

**TENAFLY BOARD OF ADJUSTMENT
REGULAR PUBLIC MEETING
7:30 P.M. May 2, 2016
MINUTES**

ROLL CALL

Present: Mr. Brensilber (arr 8:04PM) , Mr. Callahan, Mr. Cytryn, Mrs. Gilbert, Mr. Kominsky, Mr. Lieberman, Mr. Menon, Mr. Grossman.
Absent: Mr. Farrell.
Also present: Mr. Ritvo, Mr. Lenner.

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 published in the Record on December 24, 2015, posted on the bulletin board in the lobby of the Municipal Center and posted to the municipal web site.”

COMMUNICATIONS

NJ Planner Jan/Feb 2016.

APPROVAL OF MINUTES

Mr. Kominsky requested the minutes of April 4, 2016 be amended as he felt they did not fully address the discussion regarding 16 Marcotte Lane. The minutes would be revised and presented at the June meeting for approval.

MOTIONS FOR ADJOURNMENT - there were none.

UNFINISHED BUSINESS:

Carried from April 4th:

Vaynshenker, 16 Marcotte La – 501/4. ZB2016-13

Impervious coverage, driveway setback, driveway coverage. (Rec'd 3/23/16 decision by 7/21/16)

Mr. Ritvo told Board members to disregard the previous hearing (April 4th)

Present for the applicant was Mr. Paul Scalia the attorney, who said his witnesses would be the architect Mr. Nassir Almukhtar and the Planner and Engineer Michael Hubschman.

Mr. Almukhtar gave a brief summary of his education and experience and was sworn in. He stated the plans had been revised from the first hearing – February 8th and these plans are dated February 18, 2016, they no longer need an FAR variance as the room above the garage was removed; the variances being requested are driveway setback, driveway coverage and impervious coverage; this will be new construction of a two story dwelling, the cupola will be restored and put on top of the garage, the gate on the rear property line that abuts the Knickerbocker Country Club will be removed and a fence installed.

In response to questions from the board Mr. Almukhtar said the existing foundation cannot be used, the pool and cabana are not there now, and more impervious coverage is needed because of the driveway, and he confirmed the FAR square footage.

Mr. Hubschman the Planner and Engineer was accepted as an expert in his fields and sworn in. On the easel was a shaded plan of what had been submitted to the board, this was marked A-1. Mr. Hubschman described the lot and existing and proposed conditions.

8:04PM: Mr. Brensilber arrived.

Mr. Hubschman explained the three variances that are being requested – driveway setback, front yard coverage by driveway and total impervious coverage. The driveway in the front yard can be reduced by three feet on the front property line, there is an accessory building and landscaping on the rear of 14 Marcotte Lane, the driveway they will just put two strips of black top and maintain mainly grass in the 200ft driveway strip.

In response to questions from the board Mr. Hubschman said the neighbor's house at 14 Marcotte Lane is about 90ft away from the property line, they can reduce the driveway near the corner of the garage and by three feet along the property line, landscape and install a fence; the property is a pre-existing lot with non-conformities, he was not sure if any alternate designs had been considered; a reduction of three feet of the driveway in the front yard will help reduce the impervious coverage; he was not sure if they would be installing asphalt or pavers on the driveway; there are two trees near the edge of the driveway and corner of garage that they will try and save; the rear setback of the existing house is 42ft, the pool setback is 35ft, he was not sure if there is a safety issue for errant golf balls.

In response to questions from Mr. Kates the attorney for the owners of 14 Marcotte Lane, Mr. Hubschman said a 6ft fence and arbor vita would be installed along the 70ft width of the property line along the two properties, adding the hardship of conforming with the driveway setback is that this is a flag lot, and the variances are driven by the shape of the lot.

There were no questions from the public for Mr. Hubschman.

Mr. Ritvo told the board the hardship was created from the Zoning Board minutes of 1965 and each successive owner has known this is a flag lot.

Public comments.

Mr. Kates said he felt this owner has decided to start over and not use the existing footprint; if the pole portion of the flag lot is removed the house is too big for the lot; they have tried to talk to the owners and ask them to move the house back so the 10ft buffer is in the front and trade the driveway setback variance for a rear yard variance, as in his opinion rear yards should abut each other, and rear yard living is a privacy.

There were no comments from the public.

Mr. Scalia gave a summary of the application.

The board went into deliberative session.

Mr. Callahan said this is a flag lot and has been for many years, in his opinion the impervious coverage was over by a lot and should be reduced.

Mr. Lieberman agreed, adding this is a unique situation and the applicant should have been mindful of the variances being asked for, the cabana and pool both add to impervious coverage.

Mr. Kominsky congratulated the applicant and Mr. Kates opposing counsel for the lack of acrimony; the pool was small and he felt the driveway being lessened by three feet along the front would be okay.

Mr. Menon said he felt the size of the home was modest, it was far enough away from the neighbor's house, they can still enjoy the outside and did not feel it would offend as much, he agreed to the driveway being reduced by three feet along that property line.

Mrs. Gilbert the amount over on impervious coverage seemed too much.

Mr. Cytryn agreed with Mr. Callahan on impervious coverage; he felt you could not remove the size of the pole from the flag lot, fence and trees would be good screening, there is no patio and the effort to reduce the driveway was good.

Mr. Grossman agreed with Mr. Callahan's comments.

Motion by Mr. Kominsky second by Mr. Cytryn to approve the application with a three foot setback on the driveway for a fence and trees.

Roll call vote:

In favor: Mr. Kominsky, Mr. Cytryn, Mr. Menon.

Opposed: Mrs. Gilbert, Mr. Lieberman, Mr. Callahan, Mr. Grossman.

Application denied 4-3.

Mr. Ritvo left the meeting. Mr. Lenner took his place.

11 Grandview, LLC., 11 Grandview Terr – 1503/35. ZB2016-12
Front yard setback, lot coverage, FAR. (Rec'd 3/23/16 decision by 7/21/16)

Present for the applicant was Mr. Capizzi, who said his witnesses would be the engineer, the architect and a planner, adding this application is for a new dwelling in the R20 zone.

Sean McClellan of the firm Lantelme, Kurens & Associates, PC Engineers and Surveyors gave a brief account of his education and experience adding he has only been with this firm for a month was accepted as an expert and sworn in.

Using a plan dated March 17, 2016 Mr. McClellan described the lot that slopes down away from the street to the rear of the property, existing conditions and the proposed dwelling, one tree in front will be removed, about 280CY will be moved off site and all gutters and leaders will go into seepage pits.

Mr. Capizzi asked for an exhibit a google aerial of the area to be marked as A-1. He added that his other two witnesses would be using it; he did not know when it was downloaded, but it showed the property in question and the distances to the neighbors in the area. Mr. Grossman advised the board against putting too much weight on this exhibit as he had read reviews on aerial photographs not being accurate.

There were no questions for the engineer.

Peter Dito, architect of the firm FDS was sworn in and accepted as an expert in his field. The following pages on the easel were marked into evidence:

A-2: four views of the neighboring properties from the property in question, pictures taken in early April.

A-3: colorized first floor plans (P-2)

A-4: colorized second floor plans (P-3)

A-5: colorized front elevation (P-4)

Mr. Dito went through each page and described the layout of each floor; due to the slope of the land the front of the proposed dwelling is at about 29ft in the front and the rear is at about 35ft, which makes the basement a walk out basement.

In response to questions from the Board Mr. Dito explained how FAR is calculated with a walk out basement, and the front yard setback, they felt it would be less intrusive to set the house closer to the street rather than set it back towards the neighbors, the proposed house will not be wider than the existing house.

Minutes approved: 6-6-2016

There were no questions from the public.

David Spatz, the Planner gave his business address, a summary of his education and experience, was accepted as an expert in his field and sworn in.

Mr. Spatz said he had reviewed the plans, the Borough Code and Master Plan, visited the site; three variances are required – FAR and two ‘c’ variances, front yard setback and lot coverage; in his opinion the lot can handle the increase in the FAR, it is a small lot and he felt the 626SF was not a large increase and there is nothing substantially negative about granting the FAR variance, the lot could support the increase in FAR; front yard setback variance is required, due to the depth of the property (95ft) a front yard setback or rear yard setback variance would be required, and due to the slope of land away from the street they opted for a front yard setback allowing some rear yard activity for the owners.

In response to questions from the Board, Mr. Spatz explained the term ‘support’, he did not know the square footage of the existing house, and felt this increase in FAR was small.

Mr. Capizzi asked for a five minute recess.

The Board came back into session.

Mr. Capizzi said they checked the Borough Tax Assessment page and said the existing house showed 2,034SF of FAR.

In response to Board questions Mr. Spatz said it is a small increase and if this house was in the R10 zone an FAR variance would not be required, he again explained the term ‘support’.

Mr. Lenner said terms like support are practical, can the lot handle the increase, does the variance impinge on the zone, and an FAR variance requires a majority vote of five members of seven.

Mr. Dito responded to a board question about the room over the garage, he said it is 11’4” by 9’ adding even if it was to be removed the dormers would remain.

Public questions:

Steven Adler, 1 Grandview Terrace questioned Mr. Spatz on the potential profit to be made by the developer, and questioned the variances being requested.

Mr. Spatz said he had no knowledge of the financial dealings, and explained the variances.

Public comments:

Steven Adler, 1 Grandview Terrace was sworn in and spoke against the application.

Mr. Capizzi requested the application be carried to the next meeting so they could make some changes to the plan having heard comments from the Board and neighbor.

Motion by Mr. Cytryn second by Mr. Menon to carry the application to June 6th to be heard at 7:30PM or as soon thereafter as the matter can be reached with no further notice required by the applicant. All members on a voice vote were in favor.

NEW BUSINESS

Silber, 128 Westervelt Ave – 801/4.

Impervious coverage. ZB2016-11. (Rec’d 4/14/16 decision by 8/12/16)

Present was the homeowner Fred Silber who was sworn in. Mr. Silber said he had put a small addition on and at that time said he agreed to remove a portion of the driveway so he could be issued

zoning and construction permits. Now the project is completed he wants to keep the driveway and impervious coverage he has.

There were no questions or comments from the board or public.

Motion by Mr. Lieberman second by Mr. Callahan to approve the variance.

Roll call vote:

In favor: Mr. Lieberman, Mr. Callahan, Mr. Brensilber, Mr. Cytryn, Mrs. Gilbert, Mr. Kominsky, Mr. Grossman.

Opposed: None.

Impervious coverage variance approved 7-0.

Lin, 192 Hickory Ave – 118/9

FAR. ZB2016-04. (Rec'd 4/21/16 decision by 8/19/16.)

Present for the applicant was Erica Edwards, Esq., who said the homeowners and their architect were present. Ms. Edwards said an FAR variance is required, the applicants are seeking to put a roof over their front door, the code allows 37.5% they are asking for 38.5% a 1% increase.

Joe Zhenghong Zhou and Shuzhen Lin the homeowners were sworn in by Mr. Lenner.

Mr. Zhou offered two pages of photographs he had taken:

Page 1 was marked A-1 consisting of 9 photographs.

Page 2 was marked A-2 consisting of 10 photographs.

Ms. Lin said she had taken the photographs;

A-1 showed four neighboring properties and their covered front entry, and five photographs of their house. A-2 showed ten photographs of neighboring properties with covered entries.

Mr. Zhou explained that after last winter it became worse, the house faces north and the ice and snow take longer to melt, the water pours off the existing small overhang and onto the door and the side wall; they have had water come inside the first floor and it also runs down the wall into the garage; and because the house faces north snow melt takes much longer; construction finished on the house was built in 2009.

Marios Lachanaris the architect gave his business address, education and experience as an architect, was deemed an expert and sworn in. Mr. Lachanaris said he was the original architect on the house, he proposed adding a roof measuring about 12ft 6" by 4ft 8" over the front entry, the roof would extend to the edge of the patio.

In response to questions from the Board Mr. Lachanaris said 8-12' flashings would be installed to prevent water flowing into the walls, heating cables will not be used as when the snow melts it freezes on contact with the ground, in his opinion there would be no detriment to the zone plan or public good if the FAR was increased by this small amount.

There were no questions from the public.

Public comments:

Andrea Lutz, 195 Hickory Ave was sworn in and spoke in favor of the application.

Ms. Edwards gave a summary of the application.

Minutes approved: 6-6-2016

Motion by Mrs. Gilbert second by Mr. Cytryn to approve the FAR variance.

Roll call vote:

In favor: Mrs. Gilbert, Mr. Cytryn, Mr. Kominsky, Mr. Lieberman, Mr. Callahan, Mr. Grossman.

Opposed: Mr. Brensilber.

FAR variance carried 6-1.

ADJOURNMENT

Motion by Mr. Brensilber second by Mr. Lieberman to adjourn the meeting. All members on a voice vote were in favor, the meeting was adjourned at 10:35PM.

Respectfully submitted,

Lindsay Graham
Board Secretary