

**TENAFLY BOARD OF ADJUSTMENT  
REGULAR PUBLIC MEETING  
7:30 P.M. May 4, 2015  
MINUTES**

**ROLL CALL**

Present: Mr. Brensilber, Mr. Callahan, Mr. Cytryn, Mr. Farrell, Mrs. Gilbert, Mr. Levene, Mr. Lieberman, Mr. Grossman.  
Absent: Mr. Kominsky.  
Also present: Mr. Ritvo

**OPEN PUBLIC MEETINGS ACT STATEMENT**

Chair Grossman read the Open Public Meetings Act Statement: "In compliance with the Open Public Meetings Act P.L. 1975, chapter 231, the notice requirements have been satisfied. Notice for this meeting date was faxed to the Record on January 2, 2015, posted on the bulletin board in the lobby of the Municipal Center and posted to the municipal web site."

**COMMUNICATIONS**

**APPROVAL OF MINUTES**

Motion by Mr. Farrell second by 6 Mr. Levene to approve the minutes of March 2, 2015. All members on a voice vote were in favor.

**UNFINISHED BUSINESS**

Resolutions to be memorialized

Approved: Alpert, 12 Marcotte La – 501/6  
Circular driveway. ZB2015-01.

Approved: Arrabito, 7 Morris Rd – 401/4  
Rear yard setback 28.73ft, front yard setback on Morris Rd – 14.89ft. ZB2015-04.

Approved: Collins, 106 Columbus Dr – 131/12  
Side yards – 4.7ft and 8.8ft. ZB2015-03.

Denied: Aivazov/Ng, 12 Morris Rd – 403/12  
Front yard setback Morris Rd – 4ft and 8.8ft, impervious coverage. ZB2015-05.

Motion by Mr. Brensilber second by Mr. Cytryn to memorialize the resolutions. All members on a voice vote were in favor.

**NEW BUSINESS**

Baumgarten, 150 Oxford Dr – 2204/5  
Impervious coverage, pool in front yard. ZB2015-09. (Rec'd 4/23/15 decision by 8/21/2015.)

Present for the applicant was Mr. Urdang who said the application involves two variances, one for total impervious coverage and one for a portion of the pool being in the front half of the property. He explained his witness would be the engineer Mr. Hubschman.

Mr. Hubschman gave his business address, was sworn in by Mr. Grossman and deemed an expert in the field of engineering. On the easel was a colorized version of the site plan that had been submitted, this was marked A-1. Mr. Hubschman described the lot, its location and the topography of the lot.

Mrs. Gilbert arrived 7:40PM.

Mr. Hubschman said the lot slopes away from the house with a steep slope area near the rear of the property and another steep slope on the rear property line; this property is like many in the area, with circular driveways, large homes and side entry garages.

A-2 an aerial photograph of the area was introduced into evidence. Mr. Hubschmann pointed out the property in question had been outlined and from the exhibit it could be seen how many pools there are in the area, adding the prior ordinance had a restriction on the rear yard, the current ordinance is for total impervious coverage. A variance is also required for the pool being in the front half of the property; Mr. Hubschmann explained that to move the pool to the rear half of the property would mean disturbing the steep slopes. Two catch basins would be installed and one seepage pit, the pool would also store water during a very heavy rain, in his opinion he did not feel there would be any adverse impact on the neighbors.

The pool size being proposed is 20x40 which for this lot size is usual, the pool is about 13ft into the front yard, existing impervious coverage is 22.4%, to include the pool and cabana the impervious coverage would be 27.7%, which is 1,290SF over what is permitted.

In response to questions from the Board Mr. Hubschmann said half of the lot is calculated halfway between the front and rear property lines; he agreed there is a lot of rock on the hill, adding the pool can be used as a retention system, the homeowner, contractor and his office designed the pool. The cabana is about 500SF, and he did not think there was anywhere that could be shaved off. Mr. Hubschmann said he felt the property could support the pool and cabana, drainage is into the woods in the rear.

There were no questions or comments from the public.

Mr. Cytryn said he was uncomfortable with the overage of impervious coverage. In response Mr. Urdang said the pool size, patio are standard sizes for this size lot.

Mr. Urdang gave a summary of the application.

The board went into executive session. Mr. Lieberman said he felt the board should be for or against without negotiations, he was leaning towards approving the application.

Mr. Brensilber said it is a non-issue this is a huge lot, and he saw no reason to deny the variances, the lot can accommodate the pool and cabana, and did not see any impact on the neighbors. He would be in favor.

Mrs. Gilbert said she felt pools and tennis courts are add-ons; and we should act fairly and reasonably with each applicant, we should be careful of drainage and where it is going, and in an ideal world there would be no cabana.

Mr. Farrell said there are many lots in the neighborhood and he felt there was a creeping towards additional impervious coverage little by little, and drainage problems are apparent further down the hill.

Mr. Brensilber said the lot is big enough to handle the pool and cabana.

Mr. Farrell said the increase is slight and felt the pool could still be enjoyed if it met the code.

Mr. Cytryn expressed concern about the creeping and continually asking for more.

Mr. Brensilber said the house is there, the pool can be accommodated on the lot.

Minutes approved: 6-1-2015

Mr. Grossman said the overage is 1,290SF, which is troublesome. He felt every applicant should be treated the same regardless of which side of town they live in east side or west side, it is not a question of the haves and have nots, every applicant must be treated equally.

Motion by Mr. Brensilber second by Mr. Lieberman to approve the two variances.

Roll call vote:

In favor: Mr. Brensilber, Mr. Lieberman, Mrs. Gilbert,

Opposed: Mr. Farrell, Mr. Levene, Mr. Cytryn, Mr. Grossman.

Application denied 4-3.

There followed discussion between the board members on some of the terminology used during the hearing while referring to different sections of the borough; the creeping of impervious applications; and re-iteration that each application is judged on its own merits.

**ADJOURNMENT**

Motion by Mr. Brensilber second by Mr. Cytryn to adjourn the meeting. All members on a voice vote were in favor, the meeting was adjourned at 8:56PM.

Respectfully submitted,

Lindsay Graham  
Board Secretary