

**Zoning Board of Adjustment
Regular Meeting Minutes
February 17, 2021**

The Regular meeting of The Borough of Florham Park Board of Adjustment was called to order on Wednesday evening, February 17, 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. Brian O'Connor
Mr. Ted Trautman
Mr. Michael Shiviets (2nd Alt.)

Members Absent:

Mr. Rick Zeien
Mr. Jason Jensen
Mr. Matthew Engel (1st Alt.)

Also Present:

Mr. Matthew Posada, Esq., Board Attorney

Call to Order:

Mr. Cannilla, Chairman called the meeting to order at 6:30 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:

1. Approval of Minutes from the February 3, 2021 Meeting.

Mr. Noss 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:

2. **Victor Leonardis**
6 Felch Road
Block 2407, Lot 5

Application # BOA 21-02

Applicant is seeking approval for excess building and lot coverage in connection with an in-ground pool, patio and shed (pre-existing).

Bob Hessel, landscape architect and planner, was sworn in. He stated that the drywell system drawing that was submitted is incorrectly sized and he has revised the drawings. They are now exhibits:

A-1: drywell system showing two tanks, instead of three (S1.1)

A-2: revision to two tanks (D1.0)

Mr. Cannilla confirmed that all non-natural surfaces have been included in the lot coverage total.

Victor Leonardis was sworn in. He stated that he wants to install an in-ground pool, pavers, and decking in order to fully utilize his yard. He and his wife have a large and close family who all reside in town. He has his business in town. They get together on a regular basis and he wants the outdoor entertainment space for all to enjoy. He added that the COVID pandemic has made him realize that time is precious. They have no vacation homes. He loves his home and Florham Park and sharing it with his family.

Mike Cannilla noted that the building footprint exceeds the permitted percentage and thought it might be due to the existing shed.

Brian Hoarle, engineer, was sworn in. He replied that if the shed were removed the coverage would still be slightly over. It was determined that the home was likely built before the sliding scale of building coverage percentage went into effect. The coverage was 15% at the time of construction and now it is 14.5%.

Brian Hoarle stated that they acknowledged the excess coverage and are seeking a variance for it. It is an existing condition. They will move the shed to a compliant location.

Victor Leonardis said he does not recall when exactly he installed the shed but it was shortly after the home was built. His garage space is minimal and he needed the shed for additional storage. He said at the time of construction the garages were made smaller in order to avoid any variance condition. He bought the shed but did not realize that he needed any permits for it.

Brian Hoarle said the lot coverage number requested is 1721 square feet. Of that, the pool is 1000 square feet and the coping, walkway, patio hardscape is 1000 square feet. They are replacing 435 square feet of existing hardscape. He added that the drywell system is accurately sized and there will be no runoff created.

Victor Leonardis said the soil in this section of town is very sandy loam and there are never water issues. The soil is so sandy that even after a heavy rain, there are no traces of any water. He added that both the contractor and the town took much of the soil during construction to reuse elsewhere since it is so sandy.

Brian Hoarle said there is a three-foot walkway around the pool and getting to the fire pit, a small deck, and a pergola area. Any runoff will be collected with inlets that will be placed in the corners of the walkways and patio. There is no trench drain around the pool. It was noted that the existing patio has no drainage issues.

Mike Cannilla said that runoff is always a concern and you are asking for a lot of hardscape in this project. He asked about the fire pit and what the purpose of it is. There is no area to sit around it. There is a very large sidewalk that is going from the driveway to the back yard which adds to the hardscape.

Mr. Novalis asked if there are currently any drywells on the property. Victor Leonardis replied that there are two tanks and all the downspouts from the house empty into them.

Mr. Novalis said the pool will not function properly when there is excess rain of more than four inches. Water has to be pumped somewhere. Although some water will be reduced through evaporation, the remaining collected water must be pumped out. He asked where it will go.

Bob Hessel replied that they are using a cartridge filter system and there is no discharge. The filter will have an autofill connection. A physical pump will be used to empty into the drywell system in the event of

a heavy rainstorm. He agreed that there is an amount that will naturally evaporate. Mr. Novalis said that the corner drains could be used to drain the water to the drywell.

Mr. Novalis noted that he loves pools, however, this is quite a large project. The pool is large and there is a hot tub. There is a lot of hardscape proposed, including patios, walkways, decking areas, and also the shed. He recommended re-looking at all these extras. Not necessarily the pool, but he is having a hard time with everything else.

Mr. Cannilla stated that the drainage system has been reduced but maybe they should not reduce it since there will be additional water to be pumped at times.

Mr. Noss confirmed that the rear of the home currently has only a landing leading to a small patio. A portion of the patio and landing will be replaced by a new deck.

Bob Hessels explained that the new fire pit will only have room for a small seating area. It is mostly a walkway access leading to the pool area.

Mr. Noss asked about the size of the pool He said that it appears to be 800 square feet (15x30ft). He asked if this was a typical size or if it is on the large size.

Bob Hessel replied that they have designed many pools and 800 square feet is a typical size for this area and the entire tristate area. This is not unusually large.

Mr. Noss added that he also feels that the pool is less of an issue to him than the pavers and patio areas. He asked if the pavers are set in sand. Bob Hessels confirmed that they are set in sand with sand joints and stone dust. He noted that the Borough of Madison gives a credit for that type of installation, counting it at 80% improved. Mr. Noss said it is a nice design, but it is large.

Ted Trautman also agreed with the idea of a pool and family time. But he added that the total amount of the hardscape is significant and could impact neighbors. Taking another look at the project may be a good idea to see if a design change could be made to reduce the footprint. This is a big ask.

Mike Cannilla confirmed that there is an existing outdoor fireplace on the left side of the rear yard. There is also a separate grilling area in the outdoor kitchen. He confirmed that the new fire pit on the right side will be gas.

Mike Cannilla went on to say that it may be worthwhile to take another look at the plan. Other applicants have done this and returned with a more modest plan that still meets their needs. They have reduced or cut down on walkways surrounding pools. He said there is a large seating area and a spa portion that has a patio surround. He appreciates and understands that he has a large family that he sees regularly, but he explained that when the Board grants a variance, it is to the property, not the owner.

The meeting was opened to the public for questions or comments.

David Simpson, 4 Felch Road. He is a neighbor living next door. He said that he concurs with Victor Leonardis' comments on the sandy soil and said it is not possible to flood the properties in this area. His only concern with the project is the fire pit that is below his bedroom window and the possible lighting and noise. Other than that, he has no problems with the project.

Bob Hessels said that there is a six-foot vinyl fence surrounding the rear yard that already exists. It all meets pool code. The landscape plan proposed will screen the rear yard. They will likely use large size Green Giant arborvitae.

Mr. Cannilla said that decision whether to proceed or not is the applicants. It is his application and the Board will vote if he wants the vote tonight regardless. There is also an option to carry the application to a future meeting in order to explore ways to reduce the project somewhat.

Board Attorney Matthew Posada advised the applicant that if there is a vote tonight and the application is denied, he cannot return to the Board with another plan unless there are substantial changes. This is known by the legal term res judicata. This means that a matter that has been legally decided cannot be re-litigated by the same party.

Victor Leonardis stated that he has heard the comments of the Board and wants to revisit the project and come back. He asked to be carried to the March 17, 2021 meeting.

Mr. Noss made a motion to carry the application to the March 17, 2021 meeting without further notice or publication, second by Mr. Novalis.

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 8:00p.m.

Marlene Rawson
Board Secretary

February 17, 2021