

ZONING BOARD OF ADJUSTMENT

MINUTES OF THE MEETING

MAY 3, 2012

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. Bavagnoli, Mr. Badenhausen,
Mr. Frankel, Ms. Schoenberg, Board Attorney Davies, Board Engineer Tiberi
Absent: Mr. Khoury, Mr. Toronto

NEW BUSINESS

Cal.#2012-2 Application For Vaccaro, 524 Colonial Road, Block 1416, Lot 22, dimensional variances, which are in violation of the following Sections of the Ordinance:

TYPE	REQUIRED	EXISTING	PROPOSED	VARIANCE	CODE
Lot Area	5,000 S.F.	4,800 S.F.	4,800 S.F.	200 S.F.	300-102
Lot Width	50'	48'	48'	2'	300-102
Front Yard Setback	20'	+/-13'	+/-13'	7'	300-102
Side Yard Setback	10'	7.07'	2.57'	7.4'	300-102
Side Yard Setback	10'	8.60'	8.60'	1.4'	300-102
Building Coverage	20%	17.25%	24.92%	4.92%	300-102
Garage	Yes	Yes	No	Needed	300-121C.
Walkway in No Disturbance Area	10'	6'	6'	4'	300-124.B.(1)

Fred Klenk, 684 Route 208, Franklin Lakes, N.J., architect for this project and Annette and Frank Vaccaro, 579 Colonial Road, applicants were sworn by Mr. Davies. Mr. Klenk explained that there are a series of 12 homes on the west side of Colonial Road which are similar to the Vaccaro's. All of these homes have a total square footage of 1,500 sq. ft. The home in question has three bedrooms and a substandard bathroom on the second floor. The project consists of an addition over the existing first floor area on the north side to allow for 3 reasonably sized rooms and a new staircase to provide more living space. There is an existing single car garage which the applicants propose to vacate in favor of living space if the application is approved. Mr. Klenk stated that this property is located in the A-5 zone requiring a minimum lot size of 5,000 sq. ft.; however, this lot is 4,800 sq. ft. The entire rear yard is taken up by a septic system which means that living space cannot be constructed. The proposed addition complies with the height limitations and there is adequate parking available on the property without a garage.

Mr. Klenk described his submission to the Board including "The Proposed Addition to the Vaccaro Residence, dated 3/2/12" which was marked as Exhibit A-1. He explained the variances needed and described the proposed deck at the rear of the residence which will be in line with the south building line and has been incorporated into the building coverage percentage. The building coverage with the addition will be increased to 24.92% and total coverage is 32.51% which is under the allowable amount. Building height of the proposed addition is 28.2 ft. Mr. Klenk spoke about "Sheet 1, dated 3/2/12, A Series of Elevations" which was marked as Exhibit A-2. Sheet 2, dated 1/20/12, was marked as Exhibit A-3 and depicts the first and second floor and shows a kitchen where the garage is currently located as well as a powder room and the family dining area with a sliding glass door to the new deck. The second floor will include two reconfigured bedrooms and a second bathroom. Square footage on this floor will increase by 334 sq. ft. There was a lengthy discussion on the application to the Board particularly concerning the proposed staircase. Mr. Klenk explained that this application is for a C dimensional variance and the problem is that the septic system occupies a large portion of the rear yard. In addition, the property has existing nonconformities such as side yard setbacks which contribute to the limitations.

Mr. Messaros made a motion to open the public portion of the meeting relative to the testimony of Mr. Klenk, seconded by Mr. Badenhausen, all ayes. No one came forward and Ms. Schoenberg made a motion to close the public portion of the meeting seconded by Mrs. Gerber, all ayes.

Thomas G. Sterns, III, 144 Jewel Street, Oakland, N.J., engineer for the project was sworn by Mr. Davies. Regarding soil moving, Mr. Sterns stated that there would be 20 cubic yards of cut and there will be a rear deck setback of 10 ft. The Board indicated that they did not favor the staircase as proposed. After much discussion, Mr. Klenk said that the applicants would withdraw the staircase on the north side. He indicated that he would discuss the possibility of a staircase to the rear with the Health Department but added that the total coverage and building coverage would remain the same. Mr. DiFlora commented that coverage amounts could be reduced by means of a hatch type or bilco door.

Mr. Messaros made a motion to open the public portion of the meeting relative to the testimony of Mr. Sterns, seconded by Mr. Bavagnoli, all ayes. No one from the public came forward and Mrs. Gerber made a motion to close the public portion of the meeting seconded by Mr. Messaros, all ayes. A motion was made to open the meeting to the public for general comments. No one came forward and the public portion of the meeting was closed.

Mr. Davies recited the following conditions of approval:

1. The drawing should be revised to show the setback of the proposed edge of the rear line as 44.86 ft.
2. The rear deck has at least 10 ft. on the west side line of the house.
3. If possible, the stairs will be moved to the rear of the building with a bilco door, with Board of Health permission. If not, there will be a hatch installed in the floor, inside the house, to provide access to the basement.
4. Air conditioning units will be located at the rear of the house respecting the 25' setback..
5. The entire house will be sided in a uniform manner with new windows and a new roof.

Mr. Bavagnoli made a motion to approve the application with the above conditions, seconded by Mr. Frankel.

Roll Call Vote

Ayes: Mr. DiFlora, Mrs. Gerber, Mr. Badenhausen, Mr. Messaros, Mr. Bavagnoli,
Mr. Frankel, Mr. Schoenberg

Nays: None

Cal.#2012-3 Application for Dephillis, 612 Grandview Terrace, Block 3304, Lot 8, dimensional Variances, which are in violation of the following Sections of the Ordinance:

<u>TYPE</u>	<u>REQUIRED</u>	<u>EXISTING</u>	<u>PROPOSED</u>	<u>VARIANCE</u>	<u>CODE</u>
Lot Area	40,000 S.F.	39,977 S.F.	39,977 S.F.	23 S.F.	300-102
Front Yard Setback (Portico)	50'	44'+	43'	7'	300-102

Gregory Dephillis, 612 Grandview Terrace was sworn by Mr. Davies. Mr. Dephillis stated that the home was built in 1960 without a foundation survey and violates the 50 ft. setback requirement. He is asking for approval of a portico to be located over the front entry way. This portico would protect visitors from the elements, protect the front door from the elements, enhance the appearance of the home and would prevent ice from forming on the landing. The portico roof would extend 6 inches beyond the existing landing and Mr. Dephillis noted that the landing had recently been rebuilt without the need for a variance. Questions were raised by Board Members concerning whether a variance should have been necessary for reconstruction of the landing. Mr. Dephillis said that the new landing was located in exactly the same area as the previous landing.

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

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Mr. Davies recited the following condition of approval:

1. The portico will extend 6 inches closer to the property line and no further.
2. The portico will not extend further in any direction than the existing front landing.

Mr. Messaros made a motion to approve the application in accordance with the conditions noted by Mr. Davies, seconded by Mrs. Gerber.

Roll Call Vote

Ayes: Mr. DiFlora, Mrs. Gerber, Mr. Badenhausen, Mr. Messaros, Mr. Bavagnoli,
Mr. Frankel, Mr. Schoenberg

Nays: None

Cal.#2012-4 Application for Kulick, 226 Terrace Road, Block 1207, Lot 21, dimensional variance,
which is in violation of the following Section of the Ordinance:

<u>TYPE</u>	<u>REQUIRED</u>	<u>EXISTING</u>	<u>PROPOSED</u>	<u>VARIANCE</u>	<u>CODE</u>
Wall Not Tiered	Tiered over 4'	7'	7'	Wall Not Tiered Over 4'	300-121.F.(3)

David Repetto, of Harwood Lloyd in Hackensack, N.J., introduced himself as attorney for the applicant. The applicant is seeking a variance for a wall that had recently been constructed. David Hals, engineer on the project, was sworn by Mr. Davies and stated that his address is 9 Post Road, Oakland. Mr. Davies also swore Lance Kulick, 226 Terrace Road, Franklin Lakes, N.J., who is the applicant.

Mr. Hals explained that the retaining wall was constructed in 2004. Originally, the retaining wall was shown to be tiered and wrapped around the back of the raised patio but it was not attached to the home. However, the retaining wall is now a single tier retaining wall attached to the home in order to modify the walkout basement to the rear. This stone wall has a maximum height of 7 feet with landscaping on the top. According to the Code the maximum height of the retaining wall can only be 4 feet unless it is tiered. Mr. Hals testified relative to the issues raised in the Boswell Engineering letter of 4/13/12. A series of photos were marked as A-1 through A-4 and Mr. Hals' plan was marked as Exhibit A -5 by Mr. Davies. Exhibit A-6 locating steep slopes was marked by Mr. Davies and Mr. Hals stated that the retaining wall had no impact on steep slope disturbance.

Ms. Tiberi was surprised at Mr. Hal's testimony that the wall had been approved by a Borough Department. She said that the construction has caused a slight increase in the occurrence of steep slopes and the letter from Boswell Engineering had requested that the applicant provide an as-built steep slope analysis to demonstrate that a steep slope variance is not necessary. Mr. Hals said that he doesn't have this analysis because he misinterpreted this request. Mr. DiFlora said that unless a copy of the approval for the wall can be provided, this application will not be approved by the Board because there are too many open questions. The attorney assured the Board that this information will be available at the next meeting. Mr. Kulick testified that he has documentation showing that the 7 ft. wall was approved by the Building Inspector and Boswell Engineering. Ms. Tiberi commented that the approved plan was fully conforming; however, the as-built depicts a 7 foot wall. An application for construction of a 7 ft. wall was never approved by the Engineering Department.

Mr. Hals continued with testimony regarding the wall. He said that if the planting area on the retaining wall was moved it could be pushed closer into the deck resulting in a full view of the structure. It would no longer be considered a retaining wall and would eliminate the need for the variance. In this case, there would be a landscaping element between the patio and the retaining wall that would help to break up the massiveness of the house. In his opinion, the present location of the wall provides an enhancement to the area and to the adjoining property owner. Mr. Hals showed aerial photos of the neighborhood obtained from a DEP website which depict the impact of the wall on surrounding properties. He concluded that the Board could grant a variance for the height of the wall. The wall appears to be part of the house and is further away from the property line than the existing portion of the house and the landscaping area is an added aesthetic benefit to the community.

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Board Members contemplated whether they would prefer plantings or a tiered wall. Ms. Tiberi suggested that the Board also consider the front walk which the applicant added from the driveway to Terrace Road which may or may not require a variance. The small walkway, which did not appear on the approved plan, encroaches into the right-of-way on the side property line and a Hold Harmless Agreement would be applicable. Mr. Kulick explained that this walkway is a short pathway which enables him to put his garbage cans out easily.

The applicant's attorney concluded that he will get the requested information together for the next meeting on June 7th. Mrs. Gerber made a motion to carry the application to the June meeting, seconded by Ms. Schoenberg.

Roll Call

Ayes: Mr. DiFlora, Mrs. Gerber, Mr. Badenhausen, Mr. Messaros, Mr. Bavagnoli,
Mr. Frankel, Mr. Schoenberg

Nays: None

RESOLUTION

Klepper, 295 Glen Place, Block 2709, Lot 6

Mr. Bavagnoli made a motion to memorialize the resolution, seconded by Ms. Schoenberg..

Roll Call Vote

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

Nays: None

MINUTES

The minutes of April 5, 2012 were presented for approval.

Mr. Frankel made a motion to approve the Minutes as presented, seconded by Mr. Bavagnoli.

Roll Call Vote

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

Nays: None

VOUCHER

Robert Davies, Esq. MEET. ATTEND. 4-5-12 \$300.00

Mrs. Gerber made a motion to approve the voucher, seconded by Mr. Frankel.

Ayes: Mr. DiFlora, Mrs. Gerber, Mr. Messaros, Mr. Bavagnoli, Mr. Toronto, Mr. Frankel,
Ms. Schoenberg

Nays: None

The meeting was adjourned at 10:08 P.M.