

**BOROUGH OF WOODCLIFF LAKE  
PLANNING BOARD – SPECIAL MEETING  
OCTOBER 21, 2021  
MINUTES**

**CALL TO ORDER:**

This virtual meeting was called to order at 5:00 p.m. at Borough Hall by Chairman Friedberg.

**ADEQUATE NOTICE STATEMENT:**

Chairman Friedberg announced that the Meeting was in accordance with the Open Public Meetings Law, P.L. 1975, Chapter 231. Notice of this meeting was posted in two newspapers, The Record and The Ridgewood News and meets guidelines established for a virtual meeting. The public was advised of the Planning Board’s rule that the meetings will be concluded by 11:00 p.m.

**FLAG SALUTE**

**ROLL CALL:**

Corrado Belgiovine	Present
Jane Ann Whitchurch-Carluccio	Present
Michael Casale	Absent
Nilufer DeScherer	Present
Stephen Falanga, Councilman	Absent
Robert Friedberg	Present
Josephine Higgins, Councilwoman	Absent (Recused)
Jennifer Howard	Absent
Brian LaRose	Present
Thomas Panso	Present
Heidi Pollack	Present
Carlos Rendo, Mayor	Absent
Brian Eyerman, Attorney	Present
John Dunlea for Evan Jacobs, Engineer	Present
Elizabeth Leheny, Planner	Present
Meg Smith, Secretary	Present

**APPLICATION (New)**

**Donna Abene**  
**124 Woodcliff Avenue**  
Request for Minor Subdivision

**Block: 2001    Lot: 12**  
**R-22.5 Zone**

Mr. Eyerman confirmed that proof of notice and publication was provided.

Councilwoman Higgins has recused herself from this application.

Mr. Ferraro, attorney for the applicant, explained that this property is in the R22.5 Zone and is a corner lot which fronts on two streets – Woodcliff Avenue and Rose Avenue. The property is currently 33, 016 square feet but the applicant is proposing dividing this lot into two lots. Mr. Ferraro stated that the existing house on the corner lot is proposed to be 15,030 square feet and

the new lot on Rose Avenue would be 17, 986 square feet. Mr. Ferraro stated that minimum required lot size in this zone is 22, 500 square feet. Mr. Ferraro stated that the current lot has several pre-existing non-conformities which will not change, and the applicant is requesting a variance for the garage which is proposed to be 5 feet from the new property line where 20 feet is required. Mr. Ferraro stated that he believes that even those these lots are undersized that they fit with the community.

Ms. Abene, owner and applicant, stated that her family has lived at this property for 25 years. Ms. Abene stated that this application was filed so that she can gift the properties to her daughters. Ms. Abene stated that the vacant property could have a home built on it someday or it may be sold. Ms. Abene also stated that the door on Rose Avenue is used more often and was closest to the driveway and the garage.

Mr. McClellan, Engineer for the applicant, was sworn in and provided his background. Mr. McClellan detailed the current property as a two-story dwelling and detached garage on the southern side with northern part of the property being vacant. Mr. McClellan stated that the pre-existing non-conforming front yard setbacks on Woodcliff Ave and Rose Ave will not change. Mr. McClellan stated that even though this property is being divided, no coverage variances are needed. A variance would be required for the existing detached garage and the retaining wall would need to be removed. Mr. McClellan stated that Rose Avenue would be considered as the front of the existing home which would eliminate the frontage variance. Combined side yard setback of 60 feet would be met even though current plan shows 20 feet on each side of the proposed footprint for the new home.

Mr. Ferraro asked how wide the proposed home would be and Mr. McClellan stated that it would be 43 feet. Mr. Ferraro asked how wide the current home is and McClellan stated that the current home is 44 feet.

Mr. Ferraro stated that the proposed home would need a new driveway on Rose Avenue and Mr. McClellan confirmed that this is correct.

Mr. Dunlea, Borough Engineer, reviewed the Neglia Engineering letter dated 9/10/21 and stated that additional information was needed for item # 3.3, 3.5 and 3.6. Mr. Ferraro stated that the applicant would be requesting a waiver for these items.

Mr. Dunlea stated that based on the nature of the application that he would have no objection to granting a waiver for these items. Mr. Dunlea also stated that if a home was to be built, a Soil Movement application would need to be approved and a Drainage Plan would be required.

### **PUBLIC SESSION**

**The meeting was opened to the public** on a motion from Mr. Belgiovine, seconded by Ms. Pollack, and carried by all.

The phone number was provided to the public to call in with any questions or concerns. The public was also advised that if they were participating via Zoom that they could raise their hand

to ask a question or make a comment.

Mr. Burrows from 18 Rose Ave questioned the proximity of the proposed home to the house at 12 Rose. Mr. McClellan stated that the proposed home was at least 20 feet from the proposed lot line and then additional to the home at 12 Rose Avenue but he does not have their survey. Mr. Burrows questioned the comment that this was not a heavily trafficked area and noted that since it is across the street from the school that there is significant bottleneck at drop off and pick up times.

**With no other members of the public wishing to address the Board, the meeting was closed to the public** on a motion from Mr. Belgiovine, and seconded by Mr. Panso, and carried by all.

Mr. Tuvel, Planner for the applicant, was sworn in and provided his background and was recognized as an expert in Planning. Mr. Tuvel stated that he had reviewed the Woodcliff Lake Ordinances.

Mr. Tuvel stated that this is a request for subdivision of a 33,000 square foot corner lot in the R22.5 Zone with the current home in the southwest corner of the lot. Mr. Tuvel stated that both lots would be undersized with the proposed subdivision but that these proposed lots would conform with the neighborhood. Mr. Tuvel noted several properties on Woodcliff Ave and Rose Ave with undersized lots. Mr. Tuvel noted that the applicant would be eliminating the lot depth non-conformity by proposing designation of Rose Avenue as the front of the existing home. Mr. Tuvel stated that bulk requirements were met. Mr. Tuvel stated that this application could be approved in his opinion without substantial detriment to the public good and without detriment to Zoning. He stated that this subdivision would maintain the character of the neighborhood and would provide a visual enhancement to the area.

Chairman Friedberg stated that Mr. Tuvel noted five undersized lots within 200 feet of the property and noted that this subdivision would not be out of character with the neighborhood but Chairman Friedberg stated that Mr. Tuvel did not relate this proposed subdivision to the whole R22.5 Zone.

Mr. Tuvel stated that arguments relating to similar undersized lots in the area and not being out of character are sufficient to grant variances. Mr. Tuvel stated that the current house is in the corner of the property on an oversized lot which leaves a large piece of land undeveloped and underutilized.

Mr. Ferraro stated that this subdivision is a better zoning alternative to the current vacant property.

Mr. Tuvel agreed that this was a better zoning alternative instead of leaving a vacant lot. He stated that providing a house matches zoning and was harmonious with the neighborhood.

Mr. Ferraro asked Mr. Tuvel if there was any substantial detriment to the neighborhood. Mr. Tuvel stated that there was no substantial detriment when you can build a conforming home.

Mr. Tuvel stated that this neighborhood is a mix of conforming and non-conforming sizes.

Mr. LaRose asked how a subdivision can be considered when a conforming lot is being divided into two non-conforming lots.

Mr. Tuvel stated that across the street a similarly subdivided property was approved not that long ago. Mr. Tuvel noted Block 2005.01 Lot 10.01 and 10.02.

Ms Leheny, Board Planner, stated that tax records indicate that Lot 10.02 was built in 1925 and Lot 10.01 was built in 1977.

Mr. LaRose asked if this pre-dated current Zoning and stated that this would need to be researched.

Ms. Leheny, Board Planner, discussed her review letter dated 10/15/21 and the proofs needed for C2 variance. Ms. Leheny stated that the benefits must outweigh the detriments and that impacts on neighboring properties must be considered. Ms. Leheny noted that some properties on the 200 foot list are undersized but others are not and are conforming or larger. Ms. Leheny stated the applicant should provide proof that creating two lots would match the majority of properties in this area, whether that be within 200 feet or 500 feet.

Mr. Tuvel stated that over time parts of the R22.5 Zone are larger and some are smaller than required and noted that approximately 50% of Woodcliff Lake is in the R22.5 Zone.

Mr. Belgiovine questioned two non-conforming lots with the same ownership and asked if the Doctrine of Mergers would apply.

Mr. Ferraro stated that the Doctrine of Mergers would not apply with an approved subdivision. Mr. Ferraro stated that he believed that using the 200 foot list was reasonable and noted several lots which he believed matched the proposed subdivision as being undersized with less than conforming frontage. Mr. Ferraro stated that 2 out of 3 properties in any direction match.

Ms. Leheny did not agree and noted several lots in the area that were conforming for lot area and lot frontage.

Mr. Belgiovine noted that as you drive down the block, many lots are conforming and not undersized.

Mr. Eyerman stated that 4 or 5 houses were compared from the 200 foot list but asked if the 200 foot list was reflective of the neighborhood.

Ms. Leheny stated that the 200 foot list can be reflective of the neighborhood and that the MLUL defines the 200 foot list as your neighbors.

Ms. DeScherer asked what the requirements would be for the garage.

Ms. Leheny stated that the garage is required to be 20 feet from the property line to conform.

Ms. DeScherer asked where the garage would be for the new home.

Mr. Ferraro stated that the garage for the new home would be attached or possibly under the home.

### **PUBLIC SESSION**

**The meeting was opened to the public** on a motion from Mr. Belgiovine, seconded by Ms. DeScherer, and carried by all.

The phone number was provided to the public to call in with any questions or concerns. The public was also advised that if they were participating via Zoom that they could raise their hand to ask a question or make a comment.

**With no members of the public wishing to address the Board, the meeting was closed to the public** on a motion from Mr. Belgiovine, and seconded by Vice Chairwoman Whitchurch-Carluccio, and carried by all.

Mr. Panso asked if a decision for this subdivision could set a precedent.

Mr. Eyerman stated that each application is judged on its own merits.

Chairman Friedberg noted that comparisons to other previous subdivisions would not apply.

Chairman Friedberg stated that he was concerned about taking one conforming lot and creating two non-conforming lots. Chairman Friedberg stated that Mr. Tuvel did not make the argument that there was no detriment to the public good.

Ms. DeScherer stated that she was concerned that Ms. Leheny, Board Planner, does not agree with Mr. Tuvel's testimony. Ms. DeScherer noted that some neighboring properties are not conforming.

Ms. Leheny stated that she thought it would be helpful to see an analysis of the neighborhood to see if this subdivision would conform. Ms. Leheny stated that right now there is not enough information.

Mr. Eyerman stated that consistency with the Master Plan is important.

Ms. Leheny stated that the Board must decide if this subdivision presents a better Zoning alternative and not impair the intent or purpose of Zoning. Ms. Leheny noted that the Zone Plan and Ordinances are derived from the Master Plan. Ms. Leheny stated that the Master Plan evaluates Zoning with the on the ground conditions. If a majority of properties in an area do not conform with the requirements of the zone then changes can be recommended. Ms. Leheny stated that the Master Plan has not recommended changes to the R22.5 Zone.

Ms. Pollack asked what information was needed for clarity.

Ms. Leheny stated that a larger area than 200 feet surrounding the applicants' property and considered their "neighborhood" should be evaluated and could be used to substantiate the Board's decision as to whether this proposed subdivision conforms with the neighborhood.

Mr. Eyerman asked the current lot size.

Mr. Tuvel stated that the current lot is 33,016 square feet. Mr. Tuvel asked what percentage of properties considered would sway the board and stated that this is good utilization for this lot.

Mr. Ferraro stated that when standing on Rose Ave you can see several other properties that look like this subdivision. He stated that a large amount of property is vacant on the current lot and he does not think this lot looks like most of Woodcliff Lake. Mr. Ferraro stated that any variance granted is not in conformity with the Master Plan and the issue is whether or not there is a substantial impairment and whether or not this subdivision is a better Zoning alternative than what is existing on this property currently.

Mr. Eyerman stated that there are other oversized lots in the area.

Mr. Tuvel stated that these oversized lots have the homes positioned in the middle of the property.

Mr. Ferraro stated that there are no other properties in the area that look like this property.

Chairman Friedberg noted that original analysis was done using the 200 foot list and he does not believe that this is representative of the neighborhood.

Mr. Belgiovine stated that he believes that the proposed lot sizes are too small and that this lot is a prime lot for expansion not subdivision.

Vice Chairwoman Whitchurch-Carluccio agreed with Mr. Belgiovine's comments.

Ms. Pollack stated that she recognizes that this could be a lot for expansion but thinks that the Abenes' are living on this lot and are asking for subdivision.

Mr. Panso stated that subdividing into two smaller parcels from one larger parcel is not in the best interest of the town.

Mr. Ferraro summarized the application by noting that Mr. McClellan testified that this property could support both lots and that Mr. Tuvel testified that the benefits outweigh the detriments and that there was no detriment to Zoning. Mr. Ferraro stated that the current property is out of character with the neighborhood with a large part of the property being vacant. He compared the vacant part of this property to a missing tooth. Mr. Ferraro stated that many lots in the area are undersized and that this subdivision is a better planning alternative.

A motion to deny this application for subdivision was made by Vice Chairwoman Whitchurch-Carluccio and seconded by Mr. Belgiovine. Ms. Pollack, Mr. Belgiovine, Vice Chairwoman Whitchurch-Carluccio, Ms. DeScherer, Mr. LaRose, Mr. Panso and Chairman Friedberg voted in favor of the motion to deny this subdivision.

**PUBLIC SESSION**

**The meeting was opened to the public** on a motion from Vice Chairwoman Whitchurch-Carluccio, seconded by Mr. LaRose, and carried by all.

Ms. Abene, applicant, stated that the Board members should have visited the property and they would realize that a house belongs on the vacant property. Ms. Abene stated that she was looking to gift this subdivided property to her daughters. Ms. Abene stated that she was disappointed that the Board did not consider her request for subdivision.

**The meeting was closed to the public** on a motion from Vice Chairwoman Whitchurch-Carluccio, and seconded by Mr. Belgiovine, and carried by all.

**The meeting was adjourned** on a motion from Vice Chairwoman Whitchurch-Carluccio, and seconded by Mr. LaRose, and carried by all.

Respectfully Submitted,

Meg Smith  
Board Secretary