

**Zoning Board of Adjustment
Regular Meeting Minutes
February 6, 2019**

The Regular meeting of The Borough of Florham Park Board of Adjustment was called to order on Wednesday evening February 6, 2019 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. Rick Zeien
Mr. Brian O'Connor
Ms. Elizabeth Roseman (1st Alt)
Mr. Ted Trautman (2nd Alt)

Members Absent:

Mr. Jason Jensen

Also Present:

Mr. Kurt Senesky, Esq., Board Attorney
Mr. Michael Sgaramella, Board Engineer
Ms. Katherine O'Kane, Board Planner

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 January 16, 2019 Meeting.

Mr. Zeien made a motion to approve the minutes, second by Mr. Trautman.

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

Resolution of Approval:

U.S. Northeast Properties
119-121 Columbia Turnpike
Block 2001, Lot 7.01 & 7.02

Application # BOA18-9
PB-2 zone

Applicant is seeking approval for a minor subdivision, a one story medical office building, and a two story mixed use building containing medical offices and a physical fitness center.

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

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

C Variance:

Martin Rodriguez

9 Dawn Court
Block 1907, Lot 34

Application # BOA19-1

R-15 Zone

Applicant is seeking approval for excess lot coverage in connection with pool and hardscape renovations.

Mark Nissam, landscape architect, was sworn in. He stated that his client has resided in the home for 8 years. They are planning back yard renovations. Although they will be renovating, they will be reducing the amount of coverage on the property.

Mr. Cannilla noted that there is lot of existing coverage already there. Mr. Nissam replied that the conditions were already existing when they purchased the home and they have not changed anything.

Mr. Novalis asked what is being removed to reduce the coverage to get to 41%.

A-1: colorized survey

A-2: survey

A-3: photo packet

The photo packet as pictures of the existing pool area. There are areas of pavers that will be removed, plus gravel sections of the terrace and the patio.

The top left portion of the driveway will be reduced and there is a walkway to be eliminated. The rear patio, deck, and pool will remain unchanged. The survey does not capture any of the gravel areas.

The lot coverage will be reduced from 53% to 41%.

There is no existing drywell but French drains will be installed behind the retaining wall. The terraces have plantings on them and the patio is also surrounded by plantings.

Mr. Cannilla and Mr. Noss questioned the retaining walls. Mr. Cannilla added that there are long spans of walls, plus the two sets of steps. Mr. Nissam said that they were not included nor were the stepping stones.

Mr. Noss questioned Mike Sgaramella about the walls. Mike Sgaramella said that walls are not pervious and retaining walls should be counted in the coverage.

Mr. Nissam said that the Zoning Office told him the walls are okay because there is a cut situation. They are retaining a slope and there is no filling. They are also 5 feet from the property line.

Mr. Cannilla said he is challenged by the numbers. He does not see where the 1400sf of reduction is. He can only see 300sf.

Mr. Nissam reminded him that these are existing conditions that his client can live with, if needed. They are trying to made the condition better.

Mr. Senesky said that we should have exact numbers, and not approximate.

Mr. Nissam stated that they replaced a walkway last year and were informed that they were over on coverage but it did not require a board hearing. However, with this application, they were told that they must come to the Board.

Mr. Nissam said that some of the elements that exist are not on the survey and Mr. Cannilla said that he should draw them on the survey so it is clear.

Ms. Roseman asked if there was no walkway to the pool from the house and they confirmed that. She asked if they considered getting rid of one edge of walkway surrounding the pool on the far end in order to have some sort of walkway from the home to the pool area. Mr. Sgaramella recommended that they check with the pool manufacturer before making any changes around the pool.

Mr. Nissam agreed to carry the application in order to come up with accurate calculations.

Mr. Zeien made a motion to carry the application to the March 20, 2019 meeting without further notice, second by Mr. Novalis.

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

Use Variance, Preliminary & Final Site Plan:

11. Artis Senior Living
301 Columbia Turnpike
Block 1602, lot 5

Application #BOA17-13
use, preliminary & final site plan
R-25 zone

Applicant is seeking approval for an assisted living facility.
Carried from the January 16, 2019 meeting without further notice.

Kate Coffey, Esq. represented the applicant. David Witsotsky, engineer for the applicant, presented the revised access plan.

Ms. Coffey stated that the plan was reviewed by the Fire Department (1/17/19) and the Engineer (2/1/19) plus the Board Traffic Engineer (1/5/19) and their concerns were addressed.

Mr. Noss asked if the Police reviewed the new plan since he did not see a subsequent report. Ms. Coffey replied that they showed the revised plan with the access drive in advance of the January 16, 2019 meeting. The Police Chief's only concerns were those of Mr. Sgaramella. His email noting this was submitted to the Board and read into the record.

Mr. Witsotsky stated that all remaining comments have been addressed. The ingress has been moved farther to the east. The deceleration lane has been made full width along the property frontage. The egress has gone from 18 feet to 21 feet. Signage has been added to denote that there no right turn onto Elm Street, is no left turn into the site from Columbia Turnpike.

The parking count is revised from 39 spaces to 38 spaces and there are two banked spaces that are below the ingress point. The interior islands have been narrowed to fit the two parking spaces. The dumpster location has been moved to the northwest quadrant of the site closer to Columbia Turnpike as a result of a concern by the resident. It is fenced and landscaped.

The ADA parking is full depth, the loading zone has been striped, and the fire hydrant has been moved closer to Columbia Turnpike as requested by the fire department. They are also able to enter the site from Elm Street and a truck turning template has been submitted to them. The improved lot coverage is slightly increased from 43.9% to 44.5%.

They will comply with the comments of Borough Engineer Mike Sgaramella. They will construct the banked parking spaces when the parking lot is 95% full at the peak hour. They will comply with the County approval letter regarding the lane line on Columbia Turnpike. The detention basin is under the parking lot and the roof leader will infiltrate. They will modify the storm water report to include them.

Mr. Zeien confirmed that the detention system will get bigger. Mr. Novalis verified that there is no right turn permitted when exiting the site onto Elm Street. Mr. Witsotsky stated yes, it is very restrictive. However, a fire truck would be able to turn in as they requested.

Regarding Borough Traffic Engineer Joseph Fishinger's report dated 2.4.19, the plans have been revised as he requested.

Mr. Noss asked how far the property is from the traffic light and where is the first signage into the facility located. Mr. Witsotsky replied that it is about 200 feet. The first sign is for the driveway and it can be seen from a distance. This has been agreed to by two traffic engineers. The turning lane starts on the edge of the property line.

Mr. Noss did not think that it would be seen and they won't know that it is there.

Mr. Cannilla agreed and said that it is a tight property and it is in a hole. It will be hard to see.

Mr. Witsotsky said that there is a monument sign and also directional signage. Ms. Coffey added that the traffic engineer agreed as well.

Mr. Cannilla felt that if someone missed the turn onto the driveway, they will turn onto Elm Street.

Ms. Roseman confirmed that Mr. Fishinger was satisfied and it was stated that his comments had been all addressed.

Mr. O'Connor asked if the deceleration lane can be identified as a driveway entrance only. Mr. Witsotsky said that it would be up to the County.

Ms. Coffey wondered if the right turn sign can say "Artis Only". Mr. Sgaramella said that would need to be checked with the county.

Mr. Cannilla thought that the signage was confusing. He suggested "right turn must turn into driveway.

There was additional discussion on the wording of the signage and Mr. Sgaramella stated that the traffic experts have determined that it clear and concise the way it is and approved it. He added that if there are accidents, the County has jurisdiction and would weigh in on that.

Mr. Cannilla was concerned that the newly planted trees would obstruct the signage. Mr. Witsotsky said that the trees can be moved but as they grow, they will not obstruct the signage.

Katherine O'Kane, Borough Planner suggested that the loading zone be pulled back to the stop bar. She said that it will still conform.

The meeting was opened to the public.

Rosemary Stone-Dougherty, Esq. representing 77 Elm Street, Ms. Flood. She confirmed no easement exists on her client's property. Mr. Witsotsky said that there is still a site triangle that clips her client's property by two feet. She confirmed that the parking on the property line would be for visitors only, with a hedge row in front of the parking area. Also the fence would be extended along the property line and it is to be solid and non-slatted. She also verified that the sewer extension along Elm Street is 42 feet north of the south property line. The turning radius in front of the building will have no sidewalk.

Break: 8:45pm-8:50pm.

Michael Tobia, Planner for the Applicant was sworn in. He stated that memory care and assisted living is considered an inherently beneficial use and a big growth industry. It is a high value land use. This property is vacant and has been for many years.

Mr. Tobia described the area. He stated that Columbia Turnpike is a busy road with a 50 mph speed limit. It has mostly non-residential land uses and said that this is a good use for the site.

What is proposed is a residential style and designed building. It is located on a major arterial roadway. This is where the busy land uses and non-single family land uses would go, making it particularly suitable for this use. The following variances are needed:

Front yard setback: 27.7 feet where 50 feet is required.

Putting the building closer to Columbia Turnpike is better for the residential area behind them.

Building coverage: 16.6% where 9% is required

Improved lot coverage: 44.5% where 30% is required.

This percentages normally apply to single family homes. When compared to a multi-family zone, this is well below the improved lot coverage limit. The coverage is most needed for a parking lot. There is good buffering of 50 feet for the neighbors. Mr. Tobia considers this building a form of a residential use. It is a residential use for older people who live there, and their support functions.

The distance to the Welsh Drive residents is 132 feet. There is 40 feet to the Elm Street resident, Kathy Flood. The roundabout is 10.6 feet from the property line and it will be screened. The west line is very screened in excess of 50 feet and has a 6ft solid vinyl fence.

The dumpster is now in a front yard location along Columbia Turnpike which necessitates a variance. There will be an enclosure and also landscaping around it. It will be invisible to the street. The benefit is that it will be away from the homes.

They are requesting a waiver for a signs. A four square foot sign is permitted and they are proposing a 4 foot x 8 foot sign. The zone does not contemplate this use. This is needed for ease of identification. There is a monument sign now proposed that is 24 square feet and 200 feet from the entrance for adequate notice of the deceleration lane. A waiver would be needed for this as well.

There is also a tree removal waiver needed. The generator is located a few feet in front of the building and a variance is needed for this. The benefit would be to keep it away from the residences.

Mr. Tobia stated that he visited the Princeton Junction facility. The facility is designed to increase familiarity for residents and it is broken into modules with common areas. The average age is 84-85 years old.

Mr. Tobia said that this is a good transitional use. Senior citizen housing is an inherently beneficial use which satisfies the positive criteria of granting the variance. The Board of Adjustment can impose reasonable conditions to mitigate any detriment to neighbors or the zone plan, and protect the public good.

They have made many changes and concessions. These include Elm street restrictions, moved trash containers and generators, increased buffers, increased landscaping screening, reduced bed counts, corrected fences, reduced the building length, reduced lot coverage, created deceleration lanes, and directional signage, and widened the driveway.

Mr. Tobia continued that memory care is difficult and tough on families and this is a good use for this property. It is residential and these residents typically are in bed by 9p.m. It is a very quiet land use. The applicant has been very cooperative. They met with the neighbors and tried to be responsive to them and have made countless changes to accommodate their concerns. He stated that this is Columbia Turnpike and institutional land uses belong here. All the engineers have signed off on this and found it acceptable. The Board must trust the professionals. There is no substantial detriment.

Jeff Noss asked about a detriment to the zone. He agrees that a single family home would be best but it is not practical. Would a substantial detriment to the public good be the hazardous traffic condition that is created?

Mr. Tobia said that even with the higher standard of a use variance, this is still inherently beneficial. If you feel that these conditions present a substantial detriment to the public good then you can consider this a problematic application.

Mr. Noss noted a higher activity at night. Mr. Tobia said that these are medical shifts and outside of typical rush hour times. There will be seven employees at night. This is not a detriment since there will be no other activity during that time. Detriments cannot be minor.

Kurt Senesky added that traffic considerations will be part of any non- residential use.

Mr. Tobia reviewed Traffic Engineer Gary Dean's testimony and said that there will be 5 people in the deceleration lane at peak hour. When it is compared to the amount of traffic flow on Columbia this is minor.

Katherine O'Kane, Board Planner asked if there are any Medicaid beds. Michael Tobia replied that the state requires that 10% of the beds must be for Medicaid and they will provide documentation that they will do that.

Katherine O'Kane agreed that case law supports this use and these types of care facilities are considered to be inherently beneficial. The applicant has mitigated the detrimental aspects of the application. The question is does the final product outweigh any substantial detriments. The Board must decide whether the adverse consequences are substantial enough to deny the variance.

Michael Tobia said that the final product will outweigh any substantial detriment. The concerns have been addressed and mitigated. Something must be insurmountable.

Mike Cannilla agreed that the detriments must be substantial enough to deny the application.

The meeting was opened to the public for comments.

Diane Himics, 4 Welsh Drive. She feels the building is too large for the size of the property. She is not convinced and thinks they fell short. They are not realistic about traffic and there are lots of accidents. She said that the Princeton Junction property is a low traffic area and not like this location. This is not an appropriate use.

Bill Daniels, 56 Elm Street. He does not see a hardship identified. There is no reason why this can't be built somewhere else in Florham Park. He has no problem with the use, but this area is too dangerous. They chose this property because it was cheap.

Kurt Senesky stated that hardship is not a factor to be considered in this case. This is a use variance.

Jeff Noss added that they are not claiming a hardship.

Bill Daniels also said that there would be a hardship to the residents because real estate professionals informed him that his property value as well as other homeowners will decrease because of this.

Kate Coffey, Attorney for the applicant, said they conferred with Rosemary Stone Dougherty and they will move the sewer connection 20 feet to the south and will give her client, Ms. Flood, an easement and easier opportunity for her to connect. The tree can remain in the site triangle easement.

Ms. Stone- Dougherty confirmed that her client is satisfied.

Mike Sgaramella added that a lateral connection will have to enter the main.

Elizabeth Roseman asked Mr. Senesky if we could consider other properties for this use.

Kurt Senesky replied that the Board cannot because they are not part of the application.

Kate Coffey thanked the Board and stated that their plan is improved and inherently beneficial. They have mitigated any detriment.

Seeing no further comments from the Public, Mr. Cannilla asked for a motion on the application. He also requested that the Board members offer comments along with their vote.

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

Mr. Novalis. That spot has been there forever. His first impression was negative now he is positive. The applicant worked very hard with the Board and to address the concerns. He said that Mr. Tobia made an excellent presentation. It is a tough location and he wondered what would go there. He stated that he has been in Florham Park all his life. Early on, Elm Street was a heavily traveled road. A right turn on Elm Street was permitted for many years and everybody made the turn. Columbia Turnpike has accidents all the time and it has always been that way. He does not think that anyone going into the site will make the turn on Elm Street. They may miss the turn into the site at first, but then they will know where it is. GPS systems now help the drivers find where they are going. This project is not in the middle of Elm Street. It is at the end of the road. **Yes**

Mr. Zeien. He said that this has been a long journey and he also went from a negative to a positive. He agrees with Mr. Novalis. They moved the driveway, and added a deceleration lane and made many changes and concessions. He did not hear enough detriments and negatives reasons that were not mitigated. They are quiet neighbors. **Yes.**

Mr. Cannilla. He said that he considers the use, not the applicant. It is a good and beneficial use but in an appropriate location. He is not comfortable with this location as being safe. There are a number of variances, waivers, high retaining walls, and it is deep into the site. He does not believe that it is well suited for the site because it is too dense. He also said that the applicant could change in the future. **No.**

Mr. Noss. He said that he was a "no" for a long time. His concerns were mainly topographical concerns. It is definitely a beneficial use but the concern was the detriment and if it rises to a significant level. Mr. Tobia convinced him that improvements were made and helped mitigate the detriments. He said that he has to rely on the professionals and they also were satisfied that the concerns were addressed. **Yes.**

Ms. Roseman. She said that the concern with traffic safety was the detriment for her. But it is not substantial because this use has a low traffic volume. She believes that it does not outweigh the beneficial use. She also relied on the professionals who indicated that were satisfied. **Yes.**

Mr. Trautman. This was not an easy application and it is a dangerous road. It was not an easy decision but he believes that the applicant has worked hard to address the concerns of the neighbors. He also has considered the case law that supports this use. **Yes.**

Mr. O'Connor. He agrees that the property has been an eyesore for years. The applicant did a great job and has met us every step of the way. But there is so much traffic in that area that continues to increase and it is very dangerous. **No.**

Application was approved 5-2.

On a motion duly made and seconded the meeting was adjourned at 10:30p.m.

Marlene Rawson
Board Secretary

February 6, 2019