

**Zoning Board of Adjustment  
Regular Meeting Minutes  
April 21, 2021**

The Regular meeting of The Borough of Florham Park Board of Adjustment was called to order on Wednesday evening, April 21, 2021 at 6:30p.m. The meeting was conducted by virtual means utilizing the Zoom service in accordance with the "Senator Byron M. Baer Open Public Meetings Act" of 2020 that explicitly permits a public body to conduct a meeting electronically during a state of emergency.

**Members Present:**

Mr. Michael Cannilla, Chairman  
Mr. Jeffrey Noss, Vice Chairman  
Mr. John Novalis  
Mr. Rick Zeien  
Mr. Jason Jensen  
Mr. Ted Trautman  
Mr. Michael Shivietsz (2<sup>nd</sup> Alt.)

**Members Absent:**

Mr. Brian O'Connor  
Mr. Matthew Engel (1<sup>st</sup> Alt.)

**Also Present:**

Mr. James Polles, Esq., Board Attorney

**Call to Order:**

Mr. Cannilla, Chairman called the meeting to order at 6:30 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 April 7, 2020 Meeting.

Mr. Zeien made a motion to approve the minutes, second by Mr. Shivietsz.

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

**Resolution of Approval:**

2. **Artis Senior Living** **Application #BOA 17-13**  
301 Columbia Turnpike  
Block 1602, Lot 5

Applicant is requesting a one-year extension of the Protection Period for the site plan and use variance approval to March 20, 2022.

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

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

**C-Variance:**

**3. Jeff Hegan**

**Application # BOA 21-05**

14 Village Road  
Block 2803, Lot 7

Applicant is seeking approval for excess improved lot coverage in connection with an in-ground pool and patio.

Carried from the April 7, 2021 with no further notice or publication.

Jeff Hegan remained under oath. He stated that they heard the concern of the Board with respect to drainage and storm water management and made some adjustments. They will regrade the pool area and install a larger PVC pipe to carry the added flow.

They uncovered the existing four-inch leader line and verified it is at four inches. They established the pitch of the pipe to the street at 3%. It will handle the capacity of runoff from a 25-year storm, roof runoff, and pool runoff.

Dave Egarian said that a six-inch PVC line will be installed from around the pool to the street at 1%. The four-inch pipe from the house leader system will tie into the new six-inch pipe. The pool pump can be tied into the six-inch line as well. The pool can be drained in case of excess flow. In addition, they raised the pool six inches in order to gain more pitch and achieve a 1% slope.

John Novalis confirmed that there were no reductions made to the pool or patio size. Rick Zeien verified that the lot coverage request is for 34.2%. Jason Jensen asked about the basis of the 25-year storm and if that is the benchmark. Dave Egarian replied that it is a standard size to engineer for storm water management.

Jeff Noss said that the pool will capture water so that is a positive factor. John Novalis agreed and felt the changes were good.

Jeff Hegan said that he appreciated the comments from the Board and wanted to do the right thing. Rick Zeien said that he did a great job.

There were no other questions or comments from the Board or the public.

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

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

**8. Dino Robusto**

**Application # BOA 21-06**

1 Country Club Lane  
Block 3601, Lot 30

Applicant is seeking approval for the installation of a six-foot high fence and gate in the front yard.

Mark McMenemy, Esq. represented the applicant. He stated that his client has a demanding position that calls for security enhancements to his home. The requested fence requires one variance. The security consulting firm of Control Risks has recommended that a six foot high fence with a security gate surround

the property on two sides that are considered to be two front yards. This is a corner property along Brooklake Road and Country Club Lane.

Mark McMenemy said that one change in the proposal is that a submitted drawing showed "proposed" arborvitae primarily along Brooklake Road for 100 feet up towards the driveway. He continued that the arborvitae are now planted and the specimens are 8-10 feet high.

Dino Robusto was sworn in. He reviewed his career achievements and prior positions. He is now the CEO and Chairman of CNA Insurance. It is a Fortune 500 company and the eighth largest property and casualty insurance company in the US. He has lived in Florham Park since 2015. He also rents a condominium in Chicago that is outfitted with high security. He does not intend to leave Florham Park. He raised his sons in Florham Park and would like to retire here. He has invested more than \$2 million in upgrades to the home.

He works extensively at home and there is sensitive and private company information in the home that cannot get into competitor hands or the public. He and his Board want to be sure that he is protected and the information is protected. They are the largest writer of kidnap and ransom insurance for commercial businesses. There has been an increase in attacks to companies by hacking and stolen identities. Mr. Robusto has had his identity stolen and was a victim of ransomware attacks. There is a lot of anti-corporate sentiment towards insurance companies. This is evident by seeing excessive jury awards. He said that these threats are real.

Mr. Robusto stated that the last 5-6 years there have been ever increasing lawsuits and excessive claims. The pandemic has brought on \$25 billion dollars in claims due to losses in business. The company will not pay for many business losses due to COVID. This has resulted in a very dangerous and growing animosity towards insurance companies and led to a toxic environment. There is a sentiment that covered or not covered, insurance companies should pay the claim. There is gun use and Mr. Robusto said he needs protection and security beyond what normally be considered, including bodyguards.

The Board of Director of the company as well as his security director want better protection for him. Control Risks preferred an 8-foot fence. His security expert, Brad Jenkins said that they can work with a 6 foot fence that will be inside of the tree line. They will make it attractive and they will do what is necessary, but protection must be provided to Mr. Robusto.

Ted Trautman asked about the lighting around the perimeter of the house. Brad Jenkins stated that dark sky lighting is installed and it does not shine onto other properties.

John Novalis asked if they considered other ways to accomplish the type of security he needs, such as an electronic fence. There are other ways to achieve a barrier. Dino Robusto responded that his security advisor wanted an 8-foot fence. We proceeded with a 6-foot fence and ways to screen it.

The meeting was opened to the public.

Gary Rotenberg, 109 Brooklake Road. He asked if the lighting was already in place. Brad Jenkins stated that it has been in operation for a few years. Dino Robusto concurred and said the lighting was in place a few months after he moved in.

Jane Dixon, 109 Brooklake Road. She confirmed that the 6-foot fence is all around the property. She added there are many deer in the area. She asked what would stop everyone from getting a variance for a six-foot fence.

Mike Cannilla responded that a six-foot fence is permitted in the rear yards of properties. Every application stands on its own merits.

Frank Valentini, security director for CNA was sworn in. He said that he has 40 years of experience in the security industry. He performed an assessment on the home and office security. It is outlined in the

executive summary. He said that there have been multiple threats made to Mr. Robusto. There is at least one current restraining order. There are many unstable claimants who are unhappy with their situation and have the perception that they have been mistreated. There is sensitive information in the home.

They prepared an executive summary of recommendations for security measures. They recommended an 8-foot physical barrier for protection. An 8-foot fence is the best standard there is. He explained that he starts with the perimeter fencing when planning security measures. There are also cameras, alarm systems, and locking devices. This is for protection from physical harm as well as technological attacks.

John Novalis asked if they were aware of our ordinance when considering an 8-foot fence. He commented that it is strictly enforced. He added that everyone wants security and wondered if they looked at other ways to accomplish that.

Mr. Valentini responded that he was aware and they decided to ask for a 6-foot fence and make it work.

Jason Jenson asked about the front gate and if emergency access would be provided for emergency services. It was stated that it would be and they will finalize that with the Police and Fire Department.

Michael Tobia, planner, was sworn in. Brad Jenkins, environmental project manager and designer, was sworn in.

A-1: power point photos of property dated 4/21/21

Brad Jenkins stated that he has worked with Mr. Robusto for several years. He wants to create his dream home. There is 9,000sf of living space in the home. Mr. Jenkins has already invested \$2 million in extensive renovations and improvements to the home.

With regard to the security enhancements, the fence would be inside of the arborvitae plant line and well hidden. The recent plantings will provide a robust screen. The 6 ft. aluminum fence is commercial grade and will have a black powder finish. Two gates will cross the driveway. Each gate is ten foot wide and six feet high. They are located 35 feet inside of the property line and will open towards the street. The gates will add to the esthetic of the property and the updated finishes.

They can extend or bolster the arborvitae line if desired. The arborvitae are 8-10 feet tall at planting and will grow another three-four feet in a few years.

Mike Cannilla asked if there was adequate space for a waiting vehicle when the gate is opening. He would like the vehicle to be able to be in the driveway and off the road while the gate is opening.

John Novalis asked what exists on the property currently. Brad Jenkins replied that there is a pond in the rear and a 4 foot chain link fence on the north and west side. There is a 5-foot fence along the Brooklake side to the edge of the home.

Michael Tobia described the photos of the property. All existing fencing will be removed. There are an additional 27 arborvitae shrubs planted along the Brooklake Road side. The dense planting will make the fence invisible from the roadway. There is also no visibility along Country Club Lane.

Michael Tobia stated that there is one variance needed for this fence. It is for the height of 6 feet in the front yard. The proposed fence is 77% open.

He noted that in 2008 the Board granted a variance for an 8-foot fence in the rear of 2 Country Club Lane. In 2007, the Board granted a variance to 5 Pine Valley Way (off of Country Club) for an 8-foot high fence and a 7-foot gate. In both cases, it was for security purposes due to credible threats.

Michael Tobia said in the case at hand, there are well-documented security concerns that have been established. He showed an aerial view of the Country Club Lane properties. The subject property is

isolated from the other properties in the area. It has one front along Brooklake Road, which is a well-traveled borough roadway. There are no residences along the stretch of this road across from the Robusto property that might notice potential intruders.

He continued that a 6-foot fence would deter trespassers. What is being proposed is a good-looking, open-air architectural fence. It cannot be seen from outside the property. The house is unique in that there are multiple points of entry. This is another reason to protect the home. He added that Planners typically do not like tall fences in the front yard when they are ugly. This fence is good looking and very open-air fence.

Mr. Tobia said that this is a clear benefit. It will promote public safety, the general welfare, and safeguard the property and resident who has unique security concerns. There is minimal visual impact and no substantial detriment to the intent and purpose of the zone plan and zoning ordinance. The gate is 25 feet to the curb line. They are willing to taper in back for more room or utilize a sliding gate.

Mike Cannilla stated that either method will work as long as the situation is managed. He thanked Mark McMenemy for the comprehensive testimony.

Mark McMenemy summarized the application. He said that ordinances do not always have to be followed. That is why a Board of Adjustment is created. They are able to adjust the strict application where it makes sense to do so. There is no substantial detriment if this variance is granted.

There are unbuildable wetlands across Brooklake Road that will never be developed. There are no homes on that side. A sizeable investment in deep vegetation will screen the fence from any view outside of the property. The fence is only 24 inches over what is permitted. It is esthetically pleasing and more than 75% open. The only person across Country Club Lane also has a 6 foot fence that spans double the length of what is being requested here. This is also not a detriment.

This area has several homes that have similar fence systems for security purposes. Mr. Robusto also needs the bolstered security. In addition, it will improve the property because it is a good-looking fence and appealing to look at. This is a unique part of town that has stately, manor-like homes.

Mr. McMenemy said there are strong proofs for this. Mr. Robusto manages tens of thousands of claims. His business is a litigation battlefield and there is an enormous amount of animosity on large denied claims. This makes him a target and at an extreme risk. He has valuable confidential company information that people would like to have. This fence will provide a measure of personal security.

The ordinance is to be reviewed with reasonable presentations and adjusted where it makes sense to do so. In this case, relief can be granted without substantial detriment. The Board should work with him so that his property and his personal safety can be safeguarded as best as possible. He asked for a vote of approval.

Jeff Noss said that this is a reasonable application and is consistent with other variances that were granted. Although it stays with the property, these are unique circumstances.

Rick Zeien stated the presentation was excellent and convincing. There are past approvals in the area for similar reasons. He agreed that it is a unique area of Florham Park. The fence will fit in very nicely.

Ted Trautman agreed that the conditions warrant this. Mike Shiviets and Jason Jensen also see no detriment.

Mike Cannilla stated that every application stands on its own. There is justification for this. He asked if they would maintain the screening and Mark McMenemy and Dino Robusto agreed. He also asked EMS access be given in some manner.

There were no questions. Mr. Cannilla called for a motion.

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

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

On a motion duly made and seconded the meeting was adjourned at 8:50p.m.

Marlene Rawson  
Board Secretary

April 21, 2021