

**Zoning Board of Adjustment
Regular Meeting Minutes
May 15, 2019**

The Regular meeting of The Borough of Florham Park Board of Adjustment was called to order on Wednesday evening, May 15, 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

Members Absent:

Ms. Elizabeth Roseman (1st Alt)
Mr. Ted Trautman (2nd Alt)

Also Present:

Mr. Kurt Senesky, Esq., Board Attorney

Call to Order:

Mr. Cannilla, Chairman called the meeting to order at 7:05p.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 May 1, 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.

C Variance:

Antonio Poto
155 Ridgedale Avenue
Block 1906, Lot 7

Application # BOA19-7

Applicant is seeking approval for a front and rear yard setback in connection with the construction of a new dwelling.

Anthony Poto and Christine Miseo, architect, were sworn in. Ms. Miseo confirmed for the record that proper notice was served as per the official 200 foot list.

Ms. Miseo stated that the old home was demolished and the property is currently vacant. Location plans for the new home include a front setback that is further from the street than what is permitted. The owner preferred to be further back from Ridgedale Avenue since it is a busy roadway. The maximum setback is 46.9 feet and the request is to be 52.1 feet of front setback. This will cause a rear yard setback deficiency. The owner also desires a circular driveway. The frontage along Ridgedale is 200 feet but they still need the extra depth in the front yard. If the house was closer, a circular driveway would be too close to the street.

Mr. Cannilla confirmed with Ms. Miseo that this is not a hardship variance. She said it is a C-2 variance. They do not believe that there is any detriment to their request. The maximum permitted setback is calculated by taking the average depth of homes within 200 feet on either side of the property. The front setback must be no more than 10 feet greater than the average setback.

Mr. Cannilla said that the front setback calculation was a recommendation from this Board. Ms. Miseo said that the property is also slightly irregular, causing a 10 foot depth deficiency on one side (140 ft), complicating compliance with a rear setback requirement. Mr. Cannilla said that the rear setback is a percentage of lot depth that is taken from the average depth of an irregular lot, so that it does not affect this application.

Mr. Cannilla verified that the width of the new driveway is 18-19 feet with curbs.

Mike Sgaramella stated that the land slopes downward in the rear. He confirmed that the porch in the rear is not roofed. He said that surface grading is needed and he recommended that the tree line in the rear not be touched. They agreed. Mike Sgaramella also said that a dry well is needed and preferred it to be installed in the front. He confirmed that it is a curbed driveway.

Katherine O'Kane noted that the existing trees will help minimize the impact to the rear. She felt that the rear setback will have more impact and they should work to achieve less impact in the rear. She said it may be possible to lessen the driveway width by 3-4 feet and therefore move the house a few feet forward in order to lessen the impact to the rear yard.

Mike Cannilla said that he does not see any hardship with this request and he needs more convincing that this is all necessary. The proposed home is large with lots of coverage. He also was concerned about the future health of the tree line that separates the rear neighbors.

Mr. Poto said that he wants to be further from the street to minimize the noise. He needs the circular driveway for easier egress due to the busy street. He also needs room for guest parking since there is no street parking permitted.

There was discussion on alternative compliant locations. Mr. Cannilla opened the meeting to the public.

Maria Picciani, Thayer Court. The rear yard of this home is adjacent to her front yard. Her home and property sits lower than this property and she has drainage concerns. She said that her property is already wet. She also does not want to lose the tree line separating both lots. She wants the screening and the privacy that they provide.

Jim Silverman, 149 Ridgedale Avenue. He said he looks at the big picture and the part of the street has been an eyesore for years. He is pleased with this new proposed house. He does not want the property to be vacant. The setback issue is minimal to him. The engineer will address the drainage concern and there will be no issue. The former house had no drainage system so this will be an improvement.

Mr. Cannilla said that the setback should be respected. If a variance is granted, then future homes along this street can be moved further back due to the averaging formula.

8:00pm-8:05pm – Break

They agreed to move the home two feet closer into the front setback and shift the home eight feet to the right. This will negate some of the rear yard setback deficiency. The request is now for a 50ft front yard setback where 46.9 feet is the maximum, and 48ft rear yard setback where 57.4ft is required. The live trees will remain and they will utilize drainage techniques.

Mr. Cannilla confirmed with the Applicant that this is the request that they want the Board to vote on. He then asked for a motion.

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

Roll: Noss, yes; Jensen, yes; Cannilla, no; Novalis, no; Zeien, no; O'Connor, no.

Application was denied.

Use Variance, Preliminary and Final Site Plan:

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.

Carried from the April 3, 2019 meeting without further notice or publication.

Carl Woodward, Esq. represented the applicant. Three exhibits were marked into the record.

- A-13: Parcel plan
- A-14: Fire Truck turning plan
- A-15: Sample parcel configuration

Tony Hajar, Engineer, remained under oath. He described the parcel plan. He stated that they created similar size parcels. They are as follows:

Parcels #2-18 – 6800sf.

Parcels #19-30 – 7000sf

Parcels #31-40 – 7200-8900sf

They eliminated the middle access drive. There is still a drive that splits the site and also one along the river. All parcels will have electric service. They are requesting that each parcel be permitted a maximum of 640 square feet of building coverage comprising of storage containers or C-boxes, or sheds. The C-boxes come in different sizes but primarily 8x20 feet or 8x40 feet. Any single storage unit that is in excess of 200 square feet shall be subject to the regulations in the International Building Code (IBC). That responsibility would be the tenant's.

Tony Hajar reminded the Board that maximum of 640sf of building coverage amounts to less than 10% of building coverage where 35% is permitted in that zone.

Tony Hajar also stated that the permitted improved coverage is 60%. If what they are proposing is granted, the resulting improved coverage would only be 12.64%. They will be way below what is allowed. Mr. Cannilla said that the ground is compacted on the site and might be considered impervious. He thinks that the improved coverage could be much more than that due to the compaction. He asked if they were requesting a coverage variance.

Carl Woodward replied that this was not an issue until now. This is property that is filled and has been in this condition for 50 years. He does not believe a variance is needed for improved coverage. He will research the ordinance. Mr. Hajar said that the soil is permeable.

Katherine O'Kane noted that if a tenant rents more than one space, it is possible for them to have many boxes. It was confirmed that no more than 640sf of building coverage is permitted on each parcel.

They will also have three porta-johns. They will require a container separation of 10 feet. Corner markers will delineate the parcels. No parcel can be altered in size. There is only one tenant permitted per parcel. But one tenant can rent more than one parcel. The number of parcels will be 40.

Katherine O'Kane confirmed that existing violation of conditions will be required to be brought into compliance.

Mike Cannilla asked why violations still exist on the site, such as roof top storage on the C-boxes. Steve Simonfay replied that all of his rooftop storage is now gone. He is working on his space to remove any violations. He will then address this with the other tenants.

Mike Cannilla felt that as the yardmaster, Mr. Simonfay, should have been enforcing this and have this resolved. Steve Simonfay replied that he has been concentrating on the exit plan for Peterscape. He added that he worked hard to get to this point. His mulch pile is 1/3 of what it was. He also wants a firm understanding of what is expected.

Steve Simonfay stated that he has come a long way since he took over about a year ago. Conditions are much better now than how it was. He realizes that there is much more to do but there has been a lot of progress.

Carl Woodward agreed that Steve Simonfay has been focused on Peterscape. It was their understanding that removing Peterscape was the main objective of the town. He noted that they are also requesting two office trailers. One is to be for the yardmaster for administration of the site. The other one could be for another tenant that can justify they need it. The office trailer would count in the 640sf of coverage.

Tony Hajar continued that the sanitary sewer is now designed and the application has been submitted to the Florham Park Sewerage Utility. He will propose two 80ft turning radius areas for the fire truck so that only one movement is required.

Rick Zeien asked if the access roads can be dirt. Mike Sgaramella stated that the access road must be passable at all times and they may need to bring in stone. Kurt Senesky stated that it will be impossible to calculate improved coverage. Mr. Cannilla said there must be some parameters. The Engineer will need to calculate the improved coverage.

Mike Sgaramella stated that this has been reviewed by the DEP and the County and there are no drainage concerns. There were questions about whether the access road should be considered improved coverage. Mike Sgaramella felt that the access road will need some stabilization material so that a fire truck and safely access it and this will make those areas impervious. Mike Cannilla thought that the vehicle spaces in the parcel should also be counted as improved.

Carl Woodward stated that these are existing conditions that have not changed since the Board approved the prior resolution. Mr. Cannilla said that the mulch area will now go away and become parked areas. They also are filling a pond.

Tony Hajar stated that the sample layout shows a configuration of containers within a parcel with a 10ft setback between them. There are many different ways to arrange them and they will easily fit. They have also proposed a 5ft setback from the parcel line so there is a 10ft setback between containers on adjacent parcels.

Tony Hajar reviewed Mike Sgaramella's most recent review memo. They will revise 1 & 2. They will submit a road opening permit to the County. They will contact Sun River, LLC for the fair share agreement. The sanitary sewer permit cannot be released until then. There is no flood hazard area other than the river bank. They will report the hazardous material.

Tony Hajar reviewed the fire review memo. With regard to the Knox Box requirement, they recommended having one Knox Box per parcel. All containers within that parcel will be accessible by one master key. The Board seemed agreeable to that proposal.

They will supply the turning template for the new layout for the 42 foot truck to the fire department.

Tony Hajar said that the yardmaster will handle the hazardous material reporting. They will compile the information for the entire site and report it to the DEP. A copy of that report will be supplied to the Fire Department.

Mike Cannilla was not sure how accurate a report can be when material is continually coming and going in and out of the site.

Steve Simonfay noted that the Right to Know is currently handled by an employee of his. He will find out the details and will handle this for the entire Jacobus site. He agreed to supply a cumulative submission of all material that is on the site.

Rick Zeien stated that amounts of hazardous material on the site in any given month could be different. Steve Simonfay agreed and noted that if they need to supply a report more often than once per year, then they will, but reporting is not done daily.

Mike Cannilla said that this operation is very fluid and commented that there is probably large amounts of pesticides and fertilizer on site. Steve Simonfay disagreed and responded that fertilizer must be applied by licensed contractors. Only two landscapers on the site offer fertilizer services. The rest of the landscapers using this site do not use fertilizers.

Carl Woodward confirmed that the reporting requirement under the Right to Know law will be complied with, whatever that is.

Katherine O'Kane wanted clarification on the variance requests, particularly the number of containers.

Carl Woodward and Tony Hajar said that the request is for 640 square feet of building coverage per parcel that will number no more than 4 containers or sheds (structures) per parcel. There will be no more than 160 containers for the entire site.

Steve Simonfay noted that the adjacent Della Pella site has many more containers that are 40 foot long.

There will also be a maximum of 6 vehicles per parcel and but more than 180 vehicles for the entire site. These vehicles are an accessory to the business, and will be registered with the yardmaster. This does not include employee's vehicles used for transportation to work each day.

John Novalis asked about the abandoned landscape trailers that are no longer road worthy. Carl Woodward stated that they must all be removed.

Mike Cannilla asked about the number of employee vehicles and felt there should be some limitation. John Novalis noted that he has been to the site and it is not overcrowded with vehicles.

Carl Woodward replied that personal employee vehicles have not been part of the discussion. Mike Cannilla also thought the trailers should be classified in some way.

Tony Hajar and Steve Simonfay stated that the fire hydrant installation is proceeding and all approvals have been received. They are waiting for the vault that is due in in a few weeks.

Katherine O'Kane asked about the number of tenants. They confirmed that 40 tenant spaces are what is being requested. There are two office trailers being requested as well. One will be for the yardmaster.

Regarding wood processing, Peterscape and Four Seasons will no longer be tenants. There will only be short term storage of wood material and nothing in the long term. They also agreed that trash haulers will no longer be permitted.

Mike Cannilla wants a timetable to have the site cleaned. Kurt Senesky stated that they will discuss a time limit.

Carl Woodward stated that the electric plan is proposed and they expect the installation to take 6 months. The tenant areas will be delineated within 45 days of the approval of the resolution. This does not apply to Peterscape. The sewer connection will happen by 8.31.19 or before the road paving. The containers will be in compliance as soon as possible but it could take 6 months or more. The grading will take one year. The Right to Know information will be submitted within 90 days of approval. The rules and regulations are complete.

Steve Simonfay will address the rooftop storage and abandoned trailers as soon as possible. Mike Cannilla wants the current violations addressed within 30 days of the resolution. Kurt Senesky suggested that the rules and regulations should be finalized and submitted to the Board within 30 days.

Jessica Caldwell, Planner, was sworn in.

She stated that this is a request to continue a use with certain modifications. They received use variance approval in 1990 and are seeking to have 11 of 35 conditions modified. She summarized the change to the conditions that are being requested. They are as follows:

- Tenant signs to be added
- 640sf of storage (160 containers maximum)
- 2 office trailers
- Tenants to be permitted to occupy more than one parcel
- Security lighting to be added
- New drainage plan
- 180 business vehicle maximum
- 40 tenants
- Concrete blocking along the river
- Minimal wood processing operation

Ms. Caldwell described the particular suitability. This is a large land parcel with a location on a county road for easy access. It is compatible with other uses in the area. The site has been used for years as a contractor storage yard. Fire safety is being promoted and the hydrant is being installed. This is a use that is needed in Florham Park so that small contractors have a place to store their equipment so that is out of the residential neighborhoods. The site will be cleaned up so that it is not an eyesore.

It has been recognized in the 1990 Master Plan as an industrial zone and that underlying zoning has remained the same since 1990. Although other uses have been added to the zone, it is still an industrial zone. They will rehabilitate it so that zoning enforcement will be easier. There is no impairment or detriment. It is a unique property and there is no negative impact to the Master Plan or the Zone Plan.

Mike Cannilla stated that the area has changed since 1990 and they need to be somewhat sensitive to the residents who are now living in the vicinity. He also wants the business to be close to compliance.

Jeff Noss noted that the residential complex was built after this site was developed so the proximity does not concern him. Residents have chosen to live there. However, they must comply with the regulations.

Carl Woodward stated that his application testimony is complete. He summarized his application, stating that they are attempting to improve the conditions by bringing the site into compliance, improving the appearance and operation of the business which has been there for many years. There is a genuine need for contractor storage. This is a very suitable site for that purpose. This is not a suitable property for residential use. Most of the commentary was about appearance and compliance and not the use.

Mike Cannilla felt that there needs to be more control two open items. They are the number of rolling trailers that attach to the business related vehicles and the number of employee vehicles. After consulting with his client, Kim Wells agreed that 6 vehicles and 6 trailers per parcel could be imposed. Steve Simonfay thought that 180 employee vehicle limit site wide would be sufficient. Also, the number of portable toilets can be changed and approved as a field change by Mike Sgaramella.

Carl Woodward acknowledged that there are only six members present tonight. He requested a full Board when voting on the application. In an effort to streamline the process and due to scheduling conflicts, he asked that a positive resolution be prepared in advance for consideration at the June 19, 2019 meeting.

Carl Woodward asked that the application be carried to June 19, 2019. He granted an extension of time to July 17, 2019.

Mr. Cannilla asked for a motion.

Mr. Noss made a motion to carry the application to June 19, 2019, second by Mr. O'Connor
Roll Call: On a roll call vote all members present and eligible voted to carry the application

Mr. Zeien made a motion to authorize the attorney to prepare a positive resolution, second by Mr. Jensen.

Roll Call: On a roll call vote all members present and eligible voted to authorize the preparation of a positive resolution.

On a motion duly made and seconded the meeting was adjourned at 10:45p.m.

Marlene Rawson
Board Secretary

May 15, 2019