and its back, a roadway. Part of the lot faces Jackson Ave. and the other side faces McKeown. He read ordinance 22-5.2c regarding rear yards. It states the front yard restriction should be observed on both streets when the lot extends street to street. The zoning officer has ruled as a result of that the applicant must obey the front yard restrictions on both ends. This Board has to determine whether or not that is what the ordinance means. He read it again and said the Board must vote on their interpretation. Chairwoman Kallert noted that the ordinance says building and not lot. Mr. Fiorello says that is what the Board must determine.

Mr. Dicristina said in this case the building does not extend through the entire property. The dwelling is on the Jackson Ave. side of the property and the structure in question is not a permanent structure it is a shed. The shed is 9' shy of where it should be according to the zoning ordinance. He felt the ordinance says the building extends through the whole lot and this is not the case here. If you visit the site the part of the property in question is clearly the back yard and not the front yard. Mr. Juzdan agreed that it clearly says building and felt that was the key word. Chairwoman Kallert asked for a motion. Mr. Dicristina asked how a motion should be phrased. Mr. Fiorello said the Board has to interpret if it means this property must have a front yard facing both streets. Mr. Intili said it is normal when a property is on two streets it has two front yards regardless whether it says building as in the ordinance. It is the same with a corner property that also has two fronts and two rears, so he agrees with the zoning officer that in this case they would need a variance in order to install a structure whether it is temporary or not. They are looking for a motion to interpret the zoning ordinance to mean you would need two front yard requirements or not. Mr. Juzdan said the zoning officer interpreted it to mean it had two front yards. Mr. Fiorello said that was correct and now the applicant is asking for the Board's interpretation. In other words, in order to have two front yards does the building have to extend from one street to the other? Mr. Intili said it can not because there are bulk dimensions that regulate the front and rear yard distances so in fact when they decided to put the building on Jackson Ave. they used it as the front and McKeown as the rear. In fact the property does have two front yards. Mr. Juzdan felt the width of the lot was not there. Mr. Dicristina said most of the properties that have been developed are newer than the dwelling in question. He did not think they could build anything on McKeown and they do not get two different bills from the town so it is one property. The back of the property is hemmed in by hedges and cannot be seen from

McKeown Ave. Mr. Fiorello explained that the Board has to interpret the ordinance for every lot not just for this specific one. Mr. Dicristina said this property could never be developed using that as the front yard. Mr. Fiorello said you could get variances. Mr. Dicristina said there was not enough land so he didn't think it would be possible. They do own it as one piece of land.

A motion that the interpretation is that the property sits on two streets and has 2 front yards was made by Mr. Intili. Mr. Ianniello asked what it means to have two front yards. Mr. Fiorello said that you must have the setback for front yard in both areas. Mr. Juzdan seconded that motion. Ms. Patterson asked if this is approved would she need a variance. The Board Secretary stated that if this motion passes they would go right into the application for a bulk variance. The motion passed by a vote of 6 – 0.

Ms. Joanne Mitchell, applicant, was sworn in. She stated she is the owner of the property in question. She said when she had the shed installed she took care that it was installed according to the setbacks and that it was in compliance with code. At the time she considered it her back yard and placed it more than 3' from her neighbor's property and 10' from the backyard property line. She has been told she is in violation due to the fact the property is considered to have 2 front yards instead of a front yard and back yard. She has submitted pictures to the Board so everyone would see it and some of the members have visited the property. The rear of her home looks like a typical home with a front yard and a back yard and it has been used so for nearly 60 years. She has not been the owner for 60 years, there has been one owner prior. The property is not considered a double lot and suitable to build on. At this time she is asking for the variance because having two front yards causes a great hardship. Due to the slope of her back yard and the other structures there was no place else to put the shed. She has privacy bushes along the back yard and the structure is not seen from the street. She can't see why it would be a problem to any one driving by because it is not visible and sits back further than some of her neighbor's structures. She is asking the request be considered due to the uniqueness of the circumstances and the hardship on her family. She stated her home looks exactly like everyone else's and she wants to use it in the same capacity.

PUBLIC OPEN – Questions only

PUBLIC CLOSED

Mr. Juzdan asked how long the shed has been there. Ms. Mitchell said it has been there at least 5 years. Mr. Juzdan asked what triggered the zoning officer contacting her. Ms. Mitchell thought it was complaints from neighbors that it was too close to the side yard setbacks. Mr. Juzdan asked what the shed was used for. Ms. Mitchell said it is only used for storage.

Ms. Patterson said this is an older section of town and asked if there was only one tax bill for the lot from street to street. Ms. Mitchell said there are two tax bills but she is in the process of merging the lots. Ms. Patterson asked if this was a family property. Ms. Mitchell

said it was her family's property and the house next door which she owns was subdivided off at one time.

Mr. Ianniello asked if she notified her neighbors for this meeting. Ms. Mitchell said yes. Mr. Ianniello said he would like to know if there is an objector present. Mr. Intili said they would have to wait until it was open to the public for statements.

Mr. Fiorello asked how large the shed was. Ms. Mitchell said it was about 8' X 10'.

Mr. Juzdan said he has driven by there many times and has not seen the shed. He asked if there were hedges between the shed and her neighbors. Ms. Mitchell said there are hedges along the side and there was an evergreen tree they lost in a storm a few years ago. There are also flowering shrubs along the concrete wall that is less than a foot high. Chairwoman Kallert said there are pictures of the privacy shrubs and hedges in the packet.

Ms. Mitchell said she does not need a variance for the side yard setback but for front yard setback because it is considered two front yards. Mr. Intili said the zoning officer did not call out for side yard setback. Chairwoman Kallert said a shed is not a permanent structure and meets the side yard setbacks.

Mr. Intili asked what the 3 triangles are on the plan. One is a metal shed and one is the other structure in question. The third triangle does not exist.

## PUBLIC OPEN

Joseph Oliveri, 27 McKeown Ave., was sworn in. He stated his home is adjacent to Ms. Mitchell's back property. He stated it is a very large structure and you can see it from the road. He said from their point of view it is an eyesore. It does obstruct the view from looking down the street. He said his mother was mugged a few years ago and if she needed to look down the street she couldn't without coming out and going down the steps. It may be a temporary structure but they do have an animal problem and they are coming out from under the shed. He felt they could subdivide the property and build on it by getting variances. He said their home was built from a subdivision many years ago by his grandfather. The metal shed is far enough back but this shed is not. He felt it could be moved and the Board should not change the ordinance for this one person. He felt it could be moved very easily.

Mr. Dicristina asked Mr. Oliveri if he was asking his neighbor to move the shed so it would be in compliance with the ordinance. Mr. Oliveri said that was correct.

Mr. Ianniello asked about his objection. Mr. Oliveri said it is partially a visibility issue. Mr. Ianniello asked what he meant by visibility. Mr. Oliveri said if they come out the front door they can't look down McKeown Ave. He said his home is between two through properties. The shed was not there for years and now it is and it is an issue. He said his mother is elderly and if she has to look down the street for some reason she can't do it.

Ms. Patterson asked if he had any problem backing out of his driveway. Mr. Oliveri said he did not but his mother is elderly and walks with a walker. He said she is unable to see down the street because of the shed.

Mr. Ianniello said there are all shrubs and bushes there now and asked if he wanted her to remove them also. Mr. Oliveri said they are very low and are not a problem. Mr. Ianniello asked if his mother looked down the street would she see the shrubs. Mr. Oliveri said she is higher than the shrubs and even with the shed.

Mr. Intili said if you look at the map if he is in Lot 25. Mr. Oliveri said yes.

Ms. Patterson asked how tall the fence was. Ms. Mitchell said it is about 4' high. There is also a concrete wall beyond the fence.

Mr. Intili asked if there were 2 sheds. Mr. Oliveri said yes but the other shed is in line with every house on the street.

Mr. Juzdan asked what brought it to their attention now after 5 years. Mr. Oliveri said he just moved back to the house 2 years ago. He has noticed the animals like raccoons and skunks coming from underneath the shed. Mr. Fiorello said if the shed is moved back they would still have the animals. Mr. Oliveri said if it was moved back further they would not affect him getting in and out of his house. Chairwoman Kallert asked if they have made calls to animal control. Mr. Oliveri said yes. Chairwoman Kallert asked approximately how many calls. Mr. Oliveri said his mother made the calls. Mr. Oliveri said the animals sometimes come over the fence and sometimes under the shed. He felt if the shed was moved back the animals would not come into his driveway. Mr. Ianniello said he gets animals in his back yard all the time and there are no sheds next door. Chairwoman Kallert asked if he was noticed on the application. Mr. Ianniello said no and if he was he would have told the Board and recused himself.

Mr. Dicristina asked if Mr. Oliveri's mother thought it was a safety issue because she can not see down the street. Mr. Oliveri said yes because she was mugged in town before the Mitchell's took ownership of the property and the person came out from that area. Mr. Oliveri said she can see over the bushes but not over the shed. Mr. Dicristina agreed that the shed was higher than the bushes. Ms. Mitchell said her husband usually trims the bushes very low in the fall.

Donald Dilorenzo, 171 Jackson Ave., was sworn in. He stated he lives one house away from the Mitchell property. He stated he does know two of the commissioners and in fact is related to Mr. Ianniello. He asked if that would jeopardize things in any way. He said he knows Mr. Intili as an architect. Mr. Fiorello said this would not have any bearing on it because they have no interest in the application.

Mr. Dilorenzo asked if the Board was aware of the size of the shed which is 13'6" long X 9' deep. Mr. Fiorello asked if he measured it. Mr. Dilorenzo said he would not have given the

measurements if he had not measured it. Mr. Fiorello asked how high it was. Mr. Dilorenzo said the shed is 11' high to the ridge.

Mr. Dilorenzo said the animals are a concern. Whether the shed is where it is now or moved back the animals would still prowl around the neighborhood which is dangerous especially for small children. Animals are usually rabid when they are wild. He does not want to see anyone bit by a rabid animal.

Mr. Dilorenzo said he disagrees with Mr. Dicristina regarding the property being one piece of land. The property cannot be considered as one piece of land because it was never merged by the tax assessor. When it is merged by the assessor it can be considered as one piece of land. Right now there are 4 lots where two front on McKeown Ave. He also has the same situation with 4 lots. He referred to the notice that he received which states a shed is going to be erected but the complaint was in regard to the existing shed. Mr. Dilorenzo stated he has known Mr. Intili for many years and he mentioned the fact there are 2 separate lots and the front of the lots have to be held as the line for the setback for a structure. The line on McKeown has to be considered as the front yard of those lots and anything built should be built according to the existing zoning ordinance.

Chairwoman Kallert said he was approaching the 6 minute mark and usually the Board holds the public to 5 minutes.

Mr. Dilorenzo asked if this can still be an official meeting since everyone has not been notified. Chairwoman Kallert said she believes everyone has been notified. Mr. Dilorenzo said they have not. There is a fellow across the street who never received a letter. Mr. Fiorello said if he has proof that someone has not been notified he should say that now. Mr. Dilorenzo asked if all the green cards came back. Ms. Mitchell said the list had an address in Paterson for that neighbor. Mr. Dilorenzo said that is an old address that the tax department has never brought up to date. Mr. Fiorello said he was way off base here. He said the statute of the State of NJ says you send the notice to the person listed as the owner on the tax map of the city and that is what is done here. Mr. Dilorenzo said it is incorrect. Mr. Fiorello said the list is certified by the tax assessor and it is listed as Turinoski, 250 Union Ave., Paterson, NJ. This is the sworn statement of the tax assessor and if he wants to contest it he should see the assessor. Mr. Dilorenzo asked if the green card came back. Mr. Fiorello said the mail was return as undeliverable. Mr. Dilorenzo said then something is wrong in the tax office. Mr. Fiorello said then someone should go there and complain. Mr. Dilorenzo said the tax office should have his current address as McKeown Ave. Mr. Fiorello asked if he told Mr. Turinoski to be here tonight if he objected. Mr. Dilorenzo said no. Mr. Fiorello asked how he knew he did not get a notice. Mr. Dilorenzo said he told him when he asked if he got a notice. He told him to be here but he couldn't because he had to work. Mr. Dilorenzo asked if that would be a question. Mr. Fiorello said he brought up something important. Mr. Dilorenzo felt the town has to get its act together.

Mr. Dicristina said he asked about the property and was told by Ms. Mitchell it was not considered one piece of property. He said he understood now and agreed it is not one piece.

Ms. Mitchell said the garage that Mr. Dilorenzo brought up belongs to 151 Jackson Ave. She said she just wants her family to use the back yard as a back yard. She has 3 children and they are one of the reasons they bought this house because of the back yard. It would be very difficult to move the shed. She said the town has animals all over town and it is just not her property.

Roman Maszczak, 24 McKeown Ave., was sworn in. He lives across the street from the property in question. He is an employee of the DPW in Woodland Park. He has no problem with the shed and cannot see it from his home. He has lived in his home for 40 years.

#### PUBLIC CLOSED

Mr. Juzdan asked if she was required to move the shed would she put it along side of the metal shed. Ms. Mitchell said she would have to remove the children's swing set in order to do that.

Chairwoman Kallert asked if she looked into putting the shed near the slope. Ms. Mitchell said that was not an option. She said prior to the shed there was an 80' evergreen tree.

Chairwoman Kallert ended the applicant's portion of the hearing. The Board should have discussion.

A motion to approve was made by Ms. Patterson, second by Mr. Juzdan. The Board Secretary made an error in counting and called the roll again. Motion was approved by a vote of 4 -2.

Chairwoman Kallert stated that Docket # 12-03 – M. Rogel – 452 Mt Pleasant Ave. did not appear tonight. The Board Secretary will send a letter stating the Board adjourned the application until the October 22, 2012 meeting. If applicant does not appear at that time the application will be dismissed without prejudice.

A motion to adjourn was made by Mr. Juzdan, second by Ms. Patterson, all in favor. Meeting adjourned.

