

**TOWNSHIP OF WASHINGTON  
BERGEN COUNTY, NEW JERSEY  
ZONING BOARD OF ADJUSTMENT  
September 17, 2013  
8:00PM, Court Room  
Minutes**

**CALL TO ORDER**

**Open Public Meeting Act Statement** - Open Public Meeting Act Statement – In compliance with the Open Public Meetings Act of the State of New Jersey, notification of this meeting has been sent to The Ridgewood News, our official newspaper in the Township of Washington and notice has been posted on the bulletin board at Town Hall.

**First Order of Business:** Salutation to the Flag

**ROLL CALL**

Messrs. Asfar, Gerhard, Dr. Merkle, Messrs. Miras, O’Connell, Sonntag, Ullman, Werfel, Johnson (Absent)

**Approval of Zoning Board Minutes:** Werfel, O’Connell  
July 16, 2013      October 16, 2012      December 18, 2012

**Roll Call Taken**

**All Board members present approve minutes.**

**Ongoing Business:**

**Pinilis Halpern, New Cingular Wireless PCS, LLC and Omnipoint Communications, Block 2202, Lot 1, 620 Pascack Road** – request by applicant to withdraw their application without prejudice.

**Mr. Michael Ullman, Vice Chairman:** stated a letter was received from Pinilis Halpern requesting the withdrawal of their application without prejudice.

**Ms. Donna Baboulis, Board Attorney:** stated a contract has been negotiated with the Town and there is a lease with the Town which is why they want to withdraw their application.

**Motion to approve withdrawal of application without prejudice:** Miras, Werfel

**Roll Call Taken**

**First Hartford Realty Corp. – 660-680 Pascack Road, Block 2110, Lots 6, 7, 8, 9, 10** – applicant seeks site plan approval, use variances, sign approval and major soil movement permit for the construction of a CVS Pharmacy.

**Mr. Carmine Alampi, Applicant Attorney:** thanked the Board for the past adjournments which were requested so the materials for tonight's meeting could be composed; Mr. James Kourgelis is the principal member of 660 Pascack Realty LLC and Mr. Alampi decided Mr. Kourgelis should be a witness; indicated the August meeting was postponed due to Mr. Alampi's vacation plans; a black binder plus two sets of documents were delivered to the Board via the Board Secretary and to the Board's experts and to Mr. Tendai Richards, the Objector's attorney; materials deal with public records, building department records, construction permits, demolition permits, condition of the property and photographs to give an understanding of the condition of the property in the 1990s; homes purchased at different times; testimony to be given by Mr. Kourgelis; Mr. Richard Preiss is available via cell phone; he is not available due to another meeting he needed to attend; asked the Board to allow him to continue to the October meeting if the meeting goes past 9:30PM for Mr. Preiss to speak and for Mr. Richards to present his cross examination.

**Mr. Tendai Richards, Objector's Attorney:** stated he was provided with the materials mentioned; has some serious questions due to the relevance of the materials in relation to this proceeding; unsigned letters from banks, architects drawings for building and plans that have nothing to do with CVS; referenced items #3, 4, 5, 7, 9 and 12 in the black binder; does not feel this information has any relevance in regards to this application.

**Ms. Baboulis:** asked Mr. Alampi if he wanted to respond to Mr. Richards.

**Mr. Alampi:** stated his applicant is in front of the Board for a use variance; will present competent testimony and evidence to discuss with the Board what other uses the site is well suited for; what else the site could be devoted to; Mr. Preiss hasn't even scratched the surface of his testimony, but in his presentation he will present conditions of the property, location of the property, current zoning and surrounding uses in close proximity of the property; he will also discuss what types of developments were considered and/or rejected to lay the ground work for the use variance; nothing could be better than giving a history of the property; it is not true that these documents are not admissible because they are not signed; the documents will become admissible when Mr. Kourgelis gives his sworn testimony of how these documents were generated; Mr. Preiss could not substantiate these documents; this needs to be done by Mr. Kourgelis.

**Mr. Richards:** stated he understands what Mr. Alampi's reasoning is but feels this is a veiled attempt to present to the Board what could be placed at the site other than a CVS; this is a commercial use in a residential neighborhood; the application before this Board is for a use variance to construct a CVS, that is all.

**Ms. Baboulis:** stated the Board will afford the applicant the opportunity to present testimony to the Board regarding the condition of the property over the years, especially since the Board has asked questions regarding the conditions; the rules of evidence are not the same as they would be in a court of law; the Board can accept more than what would be allowed in a court of law.

**Mr. Richards:** stated he understood what Ms. Baboulis was stating, but wanted his objection on the record.

**Vice Chairman Michael Ullman:** stated he agrees with Mr. Richards, but the condition of the property has been questioned and he would like to see how the letters of intent from banks and information regarding townhouses are relevant to the application of the CVS.

**Mr. Alampi:** stated Mr. Kourgelis cannot testify as an expert, but as a layman, he can explain the information given to the Board; stated this will be a two-step process; the Board can reject it all if they so choose; stated he just eclipsed his three year anniversary of being retained by CVS/First Hartford; after the application was first submitted, it was then revised to consolidate to a singular purpose use, then further revised to eliminate Lot 11 from the site; Mr. Alampi provided to the Zoning Board a comprehensive set of materials with a transmittal letter which included some or all of the documents received; a binder plus two sets of documents; these documents were taken from the public records of the Township by an OPRA request; the Board persisted in asking him about a pending case and the issues about the summonses that were issued in court; the Board instructed him to secure those documents and provide them to the Board; a good number of those records have been submitted this evening; documentation was demanded so the Board can better understand what occurred; Mr. Alampi is happy to provide this information; Mr. Kourgelis wants to dispel a lot of things that might be an undercurrent of thought regarding what has happened on the site; Mr. Alampi will try to skim through the documents in a systematic way.

**Mr. Richards:** stated he would still like to have some kind of understanding as to what types of plans have been drawn and planned after the application was filed would have to do with this application; townhomes, etc. have nothing to do with this application.

**Mr. Alampi:** stated that NJ case law states that the Board can consider alternative uses as to what the site can be used for; this information is critical to the analysis.

**Mr. James Kourgelis, principal member of 664 Pascack Realty sworn in by Ms. Donna Baboulis, Board Attorney.**

**Mr. Alampi and Mr. Kourgelis:** discussed 664 Realty business being the ownership of real estate; Mr. Kourgelis is familiar with the application filed on behalf of First Hartford Realty and CVS; CVS approached Mr. Kourgelis regarding the property he owns and building a CVS at that site; Mr. Kourgelis owns property in the Township and Mr. Kourgelis' catering facility, Seasons, is located on TJ Realty property; Mr. Kourgelis has been involved with Seasons for over twenty years; he owns other real estate as well; Mr. Kourgelis owns real estate across the street from Seasons which is the subject of this application; Mr. Kourgelis was familiar with this property before he owned it only because it was across the street from his business; twenty years ago his observation of the property was that the houses on the property were very old; no one was living there at the time; Mr. Kourgelis assisted in putting together documents regarding this application; obtained information over the years in regards to 660 Pascack Road.

**Exhibit A-47: Black binder plus two packets of documentation labeled "1" and "2" on blue sheets of paper. Marked with the date of September 17, 2013.**

**Mr. Alampi and Mr. Kourgelis:** discussed the corner houses becoming available for sale; Mr. Kourgelis was approached by Mr. Schroeder to purchase them; Mr. Kourgelis agreed; stated parking could be done for Seasons at night and the area could be used for commuter parking during the day; \$30-\$40 could be charged for commuter parking and Mr. Kourgelis would have given this money back to the Township for the recreation program for the Township's children; Mr. Kourgelis first purchased homes at 660 and 666; referred to Exhibit A-11 dated 2/24/12; preliminary plans were done; then Mr. Kourgelis was approached by three banks which could also provide additional parking for Seasons; tabs 3, 4, and 5 discuss the three banks that approached Mr. Kourgelis about the property; Mr. Kourgelis had meetings with the former mayor of the Township, Mr. Wenzel to discuss a bank being placed on the property; Mayor Wenzel informed Mr. Kourgelis that if a bank where to be erected on the site, it would have to be in a colonial style; all three bank proposals fell through for various reasons; Mr. Kourgelis put the binder together so it could be shown how the property looked when he purchased it; he believes the site looks better now than when he purchased it; the vegetation was wildly overgrown; numerous dumpsters where used to remove debris from the site; Mr. Kourgelis stated he wants to do the right thing by the Town and the Town is his home; the houses were abandoned when he bought them; photographs in binder where taken when the homes were purchased.

**Vice Chairman Ullman:** asked why the pictures where dated 2009 when the homes where purchased in 2004.

**Mr. Kourgelis:** stated there was an error in his testimony; the pictures are of the third home which was purchased in 2009.

**Mr. Alampi and Mr. Kourgelis:** discussed Mr. Kourgelis being approached by Ms. Agnes Smith, former Township Administrator, asking Mr. Kourgelis to purchase the third house on the property; Ms. Smith informed Mr. Kourgelis that there were terrible odors coming from the home and there was a lien on the property; the occupant, a woman, had been living in the home for 50 years; there were dead animals in the pool; Mr. Kourgelis was not interested at first in purchasing the property but Ms. Smith told him if he did purchase the property he would be doing a good thing for the Township; at Ms. Smith's urging, Mr. Kourgelis purchased the property; a selling price of \$350k was negotiated; Mr. Kourgelis found out after purchasing the home that the woman occupying the home had no family and would be homeless if she was to move out of the home; Mr. Kourgelis purchased and installed a new boiler for the woman because there was no heat in the home; brought her meals approximately three days per week, and eventually helped her relocate after the woman stayed in the house for a couple of years; Ms. Agnes Smith met with Mr. Kourgelis several times regarding removing the pool from the property; Mr. Kourgelis removed the swimming pool which was a major demolition because the pool was massive; Mr. Kourgelis had inspections done of all three properties and it was concluded that each home needed to have major repairs done to all aspects of them; Mr. Kourgelis then purchased Lots 10 and 11; these homes are currently being rented out; they are in better condition than the other three houses; the houses are in the same condition as when he purchased them; Mr. Kourgelis stated he had meetings with Northgate to extend their condos onto his property, but this proved not to be doable; Mr. Kourgelis met with Mayor Sobkowicz and other members of the Town to possibly build condos on the property; this alternative proved to be too expensive; Mr. Kourgelis proposed apartments, but Mayor Sobkowicz did not want to attract transients to the Town; Mr. Kourgelis met with Ms. Agnes Smith, Mr. David Snyder and a builder regarding development plans for the site; the meetings and plans cost him between \$20-30k; again Mr. Kourgelis asked what the Town is looking for to be placed at that site; he asked for guidance from the Township as to what could be done; Mr. Kourgelis stated he asked Mayor Sobkowicz to make the land into a park and just to repay him for the property purchased, but Mayor Sobkowicz stated the Township did not have the money to repay him; Mr. Kourgelis stated Ms. Agnes Smith was his main contact with the Town when discussing options for the site; in regards to the trees which were removed, Mr. Kourgelis met with Ms. Smith, a tree expert and a representative from Azzolina and Feury who, together, marked the trees that were to be removed; all trees removed where approved by the Town; the wall that was constructed at the rear of the property is made out of masonry and was done after consulting the homeowners on Meisten Street who were very happy with the wall; Mr. Kourgelis knew visual screening was important to the neighbors and he was willing to plant annuals on both sides of the wall; permits were received for all work done on the premises; all municipal court matters were dismissed; Mr. Kourgelis stated he has taken care of all his obligations.

**Vice Chairman Ullman:** stated a lot of testimony was heard and asked if the Board had any questions.

**Mr. John O'Connell:** asked what happened to the woman living in the third home and did she receive the \$350k.

**Mr. Kourgelis:** stated she was relocated and is in great shape, and she did receive the \$350k for the sale of her home.

**Mr. O'Connell:** asked what the property was worth.

**Mr. Kourgelis:** stated the property was worth \$550k for the two houses.

**Mr. O'Connell:** asked what the property was worth at this time.

**Mr. Kourgelis:** stated the worth was less at this time.

**Mr. O'Connell:** asked about knocking down the homes and selling the property.

**Mr. Kourgelis:** stated he told the Mayor to give him the money he had invested in the property and make it into a park and the Mayor stated the Township did not have the money to do so.

**Mr. Michael Werfel:** asked why an application for a parking lot was never submitted.

**Mr. Kourgelis:** stated that the banks approached him before an application was made.

**Mr. Werfel:** asked if past Mayor Wenzel, past Councilman Schroeder and past Township Administrator Agnes Smith informed Mr. Kourgelis that the property could be turned into something.

**Mr. Kourgelis:** stated Mayor Wenzel told him directly if a bank was to be placed on the property it would have to be in a colonial style; his honesty was appreciated; Mr. Kourgelis met with Ms. Smith and Mayor Sobkowicz to try to find different alternatives for the site; the condos and apartments didn't work; Mr. Kourgelis stated he is paying taxes on property and is getting nothing in return.

**Mr. Werfel:** stated even if the Mayor says no to apartments, it is the Zoning Board's decision, not that of the Mayor.

**Mr. Kourgelis:** stated he doesn't want to lose any more money and that he wants to work with the Town regarding the site.

**Mr. Richard Miras:** asked if the parking lot was still a viable option.

**Mr. Kourgelis:** stated he will not make any money having extra parking for cars; Mr. Kourgelis further stated that he was approached to put a CVS, Dunkin' Donuts and a liquor store on the site; plans were done then the plans changed and he was told to remove the Dunkin' Donuts and the liquor store.

**Mr. Miras:** stated certain people are making statements to Mr. Kourgelis and they don't have the authority to do so and this does not help Mr. Kourgelis.

**Mr. Werfel:** asked why single family homes weren't proposed.

**Mr. Kourgelis:** responded asking if anyone with a family would want to live on a busy intersection such as Washington and Pascack.

**Mr. O'Connell:** stated the condition of the property has become worse.

**Mr. Kourgelis:** stated he believes the condition of the property has improved.

**Vice Chairman Ullman:** stated he understands the property history, but asked why Mr. Kourgelis proceeded to purchase the next two houses after the purchase of the original three.

**Mr. Kourgelis:** stated that at the time CVS was in his thoughts; at the time a realtor, unbeknownst to him and without his authority, was informing homeowners on Meisten Street that Mr. Kourgelis was going to buy their homes for between \$1M and \$1.5M; the realtor came to Mr. Kourgelis stating he could purchase all the homes and place a shopping center at the site; Mr. Kourgelis told the realtor that could not be done; the last house will be left as a buffer.

**Vice Chairman Ullman:** asked if Mr. Kourgelis owns any homes on Meisten Street.

**Mr. Alampi:** stated he owns one and is in contract for another home subject to the approval of the CVS.

**Vice Chairman Ullman:** asked if 660 Realty would own those homes.

**Mr. Kourgelis:** stated "yes."

**Vice Chairman Ullman:** asked what JT Realty owns.

**Mr. Kourgelis:** responded only Seasons.

**Vice Chairman Ullman:** asked if any other properties on Washington Avenue were owned by Mr. Kourgelis.

**Mr. Alampi:** stated there is property by the racquet club that is owned by Mr. Kourgelis.

**Vice Chairman Ullman:** asked for an explanation of the summonses that were issued regarding tree removal on the site.

**Mr. Kourgelis:** stated there were summonses; he met with Ms. Agnes Smith, Mike Ritchie and a tree expert who had a map of the trees; they all went to the site and marked the trees to be removed; approval was received from the Town's engineer; tree wells were dug; a problem arose when the swimming pool was removed and the footings disturbed some tree roots and some of those trees died; they were removed with the Town's approval; Mr. Kourgelis stated he met with Mr. Ritchie before the trees were taken down.

**Vice Chairman Ullman:** asked why Mr. Kourgelis has not done anything more to improve the look of the property to make it more appealing.

**Mr. Kourgelis:** stated he received a summons regarding the roof and he fixed it; he is not looking to take any shortcuts; he is here to clean the property but he needs and wants guidance from the Township.

**Mr. Miras:** stated this is a difficult situation because the Zoning Board is in the middle because Mr. Kourgelis has had Town officials coming to him with ideas; Mr. Miras asked if the houses could be taken down.

**Mr. Kourgelis:** stated he thinks the Town needs to make a smart decision as to what will benefit the Town; he is looking for guidance.

**Mr. Werfel:** stated he drives by the site and there are trees with no leaves on them and is assuming they are dead and asked why they are remaining on the property.

**Mr. Kourgelis:** stated he is happy to do what the Town wants, but he is afraid to make a move because people will be all over him; he loves landscaping and wants the property to look good.

**A 7 minute recess was taken at this point in the meeting.**

**Vice Chairman Ullman:** stated the time was now 10:00PM and he wanted to set a time limit of 10:30PM and wanted to let Mr. Statile and the Objector's attorney speak.

**Ms. Baboulis:** asked if Mr. Kourgelis could come back and testify at the next Zoning Board meeting.

**Mr. Richards:** stated he will hold his cross examination for another time.

**Mr. Alampi:** asked if the meeting would be open up to public questions after Mr. Statile spoke.

**Mr. Thomas Asfar:** spoke regarding single family homes on the lots; stated it is ridiculous to try to repair the homes; they need to be torn down and new houses would need to be built; it has been done before; concurred that it is not a great location for a family, but that the homes could be shielded with cypresses; asked if it had been looked at to see how many houses could be located on the site.

**Mr. Kourgelis:** stated he spoke with Ms. Agnes Smith who informed him that she had a developer who was interested in the lots; Mr. Kourgelis stated that he would want to be compensated for what he paid on the three lots; but nothing ever happened; because of the price of what he paid vs. the demolition, and rebuilding that is involved, and the fact he does not feel a family would want to live at such a major intersection, he would not get a good return on his investment.

**Mr. Asfar:** asked how deep the lots are between Pascack and the retaining wall.

**Mr. Werfel:** asked if Mr. Kourgelis has ever turned over a single family home in his role in real estate.

**Mr. Kourgelis:** stated he is always developing; he is currently building in Garfield and Ramsey, but he has not developed single family homes.

**Mr. Werfel:** asked what Mr. Kourgelis' thoughts were when he bought the property as to its use.

**Mr. Kourgelis:** described the original parking lot scenario again.

**Mr. Werfel:** stated it still would have required a variance.

**Mr. Kourgelis:** stated he would have come to the Town for the variance but in the interim the banks approached him regarding the property.

**Mr. Miras:** asked if there is no way to go back to the parking lot idea.

**Mr. Kourgelis:** described the acquisition of the properties again.

**Mr. Miras:** confirmed that Lots 10 and 11 are rented, why couldn't the houses on Lots 6, 7, 8 and 9 be knocked down to put in parking.

**Mr. Baboulis:** stated the Board has to consider the application that is before them.

**Mr. Kourgelis:** stated that unfortunately, at this time, it would just become an expensive parking lot.

**Mr. Christopher Statile, Board Engineer:** wanted to relay to the Board that the Township officials that met with Mr. Kourgelis do have a say as to what is done in the Township; they can change the Master Plan, change zoning, process how zoning evolves; the members of the Council do have a position.

**Vice Chairman Ullman:** stated the Board will defer on the cross of the Objector's counsel; stated they would open up the meeting to the public for questions that are relevant to only the testimony that was presented this evening.

**Ms. Linda Murphy, 675 McKinley Avenue:** asked if questions could be asked at a later date after more testimony is given.

**Vice Chairman Ullman:** stated there are two additional sets of documents that need to be discussed.

**Ms. Baboulis:** stated there will probably be more questions after Mr. Richards speaks.

**Mr. Alampi:** stated he will wait for the other packages to be authenticated; he has never taken a position that he would not recall any witnesses for the Board; he is not here to prevent anyone from asking questions.

**Vice Chairman Ullman:** given the comments from the public and where the Board is with the testimony this evening, this evening's session will be closed; Vice Chairman Ullman asked if Mr. Kourgelis would be available to attend the next meeting.

**Mr. Alampi:** stated "yes", he doesn't foresee any problem with continuing the presentation.

**Vice Chairman Ullman:** stated that at the next session documents labeled "1" and "2" will be discussed, Mr. Richards will have a chance to speak and the meeting will be open to the public for questions.

**Mr. Richards:** asked if we are coming back in a month to start with his cross examination or finish up the other documentation.

**Vice Chairman Ullman:** stated we will start with the other documentation.

**Motion to Adjourn:** Werfel, O'Connell  
**All Board members present approve Motion to Adjourn.**

Respectfully submitted by:

JoAnn Carroll  
Zoning Board Secretary  
September 19, 2013