

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

The Regular meeting of The Borough of Florham Park Board of Adjustment was called to order on Wednesday evening September 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
Mr. Ron DeRose (1st alt)

Members Absent:

Mr. James Gallina

Also Present:

Mr. Kurt Senesky, Esq., Board Attorney
Mr. Michael Sgaramella, Board Engineer
Mr. Stephen Jones, Borough Zoning Official, Construction Official (*sworn in*)

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 August 2, 2017 Meeting.

Mr. Noss 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:

6. Robert & Maryann Ayers
85 Hillside Avenue
Block 2905, Lot 30

Application #BOA17-8
excess building coverage, building height
driveway setback

Applicant is seeking variances in connection with a proposed new construction home.

Applicant has requested to be carried to the September 27, 2017 meeting without further notice.

Mr. Zeien made a motion carry the application to September 27, 2017, second by Mr.DeRose

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

7. **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. Mr. DeRose made a motion carry the application to September 27, 2017 meeting, second by Mr. Chiarolanzio.

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

8. **Lucas and Heidi Marrero**
56 West End Avenue
Block 3401, Lot 16

Application #BOA17-10
front, side setback, lot coverage

Applicant is seeking approval for non-conforming driveway, non-conforming garage, non-conforming patio, non-conforming gazebo, plus proposed renovation and expansion of an enclosed front porch.

Daniel Santarsiero, Esq. represented the applicant. He stated that they acknowledge that much of the work that is listed in the application has been completed and he does not want to sugar-coat the situation that exists. He added that there were miscommunications and misunderstandings in connection with the chain of events leading up to this point.

Mr. Santarsiero said that the elements that have been added have improved the neighborhood. Also, Mr. Marrero has agreed to move the existing gazebo to inside of the setback. He also wanted a pool but that request was abandoned.

The application involves a detached garage replacement and driveway extension and enlargement that has eliminated the need for street parking and moving cars around in the driveway. The request also includes a front porch that is not yet built. A blue stone patio was constructed at the rear and right side of the house and attached to the existing patio.

Mr. Santarsiero added that the lot is irregular and triangular and very difficult to work with. The application was started in January, but there were discrepancies in the surveys that were submitted.

Now there is a new garage, larger driveway, and stone patio on the right side and the gazebo that can be moved to inside the setback. Mr. Marrero said the gazebo was there when he bought the property.

Mr. Cannilla said that the original site plan was done by Thomas Sterns. There is a construction permit for the garage. A second map shows that the patio is built behind the garage. Then the patio got moved to behind the home and became elevated.

Mr. Cannilla asked if Mr. Marrero read the ordinance prior to his construction. He said he did not but he obtained permits. Mr. Cannilla stated that it is the obligation of the applicant and/or his design professional to know the ordinance

The elevated patio is within the setback due to the elevation. Mr. Cannilla asked him if he submitted plans for the patio behind the home. Mr. Marrero said plans submitted were for the one that is behind the garage.

Mr. Cannilla asked about the patio with the grill and asked if there were permits issued for those elements. Mr. Santarsiero stated that the map was rejected after it was submitted and that included the patio with a pool.

Mr. Cannilla concluded that the patio behind the home had no approved plans. It was constructed in November 2015. There was a building permit for the garage and a patio behind it. There was no setback

violation on the surface patio but once it was elevated, the setback became an issue because once elevated, it became a structure. The garage was constructed but the overhangs were not counted in the coverage numbers.

The garage was applied for and constructed. But it was not constructed in accordance with the plans. Mr. Marrero said that he did not realize that overhangs counted when he constructed it.

The front setback measures 38 feet to the overhang and 40 feet to the garage. Mr. Sterns stated that the setback is 38.62 feet to the face of the garage from the property line, not counting the overhangs. Mr. Marrero disputed that number and said that it is to the overhang. Mr. Cannilla said that the numbers need to be certified.

Mr. Senesky asked for clarification on what is on the property line.

There is a one story framed garage. Prior to construction, there was a permit issued with the condition that it be moved out of the setback. A revised permit was granted for this with the requirement to be 40 feet from the setback.

Mr. Marrero said the driveway is the same size as it was when he bought it. Mr. Cannilla said that the existing piece can stay inside of the setback but the new piece (20 feet strip) should have been 4 feet from the property line.

Mr. Marrero said all he did was fill in where the old garage stood. Mr. Cannilla said that it was also extended and needed to be 4 feet from the property line.

Mr. Novalis said that the patio was converted to pavers at some point. He noted that it was enlarged. Mr. Marrero disputed that and said that he only replaced what was there.

A-1 through A-12: photo set

Break: 7:44pm-7:54pm

Stephen Jones, Zoning Official and Construction Official for Florham Park was sworn in for the year. He stated that the existing patio behind the garage was removed when the new garage was built. Mr. Cannilla thought that the garage permit did not include a patio.

Mr. Marrero said the drawing he submitted included a new patio.

B-1: Borough approved surface grading plan GCP15-139

Mr. Jones said the plan depicts a garage, but no patio. There is a construction permit for the garage. Mr. Cannilla verified that there was no surface grading plan submitted for the patio, although it is on the architectural plan.

Mike Sgaramella stated that the Engineering Dept. did not get a plan.

Mr. Jones stated that there were multiple versions of the survey that were submitted to construction.

B-2: survey that includes semi-circular patio date 5.26.16

This patio was not built to this configuration. Map #3 depicts the current conditions.

Map #2 was not submitted to Building or Engineering for the surface grading plan. It includes the coverage numbers.

Mike Cannilla surmised that the Engineering Department saw and approved a surface grading plan that did not include the patio and the additional driveway enlargement. He stated that the patio that was built was not submitted and is not permitted. He continued that excess lot coverage causes runoff. The total lot coverage was not provided.

Mr. Marrero argued that he got the permit for the patio and displayed the permit.

Mr. Jones said the patio that was built was not the patio plan that was shown and got a building permit for nor is it in the same place or it is the same size.

Mr. Cannilla told Mr. Marrero that means you did not have a permit for it.

Mr. Santarsiero responded that there were erroneous numbers that were submitted. Mr. Marrero was granted a permit from the town but he did not know what the requirements were. He believes that this is a hardship application.

Mr. Cannilla replied that this is no hardship because it is self-imposed by the applicant. Mr. Marrero constructed elements that were not on the drawings that were submitted. In the construction industry, you must build what is on the drawing.

Mr. Senesky asked Mr. Jones to clarify the improvements built on this property that he was warned about there were no approval for.

B-3: Email dated 11.17.15 from Steve Jones to Lucas Marrero, prior to garage demolition.

B-4: Email dated 11.18.15 from Janet Doherty (Technical Assistant) to Steve Jones

B-5: Email dated 11.21.15 from Steve Jones to Lucas Marrero ordering him to stop work

Mr. Jones stated that Mr. Marrero continued to work even after he received the email warning him to only build what was being submitted and received a permit for. The second email informs Mr. Jones that there is a new garage and a new patio. The permit is for the garage renovation only and does not include a patio. The third email warns Mr. Marrero to stop working on the site because he is in violation. A summons was going to be issued.

Mr. Marrero said he then stopped work but he met with Mr. Jones that he was re-issued a revised permit by Mr. Jones on 12/3/15 to continue to work on the garage and the patio.

Mr. Jones said that is not correct.

It was noted that the proposed patio location on exhibit # B-2 is not what was built.

Mr. Cannilla asked when the correct coverage numbers were finally submitted. Mr. Santarsiero said that the numbers were submitted in March 2017 after the patio and garage were built.

Mr. Marrero said he did not know what the town wanted and asked his surveyor to help him. Mr. Cannilla argued that the average homeowner can figure out the meaning of building coverage and lot coverage. Why did it take your engineer 2 ½ years to do that? Why did you proceed when you did not know where you were with respect to the coverage numbers?

Mr. Santarsiero said that they agree that the patio was not approved. They have been dealing with this engineer several times and he does not know why this took so long. Mr. Santarsiero apologized and said that it hampered his ability to assist Mr. Marrero and have the application here sooner.

Mike Sgaramella stated that Map #3 is reasonably accurate to what exists out on the property at the current time along with the coverage calculations.

Mr. Santarsiero said that they are willing to donate the gazebo if needed. He would like to keep the patio.

Mr. Santarsiero described the photo set that were previously marked. They are photos of the property from different angles.

There were questions from the Board.

John Novalis asked about the garage permit and when the garage got moved.

Mike Sgaramella and Steve Jones concurred that the old driveway was only to be filled where the old garage wall sat. It was still under the maximum lot coverage at that point. The permit GCP139 surface grading plan, was to “demo the existing garage, construct new garage, rehab existing driveway.” This would have been permitted and within the lot coverage allowance.

It is the patio that makes the lot coverage more than what is permitted. There was no change to the road opening of 23 feet at that time.

Mr. Cannilla said that to “rehab the existing driveway” meant making it longer to meet the garage, but not wider.

Mr. Marrero said that he did not make it wider. Mr. Cannilla showed him where he made it wider. The area is parallel to the existing driveway for the length of the driveway and to the property line.

Mr. Novalis said that the existing driveway was totally removed and replaced with a new one that went all the way to the property line. He does not understand why Mr. Marrero thought he could do it.

Mr. Marrero said that he thought it was okay to square it off. He has six cars that he needs parking space for. The neighbors were always complaining because they were blocking the sidewalk.

Mr. DeRose said that does not justify what he did.

Mr. Zeien noted that it was clear on Map #2 that the lot coverage was over (34.84%) what is allowed, so Mr. Marrero had to know that.

Mr. Santarsiero explained that the lot coverage numbers were put on the map later. It was revised in July 2017 to identify the numbers.

Steve Jones said that there were multiple surveys with inaccurate information.

Mr. Cannilla asked Mr. Jones if there was any communication from the Engineering Dept. to you or Mr. Marrero clarifying what is approved.

B-6: Email from Mike Sgaramella to Lucas Marrero stating that only the garage was approved by Engineering.

Mr. Chiarolanio asked about the permit that has patio written on it. He asked Mr. Marrero which patio he thought he could build.

Mr. Marrero said he thought he could build the patio that was on the architectural drawings.

Mr. Chiarolanio asked when he built the patio. Mr. Marrero said he does not know the date.

B-7: survey (inaccurate)

E-8: email from Jim DePalma (engineering assistant)

There was discussion on which map is correct. The surveyor signed and sealed them. Mr. Cannilla did not understand how so many surveys can be incorrect. Board does not know which one is right.

Mr. Cannilla stated that Engineering Assistant James DE Palma's measurements appear to be the most accurate and Mr. Marrero agreed.

Mr. Chiarolanzio confirmed the size of the new bluestone patio to be 600 square feet.

Mike Sgaramella said the Map #3 is reasonably accurate and the map that the Engineering Dept. agrees with.

Mr. Santarsiero discussed the proofs for the variances. The overall purpose of the improvements was to bring the property up to date and increase the curb appeal. It is a non-conforming lot and the home is non-conforming.

The requested lot coverage amount is 35.4%. The original garage was built in 1924. It was very small and falling apart. It is too small to fit a car and too close to the street so it was difficult to park in the driveway. The new garage is large enough so that all the cars can fit in the driveway and the sidewalk is not blocked anymore. This adds value to the home and to the neighborhood.

The driveway was replaced with concrete and Belgian block curbs. The original paver driveway was uneven and unattractive. This is easier to maintain.

The proposed front porch will be the same depth as what exists now, except it will be longer just past the front windows. This will give the home a more modern look.

The gazebo can be removed if the Board want.

The new patio is built with bluestone and includes a knee wall and fireplace. It provides outdoor space for the family to enjoy. It fits in with the neighborhood and more modern.

Kurt Senesky verified that the new patio behind the house is larger than the original paver patio that was there.

Mr. Senesky confirmed that Map #4 includes the proposed porch.

Mike Cannilla explained that the decision to keep or remove the gazebo is Mr. Marrero's. The Board does not make deals. Mr. Santarsiero said that Mr. Marrero will remove the gazebo.

Mr. Cannilla outlined the variance requests:

The existing front setback is 27.34ft (from the house). The garage setback will be 38.62ft. The proposed front setback of the front porch is 20.84ft.

The improved lot coverage was 27% (map #1) prior to any work being done. The proposed lot coverage that includes all improvements will be 35.14% (map # 4).

Mr. Cannilla said that there is no issue with the garage, except it may be too forward.

But the driveway is now on the property line. The patio is close to the side yard setback (6.5.ft). Mr. Marrero is over on lot coverage.

The meeting was opened to the public for questions and comments.

Nancy Sigler, 61 West End Ave. Mr. Chiarolanzio asked when the patio was finished. The patio was finished on the weekend of September 17, 2016.

Mr. Santarsiero offered a summary. He stated that it took a long time to get here. It was a convoluted process and there were issues and problems. The maps were not accurate and there were delays. Mr. Marrero tried to make the property esthetically pleasing. He is aware of the flood concerns but does not think he is that far over on coverage. He now recognizes that he did not have approval to put the patio behind the home but he does not consider that to be too much coverage. It is an odd shaped lot so it is very difficult to stay inside of the setbacks.

Mr. Marrero did not try to be subversive to the zone plan but the process was confusing for him. This is a valuable lesson for him. The Engineering and Zoning departments are fluid and he now realizes this.

The elements cannot be placed in other locations due to the irregular shape of the land. The driveway will prevent congestion on the street and the new garage is more orderly and functional and the cars can be placed in an appropriate spot.

Mr. Santarsiero felt that the surveyor is responsible for the confusion because of the inaccuracy of the maps.

He thanked everyone for their assistance.

Mr. Cannilla noted that the applicant is willing to modify the plan to remove the gazebo. He is 4% over on lot coverage. There are a number of elements causing the problem. Mr. Cannilla thought that the driveway is very large and could be modified. The patio is also very large. Also there is the option to bifurcate the application, if the applicant wants to do that.

Mr. Cannilla stated that the applicant can request a vote now or he can carry the application to a future date in order to think about what they can modify. He asked for further comments from the Board.

Comments from the Board:

Mr. Novalis stated that he is concerned with flood and lot coverage. All the drainage goes into rivers and this will affect them. You did a great job with the design but it is way too big and too close to the neighbors. You must think about what would happen if there were no restrictions for anyone.

Mr. Zeien noted that the driveway is enormous. It is three cars wide and he should think about that.

Mr. Chiarolanzio wanted clarification on the variance on the side, front and lot coverage. He deals with surveys all day and has never seen so many surveys presented like this before. Also, once an element is gone, it is gone. Then you need to conform to the ordinances. He does not like what happened.

Mr. Noss stated that the process was dysfunctional. You built items that were not approved. The process gives you the right to ask for a variance to be approved or denied.

Mr. O'Connor agreed that it is a very nice design but it is too large. You were told to stop and you did not and built the patio. You are in the construction industry. You spent a lot of money on this. Weren't you concerned about what if it is not permitted?

Mr. DeRose said that he does not know how the applicant who is in construction can build a substantial project like this and not know what the rules are. People that have no experience can get it right. What happened? It is too big and too close.

Mr. Santasiero requested a break to confer with his client.

Break: 9:35-9:45pm

It was requested that the application be carried to the October 4, 2017 meeting without further notice or publication.

Mr. Zeien made a motion carry the application to the October 4, 2017 meeting, second by Mr. Noss
Roll Call: On a roll call vote all members present and eligible voted to carry the application

On a motion duly made and seconded the meeting was adjourned at 10:00 p.m.

Marlene Rawson
Board Secretary

September 6, 2017