

**Zoning Board of Adjustment
Regular Meeting Minutes
January 4, 2017**

The Regular meeting of The Borough of Florham Park Board of Adjustment was called to order on Wednesday evening January 4 , 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. Martin Chiarolanzio
Mr. Rick Zeien
Mr. Brian O'Connor
Mr. Ron DeRose (1st alt)

Members Absent:

Mr. John Novalis
Mr. James Gallina

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:

1. Approval of Minutes from December 1, 2016 Meeting.

Mr. Noss made a motion to approve the minutes, second by Mr. Chiarolanzio.

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

Re-Organization Resolutions of Approval:

2. Scheduled Meetings for 2017

Mr. Noss made a motion to approve the meeting schedule for 2017, second by Mr. Zeien.

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

3. Retaining of a Board Attorney, Planning Consultant, and Engineer

Mr. Zeien made a motion to approve Kurt Senesky as Board Attorney for 2017, Robert Michaels as the Planning Consultant for 2017, and Michael Sgaramella as Board Engineer for 2017, second by Mr. O'Connor.

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

4. Retaining of Board Secretary

Mr. O'Connor made a motion to approve Marlene Rawson as Board Secretary for 2016, second Mr. Mr. DeRose.

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

Resolution of Approval:

5. **HPT TRS WYN, Inc.**

Wyndham Hamilton Park Hotel
175 Park Avenue
Block 1301, Lot 3

Application #BOA16-13

extension of approval

Applicant is seeking an extension of development approval for the construction of additions to the hotel.

Mr. Noss made a motion to approve the resolution, second by Mr. DeRose.

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

C Variance:

12. **Ralph Colonnello**

2 Sutton Place
Block 2305, Lot 1

Application # BOA16-14

front yard setback
R-15 zone

Applicant is seeking approval for the construction of a portico over an existing front entry way.

Mr. Colonnello was sworn in. He stated that he lives in on the corner of Briarwood Road and Sutton Place. He stated that his home is being re-sided and upgraded. As part of this project, he would like to add a covered portico over his existing front step system.

Exhibit A-1 through A-8: photo series of existing and proposed conditions

The proposed portico is larger than what is permitted because he wants it to fit over the existing front step system. If it was made smaller, it would look odd and mismatched.

Mr. Cannilla stated that this is a de minimus setback variance. Coverage over an entry door is not uncommon. It provides for safety and protection from the elements. Although this is slightly larger than what is permitted by code, it is architecturally pleasing and certainly not oversized. In addition, the applicant is not over on building or lot coverage.

There were no questions from the board members or the public. Mr. Cannilla called for a motion.

Mr. Chiarolanizio made a motion to approve the application, second by Mr. Noss.

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

13. **AJ Developers, LLC**
13 Tucker Street
Block 2410, Lot 17

Application # BOA17-1
excess building coverage
R-15 zone

Applicant is seeking approval for excess building coverage in connection with a garage overhang.

Carmine Campanile, Esq. represented the applicant. Art Pizzi, principal/owner, was sworn in.

Mr. Campanile explained that this involves a new construction home. It is a request for excess building coverage where the permitted percentage is 15% and the request is for 15.25%. The builder installed a garage overhang because he thought that he had enough building coverage to do so. However, when the final calculation was done, it revealed a slight overage. The overhang is 2 feet wide by 21 feet long (42 square feet).

- A-1: roof overhang,
- A-2: roof overhang with high hats
- A-3: roof overhang with high hats close up
- A-4: side view of overhang

Mr. Pizzi explained the chain of events from his position. He said that the original grading plan calculated the amount of coverage at 14.7%. He thought that he had 48 square feet of unused building coverage and the buyer wanted the overhang. When the final as-built survey was submitted, it calculated out to be .25% over.

Mr. Pizzi said the garage overhang matches the portico over the front entry. The overhang was outfitted with lights over the garage doors. It provides a certain degree of safety and is esthetically pleasing.

Mr. Campanile stated that they are not seeking a hardship variance. They are seeking a C-2 variance. This was done on the grading plan.

Fred Meola, PE, and engineer for the new construction home project, was sworn in. Mr. Meola testified that the house matched the original grading plan. The overhangs on the home were included and the numbers were fine. He believes that the roof overhangs were constructed slightly larger than on the plan. He thinks that the eve overhangs were framed in at 6 inches and not 4 inches.

Mr. Cannilla asked the size of the overhangs were on the original plan. Mr. Meola did not know because he gets the square footage number from the architect including the overhangs. He stated that the calculations that were done on the house included the overhangs.

Mr. Cannilla asked how the overhangs got bigger. He is struggling with this.

Mr. Meola stated that he checked the number on the plans and an auto-cad drawing and also before it is built and it was fine. You are asking me how it got bigger when it got built, I can't answer that.

Mr. Cannilla thought that there is another variance needed for a front setback since the garage is at 41 feet. When you add the 2 foot overhang you are at 39 feet. He asked Mr. Pizzi if he built the house according to the architect's plans. Where did the extra 60 feet come from?

Mr. Pizzi stated that he followed the overhang plans and made no changes to the overhangs. They were built as shown.

Mr. Cannilla said the overhangs increased the building coverage. Mr. Meola responded that if there was no overhang over the garage, then the coverage would be at 14.9% and conform. He again stated that the roof overhang must have been build a little bigger than what was anticipated.

Mr. Cannilla asked how that happened. He asked if he conferred with the architect especially when the numbers are so close to start with.

Mr. Meola said that you are asking me how when it is built, it is different, I don't know that.

Mr. Pizzi said that there is a 6 inch overhang on the front and 4 inch overhang on the sides. This matches the architect's drawings.

Mr. Senesky stated that Mr. Pizzi and Mr. Meola are not saying the same thing. Mr. Pizzi though he had the square footage.

Mr. Zeien asked Mr. Meola what the original size of the overhangs were.

Mr. Meola said that he did not know because the architect makes that decision. He said that got the numbers from the architect and they included all the overhangs. Mr. Meola said that he is not on the job site every day to make sure that it gets built as per the drawing.

Mr. Cannilla stated that if you are getting verbal information from the architect, you should verify it. It is your responsibility to verify from an engineering standpoint. You should ask for the dimensions of the overhangs.

Mr. Senesky agreed and said the numbers must be right.

Mr. Cannilla questioned how the numbers changed.

Mr. Meola said they called the architect in May to verify the plan and when it got build in August, the overhangs somehow got bigger.

Mr. Noss asked if they double checked the numbers and re-measured.

Mr. Meola responded that they are double-checked as best as they can. In the beginning, everything was fine. The foundation was a 14.18%. Then I added in the front porch and the overhangs.

Mr. Chiarolanzio asked Mr. Pizzi if he filed a permit update with the construction department when he decided to add the garage overhang. This is a required step when the plans change and the numbers will be verified at that time. I can't blame all this on Mr. Meola if you did not do this.

Mr. Pizzi stated that he did not file a permit update and admitted that was his fault.

Mr. Senesky reiterated that the applicant is seeking a C-2 variance which does not involve a hardship. The fact that the overhang is esthetically pleasing and offers a certain measure of safety can be a zoning consideration.

Mr. Cannilla stated that he is challenged by this error. Now there is a second variance needed. He reminded Mr. Meola of the risk when you are that close in your numbers; it is your signature and your license. He asked again if Mr. Meola checked the drawing.

Mr. Meola confirmed that the foundation was checked and then the dashed line that indicates the overhangs and the square footage was fine and it matched what he said. In the beginning the coverage was at 14.7%. However, when the "as built" drawing came in, something changed. He added that he is not on the job every day as it is built. When asked about whether he included the front portico, Mr. Meola said he believes that he did.

Mr. Cannilla said it is problematic when the new homes are built to the edge of the building envelope. He said what happens next is the new owners will want a shed which leads to another violation. There is no room left for any exterior amenity.

Mr. Noss verified that Mr. Meola had only the one set of plans from the architect dated June 2016 and he said yes. Mr. Noss commented that the plans appear to be .25% off. Something got built a little larger.

Mr. Chiarolanzio asked Mr. Pizzi if anyone checked those plans to see if the overhangs were built as the plans said.

Mr. Cannilla advised Mr. Meola that if the building is that close like within 1%, it better be checked. It is your professional obligation. Two or three inches on an overhang will change everything. You are putting the Board in a very bad position.

The meeting was opened to the public.

Barbara Nevius, 89 West End Avenue. If the coverage is over, can they be required to tear it off? Are there consequences?

Mr. Senesky replied "yes", if the application is not approved. And it has been done.

Virginia Wiggins, 18 Northern Avenue. What does "plus any other variance deemed necessary" mean on the public notice? It is just related to this project?

Mr. Cannilla responded that is correct. They cannot get any relief from any other variance unrelated to the overhang project.

Marianne Nucci, 7 Tucker Street. She said it blows her mind that builders know what the rules are and disregard them. What can the Board do to prevent this? There is no room in between houses anymore. It is like when I was a kid in Perth Amboy.

Mr. Senesky stated that most people ask for the variances first before building.

Mr. Cannilla said the town instituted safeguards and foundations are now checked by the town inspectors. There are other checks that come into play because the houses are so large. He sympathized with Mrs. Nucci and stated that in his neighborhood there are six new construction homes.

Mr. Senesky asked Mr. Pizzi if he has a buyer for the home. Mr. Pizzi stated he is under contract and expects to close in 2 weeks.

Mr. Chiarolanzio noted that the site plan has a last revision date of 7/5/16. The "as built" survey dated 12/12/16 includes the overhang square footage. When compared, the rear porch is bigger than what was proposed, and the front porch got larger as well. Those two changes added up to the extra square feet.

Mr. Noss agreed and confirmed that it is close to .20%.

Mr. Cannilla stated that the rear porch went from 65ft to 67.5 ft. How did that happen?

Mr. Meola said he did not know what happened in the back porch. On the front, there are interior closets that were shown on the original plan as being a one foot bump-out. The as-built shows them as three feet. At the foundation stage, all was correct.

Mr. Chiarolanzio confirmed that the proposed plan is different from what was actually built.

Mr. Cannilla verified that the steps and landing off the kitchen sliding door is included in the calculations.

Mr. Noss asked when the client asked for the overhang and Mr. Pizzi stated that it was in September 2016. Mr. Meola said the foundation location plan is dated August 26, 2016.

Mr. O'Connor asked how this can be prevented. An architect and engineer were hired to get it right and now the builder is in the hot seat. No one is stepping up to admit a mistake.

Mr. Meola said that he was unaware that the roof overhang got constructed. He said that he has instituted some in-house changes as safeguards. He will require new plans to be marked "ready for construction". He said that he relies on the architect's measurements but he still does a calculation of the foundation. He stated that he is out of the loop when plans get tweaked. But now he will ask for the architectural plans that are marked final.

Mr. Chiarolanio said that these projects must be field checked as well.

Mr. Cannilla stated that the roof overhang dimensions should be clearly depicted on the drawings and Mr. Meola stated that he will do that so that the builder knows the limitation.

Mr. Campanile summarized the request. It is a C-2 variance request. They thought they had wiggle room to add the element. Unfortunately, they are a bit over and they realize that this is not de minimus in Florham Park. But it is better looking, and it serves a purpose as well as collect runoff from the house. A mistake did occur but it was not intentional. Mr. Pizzi has built many homes in Florham Park and this is the first time he is here.

Mr. Cannilla agreed that the plans were not updated and that was a mistake of the builder. But he thought that he had the numbers. The numbers should be reliable. He asked for final comments from the board members.

Mr. Zeien said that the builder has never been before us and he is not a repeat offender. His professionals failed him and that is not acceptable. The house does look nice but it doesn't always change what we should be doing here.

Mr. Chiarolanio told Mr. Pizzi that he should have gone to the Zoning Officer first before making a change. That is why the process is what it is, so there is no issue. Homes in Florham Park are being built to the max and that is a problem because nothing else can be placed on the property.

Mrs. Wiggins. What if the new owners want to add something else? How does that work?

Mr. Cannilla said that he will answer that after the comments of the Board.

Mr. Noss said that this is an embarrassing situation and appears to be the result of a comedy of errors. But mistakes are made and I have to look at the facts of the variance. If the house was sold with no overhang and the homeowner applied for the variance, .25% over coverage would likely be considered de minimus with regard to the extent of inconsistency with the Master Plan and Zone Plan.

Mr. O'Connor said that this is frustrating and they should not be here. The print was not correct. The overhang does go with the front porch and helps collect the water. The intentions were all good, but I don't want to see this again.

Mr. DeRose stated that although the home is beautiful, he agreed that they should not be here with this. The numbers should be double checked when you are that close. I hope you learned something.

Mr. Cannilla responded to Ms. Wiggins' question and said maximum building coverage by ordinance includes roofed structures and all that is connected to the structure. The buyer must beware. He is not sure that new owners think about this. They want big homes but they come with limitations. He hopes that this is conveyed to the buyers. He understands Mr. Pizzi's position, and he admitted he made a

mistake. But he used a licensed professional's number. I agree that the home is enhanced by the overhang. But there is no excuse. If the variance is denied, it must come off. This is not an easy decision.

Mr. Cannilla called for a motion.

Mr. Zeien made a motion to approve the application, second by Mr. Noss.

Roll Call: Zeien, yes; Noss, yes; Cannilla, abstain; Chiarolanzio, yes; O'Connor, yes; DeRose, yes.

On a motion duly made and seconded the meeting was adjourned at 9:15p.m.

Marlene Rawson
Board Secretary

January 4, 2017