

**Zoning Board of Adjustment  
Regular Meeting Minutes  
June 16, 2021**

The Regular meeting of The Borough of Florham Park Board of Adjustment was called to order on Wednesday evening, June 16, 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. Brian O'Connor  
Mr. Jason Jensen (left at 8:00pm)  
Mr. Matthew Engel (1<sup>st</sup> Alt.)  
Mr. Michael Shivietz (2<sup>nd</sup> Alt.)

**Members Absent:**

**Also Present:**

Mr. James Polles, Esq., Board Attorney

Board Secretary Marlene Rawson announced that Board Member Ted Trautman has resigned due to increased work responsibilities. Mike Cannilla responded that he is sorry to hear that. He said that if there is someone who is interested in serving on the Board, they should contact the Mayor about their interest.

**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."

Attorney James Polles announced that Board Attorney Matthew Posada is no longer with Schenck, Price, Smith and King, and has moved on to other legal opportunities. Mr. Polles will now be the Board of Adjustment's primary legal counsel. He is happy to work with the Board.

**Approval of Minutes:**

1. Approval of Minutes from June 2, 2021 Meeting.

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

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

**C-Variance:**

2. **Salvatore & Cynthia Hoo**

**Application #BOA21-08**

6 Midwood Drive  
Block 905, Lot 24

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

Carried from the May 19, 2021 meeting with no further notice or publication.

Attorney Steve Azzolini stated that plans were resubmitted with changes. He introduced Engineer Tom Skrable who described the changes to the Board.

The walkway on the right side was removed. The patio was reduced and the covered patio was also reduced. The drainage plan was kept the same size, and the pits are in the front of the home. All runoff will drain to them. This is the recommended plan from the Borough Engineer.

The total reduction to the plan is 757 square feet or 3.5%. Mr. Skrable stated that the pool water surface is 800 square feet. If this were not counted as coverage, the improved lot coverage would be 31.27% which is very close to conforming.

The proposed drainage plan is an improvement over what exists currently. It will correct the drainage issues that are on the property. The yard drain will be repaired. There is no detriment to the neighbors and it will improve conditions.

The percentages were reviewed. The proposed building coverage will be reduced from 14.8% to 14.7%. the lot coverage percentage will be reduced from 38.5% to 34.99%. The overall square footage will be reduced from 8280 square feet to 7523 square feet.

Jeff Noss asked about the storm water management requirements. He asked if the pool alone would require basins. Mike Cannilla responded that storm water management is needed regardless. The Borough Engineer decides what that would be.

John Novalis felt that the project is still huge. He has no objection to the pool, but he does not see a major reduction in the patio areas. He also is concerned that the roofed patio area could be converted into interior living space.

Steve Azzolini replied that the home is completely renovated. He will agree to a condition in the resolution that would prohibit any conversion to interior living space. They would have to come back to the Board. James Polles said that it can be a condition of approval that three sides remain open.

Brian O'Connor asked about the pipe size that will run to the basin. Tom Skrable replied that it is a 6 inch pipe. The fence will be pool code. Brian O'Connor still thought it was a big ask and there is a lot of hardscape.

Jeff Noss agreed that the pool could be enjoyed with less patio coverage. Jason Jensen also agreed that the patio surround was very wide.

Mike Cannilla also felt that it is an extremely large patio and there is the issue of building coverage.

Brian O'Connor added that he made his patio surround only wide on one side of his pool to keep the coverage at a minimum.

The pool patio surround is now nine feet and four feet on the back side. There was more discussion on reducing the pool surround and the storm water basin collection.

Tom Skrable restated that they designed what the Borough Engineer wanted.

Steve Azzolini asked for a 10 minute break to confer with his client.

Break: 7:20-7:30pm.

Steve Azzolini returned to the Board and said that they will remove another 1.5 feet from around the pool. They will also remove one foot of overhang on the proposed roof structure.

Tom Skrable said that the pool surround will now be 7.5 feet on the side and 2.5 feet at the rear. This is an additional 250 square feet. The lot coverage now stands at 33.83% and the building coverage is 34 square feet less and is now 14.55%.

Steve Azzolini stated that his client likes symmetry. He said this is a reasonable plan that fits into the surrounding area. Tom Skrable said that the reduction is more than 1000sf less than the original plan. It was noted that the covered patio area was left open on three sides to mitigate any massing.

Mike Cannilla felt that there was still lots of hardscape. This is a very wet town. He did not feel that this property was unique in any way. These are luxury features. John Novalis agreed that it is still too large. He said he loves pools but the hardscape is larger than the pool itself.

James Polles reviewed the proposal. The building coverage proposed is 14.55%. The improved lot coverage proposed is 33.83%. The question is can this be granted without substantial detriment to the public good and zone plan. Steve Azzolini said that if the pool was removed the request would only be .1%. The pool coverage does not affect drainage.

Mr. Noss stated that the pool is considered improved coverage in our ordinance. Mike Cannilla said the pool free board will capture some of the water but not all water during heavy storms.

Steve Azzolini asked for another short break to confer with his client.

Break: 8:00-8:05pm

Steve Azzolini said that his client will further reduce the large patio by 3 feet (150 square feet). He will now be 4 feet closer to the house for an overall 400 square foot reduction.

The improved lot coverage now stands at 33.13%. The building coverage created by the roof overhang is unchanged at 14.55%. Steve Azzolini stated that this is a reasonable request and similar to previous applications from homeowners. The drainage plan is generous. This is not an overly large project. There is no detriment to the neighborhood and there has been no objections from any neighbors. He has the right to enjoy his property. It is a large parcel. He continued that the plan advances the purposes of zoning because it will enhance the property.

Mr. Cannilla confirmed that this is the plan that they want the Board to vote on. Steve Azzolini responded that it is. Mr. O'Connor still felt that it was a big ask. There were no other final comments.

Mr. Cannilla acknowledged that a number of changes were made. He called for a motion.

Mr. Noss made a motion to deny the application due to excessive coverage, second by Mr. Novalis.  
Roll Call: Noss, yes; Novalis, yes; O'Connor, yes; Jensen, yes; Engel, yes; Shivietz, yes; Cannilla, abstain

Application was denied.

3. **Alexander Hartwell**  
242 Brooklake Road  
Block 2001, Lot 1

**Application # BOA21-07**

Applicant is seeking approval to construct an accessory structure in excess of 600 square feet.

Alex Hartwell and Phillip Hartwell were sworn in. They explained that they are asking to replace an existing barn with a new and larger barn. The current structure is in deteriorating condition and needs to be replaced.

The accessory building that they are proposing is 1200 square feet where the maximum permitted square footage is 600 square feet. Mike Cannilla asked about the need for such a large accessory building.

Phillip Hartwell responded that the existing barn is too small and a larger barn is needed to store his personal equipment and provide space to work on the equipment. Mike Cannilla asked what is being stored. He responded that he has garden equipment, trailers, motorcycles, snowplows, and plow truck. They cannot be all kept outside.

Mike Cannilla asked if he is storing commercial equipment used for a business and if this equipment is roadworthy. Phillip Hartwell replied that these are his personal vehicles and equipment. He collects antique motorcycles. All vehicles are roadworthy. They are not operating a business from there.

Mike Cannilla said that the town has ordinances. You are on a large parcel of land, but there must be valid reasons to justify an accessory structure this large. Alex Hartwell responded that some of the equipment is covered under tarps on the property.

Mike Cannilla stated there is also a property maintenance code that must be followed. There is no outdoor storage permitted. Alex Hartwell said that is why they want the large barn. His equipment will not fit in the smaller barn and he needs it to be larger.

Mike Cannilla said that a compliant size structure should be built and to store what does not fit offsite. There are storage facilities nearby. He noted that more stuff is not a reason to validate such a large structure.

Phillip Hartwell responded that they have a large and secluded property. It backs up to commercial property.

John Novalis agreed that this a big garage with three doors. He was unsure if the current storm water basin would be adequate. Alex Hartwell stated the basin would be installed as part of this project.

Mike Cannilla said that there must be a reason for this. He said it sounds like a commercial operation. Phillip Hartwell replied that it is not commercial. They want to store their own possessions in the space.

Mike Cannilla said the limit is 600 square feet and a structure of this size could be unsightly to neighbors.

James Polles, Board Attorney, noted that the zoning denial mentions that there no asphalt driveway leading back to the existing barn. Phillip Hartwell concurred that there is no driveway that goes back to the barn but they may put crushed stone down.

Jeff Noss noted that the Board of Adjustment exists to grant variances when it makes sense. This request is double the size that is allowed and that is why there is this reaction.

Mike Shivietz said that an accessory building is supposed to be accessory to the principle use and not just because you have a lot of stuff. You have a residential dwelling. This looks like a commercial building. There needs to be more proofs for the variance.

Rick Zeien added that the Board is in a difficult position because if the property is sold, someone may use it for commercial purposes because the variance runs with the property.

Phillip Hartwell replied that his son wants to buy it as long as they can have the barn.

Mike Cannilla said that if you listen to feedback and want to think about it more, you can reconsider your request, and come back to another meeting with something different. But once a vote is taken, your options become limited.

Matt Engel asked if they considered adding on to the principle dwelling. Phillip Hartwell replied that they chose this option because it is set very far back from the street.

Mike Cannilla agreed and asked why they don't enlarge their home to use for storage space. They have plenty of unused building coverage and he can do that with no building coverage problem.

John Novalis commented that he does not know of any property in Florham Park that has an accessory building larger than 600sf. It will be quite noticeable and the town does not want these outbuildings on residential properties. He added that the new home next door will be looking at your barn.

Brian O'Connor agreed that it will be an issue for the neighbors. He said he once owned a property nearby and realtors have asked about why properties are run down along that road.

Phillip Hartwell said that they will put a buffer of hedges up to screen it from neighbors and the street. He said that both new neighbors are putting up new fences.

Mike Cannilla explained that they can ask for a vote from the Board on their application. Or they can carry the application to a future meeting, without further notice. They can use the time to decide whether to revise their application to a smaller structure, or simply return to the Board and ask for a vote on the original request.

James Polles, Esq. agreed and added that it will not cost them anything to carry the application to another meeting. If they want the vote tonight, and the Board denies the application, they cannot come back to the Board with another application unless it is significantly different than this one.

Alex Hartwell asked for a 10 minute break to discuss with his father.

Break: 9:00-9:10pm

Alex Hartwell stated that the lot coverage is very low at 12.04%. It will only be 13.95% with the 1200 square foot barn. He thinks that the 1200sf structure is appropriate because of the size of his property.

Mike Cannilla responded that it is the size of the accessory structure that is the issue. The house may or may not be enlarged in the future. It is not for us to say. He said that this is a residential property within a residential area. It is not in a remote, out of the way area. There is no hardship on this property.

Phillip Hartwell said that what may or may not happen in the future should not be considered. Alex Hartwell decided that they want a vote of the Board.

Mike Cannilla asked for a motion.

Mr. Novalis made a motion to deny the application, second by Mr. Noss.

Roll Call: Novalis, yes; Noss, yes; Cannilla, yes; Zeien, yes; O'Connor, yes; Engel, yes; Shiviets, yes.

Application was denied.

Phillip Hartwell asked about making another application. James Polles stated that any future application must be substantially different than this one and encouraged them to seek the advice of an attorney for more guidance.

On a motion duly made and seconded the meeting was adjourned at 9:30p.m.

Marlene Rawson  
Board Secretary

June 16, 2021