

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

The Regular meeting of The Borough of Florham Park Board of Adjustment was called to order on Wednesday evening, March 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
Mr. Jason Jensen
Ms. Elizabeth Roseman (1st Alt)
Mr. Ted Trautman (2nd Alt)

Members Absent:

Also Present:

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

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 the February 6, 2019 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:

6. Daniel & Jessica Cox
5 Mueller Court
Block 2501, lot 31

Application # BOA19-3
R-15 zone

Applicant is seeking approval for excess building coverage and lot coverage in connection with construction of a screened porch.

Steve Schaffer represented the applicant. Jeff Rawding, Planner and Architect, was sworn in.

Mr. Rawding stated that he designed the addition. It is a cul-de-sac home in the R-15 zone. The property is oversized at more than 19,000 square feet. The proposal is a small screened porch in the left rear of the home.

A-3: photo exhibit of the exterior of the property.

Mr. Rawding described the photos. There is 45 feet between the Cox home and the neighbor that is closest to the proposed porch. There is currently a paver area and pergola that would be replaced by the screened porch. It is off the family room and breakfast area. It will include a fireplace element.

A 297 square foot screened porch will replace the paved area and pergola. A total of 16 square feet of improved lot coverage would be added over what is existing. It will have gutters and leaders that will connect to the existing seepage pit. The distance to the property line is 24.4 feet where 10 feet is required.

There are two variances that are being sought. The existing building coverage is 15%. The request is for 16.53%. The improved lot coverage that is existing is 30.15% and the request is for 30.25%. The lot coverage is for the extra 16sf. The major consideration is for the building coverage.

This is an unusually buffered property that includes a fence and mature vegetation. There is no impact to the neighbor.

Mr. Novalis asked if it is screened only. He asked if the landing is covered and if all overhangs are included in the coverage.

Mr. Rawding stated that it is a screened porch and all overhangs are included in the coverage calculations. The 40sf landing is covered and included in the calculations. The porch is 224 square feet and including everything else it is 297 square feet.

Mr. Rawding stated that this is a C-2 variance. There is no hardship. The positive criteria is that there is sufficient space and is an appropriate location. The aesthetics produce a desirable visual effect. The porch is adequately buffered. There is no drainage impact since it will be tied into two drywells. There is no increase in occupancy. This is for recreational use. For these reasons, it advances the purpose of zoning.

There is no negative criteria. It is a permitted structure that meets the setbacks. There is no adverse impact. It is an appropriate scale and does not constitute overdevelopment. There are no adverse effects to the zone plan. The positive criteria outweighs the negative criteria.

Katherine O'Kane, Planner for the Board, agreed with Mr. Rawding's assessment. There is hardly any change in impervious coverage. She added that it is good to see someone investing in a home rather than moving.

Mr. O'Connor confirmed that the fireplace is gas.

Mr. Cannilla stated that he struggles with this. He feels that it implies that if someone has enough money and a big enough yard, they can ignore the zoning ordinance. He is not comfortable with that approach. The percentage is there for a reason.

Steve Schaffer disagreed and stated that the purpose of a C-2 variance is a balance test. There is not a precedent that is set. This is a unique property that has ample fencing and landscaping. We are not producing any negative impact. That is a key element. The benefits outweigh the detriments.

Mr. Noss noted that the Board of Adjustment has the power to grant or deny variances. This is a de minimis and reasonable request. There does not appear to be any negative impact.

Mr. Zeien asked when the drywell was installed. Dan Cox, homeowner was sworn in. He stated that it was installed during the home construction in 2000.

There were no further questions or comments. 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, no, Novalis, yes; O'Connor, yes; Jensen, yes; Roseman, yes.

Use Variance, Preliminary and Final Site Plan:

7. **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's storage yard. Via a use variance.

Carl Woodward, Esq. represented the applicant. This property has a long history in Florham Park. He stated that they are seeking to modify 35 conditions of a 1990 resolution of approval. He gave a brief history of the site, stating that Robert Jacobus owned the site for many years. He is now in failing health.

The property received a use variance to operate a contractor storage yard and has been in this business for 29 years. They are now seeking to improve, modernize and update the operation for the tenants.

A-2: May 23, 1990 resolution.

Mr. Woodward stated that they are seeking to modify 10 conditions of the 35 conditions of this resolution. They want to delineate the lots differently. Concrete posts do not work and they are looking for a different solution. A large tenant, Atlantic Green Valley Tree Service has downsized and will move to a different part of the property. They want re-subdivide his area for additional tenants. They stated that the other large tenant, Peterscape, (mulch business) who had the mulch fire last summer, is now leaving. They are scheduled to vacate by July 2019. They want to re-configure that area as well. They are requesting to have two storage units for each site. They would like to have an office trailer for the yardmaster and one additional office trailer.

He distributed a chart of the original conditions and that outline what they were and what they want to change. It includes redesigned corner markers, two storage container or sheds per tenant site, two approved officer trailers. A grid will modify parcel lines.

They want to be able to adjust the lot lines of the parceled "spaces" according to the changing needs of the tenants. They also want to increase the permitted number of tenants from 30 to 40. This is due to changes involving the two large tenants. One is vacating and one is downsizing.

The electrical service plan needs to be revised. There is lighting on the property as per a request of the police for security, and they will be adding security cameras. This is also a request of the police department due to theft that is occurring at the site.

They will be revising the storm water and drainage on the property and they are requesting to fill the pond and re-grade the area. No more garbage haulers are utilizing any of the parcels.

There is a six vehicle limit on each parcel at the present time, but they want the ability to be flexible with the tenants who have more than one parcel. They will still abide by the 180 vehicle limit.

There is a concrete barrier will replace a snow fence along the back of the property. The snow fence is inefficient. . In the past, Peterscape and Four Seasons (no longer there) were allowed to process wood. This will not be part of the operation after July 2019.

Kim Wells, managing member of Jacobus was sworn in. She is the daughter of Robert Jacobus. She stated that her father purchased the property in 1955. There are two buildings on the property that are approved and remain on the property.

A-1: resolutions from March 1962, approving the buildings.

There is also a variance that was granted in 1990 that approved using the property for tenant rental.

Ms. Wells took over the business in 2015 due to her father's declining health.

Ms. Wells said that they met with Al Kellogg from the Florham Park Fire Dept. about how to remediate fire violations. They have made some improvements such as re-fencing, gate locks and re-landscaping. They installed lights and cameras in 2016 due to break-ins. Steve Simonfay has been hired as the yardmaster to manage the property.

Their goal is to comply with the 1990 resolution and make further modifications in order to modernize the operation. The large southerly lot is to be vacated and Peterscape is also vacating along the southeast portion.

A-3: May 23, 1990 site plan

Jason Jensen asked what is considered a storage unit. Ms. Wells said that it is a 40 foot C container.

Ted Trautman asked if the pond is spring fed. Ms. Wells said that it is fed by drainage. She stated her father dug the pond in the 1950's. Mr. Trautman then asked who is going to fill the pond and if it will be built on. Ms. Wells stated that Land Solutions will oversee the pond filling. The plan is to convert it into rental parcels.

Kurt Senesky asked about the storage trailers and sheds. Carl Woodward said the 1990 resolution approved storage trailers and they are a mix of old trailers (40ft x 8ft) and sheds.

The Board had granted George Sweetin approval in 1992 for two sheds. In that resolution, the Board noted that storage trailers could include sheds. There are old storage trailers and shipping containers like ones that are used on the docks. They are delivered on trucks and they are 40ft x 8ft. or 20ft x 8 and used for storage.

Kurt Senesky asked how the parcels are delineated. Carl Woodward stated that the parcels are fenced. He added that the sheds are moveable and not permanent. He said that the parcels needed to be delineated so that municipal officials know who is in what parcel.

Jeff Noss asked how much additional business will be added to the site. He asked how that would affect the traffic in the area. Mr. Woodward said that it will actually have less traffic since Peterscape is leaving and there will be no more tree business and mulch pick-up. That generated a lot of traffic.

Jeff Noss felt that the operation seems very fluid and hard to control. There will be many laborers parking. Mr. Woodward replied that they are only permitted to have 180 vehicles. That this the control for the traffic. These tenants and laborers come in early and return late in the afternoon. Nothing goes on during the day.

Mr. Cannilla clarified that it in 1990 they were permitted 30 parcels and now they want 40 parcels.

Mike Sgaramella asked if the tire containers are still on the site. Steve Simonfay will address this in his testimony.

Katherine O'Kane noted that although the 1990 resolution permitted 30 tenants, it is very vague.

Carl Woodward said that the request now is that they want 40 tenants and 40 parcels.

Mr. Cannilla asked how the parcels are defined. Kim Wells said they stated that there are various ways, including railroad ties and fences. They stated it is very self-regulating amongst the tenants.

Jeff Noss confirmed that the entire tract is dirt and not paved. The only paved area is near Pioneer Rental.

Jason Jensen asked about the fire hydrant and the storage units. Carl Woodward replied that the fire hydrant will be installed. The storage units do not have water. Some do have electric. There are two big doors that open up, but there is only one door on the units.

A-4: sign on metal post (12' x 18")

This will be used to identify the tenants of the parcel.

Steven Simonfay was sworn in. He is a tenant of the Jacobus Family Realty. He has a landscaping business and in August 2018 he became the yard master for the site. His business has been there since the mid 1990's. He has 22 vehicles and 40-50 employees. The yard master duties include making sure that the yard is maintained, and supervising the tenants in general. He checks that everyone is following the rules. He oversees the day to day operations of the site. He is there three to five times a day.

He described the improvements that have been done since August. He has evicted tenants, destroyed old storage containers, and has been cleaning up Atlantic Tree (tenant). He is working on the peaceful departure of Peterscape. He also was involved in monitoring the mulch temperature situation.

Mr. Simonfay said that PK Environmental is working on the wetlands LOI application.

A-5: conditions and future plans 80 Passaic Avenue and documents

Mr. Simonfay said this is a series of pictures and documents. Mr. Simonfay described the pictures. They include lighting improvements, and he will provide the plan for the electric connections if approved. He has a hydrant plan and a fire service plan. There were many photos of the yard parcels and the tenants which were described by Mr. Simonfay. The Atlantic Green Valley Tree parcel will be filled and regraded.

Brian O'Connor noted that the pond is probably eight feet deep and wondered how the pond can be filled. Mike Sgaramella replied that it is an isolated wetland but they will need approval. Mr. Simonfay stated that most of the water is coming from the Sport Dome property.

Mike Cannilla asked if the re-grading plan is included. Mike Sgaramella verified that is on the plan and that there is enough information to evaluate. Ted Trautman confirmed that the trees will be kept.

Page 12 is the existing conditions of the Peterscape mulch pile.

Mike Cannilla noted that on Page 13 it states that office trailers are prohibited. He asked why they are there and how many of them are there. Mr. Simonfay said that Mr. Peterson was the yardmaster in the past and put the office trailer there.

Mr. Simonfay said that they will be removed when Peterscape leaves in July. He said that there are total of three office trailers on the site. Mr. Simonfay owns one and did not know that they were prohibited.

Mike Cannilla asked why the violations were not addressed before coming to the Board. He asked why they are not being removed now. Mr. Simonfay understands the frustration but is focused on an amicable separation with Peterscape.

Mike Sgaramella stated that enforcement actions are going on now.

Carl Woodward added that this is the subject of a Superior Court litigation at this time involving the Borough of Florham Park, Peterscape, and Jacobus Family Realty. There is a huge amount of material there and Peterscape has been there for 30 years or more. There has been a final judgement and we are complying with that.

Kurt Senesky asked if there are time frames for them to get into compliance.

Carl Woodward said that there are timeframes for him to comply. They felt that it was in everyone's best interest to get him off the site completely. They have negotiated an exit plan with Peterscape in the least expensive way. A lot of his equipment has been removed. The office trailers are to be removed by June. Peterscape owns two of the three office trailers.

Rick Zeien asked if there is a restriction on what can be brought onto the site for storage. They stated that there are rules.

Carl Woodward added that Pioneer Rental is not part of the application. They have a separate lease with Jacobus and are on their own parcel that they store rental equipment on. Their vehicles are not counted in the application limits of 180 vehicles. Mr. Simonfay added that the vehicles are described as trucks in the 1990 resolution.

Mike Cannilla asked if there is hazardous material on the site. Steve Simonfay replied that he cannot say for certain but they do monitor this. Carl Woodward said that there is a container for used oil on the site. Mike Cannilla confirmed that the storage containers are inspected for hazardous materials.

Jeff Noss asked if it gets inspected by environmental consultants. He felt they need to get control. Carl Woodward said the resolution stated that no hazardous materials are to be stored. Jason Jensen stated that there are degrees of hazardous materials.

Brian O'Connor asked what happens if there is spillage. There is a risk for contamination. Steve Simonfay said that they make sure that it gets cleaned up properly.

Brian O'Connor asked if there will be a connection to the sewer system. They stated that if the sewer hook-up becomes available then they must connect. Currently they have a port-a-john.

Mr. Simonfay reviewed Page 21 which outlines the yard rules and time lines for improvements. Page 22 is the Fire Emergency Plan. Steve Simonfay stated that Jim Fonzino of the Florham Park Fire Dept. wants to wait until the Board deliberates on the application before the fire department moves forward with their requirements.

Mike Sgaramella said that any onsite storage of fuel must be approved by the Fire Department (Page 27). Page 28 depicts a 500 gallon diesel tank that will be returned to the site. It is not currently there.

Steve Simonfay described the storage lockers for combustibles as per Jim Fonzino. They would be on the outside of the storage containers. He also noted that 5 gallon cans are stored in the landscape trailers. Mike Cannilla wanted the Fire Department to be aware of that and to approve the storage of these in the landscape trailers. (Page 29).

Rick Zeien noted that the existing resolution may have uses that are no longer allowed. Carl Woodward said they understand that. He also added that they can perform minor repairs but not major repairs.

Page 30 depicts the c-containers or yard containers (40ft). There is a ventilation system in them. Mr. Simonfay said they have reviewed this with Mr. Fonzino and he agrees in principle on this. Mr. Senesky stated that Mr. Fonzino's letter indicates that he wants to wait until the Board rules on the application.

Ted Trautman pointed out that the storage units need two means of egress. He asked how that is going to be handled. They will need to be modified. Steve Simonfay said that they are working on that. He reiterated that safety is their number one concern. Mr. Cannilla added that these were meant for storage but they seem to be occupied at times, so there needs to be some modifications made.

Mike Cannilla asked what will be done with the containers that are falling apart. He asked if there is a standard of condition that must be met. He felt that if they are no longer road worthy, then they should be removed. Mr. Simonfay confirmed that they are all owned by the tenants. Safety is their number one concern.

Steve Simonfay said that Page 31 depicts a shed that sits on crushed stone. This is where a workshop could be set up. Page 35 is an inventory sheet of equipment. There is a listing of all the tenants on the site for the Board to review. It is similar to what the 1990 resolution had attached to it. The last page has a list of all items existing on the site today.

Mr. Senesky asked if this is a snapshot of what exists on the site today or what they are proposing to be on the site.

Carl Woodward replied that this is a snap shot of existing conditions on the site today. This will be maintained by the yardmaster. He will also provide the original list that was attached to the 1990 resolution for the Board to compare.

Mike Sgaramella asked if the tires are now removed. Steve Simonfay said he will check on that because he is not sure.

Ted Trautman felt that it was important that there is full fire service plan and wants a copy of it.

Mr. Cannilla stated that the application must be carried to a future date since it is getting very late.

Mr. Zeien made a motion to carry the application to April 3, 2019, 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 10:30 p.m.

Marlene Rawson
Board Secretary

March 6, 2019