

## ZONING BOARD OF ADJUSTMENT

### MINUTES OF THE MEETING

JULY 11, 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, Mr. Toronto (8:09)

**Absent:** Mr. Khoury

#### **ORAL COMMUNICATIONS**

There was no one wishing to address the Board this evening.

#### **NEW BUSINESS**

Cal.#2012-5 Application For Samuel (Contract Purchaser/Behlman (Owner), 249 Hidden Pond Path, Block 1206, Lot 14, dimensional variances, which are in violation of the following Sections of the Ordinance:

<b>TYPE</b>	<b>REQUIRED</b>	<b>EXISTING</b>	<b>PROPOSED</b>	<b>VARIANCE</b>	<b>CODE</b>
<b>Total Coverage</b>	<b>25%</b>	<b>27%</b>	<b>28.9%</b>	<b>3.9%</b>	<b>300-102</b>
Front Yard Setback					
(Base of Front Steps)	50'	48'	48'	2'	300-102
Side Yard Setback					
southern (Driveway)	20'	10.5'	10.5'	9.5'	300-71.D.(d)
Rear Yard Setback					
southeastern (Driveway)	25'	14.4'	14.4'	10.6'	300-71.D.(d)
Pier Setback	20'	11'	11'	9'	300-121.A.(5)(a)
Kitchen Rear Yard Setback	25'	22'	22'	3'	300-102
Patio #1 Rear Yard Setback	25'	13'	13'	12'	300-102
Waterfall Rear Yard Setback	25'	20'	20'	5'	300-102
Patio #2 Rear Yard Setback	25'	24'	24'	1'	300-102
Retaining Wall Rear Yard Setback	25'	13'	13'	12'	300-102
Pool Setback From Principal Structure	10'	7'	7'	3'	300-121.A.(1)(b)

The applicant, Ossama Samuel, and engineer, Paul Lapatka, were sworn by Mr. Davies. John Peel, of PK Environmental, was sworn and stated that he is the environmental consultant and professional planner for the applicant. Francis J. Battersby introduced himself as the attorney representing the applicants. Mr. Battersby said that the applicants are presently residents of Franklin Lakes and the contract purchasers of 249 Hidden Pond Path. The applicants are seeking approval to build a 1,031 sq. ft. extension on the northerly side of the existing residence which would allow for an expansion of an existing bedroom. There are several existing nonconformities on the property and no new variances are being created as a result of this application. The maximum existing impervious lot coverage of 27% is the only existing nonconformity that is being expanded and is proposed at 28.9%. The proposal will result in the removal or modification of the walkways.

Paul Lapatka testified relative to the existing conditions on the property. He described the alterations to the property which include a small limit of disturbance with minimal grading and a seepage pit for additional runoff from the house. He noted that 337 sq. ft. of walkway will be removed and 118 sq. ft. of walkway will be added to provide a walkway out to the rear patio. At the present time, the impervious coverage is 829 sq. ft. over the allowable amount and there would be an increase of 812 sq. ft. if the proposal is approved. The only variance being increased is the lot coverage which is a result of the addition. Mr. Lapatka stated that he did not see any detrimental impact to any of the surrounding properties as a result of this addition particularly due to the fact that the neighboring homes are quite a distance away from each other.

Mr. Davies marked as Exhibit A-1: Site Plan/Partial Topographic Survey, Block 1206, Lot 14, Borough of Franklin Lakes, Bergen County, New Jersey, dated June 7, 2012.

Ms. Tiberi referred to the environmental concerns relative to this application and said that some type of enclosure such as a silt fence must be used during construction of the proposed addition.

A motion was made to open the public portion of the meeting for questions of Mr. Lapatka only, all ayes. Jules Lauber, Summit Avenue, stated that the filed map contains a metes and bounds description.

Bill Matarese, 248 Hidden Pond Path, said that the 100 foot line is for everyone on the street. Regarding the addition, he questioned the number of feet between the addition and his property line to the right. Mr. Lapatka said there is approximately 26 ft. from the addition to the property line. No one else came forward and a motion was made to close the public portion.

The attorney for the owner John Veteri arrived at the meeting along with the current property owner Mrs. Behlman who was sworn by Mr. Davies. The Board reviewed the Boswell letter dated June 13, 2012. Mrs. Behlman gave testimony indicating that a lot of construction has been done on this property without permits including some fencing, a pool waterfall and patio #4 which contains an outdoor kitchen with a gas fireplace. It was noted that the pool that was constructed differs from the pool that was originally approved.

John Peel testified that this property fronts on Bakers Pond. The applicant plans to expand the property and the addition will not have any environmental consequences for the pond because proper methods of stormwater management are being utilized. The proposed expansion to the home will be consistent with the neighborhood and can be approved without any substantial detriment to the zone plan and zoning ordinance.

Mr. Messaros made a motion to open the public portion of the meeting for questions of Mr. Peel only, seconded by Mrs. Schoenberg, all ayes. Bill Matarese, 248 Hidden Pond Path, commented that relocating the air conditioning units means they will be closer to his bedroom. This will be a disturbance and he asked that the units be situated at the rear of the house. The applicant indicated that he will relocate the units.

Janet Lauber, 794 Summit Avenue, stated that she did not receive notice of this variance application. She believes there is a fence within the 50 ft. setback from the wetlands which would require a waiver from the DEP. Mr. Peel stated that fences are allowed in transition areas; however, and there is an LOI before the DEP to confirm that this activity is not within their jurisdiction. After some discussion, Mr. Battersby interjected that the applicant does not object to relocating the fence.

Mr. Lauber said that he objects to the proposed plan because the impervious coverage would actually be increased to 16% over basic ordinance requirements. Ms. Tiberi noted the great number of existing variances many of which are a result of non-permitted construction. Mr. DiFlora commented that there doesn't seem to be any evidence of a hardship in this circumstance. Mr. Battersby remarked that the applicants have agreed to remove the patio closest to the lake which had been installed without a building permit.

The applicant and the Board Members considered several options that would modify the coverage amounts. These included: reducing the size of the driveway; bringing patio #2 to within 25 ft.; bringing patio #3 to within 25 ft.; complete removal of patio #4; and relocation of the air conditioning units. Mr. Davies suggested that patio #4 be removed along with the gas line for the fire pit since it had been installed by the current owner without the proper permits. The applicant would be given a number to work with which would allow him to decide what upgrades are the most important. Mr. DiFlora suggested that the

applicants modify the driveway, remove patio #4 including abandonment of the gas line, remove one foot from patio #3 and modify patio #2 because it is too close to the property line.

Mr. Lapatka stated that in order to reduce the impervious area the applicant proposes reducing the driveway area by 32 ft. The patio in the rear would be reduced in area by 6 ft. from the fire pit. This would match the 27% impervious coverage as well as the square footage that exists today. Mr. Davies marked the alternate sketch by Mr. Lapatka as Exhibit A-2. This exhibit shows that the driveway is being shaved down; a reduction and reshaping of patio #4; and removal of the gas piping from the house to the two patios and the reinstallation of the gas piping after a permit has been obtained.

Mr. Davies recited the following conditions of approval that have been agreed to by the applicant:

1. The applicant will install silt fencing around the perimeter of the limit of disturbance.
2. Applicant and the current owner will execute a hold harmless for the uninspected, unpermitted work including gas line to the chimney of the outdoor kitchen and the gas fire pit.
3. Applicant is cautioned on the height of the dwelling. 504.2 ft. is allowed and there is no clearance. Applicant will provide the accurate height of the existing dwelling to one tenth.
4. Applicant will relocate the proposed air conditioning units to the rear of the dwelling and to the south of the octagonal portion of the addition.
5. Applicant needs a tree removal permit and soil moving permit.
6. Applicant will execute a hold harmless for the chain link fence in the 20 foot wide drainage easement.
7. The septic disposal field will be staked out and fenced in advance.
8. The exterior and roofing of the addition will match the exterior and roofing of the existing dwelling.
9. Applicant will reshape and reduce patio #4 and the gas fire pit
10. The applicant will be committed to 11,068 sq. ft. of total coverage.
11. Gas lines need to be permitted and inspected from the connection inside the house to the branches that feed to external appliances.
12. Applicant must comply with DEP requirements regarding the existing fence.

A motion was made to open the meeting for public comment. No one came forward and a motion was made to close the public portion of the meeting, all ayes.

Mr. Frankel made a motion to approve the application subject to the above conditions, seconded by Mr. Badenhausen.

Roll Call Vote

AYES: Mr. DiFlora, Mrs. Gerber, Mr. Badenhausen, Mr. Bavagnoli, Mr. Toronto, Mr. Frankel,  
Ms. Schoenberg

NAYS: Mr. Messaros

### **RESOLUTION**

#### **KULICK, BLOCK 1207, LOT 21, 226 TERRACE ROAD**

Mr. Toronto made a motion to memorialize the resolution, as amended, seconded by Mr. Frankel.

Roll Call Vote

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

Nays: None

### **MINUTES**

The minutes of June 7, 2012 were presented for approval.

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

ZONING BOARD OF ADJUSTMENT MEETING

7-11-12

PAGE 4

Roll Call Vote

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

Nays: None

**VOUCHER**

Robert Davies, Esq.            MEET. ATTEND. 6-7-12            \$300.00

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

Roll Call Vote

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

Nays: None

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