

**Zoning Board of Adjustment
Regular Meeting Minutes
January 17, 2024**

The Regular meeting of The Borough of Florham Park Board of Adjustment was called to order on Wednesday evening, January 17, 2024 at 6:30pm., in the Municipal Building, 111 Ridgedale Avenue, Florham Park, New Jersey.

Members Present:

Mr. Michael Cannilla, Chairman
Mr. Jeffrey Noss, Vice Chairman
Mr. Rick Zeien
Mr. John Novalis
Mr. Michael Shiviets
Mr. Edward Facas

Members Absent:

Mr. Brian O'Connor

Also Present:

Mr. Michael Mullen, Esq., Board Attorney
Mr. Michael Sgaramella, PE
Ms. Katherine Sarmad, PP
Mr. Joseph Fishinger, Traffic Consultant

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.

Nomination for Chairman and Vice-Chairman

John Novalis of the Nominating Committee reported nominations were received for Michael Cannilla for Chairman and Jeffrey Noss for Vice-Chairman. There were no other nominations made.

John Novalis made a motion to nominate Michael Cannilla as Chairman and Jeffrey Noss as Vice Chairman. Second by Rick Zeien.

Roll Call: On a roll call vote all members present and eligible voted for approval.

Both Michael Cannilla and Jeffrey Noss accepted the leadership rolls and thanked the Board for their continued support. They added that it is an honor to serve the community and they take the responsibility very seriously.

Re-Organization:

Re-Organization Resolutions of Approval:

1. **Scheduled Meetings for 2024 and the month of January 2025**

Mr. Zeien read into the record the annual schedule of meeting dates for the Board of Adjustment.

Mr. Zeien 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

2. **Retention of a Board Attorney**

Mr. Shivietz read into the record the resolution appointing Schenck, Price, Smith and King as Board Attorney.

Mr. Shivietz made a motion to approve the resolution, second by Mr. Zeien

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

Michael Mullen, Esq. thanked the Board for their confidence and support and complimented the Board on it's preparedness and professionalism.

3. **Retention of a Planning Consultant**

Mr. Facas read into the record the resolution appointing Harbor Consultants as Board Planner.

Mr. Facas made a motion to approve the resolution, second by Mr. Zeien

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

4 **Retention of a Board Engineer**

Mr. Noss read into the record the resolution appointing Michael Sgaramella, PE, as Board Engineer.

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

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

5. **Retention of a Board Secretary**

Mr. Cannilla read into the record the resolution appointing Marlene Rawson as Board Secretary.

Mr. Cannilla made a motion to approve the resolution, second by Mr. Zeien

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

Approval of Minutes:

6. Approval of Minutes from the November 29, 2023 Meeting.

Mr. Zeien 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.

Reappointments:

Michael Mullen Esq. swore in Board members Rick Zeien and Ed Facas who were re-appointed to a four-year term by Mayor Mark Taylor.

Michael Mullen, Esq., also swore in Board Professionals Katherine Sarmad, Planner, Michael Sgaramella, Engineer, and Joseph Fishinger for the calendar year 2024.

D – Use Variance, Preliminary and Final Major Site Plan:

7. **BPS Development** **Application #BOA23-6**
Columbia Turnpike & Elm Street
Block 1602, Lots 4 & 5

Applicant is seeking use variance approval and preliminary and final major site plan approval for an 85-unit two-story assisted living facility and memory care facility.

Carried from the November 29, 2023 meeting without further notice or publication.

Chairman Michael Cannilla reviewed the rules of order with the public and reminded the public that once the meeting is opened to them after each of the applicant's witnesses, that time is limited to questions of the witness's testimony only. He requested that the public refrain from statements, comments and/or opinions at that time.

Attorney Steven Azzolini stated that this is the fourth appearance before the Board. Mr. Panek, licensed tree expert and arborist who specializes in trees and the analysis of the condition of trees was sworn in.

Mr. Panek said that he did a site inspection on August 18, 2023 and reviewed his report on that inspection. He stated that most general population trees are 20-30 years old and in fair to poor overall condition. There is a large population of ash trees that are diseased and declining state. This is a four-acre site with many dead trees. The older trees that border the streets are dead or dying. Many trees are on the decline from invasive and damaging vines. This is typical of a naturalized site. The vines and invasive understory plants are all over the site. Any evergreens on the site have lost the bottom foliage. Any tree canopy is diminished and will continue to diminish.

A second inspection was performed in order to assess the growth potential, and general health of the trees. He gave examples of trees in very poor condition. Many trees that border the residential properties are dead or dying from disease and vines and some trees are in the fall zone of these properties.

A-11: Winter view of property border along Allerton Court.

A-12: Winter view of dead and dying trees and rotting from the top down

There is no four-season buffer around the subject property. The Applicant testified that they would provide a buffer that has the growth potential of 30-40ft height.

Mr. Panek's recommendation is to replace with four-season planting landscape plan. The landscaping would be maintained and the canopy will increase. All dead and diseased trees and plant material should be removed.

Jeff Noss asked if the Municipal zoning could compel the property owner to remove the dead or hazardous trees. Mike Sgaramella responded that zoning can enforce the ordinance on tree removal.

Ed Facas asked if anything unusual was found. Mr. Panek replied that yes, the area has been used for dumping of yard waste, including black walnut tree nuts. This accounts for much of the invasive underbrush.

Jeff Noss asked about the tree life span and the water retention as opposed to a developed lot. Mr. Panek replied that the trees on the lot are known as pioneer trees. Due to poor soil condition and an unmaintained lot, these trees only live 20 to 30 years. They grow for this time and then die. The proposed plan will include an irrigation system that will better handle any drought conditions.

Board members asked additional questions on the proposed plan to remove everything. Mr. Panek replied that there is nothing on the lot that is worth saving. The non-native and invasive plant life is stealing any nutrients that are in the soil. The vines are killing the trees and stealing the water and light. There are a large number of ash trees that are dead or dying due to disease and this will continue. He noted that there is a black walnut tree on the residential property that the utility company destroyed by pruning.

Mr. Panek agreed that all the vegetation should be removed and replanted with new landscape material. There is nothing worth saving on this property. More than half the trees are sick, dying and dead. The new material would be cared for and irrigated.

Steve Azzolini reminded the Board that Mr. Panek's role is to save trees, not cut them. Mr. Panek noted that the landscape plan that was presented is lush. It is over and above what was previously proposed.

Mike Sgaramella explained the tree replacement requirement. Dead trees do not count toward the replacement obligation. The Applicant will replace many trees on the site, and the remainder of the replacement obligation would be put in the Borough tree bank and used to replace street trees around town. Steve Azzolini added that they will comply with the ordinance.

The meeting was opened to the public.

Brian Cave. He asked if the markings on the trees could be removed. He asked if there are any trees that are healthy on the lot. He asked about the tree canopy. He asked if this would be a manicured site instead of naturalized.

Mr. Panek responded that the markings would come off in a few months. He said there are no trees worth saving. The dominant trees including maple, locust and black walnut trees are defective. Any ash trees that are still alive will die. He said that 42% of the tree canopy is somewhat sound but has many defects. He noted that some areas of the site would be manicured and other areas such as the border would be cared for as needed but left to grow on their own.

Brian Cave asked about the ordinance that requires as a tree canopy in a residential zone. Katherine Sarmad stated that the ordinance refers to tree removal.

Evans John. He asked about the tree photos. He asked if the homeowner was asked what they prefer rather than what is planned. He asked if all the trees are actually needed in the tree bank.

Mike Cannilla replied that the witness made an evaluation of the trees. That was his role in this application. Mike Sgaramella added that the tree bank is used constantly and the trees are planted all over town. Trees are always needed in the tree bank.

Scott Alman. He asked about the photo of the swing set and exactly how high the tree in the photo is. He also wanted to know exactly how far it is from the swing set. He asked where he was when he took the picture and if he got permission to go on the residential property. He asked how many trees the Borough removes each year.

Mr. Panek replied that he did not measure the distance exactly but gave approximate distances. He said that he took the picture from the residential property and he had permission to do so. Steve Azzolini said that the line of questioning is irrelevant. Mike Cannilla agreed that this is irrelevant to the application.

Resident (unknown). Asked when the tree is removed what happens to the hole. Mr. Panek stated that the hole would be filled with topsoil. The lot would be cleared and scraped to remove the undergrowth and replaced with new topsoil.

Natasha Quirch. She asked about the irrigation on the berm and the possible runoff. Mr. Panek replied that it would be drip irrigation with no runoff. New trees will use a lot of the water.

Gary Fiore. Asked If the tree expert had homeowner permission to enter her property. Mr. Panek replied that he had permission.

A disagreement ensued. Mr. Azzolini reiterated the irrelevance of the questioning and the attempt at filibustering. Mr. Cannilla responded to Mr. Fiore that this is not the Board's purview. If the Public continues to try to filibuster the hearing, this will only prolong the process.

Peter Nicolas. He asked if the clearing of the park property down the street affected the condition of the subject property. Mr. Panek said no, he does not agree that it had an effect on this condition of this

property. He stated that the dumping of grass clippings and other organic material that contain weed seeds has led to the poor condition of the property.

Mike Cannilla added that the property was once an old farm with a fruit stand. It has been degrading due to neglect over the years.

Bill Daniels. He asked how much water a tree would use and whether there will be runoff. Mr. Panek stated that the condition would be improved because the trees would be able to get the water instead of the vines that currently cover the ground. Mr. Azzolini stated that this line of questioning is for the engineer. Mr. Azzolini restated that the overall condition would be improved by this application

Samantha DeMaio. She asked if all the tree canopy would be removed and if she will lose her privacy in the back of her property as well. She asked if she would lose her border. Mr. Azzolini responded that the landscape architect already testified to the proposed buffer. This witness is a tree expert. Katherine Sarmad stated the vegetative material that would be removed is only what is on the Applicant's property. The back of her property is not the Applicant's property and is not part of this application.

Break: 8:20-8:30pm

Nicholas Federese, traffic engineer, was sworn. He referred to Exhibit A-4 which is the site plan rendering. He described the area and the existing conditions, and the roadways.

Traffic counts were performed May 2023 during the peak hours of 7am-9am and 4:30pm-6:30pm. They also looked at historical data and they are confident that the data reflects existing conditions. They also looked at the traffic counts from 2017 during the Artis application. He stated that facility employees will make up the majority of traffic and the shift changes will occur at off-peak hours. Those hours are 6:45-7:15am and 2:45-3:15pm.

Peak hour on Columbia Turnpike is between 7:30-8:30am and 5:00-6:00pm. There is 50% more traffic volume during those times.

Saturday volume is 15% lower during the peak hour and Sunday is 33% lower during the peak hour.

According to the ITE manual data that is accepted and used by traffic engineers, an assisted living facility containing 100 beds would generate 18 vehicles during the am peak and 24 vehicles during the pm peak. They used a conservative number of 22 trips in the am and 33 trips in the pm peak for the facility peak. The previous approval had a slightly less vehicle trip count. The ITE manual and the NJ Department of Transportation considers peak hour trips of less than 50 as insignificant amount. NJDOT considers trips of 100 or less as insignificant.

The County has approved the site plan. The deceleration lane is 270 feet long along Columbia Turnpike. A ten-foot dedication for an easement is agreed to. The County wants 200 feet and they exceed that. There will be three signs (at driveway entrance, at the start of the deceleration lane, immediately after the traffic signal at the top of the hill)

The site lines leaving Elm Street onto Columbia are clear. The landscaping has been pulled back. There are 300 feet of site lines currently and they will provide 500 feet to the traffic light. The Elm Street site lines will improve with the deceleration lane in place. There is expected to be seven additional left turns out of Elm Street in the evening during the evening peak hour. The increased site lines are a benefit that mitigates the additional trips.

A gap study was done. There are 421 available gaps in a one-hour period in the morning and 251 gaps during a one-hour period in the evening. This indicates that there are plenty of gaps for entering and exiting Elm Street.

The traffic lights to the left and right along Columbia Turnpike are synchronized but not necessarily together. Other proposed developments in the area were taken into account. There was discussion on illegal turns in or out of Elm Street. Their findings revealed that illegal turns were made very infrequently.

Mike Sgaramella briefly mentioned a possible future traffic signal further to the east on Columbia Turnpike.

The Elm Street driveway is angled to the left in order to discourage a right turn out. All turning templates (fire and trash trucks) work. They have the required number (50) of parking stalls according to RSIS and Florham Park Municipal Ordinance. The drive aisle is 24 feet wide and the stall sizes are 10x20ft. There are two EV spaces.

He continued that the expected trips (includes entering and exiting) over a twelve-hour period during the May would be 110 trips. This includes twenty employees, visitors, delivery. This is considered a low traffic generator.

Crash data for the last five years:

Left turn into Elm St. from Columbia – 7 rear end crashes

Outbound Elm St. – Right onto Columbia – one rear end

Outbound Elm St. left onto Columbia (right angle crash /T-bone) – six crashes (below State average)

This has been mitigated due to the increased site lines that are being provided. There is no right turn out on Elm from the site.

There was discussion on right turns onto Elm Street from Columbia Turnpike. Mike Cannilla noted that the County wants full movement on Elm Street. He asked if it would be a benefit to allow a right out of the site from Elm Street. Mr. Federese stated that as a traffic engineer, he would prefer the right on Elm Street from the site.

Jeff Noss expressed concern that since the traffic light is green 75% of the time, there could be concerns with approaching the deceleration lane at 50 mph. It could be difficult to get into the deceleration lane if they were not in the right lane of Columbia Turnpike.

Mr. Federese responded that the majority of traffic into the site would be persons who come every day so they will know where the lane is. The westbound cars have the option of using the jughandle at the light to make a left and then use the deceleration lane.

In response to a question on whether assisted living residents have cars, Mr. Stanfield stated there is no prohibition but in his experience, they do not have vehicles.

Mr. Novalis asked about extending the deceleration lane to the traffic light. Mr. Federese replied that they are exceeding what the County wants. The County approved this plan. Mr. Federese does not have a concern about that. Mr. Novalis asked if they thought that people would make a right into the site in order to get to Elm Street. Mr. Federese replied that they cannot design for drivers who break the law. That person would probably make the right turn onto Elm instead. He did not think additional signage would help deter that movement.

Mr. Azzolini said that they agreed to Title 39, which allows police patrol and enforcement on the property.

Mr. Cannilla thought that although the County states that a 200-foot deceleration is adequate, this is not a standard location. There are many site issues at this location. Mr. Federese responded that they took that into account and added 70 feet to that.

A-13: site line profile from Elm Street looking at Columbia Turnpike west (6.16.23)

Mr. Federese said that the site line is improved where the deceleration lane starts.

Mr. Zeien asked if the applicant is responsible for the deceleration lane constructing and maintenance. Federese yes. Joseph Fishinger, traffic consultant for the Board, responded that the County would inspect it.

Mr. Zeien commented that the traffic study from Elm to Columbia did not include Saturdays. This is a very busy day due to the Environmental Center being open in the morning and sports activities.

Joe Fishinger added that the future Meadows project would affect this as well. Long-term plans by the County include the consideration of a barrier on Columbia Turnpike. There will be no left turns from Columbia Turnpike if that happens.

Ed Facas asked if the deceleration lane would cause confusion because of an added lane to look at by drivers. Mr. Federese responded that this is a low volume traffic generator and the deceleration lane ends before Elm Street. He does not have a concern with this.

There were questions about the property adjacent to the Mack-Cali office building and whether that was available for access to the subject property. Joe Fishinger responded that the property is earmarked for a future jughandle to enter the Meadows project on the opposite side of Columbia Turnpike. Mr. Federese agreed that this area is dedicated to a jughandle.

It was stated that all the professionals reviewed this plan and there were no concerns with the traffic movement. Joe Fishinger said that there were questions about the four-ton weight limit on Elm Street. Mr. Federese said that a four-ton weight limit is common to keep trucks from cutting through local roadways. However, delivery vehicles, trash and recycling trucks that are servicing that area are exempt from that law.

The meeting was opened to the public.

Evan Johns. He asked about the speed of a car entering the deceleration lane and when they would enter the lane. Mr. Federese responded that a driver would slow down when they see the lane. Evan Johns disagreed and felt that the project was overdesigned. He referred to AASHTO guidelines.

Mr. Federese reminded him that this plan was approved by the County and only required a 200-foot distance. Mr. Cannilla asked Mr. Johns to provide document he referenced. He said he would submit it.

Leone Daniels. She wanted more recent traffic counts and further accident reports. She did not agree with the data provided. Mr. Federese replied that they considered historical data. He said that they received the accident report information from the Florham Park Police.

Resident (unknown). Asked about a no right turn on Elm St. sign. He asked if that sign that indicates no right turn onto Elm could be moved. Mr. Federese responded that once the site is built, it would be clearer. The resident also asked about a prohibition of a left turn from Columbia to Elm. He thought that they could use the jughandle at the traffic signal. Mr. Federese said that is not his decision. He added that would cut off any access to Elm Street, since there is also a right turn prohibition onto Elm Street.

Megan Wiggins. She questioned the number of violations and the Elm Street exit. She asked what traffic would be coming to the site. She also asked if there was a traffic study done on the Ridgedale Avenue and Elm Street end. She confirmed with Mr. Federese that people could come from Ridgedale to Elm Street to the site.

Patricia Lindridge. She asked if they considered the Police Chief's comments on the deceleration lane. She questioned the deceleration lane access and speed. Mr. Federese responded that the deceleration

lane was widened. He reiterated that the plan exceeds the standards and has County approval. He added that the Police Chief indicated that he wanted the lane to go to Elm Street.

Mike Cannilla agreed that the Police Chief wanted the deceleration lane to go directly to Elm Street. He knows that there is public opposition to that.

Stopping distance from 50 to 15 is about 200-250 ft. They meet and exceed standards.

Both Mr. Federese and Mr. Fishingier agreed that the deceleration directly to Elm Street is the ideal solution.

Resident (unknown). Also asked about using the proposed jughandle to access this site. They responded that they could ask for sign at the County. However, that would prohibit anyone from making a left turn from Columbia Turnpike onto Elm Street.

Scott Allman. He had questions on truck delivery access. Mr. Federese responded that acceptable fire truck access is confirmed. Trucks can exit on to Columbia Turnpike. He agreed that a truck would need two lanes to make the turn.

Mark DeMaio. He wants a new traffic study done that incorporates September and October time periods. Mr. Federese said that he is confident he has the right hours but he can look at the traffic flow on Elm Street. Mark DeMaio commented that he feels it is one of the most dangerous intersection in Florham Park.

Samantha DeMaio. She asked if there was enough parking for employees and visitors. She asked what where any overflow parking would go. Mr. Federese stated that they would stay in the parking lot. Mr. Federese replied that there is enough parking for the site. Ms. DeMaio feels that the intersection is too dangerous. Mr. Cannilla restated that this is not the time for comments. This time is for questions only.

Joe Fishingier stated that real world data is used. They use information from many areas. It is updated regularly and many factors are considered. Regarding stopping distance, they use wet pavement conditions.

Brian Cave. He questioned the left turn out of Elm Street. He asked if the deceleration lane is a visual obstacle and a driver would need to wait for the lane to be empty, if someone is making a left. Mr. Federese said that there is twice the site distance now. Mr. Cave asked about the proposed valet parking plan that was on the website.

Mike Cannilla confirmed with Mr. Federese that the deceleration lane is expected to have one vehicle every ten minutes. Mr. Federese restated that the shift changes are off peak hours.

Steve Azzolini responded that they are no longer implementing a valet parking plan. It was being considered, but it is not being submitted into evidence. In response to holiday visitation, research determined that a valet parking plan is not needed. There is plenty of onsite parking.

Brian Cave asked what the trip count would be if this was built as single-family homes. Mr. Federese stated that the daily trip count could be 80 if there were eight single family homes. (10 per home)

Brian Cave asked if the deceleration lane could be mistaken for a third lane on Columbia Turnpike. He asked if this could be used as a cut-through to Elm Street. Mr. Federese responded that it is obvious and well signed that it is not a third lane. Mr. Cave asked if people would use this as a cut through since the risk of being hit is less. Mr. Federese felt that if someone wants to access Elm Street, they would just make the illegal right turn.

Brian Cave asked how many cars it would take to block the site exit. Mr. Federese said that the exit could be blocked if there were six or seven cars stacked waiting to exit Elm Street onto Columbia Turnpike. He

added that there is no right turn out of the site onto Elm Street and pavers (mountable) would be installed to discourage that movement.

Scott Allman. He asked about the parking situation at the Morris Plains facility on a holiday. They responded that there are 46 visitors and 35 cars on Mother's Day.

Natasha Quirch. She asked when the traffic studies were done. Mr. Federese stated that they went back to the previous study in 2017. She was concerned with people coming into the site from Elm Street. They said it is possible but it would be a small percentage.

Bill Daniels. He had traffic gap questions and would like the study re-done to include Saturdays.

Mike Cannilla asked if his concern is Columbia Turnpike intersection or on Elm Street. Bill Daniels replied that he has concerns with both.

Mr. Federese said that they studied the worst case, which is peak traffic times. He added that they he would get the data for a September Saturday.

There were no more questions. Mr. Azzolini asked for the application to be carried to the January 24, 2024 meeting without further notice.

Mr. Cannilla asked for a motion to carry the application.

Mr. Zeien made a motion to carry the application to the January 24, 2024 meeting, second by Mr. Noss

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 11:20p.m.

Marlene Rawson
Board Secretary

January 17, 2024