

**Zoning Board of Adjustment
Regular Meeting Minutes
November 20, 2019**

The Regular meeting of The Borough of Florham Park Board of Adjustment was called to order on Wednesday evening November 20, 2019 at 7:00p.m., in the Municipal Building, 111 Ridgedale Avenue, Florham Park, New Jersey.

Members Present:

Mr. Jeffrey Noss, Vice Chairman
Mr. John Novalis
Mr. Rick Zeien
Mr. Brian O'Connor
Mr. Jason Jensen
Mr. Matt Engel

Members Absent:

Mr. Michael Cannilla, Chairman
Mr. Ted Trautman

Also Present:

Mr. Kurt Senesky, Esq., Board Attorney
Mr. Michael Sgaramella, PE, Board Engineer

Call to Order:

Mr. Noss, Vice-Chairman called the meeting to order at 7:00 p.m.

Statement of Adequate Notice:

Mr. Noss 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:

1. Approval of Minutes from October 16, 2019 Meeting.

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

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

Resolution of Approval:

2. **ASCO, L.P. Emerson**
160 Park Avenue
Block 1401, Lot 3.02

Application #BOA 19-13

Applicant is seeking approval to install an above ground fuel tank to replace a former underground tank. 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.

3. **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). Mr. O'Connor made a motion to approve the resolution, second by Mr. Jensen.
Roll Call: On a roll call vote all members present and eligible voted to approve the resolution.

Use Variance:

4. **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. Carried from the September 18, 2019 meeting without further notice or publication.

Lee Jorge, owner of Lucco was present at the hearing. Kurt Senesky, Esq. gave a brief history of the evolution of the restaurant. It was approved by this Board as a use variance about 5 years ago. At the time of the approval, they did not own a liquor license and they planned to operate it as a "BYOB". At some point after the Board approval but prior to opening, a liquor license became available and they acquired it.

Lee Jorge stated that at the time of approval, the hours of operation that were asked for and approved were noon to 10:00p.m. They are now requesting that the hours be increased to be 11:00am to midnight.

Mr. Jorge reiterated that he is not looking change over to a tavern or a bar. The increase in hours will allow dining customers to stay later and not be rushed out the door due to a 10:00pm closing. He has found that many customers linger after dinner and continue to socialize and he wants to accommodate them, especially on Friday and Saturday night.

Mr. Senesky and Mike Sgaramella, Board Engineer explained that the Borough ordinance (Chapter191) on hours of operation for retail food establishments is 6:00am to 11:00pm. However, there is an exception for restaurants that have liquor licenses. The hours of operation are governed by the liquor license. In cases where there are no restrictions on hours, this Board can establish the hours that alcohol can be served, provided that they are within the ABC regulations (2:00am). The serving of food would still be prohibited after 11:00p.m.

Mr. Zeien asked what the hours of the Thirsty Turtle are. Mike Sgaramella responded that they are open until 11:00p.m. all nights except for Friday and Saturday when they stay open until 1:00 a.m.

Mr. Novalis reminded Mr. Jorge that there is a residential home across the street. Mr. Jorge said that the homeowner and tenant of the home were both in favor of his application and provided him with a letter stating this. He also noted that the residential home has recently been destroyed by fire. In his conversations with the owner, they told him that they were unsure about rebuilding the home.

There was discussion on the proximity to any other residential area. It was determined that the closest residential areas are several blocks away.

Mr. Sgaramella explained to the Board that the Police Department requested Title 39 enforcement for the property. The Fire Department requested that they provide 3 foot striping around the building for a fire lane and also 3 no parking signs. The owner has agreed to both of these requests.

The meeting was opened to the public for questions and comments. Seeing none, Mr. Noss asked for any final comments of the Board. There were none. He asked for a motion.

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

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

Approved: 5-1.

C-Variance:

5. **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.

Carried from the July 17, 2019 meeting. Applicant requests to be carried to the January 15, 2020 meeting without further notice or publication.

Mr. Zeien made a motion to carry the application, second by Mr. O'Connor.

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

6. **Mary Chiarolanio**
17 Manker Drive
Block 2703, Lot 41

Application # BOA19-14

Applicant is seeking approval for a rear yard setback in connection with a 2nd story addition.

Mary Chiarolanio was sworn in. She stated that she wants to put a second story over her existing garage. She has owned the home since 2002. She did not realize that the home has a pre-existing, non-conforming condition because a small portion of the existing garage is within the required setback. Adding a second story will intensify the non-conformity. Also, she has plans to add an enclosed set of stairs that lead up to the proposed second story. This encroaches an additional 6 feet into the setback.

Ms. Chiarolanio stated that her son and his family live with her and they need the space. There will be only a slight increase to building coverage and they are well within the allowable amount.

Andrea Austin, daughter was sworn in. She explained that the stairwell leads up to the second story living area. They wanted a separate exit from the second story for fire safety only. They prefer not to remove it, but will if necessary.

Joe Chiarolanio, son, was sworn in. He concurred that the stairwell is for a second exit for safety purposes only. The proposed space is also accessed by an interior hallway on the second floor.

Board members questioned whether this space would be used as an apartment or a two family home. Joe Chiarolanio stated that it is not going to be a two family home. The addition is not separated from the main house. The architect suggested the stairwell for safety.

Mike Sgaramella noted that there is an error on the submitted zoning chart. The chart indicates that the setback requirement is 54 feet. He said when the lot size is irregular, the average of the two side yards is taken when determining what the required setback is. Using this formula, his calculations show that the required setback is 38 feet, not 54 feet.

Mr. Noss stated that this means the existing non-conforming condition is not as severe as was noted on the chart. That is good news. He asked if the Madison homes that are behind the applicant home were served notice. It was confirmed that they were.

Joe Chiarolanio added that the subject property is also partially in Madison and taxes to Madison are paid as well as Florham Park.

Mr. O'Connor confirmed that the hardship is that the existing rear setback is non-conforming.

Mr. Senesky added that a hardship can account for a condition where a structure is lawfully existing in a location that is now become non-conforming due to changes in the zoning ordinance.

There were no other questions from the Board or the public. Mr. Noss called for a motion.

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

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

On a motion duly made and seconded the meeting was adjourned at 8:00 p.m.

Marlene Rawson
Board Secretary

November 20, 2019