

**Zoning Board of Adjustment
Regular Meeting Minutes
February 16, 2022**

The Regular meeting of The Borough of Florham Park Board of Adjustment was called to order on Wednesday evening, February 16, 2022 at 6:30p.m. The meeting was conducted by virtual means utilizing the Zoom service in accordance with the guidelines set for by the State of New Jersey which explicitly permits a public body to conduct a meeting electronically during a state of emergency.

Members Present:

Mr. Jeffrey Noss, Vice Chairman
Mr. John Novalis
Mr. Rick Zeien
Mr. Jason Jensen
Mr. Michael Shiviets

Members Absent:

Mr. Michael Cannilla, Chairman
Mr. Brian O'Connor
Mr. Matthew Engel (1st Alt.)

Also Present:

Mr. Robert McBriar, Esq., Board Attorney

Call to Order:

Mr. Noss, Vice-Chairman called the meeting to order at 6:30 p.m.

Statement of Adequate Notice:

Mr. Noss asked the Board Secretary if the statutory requirements of the Open Public Meetings Act were met. Board Secretary Marlene Rawson responded that we are in compliance with the requirements.

Approval of Minutes:

1. Approval of Minutes from the February 2, 2022 Meeting.

Mr. Zeien 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. **Marc Goldstein** **Application # BOA22-03**
3 Townsend Drive
Block 2601, Lot 41 (R-15 zone)

Applicant is seeking approval for excess improved lot coverage in connection with a patio expansion.

Marc Goldstein and Danielle Newman were sworn in. Mr. Goldstein stated that they have been residents at this property for the last eleven years. They constructed a second floor addition in 2018. They now want to improve the back yard. There is small patio that is in poor condition and a detached garage. The patio serves as the primary entry to the home.

They applied for a permit to rebuild and expand the patio and discovered that there were unapproved conditions on the property. They bought the home and did not add anything to what is existing today, other than the second floor addition. He now finds himself in this situation of needing a variance to move forward.

Brian Hoarle, project engineer, was sworn in. He said that the proposed patio is 285 square feet. They wanted more usable and safer patio space. This is an interior lot that is undersized for the zone. There will be no storm water run-off to any of the neighbors because of the proposed improvement. The Borough Engineering staff reviewed the storm water plan. They will agree to follow their recommendations.

The plan calls for the removal of the existing patio and a portion of the driveway, plus the shed. There is a walkway on the side of the home that will also be removed. They are removing these items in order to minimize the amount of excess square footage of lot coverage.

The lot coverage is existing at 42.62%. All structures, overhangs, and other items on the property are included in the calculation.

Jeff Noss referred to a memo from the Zoning Officer outlining what files are in the Building Department. Brian Hoarle reiterated that the homeowner bought the home in 2011 and did not do any improvements to it. All conditions existed on the property when purchased.

Marc Goldstein confirmed that the rear addition is probably not original to the home. Building department records indicated that it was built with permits by the former owners.

Brian Hoarle restated that the Engineer reviewed and agreed to the storm water plan. The retaining wall will be extended and will further direct the storm water. This wall extension was included in the coverage numbers.

John Novalis said that the Board must consider that the request is really for what is over and above the lot coverage limit of 30%. This means that although the request is only for a patio addition, the additional coverage is 2021 square feet or nearly 44%.

Jeff Noss agreed that is technically correct. They are exacerbating the non-conforming conditions.

Brian Hoarle reminded them that the lot is undersized at 13,766 square feet.

Jason Jensen asked the Board attorney if this is the correct way to look at the application.

Mr. McBriar replied that the excess improved lot coverage must be subsumed into this application. It is a necessary part of the application.

Rick Zeien confirmed that the 600 square foot detached garage was constructed with a permit. Building department records indicate that a permit was issued for the garage.

John Novalis said that it is a shame to remove the walkway but 14% over the permitted percentage of 30%, is a large number.

Mr. Goldstein said that they are trying to do the right thing. Brian Hoarle added that the hardship is that the property was in this condition when they purchased it. It was not this homeowner's fault.

The patio includes a small area for an outdoor kitchen. Mr. Zeien was looking for ways to get to the original percentage. Mr. Noss asked if the driveway needed to be right to the foundation of the home. Mr. Goldstein responded that the space is needed for vehicle turning because it is so tight.

Mr. Noss stated that the extended driveway and the detached garage would have put the lot coverage over 30% and wondered how that happened.

Board Secretary Marlene Rawson referred to the memo from the Zoning Official detailing the files in the Building Department. She said that the detached garage was approved by the Building Department at that time, but it was an error on the part of the staff because they were already over the coverage limit.

Mr. Goldstein said there is a gravel area on the side of the home that is counted as impervious coverage. It is gravel because nothing grows there. It is 156 square feet. Mr. Noss asked him if he would consider removing it and maybe planting a shade loving ground cover. That would add some pervious coverage to the plan. Mr. Goldstein agreed to remove the gravel.

The new number with the removal of the gravel area is 43.75% of lot coverage. This is close to what exists today.

Mr. Noss stated that he would not be sympathetic if this was a building expansion request. However, there are no other variances associated with this. The patio will not create any negative impacts to open space.

Mr. Novalis agreed. He added that the property is overbuilt but there were mistakes made by the town and it is not this Applicant's fault. The patio is a minor improvement as opposed to other improvements.

Jason Jensen also agreed with the testimony and stated that the current poor condition of the existing patio is a safety factor to consider.

Mr. Zeien also concurred that this is not the applicant's fault. He confirmed that the final lot coverage amount is 43.75%.

There were no other questions or comments from the Board or the public. Mr. Noss asked 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 7:45p.m.

Marlene Rawson
Board Secretary

February 16, 2022