

**Zoning Board of Adjustment  
Regular Meeting Minutes  
December 6, 2017**

The Regular meeting of The Borough of Florham Park Board of Adjustment was called to order on Wednesday evening, December 6, 2017 at 7:00p.m., in the Municipal Building, 111 Ridgedale Avenue, Florham Park, New Jersey.

**Members Present:**

Mr. Michael Cannilla, Chairman  
Mr. Jeffrey Noss, Vice Chairman  
Mr. John Novalis  
Mr. Martin Chiarolanzio  
Mr. Rick Zeien  
Mr. Brian O'Connor

**Members Absent:**

Mr. James Gallina  
Mr. Ron DeRose (1<sup>st</sup> alt)

**Also Present:**

Mr. Kurt Senesky, Esq., Board Attorney

**Call to Order:**

Mr. Cannilla, Chairman called the meeting to order at 7:00p.m.

**Statement of Adequate Notice:**

Mr. Cannilla issued the following statement:

"I hereby announce and state that adequate notice of this meeting was provided by the Secretary of this Board by preparing a notice, specifying the time, date and place of this meeting; posting such notice on the bulletin of the Municipal Building; filing said notice with the Clerk of the Borough, forwarding the notice to the Florham Park Eagle, and forwarding, by mail and fax, the said notice to all persons on the request list, and that said notice will be included in the minutes of this meeting. This action is in accordance with the N.J.S.A. 10:4-6, et sec., "Open Public Meetings Act."

**Approval of Minutes:**

Approval of Minutes from November 15, 2017 Meeting.

Mr. Zeien made a motion to approve the minutes, second by Mr.O'Connor.

Roll Call: On a roll call vote all members present and eligible voted to approve the minutes.

**C Variance:**

**Linda Wagner-Blok, Wil Blok**  
2 Crescent Road  
Block 2005, Lot 7

**Application #BOA17-9**  
side, rear, front setback  
building, lot coverage

Applicant is seeking approval for newly constructed porch, patio and proposed portico, driveway.  
Carried from the November 1, 2017 meeting without further notice or publication.

Steven Azzolini, Esq. represented the applicant. He stated that the plan has been modified somewhat. Andrew Clarke, Engineer for the applicant, remained under oath. He stated that the southerly steps and landing off the porch addition have now been relocated to the street side of the home. It will not be visible from the street because it is inside of the fence. The eave will be expanded to cover the landing.

The patio will be reduced to be in line with the addition at the ten foot line, but expanded a little on the other side to meet up with the relocated stairs.

This will result in a minor reduction in lot coverage and building coverage.

A perk test was performed as requested. The result was that the ground material perked at an acceptable rate of 1.5 inches per hour at 10 feet, and got better as they dug down. The test was conducted in the vicinity of the proposed drywell.

There will also be an infiltration trench on the property line (French drain style) to alleviate any runoff on the neighboring property. This will be piped to the front in a 6 inch pipe and into the drywell.

Mr. Clarke is confident that the drywell design will provide strong mitigation of onsite storm water conditions.

There are no further changes to the driveway plan.

Mr. Cannilla was challenged by a near 4% maximum coverage. He understands that the pit will mitigate but one should not be able to build a large pit and circumvent the ordinance. He also asked about the possibility removing the south driveway and making a "K" turn to exit the remaining northerly driveway, rather than enlarge it.

Mr. Clarke said that this is a real safety improvement to provide functionality and it is not gratuitous. He added the driveway design would not be practical that way.

Mr. Azzolini stated that this is the plan that the applicant is going with. The perk test is acceptable. It is a non-conforming lot that presents a lot of difficulties. If it was conforming, there would not be a need for these variances.

Mr. Cannilla reminded them that they knew it was undersized when they bought it and should have been aware that they would be limited on what they could do. He asked if they can live without the patio in order to minimize the excess lot coverage.

He opened the meeting to the public.

Frances Derin, 248 Brooklake Road. She appreciates the turning difficulty and has no issue with that. Her only concern is the drainage. She does not want any more exacerbation of the flooding situation that she now experiences.

Mr. Azzolini again said that the situation will improve with the storm water mitigation they are proposing.

Mr. Novalis asked how large the paver patio is. Mr. Clarke said that it is 203 square feet. He said that one option is that they can remove 175 square feet, and then perhaps come back to the Board for a variance for some type of patio in the future.

Ms. Derin said that if they remove the patio now and seek a variance in the future, that may present a bigger issue later on for her. She asked if the drainage plan does not work, what is her recourse.

Mr. Senesky stated that her recourse would be to retain an attorney. He noted that the Board will look at this very carefully and make a decision on the facts. However, there is no guarantee.

Mr. Novalis said that he is very confident that the plan is going to work based on the testimony and the plan and Mr. Chiarolanzio agreed. Mr. Cannilla added that they simply cannot drain water on a neighboring property.

Mr. O'Connor asked Ms. Derin how long the water sits on her property before draining. Ms. Derin stated that it is there for two or three days. Mr. O'Connor also agreed that it will drain much quicker with this plan.

Mr. Cannilla offered that there could be two separate votes if they choose since there are two major issues.

Mr. Azzolini requested a five minute break to speak to his client.

*Break.*

Mr. Azzolini stated that he will bifurcate the application in the following manner:

- Building and setback
- Lot coverage including patio

Mr. Noss clarified that if the building coverage variance does not pass, then the lot coverage numbers change. It was calculated to be reduced by approximately .6%, but still over the limit.

Mr. Novalis was concerned about the building coverage variance and what would happen if it does not pass. Mr. Senesky responded that Mr. Azzolini would likely confer with his client at that point.

Mr. Azzolini summarized that the building coverage is 77 square feet over what is pre-existing. It is mainly the eaves on the portico. The side yard setback is in line with what is already existing.

He continued that it is an existing non-conforming corner lot that is problematic. The structure is oddly situated on the lot and this establishes a hardship under the law. The law states that if you have a non-conforming property, you must prove that the reasonable extent to which you want to use your property is being affected by zoning. He believes that this is a reasonable request to use the property. There is no detriment to the neighborhood or the zone plan.

Mr. Azzolini said that lot coverage concerns revolve around flooding and drainage. The engineer testified that the drainage plan will actually improve the conditions on the property and there is no negative affect to the application.

There are valid reasons for the planned improvements. It will be safer for the occupants of the home and the driving public. The lot coverage will improve the usable conditions.

Mr. Azzolini contends that it is a hardship situation, and the driveway proposal is not overly big. There are numerous properties on Brooklake Road that have circular driveways due to increased traffic. He cited a 1987 Supreme Court case that ruled that a lot with an unusual topography and a non-conforming structure reiterates a hardship justification.

Mr. Azzolini believes that there is legal justification for granting this. They have satisfied the burden, and felt that the Board should look favorably on this application.

Mr. Senesky stated that a small sized lot is not a hardship but when in conjunction with no opportunity to enlarge, it becomes a hardship.

Mr. Cannilla asked what the drainage management proposal would be for the area along the property line in the event that there is not an approval.

Mr. Azzolini said that if the lot coverage variance is not approved, then there will be no drywell installation.

Mr. Clarke said that they would install a drainage pipe to the front of the home and into the roadway.

Mr. Novalis wanted to be sure that 77 square feet of building coverage from the addition is all that was added over what was existing that the time of purchase. Mr. Zeien clarified that the portico is also included and is 24 square feet.

*Mr. Zeien made a motion to approve the building coverage variance request, second by Mr. Novalis.  
Roll: Zeien, yes; Novalis, yes; Noss, yes; Chiarolanizio, yes; O'Connor, yes; Cannilla, yes.*

The building coverage variance was approved.

Mr. Cannilla said that the next vote will be for the lot coverage variance.

Mr. Cannilla stated lot coverage is his primary concern. But he believes that 2 driveways could confuse drivers and thought that there could be other ways to mitigate the problem.

Mr. Zeien agreed with the applicant and his counsel that the driveway expansion is necessary but questioned the need for a patio. The patio is the component of this variance that he is having trouble with.

Mr. Novalis said that the drainage problem has been handled well. He agrees that the driveway design is needed for the safety for the homeowner. But he agreed with Mr. Zeien that the patio is not a need and is not a hardship.

Mr. Chiarolanizio liked the drainage plan and understands the intersection issue. But the patio is unnecessary.

Mr. Noss agrees that the circular driveway is more effective. He said that the applicant does not have an intrinsic right to a patio, but sees the request as de minimus and it will not add to the drainage problem.

Mr. O'Connor remarked that he that the driveway is still a pet peeve for him. It is a tough call because it is a busy intersection.

Mr. Azzolini noted that the existing patio of 110 square feet was already there, and it encroached on the neighbor's property. They made the situation better by moving it to the rear yard. He stated that there is never a need for a patio, but it is a part of modern day living.

Mr. Novalis replied that a patio is a common element and is not an unusual request from a homeowner. However in this case, it is combined with a very large driveway request. The lot coverage is not just the patio which is enlarged over what was existing, but also a significant driveway addition.

Mr. Azzolini does not feel that the applicant is taking advantage because he only added a 10 x 10 Ft. section to the patio over what is existing already.

Mr. Senesky clarified what is included in the vote. Mr. Azzolini stated that all lot coverage improvements including patio and driveway. The lot coverage total is 33.8%.

Mr. Senesky said that he can ask for another vote on something else if he wants, but this vote would be an "all or nothing" vote.

Mr. Azzolini requested that this vote on the lot coverage is for all elements.

Mr. Cannilla stated that the lot coverage request is for a total of 33.8% which includes the driveway, patio, walkways.

Mr. Noss made a motion to approve the lot coverage request. There was no second. Mr. Senesky said that it would fail for want of a second.

Mr. Senesky asked if anyone wanted to make a different motion.

*Mr. Novalis made a motion to deny the lot coverage request, second by Mr. O'Connor.*

*Roll: Novalis, yes; O'Connor, yes; Noss, no; Chiarolanzio, yes; Cannilla, yes; Zeien, yes.*

The lot coverage variance was denied.

*Break 8:25-8:30pm.*

Mr. Azzolini thanked the Board for their consideration of the lot coverage request and for the offer to submit another vote. He stated that his client has agreed to remove the patio and would like a vote for the driveway only.

Mr. Novalis said that providing for a modest landing for the step system would be acceptable to him.

Mr. Clarke said the current patio is 203 square feet. The proposal is for 30 square feet for a landing only. The total lot coverage amount is now 3915 square feet or 32.4%.

Mr. Cannilla again asked that the applicant consider a singular northerly driveway with enough space so that the homeowner can do a "K" turn in order to be front facing when exiting. He said that this will bring him very close to compliance and perhaps in compliance. He is not convinced that the circular driveway will be a safer option.

Mr. Azzolini stated that a circular driveway is important to his client and he asked for a vote that includes the driveway and landing for the stairs.

*Mr. Novalis made a motion to approve the lot coverage variance, second by Mr. Zeien.*

*Roll: Novalis, yes; Zeien, yes; Noss, yes; Chiarolanzio, yes; O'Connor, no; Cannilla, no;*

The revised lot coverage variance request was approved.

Mr. Cannilla informed the Board members that Martin Chiarolanzio has resigned from the Board because he is moving. He thanked him for serving on the Board of Adjustment for the past several years.

Mr. Cannilla also informed the Board members that they have lost another member, Jim Gallina, who has also resigned due to work obligations. He stated that the Board is in need of members and if anyone knows someone who may be interested, they should forward them to us as soon as possible.

Mr. Senesky added that in order to be fair to an applicant, there should be a full Board present, especially in the case of a use variance application.

Mr. Cannilla asked for volunteers for the 2018 Nominating Committee. Mr. Novalis and Mr. O'Connor agreed to be committee members.

On a motion duly made and seconded the meeting was adjourned at 8:50 p.m.