

ZONING BOARD OF ADJUSTMENT

MINUTES OF THE MEETING

JUNE 7, 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. Khoury, Mr. Messaros, Mr. Bavagnoli, Mr. Toronto, Mr. Badenhausen, Mr. Frankel, Ms. Schoenberg, Board Attorney Davies, Board Engineer Tiberi

Absent: None

Discuss including on Zoning Board agendas a section entitled, Oral Communications. This would be for any projects that may come to the Board to speak about what the Board would require for a particular application

Mr. DiFlora explained that the Board should discuss whether or not it would be helpful to set aside a section of the meeting where residents could address the Board about the zoning implications of projects they are considering. Maria Berardi, the Zoning Board Clerk, cautioned the Board about being overly specific if this process is adopted. Board Members were concerned about the implications of being held to certain statements made at the time the project was presented during this portion of the meeting. Mr. Davies commented that this procedure would allow projects to go through without as much formal documentation. The Clerk said that this process would allow potential applicants to speak with Board Members which residents have indicated that they find important. Mr. Davies cautioned against advisory and binding opinions.

Mr. DiFlora indicated that he is in favor of this practice. Mrs. Gerber said it would be most useful if these individuals initially speak to the Engineer first; however, if they still feel it is necessary they could speak to the Board. Most of the remaining Board Members were in agreement with Mr. DiFlora. Mr. DiFlora recommended instituting a time limit such as 5 minutes, for each individual who wants to speak. He suggested that these comments be heard at the beginning of the meeting and if the individual wants more time to speak he would have to wait until the end of the meeting.

Mr. Frankel made a motion to institute the oral communications procedure on a trial basis to be reviewed in three months. The motion was seconded by Mrs. Schoenberg.

Roll Call Vote

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

Nays: Mr. Badenhausen

OLD BUSINESS

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:

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

DEEMED COMPLETE: April 10, 2012 DETERMINATION DATE: August 9, 2012

David Repetto of Harwood Lloyd introduced himself on behalf of the applicant and presented the Board with an as-built survey depicting the steep slopes on this property. The survey was marked as Exhibit A-8 by Mr. Davies. David Hals, the engineer, was sworn by Mr. Davies and reviewed the plan. Mr. Hals

referred to the map entitled "Final Slope Analysis, Block 1207, Lot 21, 226 Terrace Road." He testified that there is a schedule showing the four different ranges of slopes on the property. All of the disturbed slopes conform to the ordinance and there are no variances necessary. Ms. Tiberi, Board Engineer, agreed with Mr. Hal's findings and added that the plan demonstrates that the 2004 plan is fully conforming and there are no variances required.

Ms. Tiberi had prepared a time line noting various phases of construction at the above noted property. She said that there was never an indication that the wall had been completed when the site was visited by representatives of Boswell Engineering. The wall had been changed at one time from the two tiered design to one seven foot structure but a plan was never received for this revision and this issue has never been dealt with since that point. Even though this was an outstanding issue, a certificate of occupancy was issued by the Building Department in June 2008. Ms. Tiberi said that the wall was noted as a variance situation in the original as built submission in 2006; however, no modifications were required and in 2008 a CO was issued. The Board is now dealing with the variance situation in 2012, and Mr. Davies advised against requiring removal of the wall but rather allowing it to remain with attractive screening. Ms. Tiberi pointed out that the wall has been certified with the appropriate calculations and there are no engineering concerns.

A motion was made to open the public portion of the meeting which was seconded, all ayes. No one from the public came forward and a motion was made and seconded to close the public hearing.

Mr. Davies reviewed the findings of the Board, stating that the wall was reduced from two tiers to one tier to allow the walkout basement. There would be great harm and destruction caused by the removal and reconstruction of the wall both to the applicant's property and the neighboring properties and it should be allowed to remain. Ms. Tiberi added that the railing on the top has adequate fall protection and has been certified.

Mr. Frankel made a motion to approve the variance request, seconded by Mrs. Schoenberg.

Roll Call Vote

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

Nays: Mr. Messaros

RESOLUTION

VACCARO, 524 COLONIAL ROAD, BLOCK 1416, LOT 22

Mrs. Gerber 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

DEPHILLIS, 612 GRANDVIEW TERRACE, BLOCK 3304, LOT 8

Mrs. Gerber made a motion to memorialize the resolution, seconded by Mr. Frankel.

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

Nays: None

MINUTES

The minutes of May 3, 2012 were presented for approval.

Mr. Bavagnoli made a motion to approve the Minutes, as revised, seconded by Mr. Messaros.

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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. 5-3-12 \$300.00

Mr. Bavagnoli made a motion to approve the voucher, seconded by Mr. Toronto.

Roll Call Vote

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

Nays: None

The meeting was adjourned at 9:08 P.M.