

BOARD OF ADJUSTMENT
MINUTES OF THE MEETING

AUGUST 9, 2011

CALL TO ORDER: This is a regularly scheduled meeting of the Board of Adjustment of the Borough of Franklin Lakes. In compliance with the Open Public Meetings Law, Notification of this Meeting has been sent to our Official Newspapers and Notice has been posted on the bulletin board at the Borough Hall. I direct that this announcement be entered into the Minutes of the meeting.

ROLL CALL:

Present: Mr. DiFlora, Mrs. Gerber, Mr. Messaros, Mr. Toronto, Mr. Badenhausen,
Mr. Frankel, Ms. Schoenberg. Board Attorney Davies, Board Engineer Kristen Boswell
Absent: Mr. Khoury Mr. Bavagnoli, Ms. Schoenberg

OLD BUSINESS

Cal.#2011-4 Application For T-Mobile, Urban Farms Shopping Center, 805-845 Franklin Lake Road, Block 2201.08, Lot 2, Use Variance, CARRIED FROM 7-7-11, 5-5-11, 4-7-11 AND 3-3-11

THIS APPLICATION IS CARRIED TO THE 9-1-11 MEETING. MR. MEESE HAS GIVEN THE BOARD A TIME EXTENSION.

NEW BUSINESS

Cal.#2011-9 Application For Fahimi, 902 Ewing Avenue, Block 3102, Lot 3.01, which is in violation of the following Section of the Ordinance:

TYPE	REQUIRED	PROPOSED	EXISTING	VARIANCE	CODE
Arc Radius	85'	87.47'/70.87'*	87.47'/70.87'*	14.13'	300-102
*Approved at time of subdivision. We have the subdivision plan showing this.					
Building Height	40'	44.2'	conforming	4.2'	300-102

DEEMED COMPLETE: June 28, 2011

DETERMINATION DATE: October 25, 2011

Ben Cascio, 684 Route 208, Franklin Lakes, introduced himself on behalf of the applicants. The purpose of the application is to request a height variance for a new home to be constructed on this property. Building coverage is 9.15% where 19.72% is permitted and lot coverage is 15% where 25% is permitted. No other bulk or setback variances are requested other than the 4.2 ft. height variance. Mr. Cascio explained that the height variance is a result of the proposed basement stairwell and the requirement that the height must be measured from the lowest floor elevation around the entire building to the highest roof elevation. The visible height of the structure will be 38.6 ft. which is fully conforming .

Mr. Cascio presented four witnesses. Roger Charles Winkle, 947 Park Avenue, Plainfield, N.J., architect; Jeffrey Doolittle, 200 Route 17, Mahwah, N.J. engineer; and Dr. Nader Fahimi and Malgorzata Serafin –Fahimi, the property owners. They were all sworn by Mr. Davies.

After testimony by Mr. Doolittle, Mr. DiFlora asked if anyone in the public wished to question Mr. Doolittle only. George Chahalís, 314 Waterview Drive, came forward and said he owns the shed that straddles the property line. Mr. Messaros made a motion to close the public portion of the meeting, seconded by Mr. Badenhausen, all ayes.

Roger Charles Winkle testified. Mr. Messaros made a motion to open the public portion of the meeting for questions of Mr. Winkle only. Mr. Toronto seconded the motion, all ayes . Stacey Chahalís, 314 Waterview Drive, asked for clarification on building setbacks and the size of the home. George Chahalís said that his concern was how to maintain privacy he had in his back yard.

Mr. Badenhausen made a motion to open the public portion of the meeting for general comments, seconded by Mr. Toronto, all ayes. Mrs. Chahalís asked for a copy of the applicant's plan in order to help with the landscaping they are doing at their property. She was given a copy of the plan. Mr. Chahalís asked if the applicant was planning a fence around just the pool or around the property as well. Mr. Doolittle said that the applicant will provide two fences, one around the pool and one around the property.

Mr. Davies recited the following conditions of approval:

1. Applicant will add revision dates to each and every sheet of the plans.
2. Drain will be installed in the basement stairway landing and piped to a drainage system or the foundation drains.
3. The cabana will not be more than 12 ft. tall.
4. Pool equipment will be shown outside of the cabana.
5. Cabana will be redesigned with a maximum height of 12 ft. and a 40 ft. setback.
6. Applicant will install decorative masonry wall around the pool equipment, finished with the same material as the main house and one foot taller than the pool equipment.
7. In addition to any requirements of the Shade Tree Commission, applicant will also install buffering along the north property line starting 60 ft. from the northwest part of the property continuing to an alignment with the closest part of the new house to Ewing Avenue. The 10 ft. Hemlocks should be planted on 8 ft. centers to the satisfaction of the Borough Engineer.

Mr. Messaros made a motion to approve the variance application subject to the above noted conditions. Mr. Frankel seconded the motion.

Roll Call Vote

Ayes: Mr. DiFlora, Mr. Badenhausen, Mrs. Gerber, Mr. Messaros, Mr. Toronto, Mr. Frankel

Nays: None

Cal.#2011-10 Application For Presbyterian Church, 730 Franklin Lake Road, Block 2206, Lot 2.01, which is in violation of the following Sections of the Ordinance:

<u>TYPE</u>	<u>REQUIRED</u>	<u>PROPOSED</u>	<u>EXISTING</u>	<u>VARIANCE</u>	<u>CODE</u>
Building Setback (Old Franklin Lake Rd.)	150'	126.0'	126.0'	24'	300-122.A.(3)
(Franklin Lake Rd.)	150'	148.1	148.1'	1.9'	300-122.A.(3)
(Barnstable Lane)	150'	130.5'	130.5'	19.5'	300-122.A.(3)
Parking in Front Yard	Prohibited	Yes	Yes	Required	300-122.A.(8)
Lot Area	10 acres	8.04 acres	10 acres	1.96 acres	300-122.A.((1)
Building Height	40'	44.54'	44.54'	4.54'	300-122.A.(4)
*Columbarium in northern 50' buffer	50'	45.5'**	45.5'	4.5'	300-122.A.(6)
Size of Parking Stalls	10' by 20'	9' by 18'	9' by 18'	1' by 2'	300-71.D.(2)

Use Variance and dimensional variances.

*Columbarium is a structure of vaults lined with recesses for cinerary urns.

**This is a scaled dimension. The applicant shall be prepared to testify to the surveyed setback.

The applicant is proposing the subdivision for two new lots. The remainder of this application will proceed if and when the subdivision is approved.

DEEMED COMPLETE: June 29, 2011

DETERMINATION DATE: October 26, 2011

Ben Cascio, attorney for the applicant, 684 Route 208, Franklin Lakes, stated that this is an application for a conditional use variance and subdivision. He explained that churches are categorized as conditional use and are required to have a minimum property size of 10 acres. The church is requesting a three lot subdivision resulting in two conforming residential lots and one parcel of 8 acres to be used for the church. The Board will hear about financial conditions surrounding this request which cannot be considered a hardship in variance applications; however, this is not a financial hardship condition as it pertains to zoning. It is an issue of whether or not this church can continue to exist at all and whether it can continue to benefit the residents of the community. This would be the special reason relative to the granting of the variance.

Mr. Cascio said that the witnesses will include Rev. Kilgore; 740 Franklin Lakes Road, N.J.; Edward Watts, 608 Greenleaf Court, Pompton Plains, N.J., a founding father of the church; George James, Keller and Kirkpatrick, 301 Gibraltar Drive, Morris Plains, N.J., engineer; and Joe Burgis, Burgis Associates, Westwood, Planner. These witnesses were all sworn by Mr. Davies.

Edward Watts testified regarding the history of the church and described the many services and benefits that the church provides to the community. Mr. Badenhausen made a motion to open the public portion of the meeting for questions of Mr. Watts only. Mr. Frankel seconded the motion, all ayes. No one from the public came forward and Mr. Frankel made motion to close the public portion, seconded by Mr. Messaros, all ayes.

Following the testimony of Rev. Louis Kilgore, Mr. Cascio explained that this is a bifurcated application meaning that the use variance only is being considered at this time. If the use variance is granted, the Board will retain jurisdiction over the property and when the lots are sold the church will have to return to the Board for further approvals. Rev. Kilgore said that the church believes they can run the church on 8 acres and use a portion of the money to improve the property and the remaining monies can be used to create investment funds.

Mr. Messaros made a motion to open the public portion of the meeting for questions of Rev. Kilgore only. Mr. Toronto seconded the motion. George Thurnstrom, 27 Red Oak Lane, Kinnelon, asked if there is money available to make the improvements. Rev. Kilgore said that there is funding available from the Presbytery of the Palisades which is a cooperative of 43 congregations. Mr. Thurnstrom asked if appraisals have been done and Rev. Kilgore said that appraisers feel that each lot is worth \$800,000. There were no further questions and Mr. Frankel made a motion to close the public portion of the meeting, seconded by Mrs. Gerber, all ayes.

George James gave an overview of the property and said that basic site improvements are not present on this site. He prepared drawings to show that two subdivided lots would be fully conforming. Mr. Toronto made a motion to open the public portion of the meeting for questions of Mr. James only. Mr. Badenhausen seconded the motion, all ayes. Michael Holt, 659 Ramapo Valley Road, Oakland asked if the nonconforming parking would be grandfathered. Mr. James confirmed that the parking existed in the 1980s. Mr. Frankel made a motion to close the public portion of the meeting, seconded by Mr. Toronto, all ayes.

Joseph Burgis described the area in question and highlighted some specifics of the proposed development. He pointed out that houses of worship are classified as conditional uses and the ordinance is clear in recognizing that a manse has to be located on a separate lot which cannot be merged into the larger property. Mr. Burgis said that churches have consistently been identified as an inherently beneficial use and should be looked at differently. The Board should determine whether or not the site functions well for the proposed conditional use. It is evident to Mr. Burgis that the site will function better by virtue of the subdivision and the proposed improvements. This configuration of the property will have no substantial impairment to the intent of the zone plan. He concluded that there is no negative effect in connection with this application and approval will allow the church to remain as a community center. Mr. Burgis presented an exhibit identifying all the houses of worship in Franklin Lakes which was marked as Exhibit A-1.

Mr. Frankel made a motion to open the public portion of the meeting for questions of Mr. Burgis only. Mr. Badenhausen seconded the motion, all ayes. Mr. DiFlora asked for comments from the public regarding the application. No one came forward and Mr. Messaros made a motion to close the public portion of the meeting, seconded by Mr. Toronto.

Mr. Davies noted the following conditions:

1. The Board of Adjustment will retain jurisdiction
2. The applicant will apply for subdivision approval for two 40,000 sq. ft. lots and related site improvements

Mr. Messaros made a motion to approve the application, seconded by Mr. Badenhausen.

Roll Call Vote

Ayes: Mr. DiFlora, Mr. Badenhausen, Mrs. Gerber, Mr. Messaros, Mr. Toronto, Mr. Frankel

Nays: None

RESOLUTIONS

FARFEL, BLOCK 1504.01, LOT 6

PRINCIOTTA, BLOCK 2101.10, LOT 10

Mr. Messaros made a motion to memorialize the resolutions. Mrs. Gerber seconded the motion.

