

Minutes Approved 05/01/23

**Tenaflly Board of Adjustment  
Regular Meeting  
April 3, 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. Cho, Mr. Cytryn, Mr. Friedman, Mr. Lieberman, Ms. Toro, Mr. Rustin, Mr. Kominsky

**Absent:** Mr. Callahan

**Also Present:** Mr. Menon, Mr. Zenn, Mr. Hals, Ms. Peterson, Mr. Capizzi, Mr. Frenzel, Mr. Gorenstein, Mr. Naftalovich

**APPROVAL OF MINUTES:**

**March 6, 2023**

A motion was made by Mr. Cytryn and seconded by Mr. Cho to approve the minutes for February 6, 2023. A voice vote carried the motion. All were in favor; none were opposed.

**UNFINISHED BUSINESS:**

**Noa Vilenski, 239 Devon Rd (ZB-2023-5)**

In-ground pool, patio and wall. The proposed construction will require variance relief from section 35-816.4 for disturbance in the steep sloped areas. *(Received 12/08/2022 decision by 04/08/2023)*

A motion was made by Mr. Friedman and seconded by Mr. Lieberman to approve the resolution.

<b>In Favor</b>	<b>Opposed</b>
Mr. Friedman	
Mr. Lieberman	
Mr. Cho	
Mr. Cytryn	
Mr. Rustin	
Mr. Kominsky	

Roll Call Vote: Motion approved, 6-0

**Xiao Jing Li, 15 Ravine Rd (ZB-2023-6)**

Construct a new single family dwelling with a front loading 2-car garage. FAR proposed 31.3%, where 30% is permitted. Proposed 3 stories and a height of 27.0' where 2 ½ stories and 30' are permitted. Proposed 9.5' retaining wall where maximum 3' is permitted. Proposed driveway with a slope of 15%. The proposed driveway and lot grading will disturb slopes greater than 25% where no disturbance is permitted. *(Received 12/28/2022 decision by 004/28/2023)*

A motion was made by Mr. Cho and seconded by Mr. Friedman to approve the resolution.

<b>In Favor</b>	<b>Opposed</b>
Mr. Cho	
Mr. Friedman	
Mr. Kominsky	

Roll Call Vote: Motion approved, 3-0

**NEW BUSINESS:**

**Eli & Sophie Naftalovich, 78 Woodmere Lane (ZB-2023-7)**

Construct a one story addition to the front of the existing dwelling. Maximum building coverage: 20% permitted; 24.2% proposed *(Received 2/17/2023 decision by 06/17/2023)*

The applicant's lawyer, Mr. Capizzi, stated that the property is located at 78 Woodmere Lane in an R-10 Zone. There is an existing single family ranch dwelling with a single car garage on the property. The lot is non-conforming as to area and width, as a result of the lot being undersized. The lot is non-conforming to impervious coverage, building coverage, driveway, side yard setback and front yard coverage.

The applicant is proposing to place a small addition on the front right corner of the existing home to provide for a handicap accessible bathroom as well as enlarge an existing kitchen that is undersized.

This will result in an increase to the non-conforming building coverage by 290 sq. ft., of which 40 sq. ft. will be used for a covered entryway. The applicant is seeking to keep it a ranch style home to accommodate the applicant as they get older rather than create a second story.

To offset the additional building coverage the applicant is willing to remove a front walk as well as some areas of the existing driveway. This will result in the elimination of the non-conforming impervious coverage, driveway setback and front yard coverage.

Mr. Gorenstein, the architect for the applicant had trouble with his video. He asked to proceed with no video. Mr. Capizzi stated that the board typically likes to see the witness who is providing the testimony. Mr. Gorenstein was provided the opportunity to try to get his video working while the next witness was called.

Mr. Frenzel was sworn in as an expert in the field of civil engineering. The site plans dated 1/10/23, with no revisions, were presented.

Mr. Frenzel stated the lot is 9,375 sq. ft. It has an existing non-conforming width of 75' where 85' is required in the R-10 zone. It has a depth of 125'. The property has an existing single story ranch type structure with a one car garage. It has existing non-conforming side yard setbacks of 9.9' where 15' is required in the zone. The proposed addition would not further encroach on those setbacks, and would be set back further from the side yard setback line.

The existing building coverage is non-conforming. As it exists right now it is 21.1% where 20% is permitted. They are proposing 24.2% with the proposed addition.

The applicant has proposed removing the amount of impervious coverage, by removing a 3' stripe of the driveway along the property line as well as a back parking area at the rear of the driveway. A piece of walkway in the front of the house will also be removed. That would bring the total impervious coverage down to 3,593 sq. ft., where 3,600 sq. ft. is permitted.

A seepage pit is being proposed to collect all of the storm runoff from the addition and to function like a dry well. It is designed for a 3" rainfall where 2" is the standard.

Questions for Mr. Frenzel from the Board:

Mr. Cytryn questioned if the seepage pit will be carrying the runoff from only the addition or the entire dwelling.

Mr. Frenzel replied that it will be capturing the runoff from an area of about 840 sq. ft. which is about half the house plus the addition.

Mr. Vince from the firm Schwanewede, Hals and Vince was sworn in as an expert in the field of engineering. He stated that the completeness letter sent by Mr. Hals stated that one of the conditions was that all the roof drains from the house get piped into the seepage pit.

Mr. Frenzel stated he had not seen the letter, but the drains could be rerouted as necessary and the size of the pit could also be increased if needed.

Mr. Zenn stated that on page 2 of Mr. Hals' completeness letter it states the existing driveway has a setback from westerly property line of 0.7' where a minimum driveway setback of 5' is required. The

proposed driveway configuration will increase the driveway setback to 3.5' which reduces the non-conformity. Mr. Zenn questioned if removing the section of driveway is reducing the non-conformity or eliminating it to comply.

Mr. Frenzel stated it is going to reduce the non-conformity.

Mr. Vince clarified that in the first bullet point under comment number 5 on page two of the Engineers completeness letter, the correct number for the average front yard setback of the two adjoining homes should be 32.3' not 33.2'.

Questions from the public for Mr. Frenzel: None

Mr. Gorenstein was sworn in by Mr. Zenn as an expert in the field of Architecture. He explained the project will increase the size of a very small kitchen and to change a small powder room into a handicap accessible bathroom. The proposed kitchen will be much larger and will have an island. The new bathroom will have a double sink and a larger shower with a bench. It will be designed without a curve to allow wheelchair access.

The exterior of the house will include a covered entry that will have a brick base to tie into the brick of the existing house. On the top there will be vertical siding to add visual interest and will continue as horizontal siding along the side of the house to tie into the existing siding.

He stated the addition would improve the overall aesthetic of the dwelling from an architectural perspective.

Questions from the Board for Mr. Gorenstein:

Mr. Friedman questioned if the staircase on the plans led to an attic.

Mr. Gorenstein stated the existing staircase led to the basement.

Questions for the public for Mr. Gorenstein: None

Mr. Vince stated the homeowners are willing to eliminate a few of the existing non-conformities and in exchange they are asking for a small building variance.

Comments from the public: None

Mr. Capizzi summed up the application. He stated this is an existing ranch dwelling where the homeowner wants to continue with the one story pattern. In order to do so the place that makes the most sense is the front of the existing dwelling. This will allow to provide for a handicap accessible bathroom and increase the kitchen for better utilization for the family. The lot is undersized, which is substantially driving the need for a building coverage variance.

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

Mr. Brensilber stated this is a minimal ask. He feels everything in the area is trending this way. He mentioned that he feels the Planning Board should look at this area because there is no reason for the Board of Adjustment to hear applications that are this diminutive.

Mr. Cho is supportive of the application. There is definitely a hardship. He feels the homeowners are doing what it takes to make it work for the family. He appreciates that they are making concessions to reduce the overage.

Mr. Friedman feels they are not intruding on their neighbors to the right or the left by building the proposed addition. He is in favor of the application.

Mr. Rustin feels what is being asked for is very modest. He supports the application.

Motion by Mr. Cytryn and seconded by Mr. Friedman to approve the application.

<b>In Favor</b>	<b>Opposed</b>
Mr. Cytryn	
Mr. Friedman	
Mr. Brensilber	
Mr. Cho	
Mr. Lieberman	
Ms. Toro	
Mr. Kominsky	

Roll Call Vote: Motion approved 7-0

Mr. Kominsky stated he had one order of business that he would like to discuss that came up at the meeting. He stated it had to do with the one witness wanting to proceed with no video of themselves for testimony. He stated he is not inclined to allow that because it is important to see the witness, and it is also important to know that it is the witness that is being sworn in. He stated that this has happened from time to time with a member from the public having no video but never from an applicant's witness. He stated he is not comfortable having two standards. He asked the board for their opinions.

Mr. Zenn stated that the board, as part of their evaluation of credibility, look at someone. He would always urge the board to have video on when there is witness testimony.

Mr. Rustin feels this makes a perfect argument to return to in person meetings.

Mr. Kominsky asked if the board has any objection if he requires the public to have to be on video.

Mr. Friedman stated he wouldn't be in favor. He stated the public are allowed to call in and they will have no access to video and he feels they still have a right to be heard. He agrees the witnesses need to be on video, but feels the board can't require the public to be on video.

Mr. Vince stated he was under the impression that the DCA put in their virtual meetings guidance that all sworn testimony had to be on video.

Mr. Kominsky stated going forward the board is going to require anyone who is going to be sworn in to have video connection.

Mr. Kominsky asked the board for their opinion on staying virtual or going back to in person meetings.

Mr. Rustin stated he feels the board is shortchanging any applicants and any potential opponents by having the meeting virtual.

Mr. Kominsky stated a few reasons why having the meeting virtual is good.

Mr. Cytryn stated that applicant's witnesses have stated they like the virtual meetings as they are able to fulfill other professional commitments on the same evening.

Mr. Friedman feels the meetings should return to in person.

Ms. Toro feels there is no valid reason for the meetings to return to in person. The overriding concern is attendance and the flexibility the virtual meetings allow to both sides.

Mr. Brensilber stated he is for virtual meetings. He feels they work well. The applicants are able to share their screens and it is much more effective being remote.

Mr. Menon the Council Liaison stated he will leave the decision up to the board. He stated that every other board is back to in person meetings at Borough Hall, but also agrees that more people can attend the meetings if they are held remote.

After hearing the board members opinions a vote was taken. A motion was made by Mr. Cytryn and seconded by Ms. Toro to remain in remote meetings.

<b>In Favor</b>	<b>Opposed</b>
Mr. Cytryn	
Ms. Toro	
Mr. Brensilber	
Mr. Cho	
	Mr. Friedman
	Mr. Lieberman
Mr. Kominsky	

Roll Call Vote: Motion approved 5-2

**ADJOURNMENT:**

Motion made by Mr. Brensilber and seconded by Mr. Friedman to adjourn the meeting. A voice vote carried the motion, and the meeting adjourned at 8:49pm.

Respectfully submitted,

Sharon Peterson

Board Secretary