

**Zoning Board of Adjustment
Regular Meeting Minutes
April 3, 2019**

The Regular meeting of The Borough of Florham Park Board of Adjustment was called to order on Wednesday evening, April 3, 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. Jason Jensen

Members Absent:

Mr. Brian O'Connor
Ms. Elizabeth Roseman (1st Alt)
Mr. Ted Trautman (2nd Alt)

Also Present:

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

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 March 20, 2019 Meeting.

Mr. Mr. Zeien 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 Approval:

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| 1. | <u>Martin Rodriguez</u>
9 Dawn Court
Block 1907, Lot 34 | <u>Application # BOA19-1</u>
R-15 Zone |
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Applicant is seeking approval for excess lot coverage in connection with pool and hardscape renovations.

Mr. Noss made a motion to approve the resolution, second by Mr. Zeien.

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

2. Approval of Annual Report

Mr. Senesky explained that the report is required by law. He stated that it can be used to identify areas in the zoning ordinance that may need to be modified. The Board of Adjustment can make these recommendations. This report will be on for discussion at the next Board hearing.

Mr. Jensen made a motion to approve the report, second by Mr. Zeien.

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

C-Variance:

3. **Jonathan Guerrieri**
20 Kenneth Court
Block 2002, Lot 30

Application # BOA 19-4
R-15 Zone

Applicant is seeking approval for a front yard setback in connection with a porch.

Jonathan Guerrieri was sworn in. He reviewed his application for a rear setback from a few months ago. He explained that there was a misunderstanding on the improvements to the porch. It is a preexisting setback at 39.6 feet. He is adding a gazebo at the end and covering the entire porch with an overhang. The gazebo is not in the setback and does not need any relief. However, the front porch overhang intensifies the setback deficiency to 37.2 feet. The covered porch is a design feature that has always been part of the remodeling project.

Mike Sgaramella stated that there is a storm water easement on the property line that contains a pipe. He requested that Mr. Guerrieri remove his driveway from the easement area and he has done so. However, the design plan calls for a side entry garage and he no longer has the driveway width that is required. Mr. Guerrieri presented an engineered plan that depicts a driveway extension that will allow him to navigate into the garage. Mike Sgaramella approved this plan and waived the driveway width requirement.

Mr. Sgaramella asked that Mr. Guerrieri perform soil testing to show that no drywell is needed for the downspouts.

There were no questions from the Board or the public.

Mr. Cannilla called for a motion.

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

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

Use Variance, Preliminary and Final Site Plan:

2. **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.

Carl Woodward represented the applicant. He acknowledged that there are members absent tonight and has requested that they listen to the transcript so that he is sure he will have a full board at the time of the vote.

Steve Simonfay remained under oath. He said that he has been a tenant at the site for 15 years. When asked about traffic flow, he said that Peterscape, who is a longtime tenant that runs a mulching operation, generates traffic during mulch season, primarily between 8am to 5pm. There are 20-30 trucks per day that will come into and out of the site for mulch. It is not as busy during the off season months, but there are still trucks that bring in raw material to dispose of it at the Peterscape operation.

Mr. Simonfay stated that Peterscape is planning to leave the site in July. The traffic will be much less once they are gone. The 1990 site plan was displayed. Mr. Simonfay said that Atlantic Green Valley Tree has gotten smaller and Peterscape expanded into approximately 20% of that parcel. This leaves unoccupied space that must be reconfigured.

The 1990 resolution speaks to the need for this type of use which is a contractor storage yard. Mr. Simonfay said that they get many calls looking to rent space so that need still exists.

The fire hydrant plan is approved by New Jersey American Water. The wet tap is installed and they are waiting on piping. Then the hydrant will be installed. They have applied to the Morris County Planning Board in early March, and are waiting for a response. Documents have been submitted in response to the comments of the Board from the last meeting. Steve Simonfay review his submitted response package.

A-6: Responses to March 6, 2019 meeting comments

1. Office trailer has been removed.
2. Simonfay container and one Peterscape container have been removed. The other Peterscape trailer will be removed in July.
3. Barrels on the Sweetin lot have been removed.
4. They have applied to the Morris County Planning Board.
5. Their engineer, Tony Hajar, met with Jim Fonzino, and Paul McGann of the Fire Department.

Mr. Novalis asked what the Fire Department's opinion is of the 40 foot trailers. Mr. Simonfay felt that the fire department was looking for feedback from the Board before commenting. Mr. Novalis asked about what Building Department thought.

Mr. Sgaramella responded that both the Building Department and Fire Department want the International Building Code to be the regulating authority. That means a storage unit of 200 square feet or under including sheds and CBOX containers would be subject to the code requirements for a shed. They did not comment on the forty foot containers. Forty foot containers are subject to very different requirements of the international building code.

Carl Woodward said that he has a different view on the IBC and 40 foot containers. This must be discussed with the Building Department. These containers are not owned by Jacobus. They are brought in by tenants. Some containers have been there for 25 years. He will try to resolve this. He does not want the Board to weigh in on that at this point.

Mike Sgaramella added that the Fire Official wants to coordinate with the Construction Official to determine on how to treat 40 foot containers.

Mr. Cannilla felt that they are looking for input from the Board on the quantity of these storage units and proposed types of hazardous materials to be stored.

Mr. Senesky added the Board will not get involved in any dispute between Jacobus and the Fire Department.

Carl Woodward recommended that the resolution say that the applicant must comply with appropriate municipal regulations.

John Novalis said that a 40 foot container is twice the size. No building code defines these. There could be fuel like gasoline in equipment in there and a hazardous situation.

Steve Simonfay said that their container plan will address this.

Mike Cannilla recommended that the storage containers or CBOXes, regardless of size should comply with the building code. There are significant safety concerns on the site and he thinks that the Fire Official wants compliance with the building code and maintained as per the building code. He asked if they were refuting any Fire Department comments and if so, the Board wants to know. Specifically, like complying with the building code.

Carl Woodward responded they will comply with the building code to the extent that it is applicable to them. If it does not apply, then the fire and construction department do not have the jurisdiction to compel that.

Mike Cannilla replied that there are variances that are being requested in this application that gives the Board the ability to ask for something above what is required.

Kurt Senesky said that if they want to appeal the interpretation of the Construction Official, then they would do so with the Department of Community Affairs.

Mike Cannilla reiterated that the Fire Department wants the CBOX containers treated as buildings. The Board will want to be informed if it is ultimately determined that they are not considered buildings.

Rick Zeien said the Fire Department wants limits on the number of containers also. The Engineering review noted that the Board must determine the number and sizes of each container for each plot. Carl Woodward said that the 1990 resolution acknowledges the use of 30-40 foot CBOX containers. Mike Cannilla said that the resolution also said that there is to be only one container on each parcel. There appears to be many containers on some parcels and they are close together.

Carl Woodward replied that tenants will be obligated to store hazardous material in the lockers. He said that they are asking for 2 containers per parcel. The tenants need the ability to store their material and machinery in a secure and weatherproof container.

Mike Cannilla said if you want 2 containers, then the building footprint in aggregate should be taken into account when they analyze that structure. He suggested discussing with the Building and Fire Department. Mr. Woodward said that it something that can be explored.

Mike Sgaramella thought that the fire department may want a separation requirement.

Mike Cannilla asked how this property got to this point of non-compliance. Carl Woodward acknowledged the condition of the site and stated that the law allows them to ask for a variance if they are in violation.

Steve Simonfay reiterated that the property is being cleaned, they have reduced the number of tenants to 29. They are negotiating an exit plan for Peterscape, and they are reducing the number of containers.

Mike Cannilla noted that the 1990 resolution required all items to be placed in the storage containers overnight. Steve Simonfay responded he agrees. Mike Cannilla said that it appears that items are being stored on the top of the boxes which is not permitted. Steve Simonfay said that they will work on that.

Steve Simonfay ordered an OPRA for the fires on site in the last 10 years. There were 3 calls. They were a car fire, stump grinder, and the Peterscape mulch fire. Mr. Woodward confirmed that all the fire calls were related to Peterscape.

Mr. Simonfay stated that the Board wanted a Right to Know inspector to inspect the property for hazardous material. He contacted PK Environmental for the inspection. Tenants will complete the Right to Know form, but many will be below threshold in terms of quantities.

Mike Cannilla said his opinion is that the threshold must be a combination of all tenants since it is all on one lot. Steve Simonfay stated that he must look into the laws for more information on the requirements.

Jeff Noss asked if the size of the parcel determines the number of containers that can be on the parcel. Carl Woodward stated that the resolution is not specific to that. He is concerned with the overall density. He asked if they would be reducing the density with this plan and reducing the violations. Carl Woodward said that they are asking for relief from conditions.

John Novalis said that he visited the site and he agreed that the site is cleaned up. He observed that Peterscape has large amounts of raw material. He asked what will happen if they are still there in July and all the equipment and material is still there. Steve Simonfay said that the existing material will go quickly to local landscapers.

Kurt Senesky also questioned what will happen if they leave and all of the material is still there.

Carl Woodward replied that it is a month to month lease at this point. They can get rid of it or go to court. They have options and have the ability to deal with that issue. He added that the trailers and machines are also being removed at the current time.

Kurt Senesky verified that their intentions are to have him vacated by July 15, 2019.

Mike Cannilla stated that the 1990 resolution requires the Peterscape and Four Seasons mulch material must be processed within 14 days of its arrival and that is not being complied with.

Mike Cannilla also asked what will happen if Peterscape becomes uncooperative about it. Carl Woodward replied that they will know by then and we will be prepared to take action if necessary. If he leaves the material, it will be removed so the space can be rented.

Carl Woodward stated that their intention is to eliminate any mulch business operation on the site.

Copies of the rules and regulations were distributed. They have been signed by most tenants. Mr. Zeien noted that the rules do not seem to address the number of vehicles permitted. Steve Simonfay said that it will be revised to address that item. The 1990 resolution states that 6 vehicles (overnight) and one storage trailer are permitted.

Carl Woodward said that there is no limitation of the number of vehicles that can be there during the day. These are employee's vehicles that are only there during the day. There are 6 vehicles that are permitted to be there overnight, per parcel.

Rick Zeien asked if there are trash haulers using space. Katherine O'Kane stated that the trucks must not be loaded, but it does not address empty trucks. Steve Simonfay agreed and added that currently there are no trash haulers renting space.

Mike Cannilla stated that he does not want to see outside storage of equipment. There are now residents across the street and it can be an eyesore. The resolution states that it should be no outside storage and Steve Simonfay has equipment outside. Steve Simonfay said he was not aware of that, and reminded him that he is making every effort to remediate the concerns.

John Novalis asked about the number of porta johns. He said due to the size of the site and the number of workers that are in and out of there, there should be more than one. Although they are across from a residential complex, this site was here first. However, the porta johns should be concealed or screened if possible.

The meeting was opened to the public. There were no questions.

Tony Hajar, Engineer for the Applicant, was sworn in. He stated that the nature of the application involves a reconfiguration of the parcels. He described the most recent site plan set dated March 18, 2019. The site is 10.91 acres and it is in the C-1 zone. There is 432 of frontage along Passaic Avenue. Existing conditions include two buildings on the property. One is Pioneer Rental (4800 sf) and the other building (1300sf) is vacant. The parking requirement is 18 spaces. There are 26 parking spaces on the site, but with the installation of the fire hydrant, that will be reduced to 24 spaces.

Mr. Hajar described the 1990 site plan. It was divided into 26 parcels with a center access driveway. Four of those parcels had two tenants. The total number of permitted tenants was 30. Lots 11, 17, 18, and 25 have two tenants. Atlantic Green Valley located on Lot 26 occupied 20% of the site.

A-7: copy of site plan sheet #3

The access driveway is the same but there is now a 60ft. radius turnaround (from 50ft) to allow movement of the fire truck. An access lane has been added through the site. There are now 18 parcels on the top side. There is also 10 in the middle and 8 on the bottom. The total is 36 parcels, 4 of which can have two tenants.

Mike Cannilla asked if they can simply count the number of parcels, and not "A" and "B" for a total number of parcels. Mr. Hajar agreed to do that. Mike Cannilla also thought that there should be a 50 foot setback from the line for the larger trailers. Mike Sgaramella said that is for a principal structures.

Mr. Senesky stated that these are not tax lots. Katherine O'Kane thought that the Board can impose some sort of setback requirement for safety purposes.

John Novalis asked if the area is in a flood zone. Tony Hajar said that the property is not but they applied to the NJDEP for a flood hazard verification. Tony Hajar confirmed that the low spot on the plan is the pond and that is what they intend to fill. Mike Sgaramella said that it is an isolated low spot. The DEP will determine the buffer.

Tony Hajar said that they want the ability to adjust the width of the parcels by 10 feet, either by increasing or decreasing them. They will delineate the parcels with posts and signs. The plan is for the Yard Master to move the posts as necessary and then notify the zoning officer of the change.

Mike Cannilla felt that there should be some sort of visible separation of the parcels such as fencing, to identify the edge. Tony Hajar said that the parcel lines will be made parallel to the grid lines and perpendicular to the access drive.

Kurt Senesky wanted the definition of a storage unit so that the Zoning Officer understands what it is.

Carl Woodward replied that in the 1992 resolution for George Sweetin who was a tenant at that time, it is described as storage trailers, including sheds. Mike Cannilla clarified that it is an un-wheeled storage trailer. Carl Woodward stated that a CBOX container is the most popular type. In some cases, sheds would be usable.

Mike Cannilla asked about licensed trailers on wheels. Carl Woodward replied that they cannot stay on the site. John Novalis confirmed that old trailers that are no longer roadworthy cannot be used on onsite storage.

Tony Hajar presented the grading plan. He said that 60% of the lot drains to the river. The remainder drains to the vacant lot on the northeast side. They want to fill the pond and surrounding area so that is flat and level to the road. They will get a soil erosion certification for Morris County.

Tony Hajar noted that they are not adding anymore site lighting but are adding security lighting for overnight. They do need a variance for these lights. The Florham Park Police have requested these security lights. Jeff Noss verified that they comply and there is no spillage onto other properties from the lights. Rick Zeien asked if all the lights will be kept on, or if some can be turned off. Carl Woodward replied that security is needed but they will ask the client. He reminded the Board that the sports center next door has much more lighting than they are proposing.

A-8: Fire Service Plan

A-9: Landscaping Plan

Tony Hajar described each plan. Trees will be added and they will be 6-7 feet tall at planting. There is a 60 foot radius for a fire truck turning template but it cannot be done in one movement. This will need further discussion with the fire official.

A-10: proposed truck turning template

A-11: alternate truck turning template

A-12: storage container venting plan

The vents and fans are solar power activated at certain temperatures, for ventilation. Mike Cannilla felt that the fan and the operation should be discussed with the fire department first.

Jeff Noss asked if they would consider buying and leasing trailers rather than leaving it up to the tenant. Carl Woodward said that they can discuss that with the client. The venting plan can be retrofitted to the containers.

Rick Zeien was concerned about two shipping containers and also vehicles on each lot, regardless of lot size. He felt that there should be rules according to lot size. Mike Cannilla agreed that lot size must be considered when deciding on numbers of containers and vehicles. Jeff Noss concurred that there should be parameters. Mike Sgaramella suggested identifying each lot size square footage to get a better idea.

Mike Sgaramella's report was reviewed. They will put plans together for a sewer connection. They will supply trucking manifests for the pond filling. They agree that the yard oil and diesel tank storage should be in a permanent location.

Carl Woodward said that there is some fencing that separates the lots but not all lots have the fencing. It is recommended that there be a physical barrier such as fencing that identifies the separate parcels. The storage trailers should be identified by lot numbers.

Carl Woodward will take the suggestions under advisement and discuss with his client.

Added lighting for the winter months was also brought up. Some parcels have electric service and others do not. More information on the electric service coming on to the site and throughout the site is needed.

There were no questions from the Board or the Public.

Mr. Cannilla stated that the application be carried to the next available meeting date.

Mr. Zeien made a motion to carry the application to the April 17, 2019 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 10:15p.m.

Marlene Rawson
Board Secretary

April 3, 2019