

**BOROUGH OF EAST RUTHERFORD  
ZONING BOARD OF ADJUSTMENT  
February 4, 2016**

**A meeting of the Zoning Board of Adjustment was held on Thursday, February 4, 2016 at 7:30 pm. This meeting was held in compliance with the Open Public Meeting Act.**

***FLAG SALUTE***

**ROLL CALL:** Greg Ford  
Thomas Banca  
Gary Viccaro  
Richard Krajunus  
John Martin  
Al Levy  
Carmen Polifronio, Vice-Chairman  
Philip Alberta, Chairperson

**Attending:** Richard Cedzidlo, Attorney for the Board  
Mark Everett, Planner, Remington, Vernick & Arango  
Arthur Senior, Engineer, Remington, Vernick & Arango  
Cheryl Wloch-Rapetti, Recording Secretary

Mr. Alberta would like to welcome the new member to the Board of Adjustment, Mr. Greg Ford.  
Mr. Alberta would like to note for the record the following members have read the transcript from last month meeting concerning the application Docket#ZB-16-001, Arab Republic of Egypt. These members are Mr. Greg Ford, Mr. Gary Viccaro and Mr. John Martin. They have a right to vote on this application.

**Mr. Polifronio makes a motion to approve the minutes of the January 7<sup>th</sup> meeting and is seconded by Mr. Martin.**

**For:**  
Thomas Banca  
Richard Krajunus  
Al Levy  
Carmen Polifronio, Vice-Chairperson  
Philip Alberta, Chairperson

**Abstain:**  
Greg Ford  
Gary Viccaro  
John Martin

**Docket #ZB-16-001**  
**Arab Republic of Egypt**  
**4 Jersey Street**  
**Block 9, Lot 1 (Continuation)**

Mr. Antranig Aslanian, Esq. is representing the Arab Republic of Egypt. This is the continuation from January's meeting. Mr. Aslanian has hired a court recorder for his application. At last month's meeting the board had a question on the number of bathrooms? Mr. Aslanian will call his first witness, Nabil Mijalli, the architect.

First Witness: Nabil Mijalli, Mija Architecture, LLC

Mr. Mija explains the second floor of this proposed building. The second floor will have five suites with their own bathroom plus four public bathroom. In the bathrooms of the suites will be two toilets, two showers and two sinks. According to code each guest room should have one bathroom. The first floor of the existing building has 4 bathrooms the proposed interior will have six bathrooms. The basement currently has one full bathroom this will remain the same in the proposed.

Mr. Aslanian also mentions at the last meeting a board member wanting something in writing about the rental of cars or driving cars. Members of the Delegations are not allowed to drive or rent cars.

The following item was marked into exhibit:

A-2 Letter regarding the renting or driving of cars

Mr. Aslanian also explains to the board why the General is not present tonight. Mr. Aslanian will provided e-mails as to why the General is not present. The General had to pick up Dignitaries from the airport and drive them to Washington, D.C. The board agrees Mr. Aslanian does not need to submit e-mails based on the absence of the General.

Second Witness: Richard Preiss, Philips Preiss Grygiel, Planner

Mr. Preiss was retain by Mr. Aslanian to address the application to appeal the official's decision on the use of this application. Mr. Preiss has reviewed the letter of denial, resolution from last year and the application for tonight's hearing.

Mr. Preiss goes over the property to the board. The lot has 18,754 square feet. Currently there is a three story structure with an attach two car garage and a driveway that can fit three cars. The surround buildings in the area are one or two families and across the street from this lot is a church. The prior use for this building was for the Francian Friars living quarters. This building has been vacant for many years. The Arab Republic of Egypt was interested in this building because it fit their need for the number of rooms and size. The Arab Republic of Egypt would like to use as a similar use. They would house two officers and their families in the two apartments in this proposed interior plan. Each family would have one car and there will be another van to transport the dignitaries back and forth to the New York Embassy. This building would not be open to the public. No social events would take place here. Only the interior of the building would be change the exterior would only have one change and that would be the ramp located on Jersey Street. This lot is located in an R-2 medium district. Mr. Preiss believes this is a conational use most of the building is for residential use and a small space for an office. There is no evidence of a use of the building. The Friars were a legal non-conforming use according to ordinance 38-45b.

Mr. Preiss goes over with the board the difference between a D1 and a D2 variance. A D2 is granting an expansion of a legal non-conforming use. The parking variance falls into both types of variances but believes this is not for this application. The first appeal Mr. Preiss's client has was from the Zoning Officer deeming this a change in use. The Zoning Official determine this based on the building code not the zoning code. This was classified as an R-1; residential primary with transit. Two families and one non-officer will be a permanent residents in this building. The Delegates would be the transit people. The use according to zoning is as residential and office. The rooms will still be used as the Friars used them.

Mr. Senor, Engineer, for the Borough, sited ordinance 39-23, Friars was a conditional use. The Annex is not sited in the Zoning Book. The use was a house of worship and was beneficial to the neighborhood.

Mr. Preiss, Planner, for applicant this is a residential use. If you look at parcel alone this is not a site of worship is legal non-conforming use.

Mr. Levy states this does not serve the Borough of East Rutherford in any way.

Mr. Preiss states this was an existing mix use building. The Government of Egypt were able to use the residential use and the office use. Mr. Preiss believes this is a continuation from the prior use. No variance is needed; no change in use. Mr. Preiss explains the expansion of a non-conforming use. The zoning code of the borough had no standards for this particular use. This is not a use in code or a parking standard in the zoning book. According to the zoning book there is no parking standard for an Annex building. This site fit the Arab Republic of Egypt.

The other decision the board needs address is to hold the Zoning Officer's decision. The enlargement of the building-this does not apply no change in foot print of the building. No extensions will be added to the building. As for the construction of the building all or part of the building is demolish. As for the intensification of the use: two families and sleeping rooms. The second floor had 14 bedrooms when the Friars owned it. This applicant is proposing 12 bedrooms this is not intensifying the use of the building. Mr. Preiss sites a court decision for the Land Use Book by Cox on page 720. He cites a case decision between the State vs. Wagner – 1963. A two apartment conversion. One apartment has daughter and son-in-law live in. The second apartment is rented by 12 students from a nearby college. Wagner won. No expansion, no physical expansion was done on the dwelling. This was based on case law.

#### D1 Variance-

Board decided prior use conforms. The prior use integrated into the neighborhood and had little impact on the neighborhood. Only five parking spaces are available for this lot. The use of this building is unique; it's not something a municipality deals with on an everyday bases. No zones in East Rutherford or surrounding towns fits this unique use.

The hardship is this building cannot comply with zoning. This building would be demo and then this lot would be subdivided into three lots. On these new lots two family homes could be built with driveways and the loss of seven on street parking spaces would be gone.

What other use with this variance? Proposed use is lower in density. You could take this site and make into 13 apartments with parking. This type of application would substantially intensify the use for this

area. The proposed application would serve the region not necessary the Borough of East Rutherford. Renovations of the building is a good use of the land.

Negative Criteria for this application – very similar use a prior and propose. An application for six families would be a more intense use then what is being proposed.

D2 Variance0-

Prior non-conforming use, burden of proof. Some hardships from D1 and D2. Page 730 from the Land Use Book by Cox. The proposed use will change the neighborhood. Most of the construction is to bring the building up to current codes.

Mr. Alberta, Chairperson, stated when you first came to the board on October 2, 2014 it was for minor changes not like changes the Building Inspector is seeing.

Mr. Levy read the minutes from the October 2, 2014 for the record. The applicant's planner does not know why Delegations were not mentioned at the prior hearing.

Mr. Alberta said a lot of work has been done since then. A lot of the demo was to bring the building up to code and to have apartments for the officers. The applicant's attorney states between 8-12 people will make up the delegations Mr. Alberta also questions the applicant how long on the Security Council the applicant's attorney cannot answer the question.

Mr. Everett, Borough Planner, cites 38.45b – number of criteria. He is recommending the applicant to go for a D1-variance. Reconstruct falls under this variance since the building is being renovated. Mr. Everett brings up the building has been vacant. The applicant's planner never abandoned the use of the building.

Mr. Cedzidlo, Board attorney asked how as the building was marketed and what type of use? The applicant's attorney responded said a Washington firm did the closing. There was negotiations with the Friars because the Friars wanted certain items from the building. The Friars always maintain control of the building.

Mr. Everett, What were the Friars intent for selling the building? The applicant's attorney responded the Friars had no part to abandon the use of the building.

The applicant's planner this building was a non-conforming use, the use of the building was not permitted in this zone. The building was on its own property not an accessory structure for the church. Mr. Alberta would like to know where it states an accessory structure has to be on the same lot. Mr. Senor, board Engineer, cites 38A-23a; this is an accessory structure for a house of worship.

Someone mention deed restrictions. The applicant's planner stated a responsible applicant would agree to this. Mr. Cedzidlo advises the board certain restrictions can be used. Applicant would comply with this. If a variance is granted it goes with the land. Being restricted with this application the board might agree.

**Mr. Levy makes a motion to open to the public and Mr. Martin seconds. All in favor.**

Public: Stan Rymarz, Carlton Avenue.

This building was originally built as a convent with a chapel. 20 bedrooms with only 4 people.

The applicant architect states there will be one – two bedroom apartment and a one – three bedroom apartment. The basement will have apartment for single people. 11 people will live permanent in this building. There will be no U.S. guard on duty. Mr. Rymarz believes this is not a good fit for the neighborhood.

Mr. Calhoun – 55 Wallington Avenue

Why were there no plans submitted in 2014? The applicant shows dishonesty. The applicant attorney said he did not handle the prior application. The attorney architect did talk at the last meeting in October of 2014 and try to put it on paper but testified that the building needs major upgrades. Mr. Recognitti advised the architect that his client should go to the board.

Also the State Department will handle what kind of problems? The applicant attorney said the State Department would call the local police, county then state police. The second story has a lot of rooms. The dignitaries usually come 12 at a time no more than six time a year. Can the number of Dignitaries change and it larger?

Mr. Alberta, What would you like there? Don't know if had money would buy and make it into a park.

Mr. Ghaith Androwis, 77 Union Street

I would like to see an adult day care go in there. 11 permanent living in this dwelling plus additional rooms upstairs. Street parking is always an issue. This application will create numerous problems with the neighborhood.

Mr. Alberta calls for a break before that he talks about the other two applications on for tonight. The applications are 384 Paterson Avenue ER, LLC and Thomas O'Fallon – 133 Humboldt Street.

Mr. Polifronio makes a motion to carry these two applications with no new publications and no new notice and is seconded by Mr. Martin. All in favor.

Mr. Weimer, York Street

2 Officers rotate every two years. Do the Diplomats rotate too? The applicant's attorney states the Arab Republic of Egypt is part of the United Nations Security Council. This building will be an annex to the UN. No other business or visitors will come to this building.

Mr. Bernard Stabash – York Street

They have stated they cannot own cars. Mr. Alberta corrects this statement the officers are allowed to own and drive a car. There will be a lot of transits going in and out of the building not like before. Why did they not remodel the New York Embassy? The attorney response stating the building is in a commercial zone.

**Mr. Levy makes a motion to close the public portion of the meeting and is seconded by Mr. Krajunus. All in favor.**

There will be two votes for this application; one if the board agrees with the building officer and the use variance.

**Mr. Levy makes a motion to uphold the Zoning Officer's decision that the proposed use requires the granting of a use variance and is seconded by Mr. Martin.**

For:

Al Levy

John Martin

Thomas Banca

Gary Viccaro

Richard Krajunus

Against:

Carmen Polifronio

Philip Alberta

**Mr. Krajunus makes a motion to deny the use variance and is seconded by Mr. Martin.**

For:

Richard Krajunus

John Martin

Thomas Banca

Al Levy

Against:

Gary Viccaro

Carmen Polifronio

Philip Alberta

Motion has been carried this application has been denied.

Minutes by: Cheryl Wloch-Rapetti  
Secretary