

BOARD OF ADJUSTMENT
MINUTES OF THE MEETING

NOVEMBER 3, 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, Mr. Messaros, Mr. Bavagnoli, Mr. Badenhausen, Mr. Frankel,
Ms. Schoenberg, Board Attorney Davies, Board Engineer Tiberi

Absent: Mrs. Gerber, Mr. Khoury, Mr. Toronto

The Board discussed the issue of destruction of tapes and CDs for the Board meetings. Mr. DiFlora suggested that CDs be kept for the last six years. The Mayor and Council and the Planning Board will keep the tapes and CDs for 80 days or until the minutes are approved. Mr. Frankel made a motion to have the CDs stored for six years, seconded by Mr. Badenhausen.

Roll Call Vote

Ayes: Mr. DiFlora, Mr. Messaros, Mr. Bavagnoli, Mr. Badenhausen, Mr. Frankel,
Ms. Schoenberg

Nays: None

December Meeting Date - Mr. DiFlora no longer has a conflict with the meeting date in December and it will remain the first Thursday of December.

Roll Call Vote

Ayes: Mr. DiFlora, Mr. Messaros, Mr. Bavagnoli, Mr. Badenhausen, Mr. Frankel,
Ms. Schoenberg

Nays: None

NEW BUSINESS

Cal.#2011-16 Application For Sacco, 205 Stokes Farm Road, Block 3101.02, Lot 1.04, dimensional Variances, which are in violation of the following Sections of the Ordinance:

TYPE	REQUIRED	PROPOSED	EXISTING	VARIANCE	CODE
Lot Coverage	25%	32.51%	26.94% (w/o pool)	7.51%	300-102
Existing Block Wall In southern side yard 20 foot no disturbance Area	20'	15'	15'	5'	300-124.B.(1)
Front Yard Setback Slate Walk Step	50'	47'	47'	3'	300-102
Southern Side Yard Setback Patio	25'	23'	--	2'	300-102
Boulders in 20 Foot No Disturbance Area	20'	13'	--	7'	300-124.B.(1)

DEEMED COMPLETE: October 4, 2011

DETERMINATION DATE: February 1, 2012

Mr. Sacco introduced himself and his wife Brandy and asked that this matter be carried to the December meeting because the engineer could not attend tonight's meeting. Board Members agreed but told Mr. Sacco that he was welcome to present some information and evidence. Peter and Brandy Sacco, 205 Stokes Farm Road, were sworn

by Mr. Davies. Mr. Sacco is proposing the installation of a pool and other back yard improvements that would increase the impervious coverage from 26.94% to 32.51%. Mr. Sacco is asking that the wall structure be excluded from the impervious calculations; however, he will rely on the engineer for an explanation. There are several non-conforming, pre-existing conditions relative to the driveway and the wall. The original wall had collapsed before he purchased the house requiring the construction of a new wall and additional impervious coverage. His engineer was going to present plans for a patio which would be constructed of perforated block and permeable concrete as well as a pool. Mr. Sacco distributed photos of the property to the Board.

Mr. Messaros made a motion to carry the application to December 1st, seconded by Mr. Badenhausen.

Roll Call Vote

Ayes: Mr. DiFlora, Mr. Messaros, Mr. Bavagnoli, Mr. Badenhausen, Mr. Frankel,
Ms. Schoenberg

Nays: None

Cal.#2011-17 Application For Gaglione, 590 Franklin Lake Road, Block 3305.01, Lot 1,
dimensional variances, which are 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>
Front Yard Setback (Franklin Lake Rd.) to base of steps	50'	41.1'	46.22'	8.9'	300-102
Front Yard Setback (Vee Drive) to Patio	50'	19.8'	24.7'	30.2'	300-102
Front Yard Setback (Vee Drive) measured to a one-story addition	50'	32.4'	35'	17.6'	300-102

DEP approval will be required for the trench drain and the headwall in the stream encroachment area.

DEEMED COMPLETE: October 4, 2011

DETERMINATION DATE: February 1, 2012

Robert Weissman, engineer, and Peter Cooper, architect were sworn by Mr. Davies. Mr. Weissman explained that the application is for the construction of additions to the existing dwelling. The lot is surrounded by roads on three sides with an adjoining lot to the east. The house is situated 24.7 feet off the right-of-way line for Vee Drive and is against the front setback line for Franklin Lake Road. The proposal is for two additions to the rear and minor additions to the front consisting of a front covered porch. The applicant also proposes the installation of a new septic system in the rear yard. Mr. Weissman reviewed the necessary variances which include: front yard setback for Franklin Lake Road to the base of the steps proposed at 41.1 feet where 46.2 feet is existing; front yard setback to Vee Drive to patio proposed at 19.8 feet where 24.7 feet is existing; and front yard setback to Vee Drive measured to a one-story addition is proposed at 32.4 feet where 35 feet is existing.

Mr. Weissman confirmed that there is no need for a DEP permit regarding this property. He provided a revised plan to Board Members which was based on the Boswell Engineering review letter of September 28, 2011. Mr. Davies marked the revised plan as Exhibit A-1. Ronald Gaglione, 590 Franklin Lake Road, Franklin Lakes, was sworn by Mr. Davies and was questioned about the removal of one tree that is outside of the permissible area for tree removal. Mr. Gaglione stated that the property has many trees and this tree appears damaged. He proposes to plant a minimum of twenty trees. Mr. Weissman explained that the septic field was moved 5 feet to the east which would also allow for the installation of a pool; however, Board Members suggested that the septic system be rotated to allow the permissible removal of the 24 inch tree at 509.6 elevation which is closer to the dwelling. During discussions, it was agreed that the evergreens are the only thing that will remain in the right-of- way and the existing fencing is located on the applicant's property.

Mr. Cooper, the applicant's architect, stated that approximately 25% of the house is in the no build zone. The two front additions are within the roof line with the exception of the covered porch. The concept was to maintain the existing ranch home and the breakfast room was moved as much as possible so that encroachment into the setback would be minimal. The additions are appropriate and minor in nature with minimal impacts to surrounding areas. The evergreen buffer and the existing topography obstruct the view of the house from the street.

Mr. Davies recited the following conditions:

1. The exterior doors and windows on all addition areas will be the same as the material and windows on the exterior of the dwelling and all will be replaced.
2. The applicant will remove the existing utility pole in the existing driveway which is also to be removed.
3. A Hold Harmless Agreement will drafted to allow evergreens to remain in the right-of-way of Vee Drive.
4. Applicant will rotate the orientation of the septic field to have a permissible removal of the 24 inch tree at 509.6 elevation.

Mr. Davies stated that the application could be granted for the following reasons:

1. The currently existing structure is located outside of the permissible building area and there will be additional strain to reduce the visual impact. The dwelling is lower than Vee Drive and the additional 24 feet edge of pavement on the property reduce the visual impact.
2. The denial of the variance application would produce an undue burden on the applicant.

Mr. Messaros made a motion to open the public portion of the meeting, seconded by Mr. Bavagnoli, all ayes. No one from the public came forward and Mr. Badenhausen made a motion to close the public portion of the meeting, seconded by Mr. Messaros.

Mr. Messaros made a motion to approve the variances based on Mr. Davies' findings, seconded by Mr. Bavagnoli.

Roll Call Vote

Ayes: Mr. DiFlora, Mr. Messaros, Mr. Bavagnoli, Mr. Badenhausen, Mr. Frankel,
Ms. Schoenberg

Nays: None

RESOLUTIONS

SHIDFAR, 1 PENOBSCOTT PLACE, BLOCK 1106.06, LOT 11

Mr. Messaros made a motion to approve the resolution, as amended. Mr. Badenhausen seconded the motion.

Roll Call Vote

Ayes: Mr. DiFlora, Mr. Badenhausen, Mr. Messaros, Ms. Schoenberg

Nays: None

KAYAL, 1044 DOGWOOD TRAIL, BLOCK 1209, LOT 7

Mr. Messaros made a motion to approve the resolution, as amended. Mr. Badenhausen seconded the motion.

Roll Call Vote

Ayes: Mr. DiFlora, Mr. Badenhausen, Mr. Messaros, Ms. Schoenberg

Nays: None

ASANI, 826 SUSSEX ROAD, BLOCK 1104, LOT 1.02

Mr. Messaros made a motion to approve the resolution, as amended. Mr. Badenhausen seconded the motion.

