

MINUTES
Town of Westfield Board of Adjustment
November 8, 2021

The Westfield Board of Adjustment met on Monday, November 8, 2021. In compliance with Chapter 231 P.C. OPEN PUBLIC MEETINGS ACT of the State of New Jersey, adequate notice of this meeting was provided by posting on the public bulletin board and publication in the newspapers that have been designated to receive such notice: the Westfield Leader and the Star Ledger.

REGULAR MEETING:

Chairman Masciale opened the meeting by calling all present to join in the Pledge of Allegiance to the Flag.

Ms. Dabulas, Attorney, gave a brief statement explaining the Board's powers, purpose, and criteria for granting variances.

ROLL CALL: Chris Masciale, Frank Fusaro, Michael Cohen, Matt Sontz, Charles Gelinas, Eldy Pavon, Samuel Reisen

ABSENT: Carla Bonacci, Allison Hroblak

ALSO PRESENT: Diane Dabulas, Esq., Kristine Burd, Board Secretary, Ms. Lyndsay Knight, Zoning Official.

ADOPTION OF MINUTES:

Chairman Masciale called for a motion to adopt the minutes of the October 13, 2021 meeting. Mr. Fusaro made a motion to adopt the minutes, seconded by Mr. Gelinas. All in favor.

ADOPTION OF RESOLUTIONS:

Chairman Masciale called for a motion to adopt the resolutions for applications acted upon at the October 13, 2021, meeting.

Westfield Senior Citizens Housing Corp, 1129-1133 Boynton Avenue, extension approved for 1 year.

Rebecca and Aditya Verma, 935 New England Drive, extension approved for 6 months.

Stuart Maxwell, 519 Mountain Avenue, extension approved for 1 year.

Xiaoyan Zhuang, 811 Grant Avenue application approved with conditions.

Julia Sharma, 12 Mohawk Trail, application approved.

Robert A. Magnanini, 539 Lawrence Avenue, application approved with conditions.

Mr. Fusaro made a motion to adopt the resolutions, seconded by Mr. Reisen. All in favor. Resolutions adopted from the October 13, 2021 meeting.

APPEALS:

Carried From: June 22, 2021

Elite Performance LLC, 918 South Avenue West

4/8/21

Applicant is seeking approval to construct an addition to an existing business contrary to Section 11.28E1, 11.28E2, 12.04E3, 17.02C5, 17.05B and 17.10C of the Land Use Ordinance.

Ordinance requires a minimum front yard setback of 40feet. Proposed is 23.46 feet. Ordinance

requires a minimum side yard setback of 10 feet. Proposed is 4.55 feet. Ordinance requires a maximum floor area ratio of 50%/5,000 square feet. Proposed is 60.83%/6,083 square feet. Ordinance requires a minimum number of parking spaces for medical office of 13 spaces. Proposed are 5 spaces. Ordinance requires a minimum driveway width of 20 feet. Proposed is 12 feet. Ordinance requires the maximum illumination at the property line to be .3 footcandle. Proposed is .5 footcandle. **Application deemed completed May 11, 2021. 120-day decision date is September 8, 2021.**

Chairman Masciale introduced the application and explained that only 6 Board members would be able to vote as 1 was not present at the last meeting when this application was presented. Five votes are needed for a “d” variance to be approved. He asked Mr. Foerst, Attorney if he would like to continue with this application or wait for more Board members to be present. Mr. Foerst stated that he would like to proceed. Chairman Masciale asked Mr. Foerst if he was presenting any revisions to the original application as requested by the Board. He stated no; he was going to present the application as it was however, he would provide testimony to support the application that was not previously presented to the Board. Chairman Masciale stated that the Board was expecting significant changes to this application. He was surprised none of the Board’s recommendations were taken. Mr. Foerst stated that he was going to focus on the issues addressed and explain the setback issues and concerns. Chairman Masciale stated that he did not want to rehear the application again but would listen to the supporting testimony. Mr. Fusaro explained the previous concerns with this application. He summarized the following items that the Board asked to be addressed previously: the property was short 8 parking spaces, an electric charging station is required, the building façade is very modern, front yard setback concerns, increased treatment rooms, reason for bathroom in basement/storage area, dumpster enclosure requirements, pavement design, drainage plans, and a long continuation of a wall on the property. He concluded that these were a brief summary of the Board concerns that needed to be addressed. Mr. Foerst stated that the electric car charging station would be addressed and that the dumpster concern was not an issue as the applicant stated that the garbage was minimal and would be located close to the property; there was no need for a dumpster. He also, stated that the utilities would be contained in a screened area close to the property.

Mr. Foerst introduced Mr. Grygiel, Planner to present this application. Chairman Masciale swore in Mr. Grygiel and his credentials were explained and recognized by the Board as a Planner. He proceeded to present exhibit A1 dated 11/8/21. He explained setbacks in the GB3 area in comparison to the proposed plan for 918 South Avenue West. He explained that this proposed plan of the property had similar to the setbacks in the area. Mr. Foerst noted that this proposed setback of 23.13 ft is not inappropriate for this area and fits in with the character of the neighborhood. Next, Mr. Grygiel presented exhibit A2 to the Board. It represented pictures of the existing neighborhood. He noted the styles, locations and setbacks as he proceeded. Mr. Foerst stated how the character changes as you go down the block. All properties are different as well as setbacks. There seems to be no standard setback or property style in this neighborhood. It is a mix of styles.

Ms. Knight explained the setbacks to the Board for clarification.

Mr. Cohen asked for explanation of distances of these properties to this property.

Mr. Reisen asked for clarification on exhibit A1.

Mr. Grygiel and Mr. Foerst discussed the multiple sections and design plans within the GB3

zone for the non-residential styles and the fact that they felt this proposed plan would fit into the neighborhood based on property style and setbacks.

Chairman Masciale inquired of the explanations stated by Mr. Grygiel and Mr. Foerst.

Mr. Sontz and Mr. Fusaro joined in the discussion of the setbacks and character of the buildings in this GB3 zone.

Mr. Grygiel stated that the applicant is trying to retrofit a building on an existing lot so they cannot dictate all improvements; some are based on what is already preexisting.

Ms. Knight stated that the applicant is increasing the density and FAR and decreasing parking.

Mr. Foerst stated that this is a unique situation as the applicants live and work in the same building. It is a mixed-use residence.

Chairman Masciale stated that the Board has heard enough testimony; they must move along with the application.

Mr. Foerst called upon patients of the applicant/ Physical Therapist, Mr. Nasser to testify.

First, Mr. Wasserman, resident of 781 Hyslip Avenue, and patient of Mr. Nasser, is sworn in by Chairman Masciale. He stated that he has been a patient for over 1 year. Mr. Foerst asked if he ever had a problem parking? Mr. Wasserman stated no. Mr. Foerst asked if there were ever more than 1 patient waiting to see Mr. Nasser? Mr. Wasserman stated no. Mr. Wasserman stated that Mr. Vasser provides 1 on 1 therapy to his patients.

Next, Mr. Sprung, resident of 611 Boulevard, and patient of Mr. Nasser is sworn in by Chairman Masciale. Mr. Foerst asked if he ever had any parking issues? Mr. Sprung stated no. Mr. Foerst asked if there was ever more than 1 patient in the waiting room? Mr. Sprung stated no. Mr. Sprung expressed his invaluable physical therapy sessions with Mr. Nasser and how he always works one on one with one patient at a time.

Chairman Masciale asked Mr. Sprung how do you think extra rooms and services will help with this physical therapist practice? Chairman Masciale stated that he too receives physical therapy and does not necessarily see the need for so much space. Mr. Sprung stated that he felt the extra space would accommodate the patients' needs and allow Mr. Nasser additional modernized physical therapy equipment to assist his patients. Mr. Nasser currently brings equipment into the patient rooms and he has to constantly set it up; it wastes patient and therapist time. The need for more rooms would allow more effective use of needed equipment already set up in rooms for patient use.

Mr. Fusaro again, questioned the need for 5 patient rooms if there were only 1 patient at a time.

Next, Ms. Felter, resident of 613 Salter Place, and patient of Mr. Nasser, was sworn in by Chairman Masciale. Mr. Foerst asked her to describe her services from Mr. Nasser. She stated that she was a patient for over 3 years and the treatment received by Mr. Nasser was one on one and very caring.

Lastly, Mr. Manelis, resident of 724 Scotch Plains Avenue, and patient of Mr. Nasser was sworn in by Chairman Masciale. Mr. Foerst asked him to explain his experience with Mr. Nasser. He stated that he has been a patient for about a year and a half. Mr. Nasser is always available even after normal working hours as needed. He provides one on one patient service. He is grateful for

his services as he has uses him often for injuries. He is looking forward to the expanded office so that Mr. Nasser will be able to provide strengthening services to help him prevent injuries. The gym will be a great benefit to all patients. This could assist all patients.

Chairman Masciale opened to the Board for questions. No further questions.

Chairman Masciale opened to the public for questions. None.

Mr. Foerst proceeded and introduced Mr. Nassar, Physical Therapist. He was sworn in by Chairman Masciale. Mr. Foerst asked him to describe the reason behind this addition. He stated that for clarification he currently has 3 rooms in his practice. 2 patient rooms and 1 office/gym room. He is only asking for 5 total. Therefore, he is only increasing his practice by 2 additional rooms. He will use these additional 2 rooms for patient exam rooms and equipment. This will allow him more time to spend treating patients rather than moving equipment in and out of rooms or storage. The patient can go to a room and the equipment will already be set up for their use. As for the gym, it will allow innovative treatment to integrate with patient therapy and healing procedures. Treatment is always provided one on one and will remain that way. He works full time and his wife works part time; no other therapists will be working there. This is his dream to expand his practice and services to his patients.

Ms. Knight stated that if there are 2 therapists then it is not always one patient; it could be two.

Mr. Foerst introduced Ms. Decosimo, Architect. She was sworn in by Chairman Masciale and her credentials were stated and recognized by the Board as an Architect. Mr. Foerst stated that Ms. Decosimo would be addressing some of the architectural concerns mentioned by the Board. She stated that the 23ft front yard setback did not seem out of place in the existing neighborhood. She also stated that usually businesses are closer to the front of the road as they provide parking in the rear area. She explained that the 1st floor would be the office area and the other 2 floors would be the residential area. The basement is very old and small. The applicants are hoping to gain more storage space and possibly a play area for the children. They want a small bathroom for use as the residential area is so far away; on another floor.

Mr. Fusaro questioned the need for extra storage as they already had a basement.

Ms. Decosimo stated that the existing basement was not usable space and was very old with low ceilings and barely any solid floor. Next, she stated that the applicant is only increasing the office by 2 additional rooms as they already have 3 rooms. She addressed the long, continuous wall and stated that it was needed in the plans and that other buildings had similar walls and existing structures. She stated the vaulted ceiling in the gym area was necessary so the gym could provide the services needed. Mr. Foerst stated that there could possibly be some reduction in the height of the gym ceiling if needed. They could reduce the height however; this proposed gym plan is Mr. Nassers' vision. They would like to present this plan but could make adjustments to the design if needed.

Chairman Masciale stated that he does not see any modifications in this application. The Board had offered suggestions at the last meeting to reduce the size of this addition. The applicant did not provide any reductions or changes. It is too much of an ask and no giving up of anything. He felt this proposed addition was too much for the existing building and lot. He stated that

perhaps the applicant should find another building to expand his practice since this facility does not meet his current needs. The plans are way too much for this property. Chairman Masciale stated that the Board has heard enough testimony. This application can be voted on as is or modified and come back in December.

Mr. Foerst stated that he would like to come back with revisions. Ms. Decosimo asked for further clarification of the reductions that the Board would like. Chairman Masciale stated that each application is unique. The Board already made suggestions on this application at the last presentation and none were taken and nothing was modified.

Mr. Fusaro stated this application is way over the FAR.

Ms. Dabulas stated that they want the applicant to be successful but they cannot accept this application based on these conditions. There needs to be modifications.

Mr. Cohen stated that the Board is not here to redesign their application. He suggested looking at the plans again and taking down the FAR.

Mr. Fusaro stated his concern with the long 25 ft continuous wall; it is too much.

Chairman Masciale concluded that the Board wanted to work with Mr. Nasser but that he needed modifications to be made to their plans. They do not want to deny the application; they want this business to be successful. Their recommendation was to change the application and come back with a revised plan, then the Board will consider the application again as revised.

Mr. Foerst stated that he would like to give the applicant the chance to change this application rather than have it denied. Mr. Foerst asked if any further notification would be needed.

Ms. Dabulas stated that no further notification would be necessary. If the applicant is not ready to present in December simply inform the Board and they will reschedule. The Board wants to work with Mr. Nassar. She told Mr. Foerst to come back with a modified application and the Board will consider it. Ms. Dabulas confirmed with Mr. Foerst that this application would be continued if they requested it. Mr. Foerst confirmed on behalf of the applicant.

The application will be carried to the December 13, 2021 meeting.

NEW APPEALS:

Craig Joseph, 451 Whittier Avenue

6/16/21

Applicant is seeking approval to construct a deck in the rear of the property contrary to the following section of the Westfield Land Use Ordinance: Section 12.04F2 which allows maximum building coverage of 22%. Proposed is 23.91%. **Application deemed complete on September 22, 2021. 120-day decision date is January 19, 2022.**

Chairman Masciale swore in Mr. & Mrs. Joseph. Mr. Joseph summarized his proposed application. He would like to construct a deck in the rear of his property as the existing wooden steps are rotting and there is no platform, the land is pitched, and other safety concerns. He is placing the deck along the back of the house to aesthetically fit the house and cover the pitch.

Chairman Masciale opened to the Board for questions.

Chairman Masciale asked if there were similar decks in the neighborhood. Mrs. Joseph stated yes and some houses even had larger decks than what they were proposing.

Mr. Cohen asked if the deck would go over the existing pavers and for explanation of the layout.

Mr. Joseph explained the design.

Mr. Gelinas asked if the property was fenced in. Mr. Josphe stated the entire property had a 6ft fence.

Chairman Masciale opened to the public. None.

Chairman Masciale opened to the Board for discussion.

Chairman Masciale stated that he was in support of this application as it did not pose any negative impact on the neighborhood.

Mr. Fusaro agreed.

Chairman Masciale asked for a motion to approve this application. Mr. Fusaro made a motion, seconded by Mr. Cohen.

ALL IN FAVOR: Chris Masciale, Frank Fusaro, Eldy Pavon, Michael Cohen, Matt Sontz,
Charles Gelinas, Samuel Reisen

OPPOSED: None

ABSTAINED: None

ABSENT: Carla Bonacci, Allison Hroblak

Application approved.

Benjamin Leavitt, 544 Coddling Road

7/19/21

Applicant is seeking approval to replace and enlarge existing patio area and add an inground swimming pool contrary to the following sections of the Westfield Land Use Ordinance: Section 13.02D.3 which requires a minimum side/rear setback of 15 feet. Proposed is 6 feet from rear property line; Section 12.04F.1 which requires a maximum coverage by buildings & above ground structures to be 20% and 1,320 square feet. Proposed is 21.4% and 1,413 square feet; Section 12.04G which requires maximum coverage by improvements permitted at 50% and 3,300 square feet. Proposed is 55.4% and 3,656 square feet. **Application deemed complete on September 22, 2021. 120-day decision date is January 19, 2022.**

Chairman Masciale swore in Mr. Levitt and Mr. Gallerano, Planner/Engineer. Mr. Gallerano stated his credentials and the Board recognized him as a Planner. Mr. Levitt stated that he has lived here for 12 years and he wanted to enhance his home so that they could remain in this home. He is seeking approval to add an inground pool, hot tub and patio area. He has some physical issues and feels the swimming pool and hot tub could provide some relief to him. It will also accommodate his family. He is conscious of his neighbors and feels that this addition will not impact them in any negative way. It will only enhance the property. He stated that his neighbors had no concerns.

Ms. Dabulas stated that neighbor testimony cannot be stated unless they are present to testify however, the fact that they are not hear shows that they support the application or they would be here to state otherwise. Mr. Levitt agreed.

Mr. Fusaro questioned Mr. Levitt's previous permit denial for a hot tub only. Mr. Levitt stated that he had applied and it was denied. He is now seeking approval for a bigger project.

Mr. Gelinas noted that the denied permit should not have any impact on this application.

Mr. Gallerano presented the plans to the Board in exhibit A1 which was previously given to the Board members. He stated that all improvements were in the rear of the property. The property is 55' wide by 120' deep. The pool is modestly sized at 12' x 24'. The hot tub is 8' x 8' and the patio is 360 square feet. The yard will be enclosed with a 6' solid fence. The pool equipment will be in the right rear section of the property and fenced in. The applicant is asking for 3 variances: maximum coverage by buildings and above ground structures, minimum side/rear yard setbacks, and maximum coverage by improvements. All improvements will be enclosed. He concluded by stating that there is no detriment to the neighborhood and this addition will only enhance the current property and satisfy the owners needs.

Chairman Masciale opened to the Board for questions.

Chairman Masciale and Mr. Sontz discussed the setbacks on the property.

Mr. Sontz stated that this plan is a lot for a small spot. He felt that the pool was modest in size but he saw possible room for a decrease in the size of the patio area.

Mr. Fusaro asked if the applicant considered making the pool and hot tub one structure. Mr.

Levitt stated that by making them 2 separate structures he could use the hot tub year-round.

Mr. Cohen expressed his concern with making this project bigger as originally it was denied and he was only adding a hot tub. Now he is proposing to add an inground pool, hot tub and patio.

Mr. Fusaro asked about the walkway and patio area and size. He saw room to decrease the size.

Ms. Knight asked if the applicant had looked into any drainage concerns. The Planner stated no.

Mr. Reisen stated that some pool designs allow for excess water and run off; they may want to look into this option to address water concerns on the property.

Chairman Masciale stated that he would like to see the applicant come back with a reduced plan as this was a large ask. He felt this project could be scaled down more appropriately to fit the space. The applicant and Planner both agreed.

This application will be carried to the December 13, 2021 meeting with no further notification.

Jared & Heidi Kanefsky, 26 Carol Road

8/9/21

Applicant is seeking approval to construct a patio, inground pool and cored portion of the patio in the rear yard contrary to the following section of the Westfield Land Use Ordinance: Section 12.04F1 which allows maximum building coverage of 20%, 2,375 square feet. Proposed is 20.95%, 2,489 square feet. **Application deemed complete on September 22, 2021. 120-day decision date is January 19, 2022.**

Chairman Masciale swore in Mr. Kanefsky and Ms. Lazar, Architect. Ms. Lazar stated her credentials and was recognized by the Board as an Architect. Mr. Kanefsky stated that he had moved to Westfield about 2 years ago. He wanted to upgrade his backyard to include a larger patio, a pavilion area, a seating area and an inground pool.

Ms. Lazar presented exhibits of the proposed plans to the Board. She stated that the property is not over on impervious coverage however, they are over on building coverage by 114 square feet. She showed pictures of the existing house as well as design plans of the addition. She further stated that due to this property size she did not feel that this was a big ask of the applicant. The plans were very simple.

Chairman Masciale opened to the Board for questions. None.

Chairman Masciale opened to the public for questions. None.

Chairman Masciale opened to the Board for discussion.

Chairman Masciale stated that he was in favor of this application. The property was a good size. Ms. Dabulas and Mr. Fusaro both agreed. Mr. Fusaro stated that he would like to propose one condition on this application. He would like the condition to state that the covered patio and pavilion remain open on all sides.

Mr. Reisen stated that he agreed.

Chairman Masciale asked for a motion to be made to approve this application. Mr. Fusaro made a motion to approve this application with the condition that the covered patio and pavilion remain open on all sides, seconded by Mr. Cohen.

ALL IN FAVOR: Chris Masciale, Frank Fusaro, Eldy Pavon, Michael Cohen, Matt Sontz,
Charles Gelinas, Samuel Reisen

OPPOSED: None

ABSTAINED: None

ABSENT: Carla Bonacci, Allison Hroblak

Application approved with conditions.

Christopher Rossi, 679 Shackamaxon Drive

10/5/21

Applicant is seeking approval to demolish a screen porch and replace with a smaller screen porch; add an eat in kitchen and rear portico on the first floor; and expand two rear bedrooms and hall bath on the second floor over a crawl space and slab on grade contrary to the following section of the Westfield Land Use Ordinance: Section 12.04F-1 which allows maximum building coverage of 20%. Proposed is 22.27%. **Application deemed complete on October 5, 2021. 120-day decision date is February 2, 2022.**

Chairman Masciale swore in Mr. and Mrs. Rossi and Mr. Bailey, Architect. Mr. Bailey was recognized by the Board as an Architect. Mr. Rossi stated that he presently has a family of 5 and his kitchen space is too small to accommodate his family. He has a current screened in porch that he is willing to decrease in size to enlarge his kitchen area. He will make that compromise to allow for the needed space of an eat in kitchen. In addition, he would like to expand the 2 rear bedrooms and closet area and bath on the second floor to accommodate the growth of his family and their needs.

Mr. Bailey presented drawings to the Board to display the proposed plan. He presented the plans to show the increase in the size of the kitchen and bedrooms. He also noted that, if needed, the family could decrease their 2-car garage into a 1-car garage as only a 1-car garage is required in this zone. He concluded that this property conforms with setbacks and FAR. The applicant is only seeking a variance for maximum building coverage which is slightly over the requirements.

Chairman Masciale opened to the Board for questions.
Ms. Knight noted that the 2-car garage was not oversized.

Chairman Masciale opened to the public for questions. None.

Chairman Masciale opened to the Board for discussion.

Chairman Masciale stated that he felt this application had no negative impact on the neighborhood. He was in favor of this application.

Mr. Fusaro asked Ms. Dabulas if a condition for the porch to remain open should be added to the application. Ms. Dabulas stated that she felt it was not necessary.

Ms. Knight stated that it would not affect the FAR so there was no need to add a condition. They would still be under FAR even if the applicants later enclosed the porch.

Chairman Masciale asked for a motion to approve this application. Mr. Fusaro made a motion, seconded by Mr. Cohen.

ALL IN FAVOR: Chris Masciale, Frank Fusaro, Eldy Pavon, Michael Cohen, Matt Sontz,
Allison Hroblak, Charles Gelinas

OPPOSED: None

ABSTAINED: None

ABSENT: Samuel Reisen, Carla Bonacci

Application approved.

There being no further business, a motion was made by Mr. Fusaro to adjourn the meeting, seconded by Mr. Cohen. All in favor. The meeting adjourned at 10:15 pm.

Respectfully submitted,
Kristine Burd
Board Secretary