

**Zoning Board of Adjustment
Regular Meeting Minutes
February 2, 2022**

The Regular meeting of The Borough of Florham Park Board of Adjustment was called to order on Wednesday evening, February 2, 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. Michael Cannilla, Chairman
Mr. Jeffrey Noss, Vice Chairman
Mr. John Novalis
Mr. Rick Zeien
Mr. Brian O'Connor
Mr. Jason Jensen
Mr. Michael Shivietz

Members Absent:

Mr. Matthew Engel (1st Alt.)

Also Present:

Mr. James E. Polles, Esq., Board Attorney
Mr. Michael Sgaramella, PE, Board Engineer
Mr. Michael Mistretta, PP, Board Planner

Call to Order:

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

Statement of Adequate Notice:

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

Approval of Minutes:

1. Approval of Minutes from the January 19, 2022 Meeting.

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

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

2. **Approval of 2021 Annual Report**

The Board agreed with the recommendation to eliminate pool water area and coping when calculating improved lot coverage. Mike Cannilla suggested that language be inserted that states that those areas should still be factored in when the Engineering Department reviews the storm water management techniques.

Mr. Zeien made a motion to approve the 2021 Annual Report, second by Mr. Shivietz.

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

D- Use Variance and Related Bulk Variances:

3. The Johnson Residence

Application #BOA22-01

76 Burnet Road
Block 1501, Lot 3 (R-15 zone)

Applicant is seeking approval to improve and develop the Property for use as a two-family structure with multiple accessory structures.

James Polles gave a brief history of the previous application involving this property. In October 2020, the prior owners applied for a "Certification of a Pre-Existing, Non-Conforming Use". If approved, such a certification would grandfather the two family use to continue as a valid use.

The previous owner testified that the use as a two family home preexisting zoning in Florham Park that was formalized in the 1950's and was never abandoned. They presented a number of proofs at time of the hearing. However, the Board ultimately rejected the argument and the request was denied. They are now seeking a D-1 use variance so that the two-family use can be permitted.

Simone Calli, Esq. represented the applicant Lisa Florio and Steven Johnson. She reiterated that the new owners are now seeking D and C variance relief so that they can improved and enhance the property. She stated that there will be no new structures or changes to the size or height of the principle structure that was built in 1908.

Robert Forbes, architect for the applicant was sworn in. He was qualified as an expert.

A-1: Power point presentation (21 slides)

Mr. Forbes described the house and property. He stated that the property is somewhat isolated from the main part of Florham Park. The neighborhood consists of single family to three family homes on various lot sizes. The subject lot is oversized for the R-15 zone at 29,577 square feet. The owners want to keep it a two family dwelling, with a first floor and second floor unit. The owner want to occupy the lower unit and rent the other unit.

There are two accessory buildings on the property. Accessory building "A" would be used for the first floor dwelling unit. It currently contains an illegal dwelling unit. The owners will remove the illegal dwelling unit. They want to use it as office space as well as garage/storage area. Accessory building "B" has a storage area and a carport addition. The owners intend to remove the carport and storage area and use the building for garage space only.

There will be no changes to the principle structure. There will be separate entrances to each unit. The front door will lead to the upper unit. A rear door that is located on the deck will access the first floor unit.

The façade will give the appearance of a single family home. A minor driveway improvement will consist of creating a small parking area in between the garages so the circulation of the driveway will not be interrupted.

Mr. Forbes said that the first floor unit has 2542 square feet of space inclusive of the basement and has three bedrooms, three bathrooms, living space, and a finished basement for flex space.

The second floor unit is a two bedroom, two bathroom unit, plus living space. The existing attic level will be finished to contain two more bedrooms and a bathroom. There will be no height addition as part of this renovation. The attic space was designed as a mezzanine, meaning the floor area of the attic level is one third of the floor area of the second floor (310sf). The existing height is approximately 7 feet.

The finished attic triggers a variance because it is a two family home. It will not appear any taller and is designed to conform to the Borough ordinance that allows this space in a single family home.

The renovation includes new siding and new windows and adding a deck and a new heating system throughout.

The accessory building "A" would be associated with the first floor unit. It currently has an illegal dwelling in it plus a garage. It also has a heated basement with a full bath. The plan is to have the building used as a "work from home" space. It is designed to contain only a half bath and sink. The kitchen and full bath will be removed.

The accessory building "B" is currently 1001 square feet and includes a storage area and carport addition. These elements will be removed and the proposed square footage would be 641 square feet. It will be used as garage space only.

In closing, Mr. Forbes stated that the new owners want to restore the property. Mr. Forbes added that all of the recommendations of the Board Engineer Mike Sgaramella could be addressed.

Mike Cannilla clarified that it is not a "mezzanine attic" as described since mezzanines are open. Mr. Forbes agreed and stated the attic space in the principle dwelling should be called habitable attic space. A half story is not defined in the ordinance.

Simone Calli stated that Mr. Forbes is their only witness at tonight's hearing. They want to hear feedback or concerns from the Board Members on the proposal. They want to present the design tonight. Planning proofs will be presented at a future meeting.

Jeff Noss asked what is permitted to be in this accessory building. Board Planner Michael Mistretta responded that the planner report concerns were about removing the illegal apartment and how the home office will be used. The architect addressed this. His testimony was that it would not be used as a professional office. The Planner report also questioned the need for a remote home office since the plan for the principle structure Unit A includes a finished basement.

Mr. Mistretta went on to say that the size of the accessory structure triggers a variance. Accessory building "A" is 965 square feet. The ordinance limits the size of accessory buildings 600 square feet.

Jeff Noss asked about the height of the third floor attic and the basement ceiling height. Mr. Forbes replied that the attic height is seven ½ feet in the center but slopes to knee walls. The basement ceiling height is approximately 8 feet as it exists today and is not changing.

Mike Cannilla commented that we have a good understanding of the architecture, but we need the planning logic and justification of these variances.

Jeff Noss added that he would want to know the difference between a single family home that has a rental unit and a two family home that is proposed here. How does that relate to our ordinances and the Master Plan?

Mike Cannilla would like to know the goals of this project. He would like to hear from the owners at the next meeting.

Ms. Calli stated that they intend to prosecute the case as a D-1 variance. She agrees that the case hinges on the planning testimony. The planning testimony will be presented at the next meeting that they will appear. She confirmed that the owners do not live there at this time. They also understand and agree that a sanitary sewer connection must be completed prior to any renovation or occupancy.

Board Engineer Mike Sgaramella stated that the septic system at 76 Burnet Road is in failure and cannot be used. It has been condemned by the Health Department. He gave an update on the sanitary sewer

project for that neighborhood. He said the final design is near ready to bid, and the timeline is to construct in the fall. The line will service all Florham Park homes on Carrigan Lane and Burnet Road.

Mike Mistretta asked about the exterior improvements to the accessory garage units. There are no drawings presented. Mr. Forbes replied that they will install a new roof, new vinyl siding with AZEK trimwork. The windows will be replaced and they will paint the stucco accents. The principle dwelling will also be renovated with the same products.

Mr. Mistretta asked about the parking. Mr. Forbes added that the proposed parking area between the garages would provide for a more organized property and eliminate vehicle parking along the circular driveway. They can buffer the rear of the parking area with plantings. This will result in two more parking spaces than RSIS standards minimum requirements.

Ms. Cali asked if this is too much parking. Mr. Mistretta asked what the garage would be used for if you have all this parking. Mr. Forbes noted that they remain compliant with lot coverage limitations.

Jeff Noss was interested to know what constitutes a rental in Florham Park. How many families can reside in the same dwelling? What defines a rental and a family? He will want these questions answered.

Mr. Forbes summarized that all coverages conform to the ordinance and they are under on both building and lot coverage. The site can handle this.

John Novalis commented that he is concerned with the use of accessory building "A". It could be used as rental unit without a kitchen. Mr. Forbes replied that they are only installing a half bath so it will help to keep it in compliance.

Mike Shivietz referred to the Planner report that questioned whether clients would visit the site. He was also concerned about co-workers coming and going. He wants some assurance that the space would only be used as extra personal office space for the homeowner.

Mr. Forbes replied that there are no plans to operate a business from this space in accessory building "A". It will only be used for personal office space by the homeowner.

Mike Sgaramella stated that professional home office space in a single-family residential area is only permitted in certain areas of the Borough, and it must be within the principal structure.

Jeff Noss would like to know more about the applicant and their business.

Rick Zeien asked if a two family residence is "grandfathered in" once it was sold. Board Attorney James Polles replied that the applicant has chosen to move forward with the "D-1" use variance for a two family home. The Board opined during the previous application that the two family residence could not be exempted from the single-family residence restriction.

Simone Calli added that the Board Planner suggested that it is possible that a D-2 variance interpretation could be sought but they will put on the proofs for a D-1 variance.

Brian O'Connor asked how Garage "B" is being reduced from 1001 square feet to 641 square feet. Mr. Forbes replied that the existing carport and large storage area are being removed and that will reduce the square footage.

The meeting was opened to the public.

William Huyler, 11 Carrigan Lane. He asked if his questions on the use and the variances being sought should be addressed at a different meeting.

Mike Cannilla agreed and responded that the Applicant's Planner will speak to the justification on the variance requests at a future meeting.

Seeing no other questions, the meeting was closed to the public.

Simone Calli asked that the application be carried to the March 16, 2022 meeting without further notice. She agreed to an extension of time for the Board to act if needed.

.

Mr. Zeien made a motion to carry the application to March 16, 2022 meeting without further notice, second by Mr. O'Connor.

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 8:05 p.m.

Marlene Rawson
Board Secretary

February 2, 2022