

**Zoning Board of Adjustment
Regular Meeting Minutes
July 17, 2019**

The Regular meeting of The Borough of Florham Park Board of Adjustment was called to order on Wednesday evening, July 17, 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. Brian O'Connor
Mr. Ted Trautman (2nd Alt)

Members Absent:

Mr. Rick Zeien
Mr. Jason Jensen
Ms. Elizabeth Roseman (1st Alt)

Also Present:

Mr. Kurt Senesky, Esq., Board Attorney

Call to Order:

Mr. Cannilla, Chairman called the meeting to order at 7:00 p.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 June 19, 2019 Meeting.

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

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

Resolution of Denial; Partial Approval

6. **Joseph DeFillippes**
20 Brooklake Road
Block 4101, Lot 28

Application # BOA18-14
R-15 zone

Applicant is seeking approval for building coverage, lot coverage, and a side yard setback in connection with previously built improvements.

Mr. Noss made a motion to adopt the resolution, second by Mr. Trautman.

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

Resolution of Approval:

7. **Lauren Cervino**
4 Keyes Street
Block 1908, Lot 13

Application # BOA19-9
R-15 zone

Applicant is seeking approval for a front and side yard setback in connection with a porch addition, and improved coverage in front of a principle structure related to driveway improvements.

Mr. O'Connor made a motion to adopt the resolution, second by Mr. Trautman.

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

Use Variance, Site Plan Waiver:

8. **Calvary Presbyterian Church**
144 Ridgedale Avenue
Block 2303, Lot 1

Application # BOA19-6

Applicant is seeking approval to operate a nursery school (Montessori Children's Academy). Applicant requested to be carried to the September 18, 2019 meeting without further notice or publication.

Mr. O'Connor made a motion to carry the application to September 18, 2019 second by Mr. Trautman.

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

Use Variance, Preliminary and Final Site Plan:

9. **Jacobus Family Realty, LLC**
80 Passaic Avenue
Block 4202, Lot 3

Application # BOA 19-2

Applicant is seeking approval for certain modifications to update and improve operations at an existing contractor storage yard.

Applicant requested to be carried to the August 7, 2019 meeting without further notice or publication.

Mr. Trautman made a motion to carry the application to August 7, 2019 second by Mr. O'Connor.

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

Use Variance:

9. **Lucco Cucina & Bar**
207 Ridgedale Avenue
Block 804, Lot 6

Application # 19-5

Application is seeking approval for relief of prior resolution conditions related to hours of operation.

Applicant is requesting to be carried to the August 7, 2019 meeting without further notice or publication.

Mr. O'Connor made a motion to carry the application to August 7, 2019 second by Mr. Trautman.

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

C-Variance:

10. **Steve Ha**
15 Dellwood Drive
Block 3405, Lot 4

Application #BOA19-8

Applicant is seeking approval for excess lot coverage in connection with an above ground swimming pool.

Scott Carlson, Esq. represented the applicant. Hal Simoff, Professional Engineer and Planner was sworn in.

A-1: rendering of 15 Dellwood Drive property

Mr. Simoff stated that the application is for a 15ft by 30ft above ground pool that is 54" deep. The property in general meets the minimum front and side setbacks but the lot coverage is pre-existing at 33.15%. With the addition of the pool, the lot coverage is proposed to be 35.6%.

Mr. Simoff continued that a pool collects rain water and therefore does not aggravate the improved lot coverage impacts.

John Novalis asked about the overflow provisions in the event of a heavy rain fall. He explained what happens with in-ground pools and the overflow process. He said the pool will have to be pumped out.

Mr. Simoff, stated that the water overflow will be pumped into the yard. It is discharged after the rain fall to a pervious surface. It cannot be pumped into the sanitary system.

Steve Ha, homeowner, was sworn in. Mr. Ha said that he has owned the home for three years. They bought the home thinking that they could install an in-ground pool. He said that at the time, the realtor told them that they have plenty of room for a pool. He realized that it was not true when he went to apply for the permits.

When asked about how the property came to be over the limits of lot coverage, Mr. Ha stated that everything was existing when he bought the property. He has made no changes.

Jeff Noss asked if there will be any pavers or a walkway to the pool. Mr. Ha said no, nothing is being planned. He also said that there will be a lockable ladder on the pool.

Mike Cannilla asked if there will be a fence, and Mr. Ha said that there is no fence proposed right now. Mr. Cannilla reminded Mr. Ha about the importance of a safety ladder. He noted that there was a lot of driveway pavement and asked if there was any consideration to remove some of it.

Mr. Simoff stated that there is a retaining wall attached to the driveway so it cannot be removed.

Mr. O'Connor asked if the patio in front of the pool is lined with shrubs. Mr. Has said there is no sitting wall. There is no shed or walkways leading to the pool.

Mr. Noss asked if the pool is drained after the season. Mr. Ha said that water level is lowered to the skimmer.

There were no other questions or comments from the Board or the Public. Mr. Cannilla called for a motion.

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

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

11. **Carl & Sabrina Scalzo**
38 Hillside Avenue
Block 2906, Lot 15

Application #BOA19-10

Applicant is seeking approval for excess lot coverage, and excess building coverage in connection with an in-ground swimming pool, walkways and pool cabana.

Steven Azzolini, Esq. represented the applicant. Peter Korzen, Engineer, and Carl Scalzo, homeowner, were sworn in.

Mr. Scalzo stated that he bought the home three years ago when he moved to Florham Park from Staten Island. He has four children and he always wanted a pool for family time and family events.

The purpose of the pool cabana is for use by pool guests to avoid people going in and out of his home. It will also be for storing pool accessories during the winter. It is not for living purposes and will not be centrally heated. It is 317 square feet including the overhangs, plus an outdoor shower area.

Mr. Novalis asked where the storage is. It does not appear to have an area for storage. Mr. Scalzo said that it would only be in the winter during the times the pool is closed. The cabana is a one story structure with a kitchenette that includes a small refrigerator, sink, microwave oven. There is no stove, or heat or air conditioning.

Matt Rusk, building and pool contractor, was sworn in. He stated that the pool cabana will only be used during the season. After the season, the water lines are blown out. Electric is powered by the pool panel. The cabana is one story but with vaulted ceilings.

Mr. Cannilla asked if the overhang over the outdoor shower completely covers the area. Mr. Azzolini stated that the only overhang is the cabana overhang. The shower is accessible through the cabana and has an exit only door to the outside, onto grass. The shower drains into the sewer system.

Mr. Cannilla was very concerned about the amount of coverage. There is a water problem especially in that section of the town. He added that drywells do not work that well.

Jeff Noss asked about the pool size. Matt Rusk replied that the pool is 18 feet by 44 feet. He said that is an average size pool. The depth ranges from 3 ½ feet to 8 feet. That is a standard depth, but a smaller pool would be 6 feet deep. There is no diving board. The back yard is fenced. There is a retractable pool cover that is a safety precaution.

In response to questions about rain water collecting on it, Matt Rusk said that the cover should be left open if it is raining.

Mike Cannilla confirmed that this home is a fairly new home. He said that it is a problem when large homes are being built where smaller homes once were, and then the buyer wants more coverage such as pools and patios. It puts the municipality in a difficult position.

Steve Azzolini said that he understands that. He pointed out that his client was not the contractor and bought the home after construction. He came from Staten Island where there are different requirements and standards concerning zoning and lot coverage.

Peter Korzen, Engineer for the applicant was sworn in. He reviewed the existing conditions on the property including the home and the patio and also the drywell system. There is a drywell system that is already installed in the front.

The upper patio will lead to a lower patio, and there is a walkway to the proposed pool and pool house and to the pool equipment and outdoor shower. The grading in the area stays the same but they flatten the area for the pool.

They will install a substantial drainage system in the back. Currently, the patio runoff is uncontrolled. The roof drainage system for pool house and new lawn drains will lead and empty into a new drywell system in the backyard.

Mr. Korzen said that the new drywell system is overdesigned by 43%. The roof drains into the system and also the lawn drains. All water, sanitary and electric will be underground.

Mr. Korzen noted that there are two variances being sought. That is for 15.4% building coverage where 14% is permitted and lot coverage is 37.5% where 30% is permitted. One of the contributing factors of the excess lot coverage is that the driveway is large due to the side entry garage. If the garage was a front entry, the coverage would be reduced to 32.1%. He also added that a pool will collect the water and if it did not count as lot coverage, lot coverage would be reduced to 28%.

Steve Azzolini agreed and added that a side entry garage is aesthetically pleasing but it causes excess lot coverage because of the larger driveway requirements. He agreed that it can be detrimental. However, he concurred that the pool can collect the rain water so that is not detrimental.

Mr. Korzen said that surrounding properties will not be affected from the lot coverage because of the oversized drywell system. Mr. Cannilla asked if they dug test pits. Mr. Korzen said that have not yet done that.

Mr. Novalis and Mr. Rusk discussed the maintenance of a pool and how it needs to be pumped out after a rain or it will not work the next day. Mr. Rusk said that the automatic cover has a drain in the basin where the motor is that will prevent overflows. But he said that the pool will still hold two inches of water.

Mike Cannilla asked if the ground will perk because it is not very penetrable in that area. He asked what would happen if it did not perk. Peter Korzen said that they first will look for a different location. They will do soil testing or change to a more shallow system.

Mr. Noss asked about the design of the outdoor space. Mr. Korzen said that the pool is centered on the steps by patio doors. They also considered all of the setbacks. The walkway is 10 feet from the property line and the cabana is 13.4 feet from the property line.

A-1: photo of back yard

Mr. Scalzo added that he also wanted play space for the children so he wanted to place the pool in an area that would maximize the open yard space.

Kurt Senesky clarified that there are two proposed patios. They said yes, there is an upper and a lower patio. The new upper patio and the lower patio will total 872 square feet. There is an existing patio that is 864 square feet and will be removed.

Peter Korzen responded to questions regarding removing certain features. The lot coverage would be reduced to 36% if the pool cabana was omitted. Eliminating the lower patio would reduce the lot coverage to 36.2%.

Mike Cannilla reiterated that the home was built to the limit. He does not agree that mitigation techniques can justify a variance. It is not a solution. He does not subscribe to the idea that if someone mitigates the storm water runoff, that is sufficient reason to grant a variance.

John Novalis said that he understands that they want a pool. But he said that they must stay somewhat within the limitations of what is allowed in Florham Park. He added that the proposed pool size is very large for Florham Park. He is not sure about the cabana. Everything that is proposed is over the limit. He said that the applicant should be looking for ways to reduce the coverage.

Brian O'Connor informed them that there are at least 10 pools on Hillside Avenue. He agreed that this one is very large.

Mike Cannilla complained that contractors and realtors do not explain to buyers how a large home impacts lot coverage. Steve Azzolini agreed that they need to be more transparent about what the lot coverage limitation is, particularly if buyers are interested in a pool and other outdoor living spaces.

The meeting was opened to the public.

Steve Jensen, 41 Roosevelt Blvd. He asked if they were going to level off the back part of the property. He is concerned that it slopes to the north property line. He asked about lawn drains. He thought that runoff will occur since the elevation is increasing.

Peter Korzen said that currently there is uncontrolled runoff in the back yard. He said that the walkway is going in that area and runoff will be captured by lawn drains. The pool house has a roof drain leaders to the south drywell system. He said that these techniques will decrease the quantity.

Steve Jensen said that he is a builder and the soil conditions in that area are substandard. He also lives in the down the street and commented that water runoff is worsening in Florham Park over the years.

Mr. Cannilla said that he agrees that the soil in that area is clay and does not percolate.

Grace LaBarr, 36 Hillside Ave. She lives next to the property and has been there since 1959. She concurred with Steve Jensen about the water problem. She has water in her basement. The applicant's property used to be flat. She has standing water now and does not want an increase. She does not think the storm water system was installed properly by the builder. It decreases the value of her property.

Jeff Noss asked Ms. LaBarr if she would be able to see the proposed pool from her property or if there is a buffer. Ms. LaBarr said there is no buffer. She is not sure if she would be able to see it. Mr. Scalzo said that he thinks she would be able to see the pool. Ms. LaBarr added there is light pollution coming from the house as well. All the lights shine into her living room. It is impacting her quality of life.

Mr. Cannilla said that the municipality should be contacted about the water issue. The builder is accountable for the water issues that she described.

Bob Schumacker, 51 Roosevelt Blvd. He lives behind the property. Asked about the location of the drywells and how they work. He said that the new homes in the area have caused excessive water runoff in the area. He said that he is very wet in his back yard because the water is flowing into his yard.

Mr. Korzen said that the drywell is 80 feet from the rear and 15 feet from the side property line.

Tom Arnold, 47 Roosevelt. He said that he has three drywells and they do not work. He gets flooded and he also has two sump pumps. It is getting worse. He feels that it is not fair that long time property owners now have water problems from all the new construction. There is too much coverage on these properties.

Mr. Cannilla noted that the neighbors have a valid point. The water problem is a tough situation.

Break 9:00pm – 9:05pm.

Steve Azzolini said that they want to do a soil test to evaluate the conditions on the property. They will look to revise the plan and reduce the coverage. He asked to carry the application.

Mr. Noss made a motion to carry the application to the September 4, 2019 meeting without further notice or publication, second by Mr. O'Connor

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 9:20p.m.