

**TOWNSHIP OF WASHINGTON
BERGEN COUNTY, NEW JERSEY
ZONING BOARD OF ADJUSTMENT
October 21, 2014
Minutes**

Meeting Called to Order at 8:03PM

Salutation to the Flag

Open Public Meetings Act Statement –Read into the record by the Board Secretary

Roll Call:

Messrs. Asfar, Mouravieff (absent), Kenny, Rappa, Cumming (arrived at 8:17PM; after roll had been taken), Smith, O’Connell (absent), Chairman Miras

Resolution appointing Mr. Craig Bossong, Esq. as Board attorney for the IHA application: read into the record by the Board Secretary: Smith, Kenny
Ayes: Chairman Miras, Kenny, Asfar, Rappa, Smith

Also in Attendance: Mr. Craig Bossong, Board Attorney for the IHA application; Ms. JoAnn Carroll, Board Secretary

Motion to Open Public Portion: Asfar, Rappa
Roll Call Taken

No Public Comment

Motion to Close Public Portion: Asfar, Kenny
Roll Call Taken

Immaculate Heart Academy, 500 Van Emburgh Avenue, Block 1302, Lots 1, 2, 2.01 & 2.02: applicant seeks variances from Sections 245-27 and 245-29 of the Township’s Zoning Ordinances which regulate non-conforming use and building height limitation in an AA residential zone to install air conditioning; condensing units to be installed on roof.

Mr. Brian Fenlon, Carella, Byrne located in Roseland, NJ, applicant’s attorney: the applicant is seeking an appeal of the Zoning Officer’s determination that variances are required as to the height and arguably the preexisting legal non-conforming use of the school; he will present limited, factual testimony from the Vice Principal and from the engineering firm that prepared the information.

Mr. Jason Schlereth, IHA Vice Principal, 500 Van Emburgh Avenue, Twp. of Washington: sworn in by Mr. Bossong.

Mr. Fenlon and Mr. Schlereth: stated IHA is an all-girl, regional high school which is part of the Archdiocese of Newark; opened in 1960; 800 students; 200 per grade; grades are 9-12; the Academy serves pupils within Washington Township and students from Bergen County, Passaic County, Essex County and Hudson County; the second floor of the school can become oppressively hot which affects the education of the students; looking to improve the conditions of the classroom for students and faculty; at this time, large gathering areas of the school are air conditioned including the cafeteria, auditorium, gymnasium and any of the classrooms that are not in the original part of the building; both expansions of the building are air conditioned; main office and a few other offices throughout the building are air conditioned as well; the air conditioning units for these areas are located on the roof; there are also solar panels on the roof; IHA had to appear before the Board approximately two years ago to install the solar panels; there is buffering on both sides of the school with the neighbors; there is a wooded area in the rear which acts as a buffer; the sides are pretty well maintained with a landscaping buffer and a fence; there is a sporting field behind the building; Mr. Schlereth has been on the roof of the Academy; the new units will be lower than all the other condensers but taller than the solar panels.

Mr. Kenny: clarified that IHA is before the Board to ask for a variance to install units which are less obtrusive and lesser in size.

Mr. Fenlon: stated yes; has a letter from Azzolina & Feury which was issued in connection with the 2011 variance application; heights of the roof are at variance points above and below 30 ft. and 30 ft. is the ordinance requirement; the Zoning Officer took the position that this variance application was necessary because the structures would be higher than 30 ft.

Chairman Miras: stated the Zoning Officer viewed this application as a stand-alone application and was not in conjunction with the prior variance that already allowed the solar panels to be higher.

Mr. Fenlon: stated the solar panels are 20 inches above the roof; far more extensive; the application before the Board this evening is for four separate units.

Mr. Kenny: asked the tonnage of the units.

Mr. Fenlon: stated the unit itself is 66.5 inches high; believes it is 1200 lbs. per unit.

Mr. Kenny: asked if there were existing noise barriers in place at this time.

Mr. Fenlon: stated he did not believe so.

Mr. Kenny: asked if the units were shorter than the units they are replacing.

Mr. Fenlon: stated the proposed units are not replacing units; they are additional units.

Chairman Miras: stated for the record that Mr. Cumming has arrived, 8:17PM.

Mr. Kenny: asked if there would be an issue if the Board asked the applicant to install noise barriers.

Chairman Miras: stated the issue before the Board concerns the height of the units.

Mr. Kenny: stated he still wasn't clear why the applicant was before the Board.

Mr. Fenlon: stated it is the Academy's belief that this is not an expansion of a preexisting legal non-conforming use; air conditioning units are being added; structure not changing; not increasing or intensifying; the Zoning Officer made a determination that that was the case so an application was submitted; appealing that ruling; as a school, this is an inherently beneficial use; not suggesting there is an intensification for an increase of this use; this is mechanical equipment; air conditioning is not an expansion; the building already has air conditioning; footprint will not be bigger; before the Board based on the Zoning Officer's ruling; did not have a written ruling from the Zoning Officer; Mr. Daniello, the engineer, received a verbal ruling; there is a question of height.

Chairman Miras: stated the practical question is if the Academy is going to place some type of monstrosity on the roof that makes it look ugly; Mr. Fenlon has already stated that the proposed units are shorter than the existing air conditioning units that are already in place.

Mr. Smith: asked if height was an issue with the variance which was previously granted.

Mr. Fenlon: stated it was; the solar panels were 20 inches; some parts of the roof are lower and some are higher because of the way the roof is configured; the Zoning Officer took the position that a variance was needed for the solar panels; the units are 66 + inches high with an 18 inch base to protect them from the elements.

Mr. Bossong: confirmed that the proposed units will be higher than the solar panels.

Mr. Fenlon: stated that was correct.

Mr. Bossong: stated the variance for the solar panels would not have covered this application.

Mr. Smith: stated he understood but the height issue was a part of the granting of the solar panel variance; his understanding is that these air conditioning units will be lower, even though they exceed the maximum height requirement, they will still be lower than the existing air condition units.

Mr. Fenlon: stated that was correct.

Mr. Kenny: asked if the applicant would be opposed to, in the future, putting up noise barriers; there are residential neighbors located around the property.

Chairman Miras: stated that ties into the ratings of the units; believes noise standards need to be met.

Mr. Kenny: stated IHA is a great neighbor but noise is a factor.

Mr. Smith: stated the Board would have to hear from the engineer regarding the noise issue.

Mr. Fenlon: stated he doesn't know of any complaints from the neighbors in regards to the existing equipment on the roof.

Chairman Miras: stated Mr. Fenlon stated a letter from the Zoning Officer was not received; that is incorrect; the Zoning Officer wrote a letter dated June 2, 2014 to Ms. Patricia Malloy stating the application, as submitted, was incomplete; (Mr. Miras showed a copy of the letter to Mr. Fenlon.)

Mr. Fenlon stated he had not seen a copy of Mr. Tucker's 6/2/14 letter; his firm did not prepare the application.

Mr. Asfar: stated Mr. Tucker's letter was part of the application received by the Board.

Mr. Cumming: asked for clarification of the notations at the bottom of the letter.

Ms. Carroll, Board Secretary: stated the notations were made by her; they were the calculations given to her by Mr. Daniello.

Mr. Asfar: asked for clarification if there were four or three units proposed; the sketch only shows three.

Mr. Schlereth: stated the survey is on two pages; there are four units in total.

Mr. Cumming: stated he made a site visit late this afternoon to IHA and went on the roof with Mr. Schlereth; impressed by mechanical systems on the roof; the four proposed units will be visible from across the street; you can clearly see at least the second floor, if not the first floor of each of the houses across the street; nothing visible in the back; if there was another usable unit that had a lower profile it would be better, but apparently there is not; 20 ton units; barely sufficient to do second floor classrooms; in the business for 40 years; there is minimal site ugliness on top of the building from the four houses directly across the street; the sound levels were not discussed nor apparent; would need to hear from the engineer regarding the sound issue.

Chairman Miras: stated he believed he had read in the application that these units were actually heat pumps; low duty air conditions; can be used in this part of the country; heat pumps are usually used further south.

Mr. Asfar: asked if there were going to be classes in the summer.

Mr. Schlereth: stated no formal classes; small enrichment classes are held.

Mr. Asfar: stated he assumed due to the heat on the second floor that these classes are held on the first floor.

Mr. Schlereth: stated the classes are held in air conditioned rooms that currently exist in the school.

Mr. Asfar: asked if the Academy's school year is basically the same as the public school system.

Mr. Schlereth: stated it is shorter; school ends approximately the second week in June.

Mr. Daniel Daniello, D&B Engineering, Franklin Lakes, NJ : sworn in by Mr. Bossong

Chairman Miras: asked for a brief description of the proposed units.

Mr. Daniello: stated the proposed units are in fact heat pumps; they do heat and cool but it is not a conventional heat pump; technology developed in Japan that was imported to the US ten years ago; the difference between this type of heat pump and the conventional type is the variable speed aspects of the compressor; speeds up and cools down to closely match the load inside the

space; described conventional heat pumps vs. new heat pumps; in the application the noise rating is 63dba/sound pressure rating; **Exhibit IHA2, Daikin Data Sheet, marked 10/21/14;** 63dB is extremely quiet; noise levels on the unit are less than the ambient surrounding environment; discussed line of sight; 30-35 ft. in the air; noise rises; doesn't sink; not going to hear the units.

Mr. Kenny: asked if the applicant would put up noise barriers if asked to; will the noise issue be taken care of.

Mr. Fenlon: stated the Board can place conditions on any approval; asked if Mr. Kenny was asking for the proposed units to be screened.

Mr. Kenny: stated invertors ramp up and down; wants to know if relief will be provided for the noise they create.

Chairman Miras: stated, if it is a concern of a Board Member, a condition can be placed on the approval that if, after the fact, there is a noise issue that it will be revisited.

Mr. Smith: asked who would determine if the noise levels were at such a level that some sort of sound proofing would be needed.

Mr. Kenny: stated a decibel level reading would have to be taken at full blast and at rest.

Chairman Miras: stated a stipulation will be added regarding the noise issue.

Mr. Daniello: asked if the assumption is that if there were a noise problem it would be associated with the proposed units, not the existing units.

Chairman Miras: stated yes, that was correct.

Mr. Smith: asked how old the existing units were.

Mr. Daniello: stated there are no air conditioning units for the classrooms at this time; the units currently on the roof have been there for a while.

Mr. Smith: stated the point he wanted to make is that the existing units on the roof are much older than the new units being proposed; therefore he would assume that the efficiency level of the existing units is less than the new units; the dB is probably higher with the older units and were there complaints about the older units; if there were no complaints, then it shouldn't affect the new units.

Chairman Miras: stated in the prior IHA cases, there was never a complaint about noise.

Mr. Frank Gozel, 464 Van Emburgh Avenue: is a southerly neighbor of IHA; does not know where the units would be located; **Exhibit IHA-3, marked 10/21/14, most recent survey of the property with boxes representing the proposed units;** stated there was an addition that was constructed four years ago; 2nd page is the addition.

Mr. Asfar: stated he is surprised the applicant did not provide a complete survey showing the addition.

Mr. Gozel: stated there are already two units on the new roof; there is a misrepresentation on the drawing; the units are not shown on the survey; they can be seen from Mr. Gozel's property and can also be heard.

Mr. Frank Gozel, 464 Van Emburgh Avenue: sworn in by Mr. Bossong.

Mr. Asfar: stated the Vice Principal would be more knowledgeable about what is on the roof than anyone else.

Mr. Gozel: stated his house is adjacently southern to IHA; can hear the two existing units quite clearly; third unit will only add to his inconvenience; for the record, there is certainly no noise barriers; doesn't know if there is a code that they need to be hidden from view; can see two air conditioning units when standing on his property.

Mr. Smith: asked if he had registered or contacted IHA regarding the noise level.

Mr. Gozel: stated he doesn't want to get into a major disagreement; not vehemently opposed to the air conditioning units; the testimony he heard is not accurate; the units will run at a lower level at times, but they will not be turned off; doesn't know what is allowable or not.

Mr. Daniello: stated if you can't see the units, you can't hear them; noise travels in the line of sight.

Mr. Fenlon: asked why there were two drawings.

Mr. Daniello: described the addition and the 2 pages showing the surveys.

Mr. Fenlon: stated three units are shown on the first page and the fourth unit is shown on the second page; Mr. Fenlon stated he had marked the survey.

Mr. Asfar: asked for clarification that Mr. Fenlon marked the survey with the location of the proposed units.

Mr. Fenlon: stated no he had not marked the survey; Mr. Daniello filed the application; trying to clarify that there are 4 new units proposed on the roof.

Mr. Bossong: asked for clarification that the fourth unit shown on the second page could actually be drawn in on the first page.

Mr. Fenlon: stated that was correct; second page is a continuation of the first page.

Chairman Miras: stated the first page does not show the addition.

Mr. Daniello: stated that was correct.

Chairman Miras: stated the second page is a different scale of the new drawing that shows the addition.

Mr. Daniello: stated the first page doesn't show the original building in it's entirety either: stated no mechanical equipment is shown on the survey.

Mr. Fenlon: asked for confirmation from Mr. Daniello that the fourth unit is going to be installed on the existing roof, not the roof of the addition.

Mr. Daniello: stated that was correct.

Chairman Miras: stated he would like to know if there will be exhaust fans; in his past experience with this type of installation, a louvered wall was built around the units; this application would not need a louvered wall; for this application maybe there could be some type of screening; for the purposes of noise and aesthetics.

Mr. Asfar: asked what screening would look like compared to just the units.

Chairman Miras: stated the best idea may be to just leave the units alone.

Mr. Gozel: stated that statements were made that there are no neighborhood concerns; he is concerned, but will not complain to IHA.

Mr. Asfar: stated he is surprised Mr. Gozel is the only applicant present.

Mr. Gozel: asked if the panels will be removed when the new units are installed.

Mr. Daniello: stated the solar panels will not be interfered with.

Mr. Asfar: stated he would like to know where the other two units are.

Mr. Schlereth: stated the two units are the condensing units for the new addition; the four units that are being installed for this project are all to the northern side of the addition; the addition is higher than the original building.

Mr. Kenny: asked if there was a current decibel reading.

Mr. Schlereth: stated he did not have that with him; he does have a sketch sheet for the condensing units that are currently present.

Chairman Miras: stated the issue of decibels was discussed during the application for the addition; wasn't an issue; the equipment was within code.

Mr. Gozel: stated when the addition was done the air conditioning units were not placed on the plans; he was under the impression that they would be set back northerly; no fault of anyone; they put them a little more southerly than perhaps he would have liked; closer to the end of the building which spills over onto his property; doubts over 40 decibels; 40 decibels is annoying.

Mr. Asfar: asked if there could be a stipulation in the resolution regarding the noise level.

Mr. Bossong: stated the only thing to do is to put a stipulation in the resolution that the applicant will abide by the noise ordinance and the noise codes within the regulations.

Chairman Miras: stated the discussion regarding the noise level took place during the gas station application.

Mr. Daniello: stated the code stated 50 dB at the property line.

Motion to Approve: Chairman Miras, Smith

Ayes: Asfar, Kenny, Rappa, Smith, Cumming, Chairman Miras

Chairman Miras: stated the resolution will be read at the next meeting.

A brief discussion regarding the 2015 Reorganization meeting date took place at this time. The date of January 27, 2015 was agreed upon.

Approval of Minutes: Kenny, Chairman Miras

June 17, 2014

Ayes: Asfar, Kenny, Rappa, Cumming, Smith, Chairman Miras

Motion to Adjourn: Kenny, Asfar
All Board Members present approve motion to adjourn.

Meeting adjourned at 9:05PM.

Respectfully submitted by:
JoAnn Carroll
Zoning Board Secretary
October 27, 2014