

Minutes Approved 3/6/2023

**Tenaflly Board of Adjustment
Regular Meeting
January 9, 2023 7:30 pm
MINUTES**

OPEN PUBLIC MEETINGS ACT STATEMENT:

Chairperson Kominsky read the Open Public Meetings Act Statement:

“In accordance with the provisions of the Open Public Meetings Act P.L. 1975, chapter 231, adequate notice has been made of this meeting by sending the same to The Record and The Star Ledger. Posting said notice on the public bulletin board in the lobby of the Municipal Center, posted to the Municipal Web-Site, and filing said notice with the Tenaflly Municipal Clerk, all which occurred within 10 days for the calendar year of 2023. Additionally, Amended and Restated Notice of Annual Meetings of the Zoning Board of Adjustment notice has been made of this meeting by sending the same to The Record and The Star Ledger. Posting said notice on the public bulletin board in the lobby of the Municipal Center, posted to the Municipal Web-Site, and filing said notice with the Tenaflly Municipal Clerk, all which occurred on December 23, 2022.”

ROLL CALL:

Present: Mr. Brensilber, Mr. Callahan, Mr. Cho, Mr. Cytryn, Mr. Friedman, Ms. Toro, Ms. Khorozian, Mr. Kominsky

Absent: Mr. Lieberman

Also Present: Mr. Menon, Mr. Zenn, Ms. Peterson, Mr. Hals, Mr. Capizzi, Ms. Esser, Mr. Toole, Mr. Egarian, Mr. Dito

REORGANIZATION:

SWEAR IN RE-APPOINTED MEMBERS:

Mr. Brensilber was sworn in by Mr. Zenn as a board member
Ms. Khorozian was sworn in by Mr. Zenn as 2nd Alternate

APPOINTMENT OF OFFICERS FOR 2023:

CHAIR: Motion by Mr. Friedman seconded by Mr. Callahan to nominate Mr. Kominsky as Chair. All members on a voice vote were in favor.

VICE CHAIR: Motion by Mr. Friedman seconded by Mr. Cho to nominate Mr. Cytryn as Vice Chair. All members on a voice vote were in favor.

BOARD ATTORNEY: Motion by Mr. Cytryn seconded by Ms. Khorozian to nominate Mr. Zenn of the firm Cullen and Dykman, LLP as Board Attorney. All members on a voice vote were in favor.

BOARD ENGINEER: Motion by Mr. Friedman seconded by Mr. Cytryn to nominate Mr. Hals of the firm Schwanewede/Hals as Board Engineer. All members on a voice vote were in favor.

SECOND VICE CHAIR: Motion by Mr. Cytryn seconded by Ms. Toro to nominate Mr. Friedman as Second Vice Chair. All members on a voice vote were in favor.

BOARD SECRETARY: Motion by Mr. Friedman seconded by Mr. Cytryn to nominate Ms. Peterson as Board Secretary. All members on a voice vote were in favor.

COMMUNICATIONS: Mr. Kominsky stated a Consent for Continuance letter was received from the applicant of 109 Windsor Road. The application will be heard at the February meeting.

Approval of Minutes: December 5, 2022

A motion was made by Mr. Friedman and seconded by Ms. Toro to approve the minutes for December 5, 2022. A voice vote carried the motion. All voted in favor; none were opposed.

UNFINISHED BUSINESS:

The Bon Scott Group, 16 Cambridge Rd (ZB-2022-21)

Existing outside wall was proposed to be moved in 8-12 inches. After demo, looks like it may impact the neighboring house. 10' side yard setback required – 9' proposed (existing 9'). *(Received 07/15/2022 decision by 011/15/2022)*

Mr. Kominsky stated that the resolution agrees with his recollection of what transpired. Mr. Friedman asked if having only four members able to vote on the resolution was ok, as the resolution is for a D variance. Mr. Zenn stated that there were five affirmative votes at the hearing and this vote is just to pass the resolution. With no opposition, Mr. Cytryn made a motion to approve the resolution, and Mr. Brensilber seconded.

In Favor	Opposed
Mr. Cytryn	
Mr. Brensilber	
Mr. Callahan	
Mr. Kominsky	

Roll Call Vote: Motion approved, 4-0

NEW BUSINESS:

Robert & Tara Schwartz, 89 Depeyster Avenue ZB-2023-01

Install adjustable pergola. 22.5% FAR permitted – 25.5% proposed. *(Received 10/26/2022 decision by 02/15/2023)*

Mr. Capizzi appeared on behalf of the applicant. He stated this is an existing dwelling in the R-20 zone. They are proposing to construct a pergola on top of an existing patio in the rear of the house. The pergola would be constructed in a notch that is created by the structure of the dwelling. More than half of the pergola will be in the notch area with only a small portion sticking out past the back of the house. The pergola will add 541 sq. ft. to the FAR and Building Coverage numbers. It will not have any impact on any impervious coverage as it is being built over an existing patio. The pergola will be open on three sides with a height of approximately 10.5’.

Mr. Capizzi stated that the applicant has no intention to enclose the pergola and has no opposition to that being a condition for approval of the application.

Mr. Egarian was sworn in by Mr. Zenn as an expert in the field of civil engineering.

Mr. Egarian shared the site plan dated 9/23/2022 with no revisions. He explained the pergola will have mechanical louvres on the roof for opening and closing during inclement weather and will be constructed in the indentation of the existing building over an existing patio. The section of the pergola that extends beyond the rear wall of the house is 223 sq. ft. of the 541 sq. ft. of the proposed pergola. The pergola will have a rear yard setback of 56.6’, a left side yard setback of 41’ and a right side yard setback of 32.9’.

Mr. Egarian stated the applicant is seeking relief from the maximum allowable floor area of 22.5%, where they are proposing 25.2% and the allowable building coverage of 15% where 17.6% is being proposed. There will be no increase in storm water runoff as the pergola will be constructed over an existing patio, and there will be no grade changes either.

Mr. Capizzi shared a rendering showing what the pergola will look like in the back of the house.

Questions for Mr. Egarian from the board:

Mr. Cytryn: Stated the he sees gutters to catch rain when the louvers are closed but does not see how the water comes down from the gutters. He questioned where the water runs off to.

Mr. Egarian replied that he does not have the roof leader plan but the runoff water will be channeled to the ground adjacent to the home and to the yard.

Mr. Cytryn questions if the water is going into a seepage pit.

Mr. Egarian replied that no seepage pit is proposed. The water will just go into the patio and the surrounding ground.

Mr. Cho questioned if the pergola is even at the section closest to the rear yard, or if it sticks out in one section.

Mr. Egarian stated the pergola is not even across the back. There is one section that will stick out further than the rest of the pergola.

Mr. Friedman questioned if it is safe to say that the pergola is not going to be entirely open on three sides as much of the pergola is set in the notch area of the dwelling therefor it will be enclosed on three sides.

Mr. Egarian agrees that the walls of the dwelling will enclose the pergola on three sides where it fits into the notch area of the house.

Mr. Friedman questioned if there were any plans to close off the notch section of the pergola with a sliding door to make it a room.

Mr. Egarian replied no.

Mr. Kominsky questioned if there were any doors or windows in the notch section of the dwelling.

Mr. Capizzi shared a photo marked exhibit A1, showing the patio area. There is a window and a sliding glass door leading into the patio. He states that the pergola is designed to improve the usability of the outside patio area.

Questions for Mr. Egarian from the public: None.

Mr. Hals, the Board Engineer is sworn in. He states the description of the site is exactly what he saw when he was there. He explained the pergola counts towards the FAR because it is a roofed structure.

Questions from the board for Mr. Hals: None.

Questions from the public for Mr. Hals: None.

Comments from the public: None.

Motion by Mr. Cytryn and seconded by Mr. Friedman to move to executive session. A voice vote carried the motion. All voted in favor; none were opposed.

Mr. Cytryn feels this is a minor request. It does not affect the community and does not impose on any neighbors. He would approve this application.

Mr. Friedman agrees with Mr. Cytryn. He feels it is not intrusive as it is a pergola. He is in favor of the application with the condition that the pergola cannot be enclosed at a later date.

Mr. Cytryn agrees with this condition.

Motion by Mr. Cytryn and seconded by Mr. Friedman to approve the application subject to the condition that the pergola can never be enclosed.

In Favor	Opposed
Mr. Cytryn	
Mr. Friedman	
Mr. Brensilber	
Mr. Callahan	
Mr. Cho	
Ms. Toro	
Mr. Kominsky	

Roll Call Vote: Motion approved 7-0

Darren & Stacy Esser, 11 Forest Road ZB-2023-2

Construct a front porch addition to the existing residence at the property. The proposed work will require a Bulk Variance for impervious coverage and mixable livable floor area as noted on the plan prepared by Peter Dito dated 6/14/2022. *(Received 11/07/2022 decision by 03/07/2023)*

Mr. Cytryn recused himself at 8:14 due to conflict of interest.

Mr. Capizzi appeared on behalf of the applicant. He stated that this is a single family home in the R-20 zone. The house sits back about 100' from Forest Rd, creating the need for a long driveway. There is also a need for a turnaround in the front yard of the dwelling to aid in turning the car around so the owners do not need to back down the long driveway. It is the extended setback of the dwelling and the turnaround that are using up much of the impervious coverage for this property. His client is proposing to change the current entryway into a formal front porch, by extending the current entryway both left and right. The depth of the entryway will not change.

Mr. Dito is sworn in as an expert in the field of architecture. He shared a colorized photo of the plan that was submitted to the board with the application. He states he colorized it for the presentation to make it easier to see. This photo was marked exhibit A1.

Mr. Dito states the proposed front porch will span across the entire front section of the main home. The porch will be 7.5' deep. Three more columns will be added to the porch and the windows in the living and dining rooms will be replaced with French doors. This will give the house a more open feel as well as a more classic front porch. The height of the porch will remain the same. The proposed porch will have a shed style roof with a reverse gable peak over the front door area giving the porch a focal point.

Mr. Dito explained the variance relief being sought is for impervious coverage with an overage of about 143 sq. ft. and for FAR with an overage of about 208 sq. ft. Even though the proposed porch will be open, the FAR exists because the structure will have a roof over it.

Questions for Mr. Dito from the Board:

Ms. Khorozian asked if there was a picture of the front of the house as it exists today.

Mr. Capizzi shared a photo the front of the house and it was marked exhibit A3.

Mr. Zenn clarified that the shared photos of the house elevations that were colorized are going to be marked as exhibit A2.

Ms. Khorozian asked if there is a drainage plan for the new roof line.

Mr. Dito replied the leaders will connect into the same drainage that the front covered porch connects to now.

It was clarified that although the plans do not reflect gutters, they will be installed on the new roof line.

Mr. Friedman asked if there was going to be a railing installed on the porch.

Mr. Dito replied that there will be a very light, sort of like an air craft cable type of railing to give it a more see through look.

Mr. Kominsky asked Mr. Dito to show him on the plans where the impervious coverage is going to increase. Mr. Dito shared the plans and indicated that the increase in impervious coverage will be to the left and right of the existing front porch.

Mr. Kominsky asked if the overage on the impervious coverage is only .8%, if there was any existing coverage that could be removed so the variance wasn't needed.

Mr. Dito stated the obvious area would be the driveway, but since the house is set so far back from the road the long driveway is needed. The turnaround area is also needed as it allows the cars in the driveway to turn around so they do not need to back up such a long driveway, as the property sits at a curve in the road making it difficult and dangerous to back out of.

Mr. Friedman questioned whether there was any coverage in the backyard that could be removed to alleviate the need for the variance.

Mr. Dito replied that the pool has a modest terrace and the other sides of the pool is surrounded by the lawn. He doesn't feel they are using that much impervious coverage in the backyard.

Questions from the public for Mr. Dito: None

Mr. Hals was sworn in as the Board Engineer. He stated that he feels this is more or a C1 variance as opposed to the C2 variance, because the position of the existing house on the property dictates the length of the driveway. The hardship here is the location of the house on the property. He also clarified for the board that there is a seepage pit in the front right hand side of the property. The roof drains will be connected to that, so there will not be any rain water runoff.

Questions for Mr. Hals from the Board:

Mr. Friedman want to clarify they are seeking relief for a D variance as well.

Mr. Hals stated that is correct.

Questions for Mr. Hals from the public: None

Comments from the public: None

Motion by Mr. Friedman and seconded by Mr. Cho to move to executive session. A voice vote carried the motion. All voted in favor; none were opposed.

Mr. Cho stated he is supportive of this application. He feels it is a minor request and enhances the neighborhood and the curb appeal of the house.

Mr. Friedman suggested that a condition of not being able to enclose the porch in the future be a condition of approval.

Mr. Kominsky stated he is also in favor at the application. He does not feel it is that big of a request. He does feel that the applicant could have considered helping the board out by removing some of the impervious coverage in the rear yard, but still feels it is an acceptable request.

Motion by Mr. Cho seconded by Ms. Toro to approve the application with no conditions.

In Favor	Opposed
Mr. Cho	
Ms. Toro	
Mr. Brensilber	
Mr. Callahan	
Mr. Friedman	
Ms. Khorozian	
Mr. Kominsky	

Roll Call Vote: Motion approved, 7-0

ADJOURNMENT:

Motion made by Mr. Cho and seconded by Mr. Friedman to adjourn the meeting. A voice vote carried the motion, and the meeting adjourned at 8:46.

Respectfully submitted,

Sharon Peterson

Board Secretary