

ZONING BOARD OF ADJUSTMENT

MINUTES OF THE MEETING

MARCH 7, 2013

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. Frankel,
Ms. Schoenberg, Board Attorney Davies, Board Engineer

Absent: Mr. Khoury, Mr. Badenhausen, Mr. Toronto

NEW BUSINESS

Cal.#2013-1 Application for Kayal, 1044 Dogwood Trail, Block 1209, Lot 7, 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>
Side Yard Setback (Driveway)	15'		10.1'	4.9'	300-71.B.(4)(j)
Wall in No Disturbance Area	15'	16.1'	10'	5'	300-124.B.(1)

PREVIOUS APPLICATION TO THE BOARD FOR HEIGHT VARIANCE Cal.#2011-13

DATE DEEMED COMPLETE: December 27, 2012 DETERMINATION DATE: 4-26-13
MR. PETE DI MARCO, THE ATTORNEY FOR THIS APPLICATION HAD ASKED TO HAVE THIS CARRIED TO THE 4.4.13 MEETING.

The Learning Experience: Bruce Whittaker, attorney for the applicant, came forward and stated that he has reviewed the resolution drafted by Board Attorney Davies. He said that there is one provision that needs to be modified because it is contrary to the requirements of the Municipal Land Use Law (MLUL). The resolution contains a requirement that the applicants must apply for a building permit no later than six months from the date of memorialization of the resolution. Construction must be complete within one year of the issuance of the building permit or the variance will be revoked. There is a section in the MLUL that states that site plan approval is good for two years. The applicant is allowed to request extensions; however, all the required notices must be redone. Mr. Whitaker reviewed other pertinent sections of the MLUL. He stated that he has to make an application to the DEP and other governmental agencies. He may not hear from the DEP for as long as six months and he feels that the resolution should follow the MLUL. Mr. Whittaker remarked that this paragraph in the resolution effectively becomes a denial of the application that was approved at the February 2013 meeting.

After some discussion, the Board agreed to have Mr. Davies revise the resolution. Mr. Whittaker agreed to submit revised drawings before the next meeting.

Cal.#2013-2 Application For Weber, 626 Dakota Trail, Block 2101.05, Lot 18, 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>
Side Yard Setback (Pool Equipment)	25'	20'	20'	5'	300-121.E.(1)

DATE DEEMED COMPLETE: February 5, 2013 DETERMINATION DATE: 6-5-13

John Bleeker, architect for the applicant, was sworn by Mr. Davies. His office is located at 275 Belmont Avenue, Haledon, NJ and he is a licensed architect and planner in New Jersey. Mr. Frank Weber, applicant, was sworn by Mr. Davies and said that he resides at 626 Dakota Trail, Franklin Lakes. The application concerns swimming pool equipment which has already been installed. The pool equipment was inadvertently placed closer to the setback line than is permitted at 20 feet versus the required 25 feet. Behind the pool area to the west, there is a steep slope condition but there are no homes behind the pool

area and the equipment is completely shielded with shrubbery and landscaping. The grade of the rear yard area also makes it difficult to see the equipment.

Mr. Weber distributed photos which he took of the rear yard area. Mr. Davies marked the photos as Exhibit A-1, A-2 and A-3 which were taken on March 7, 2013. Mr. Bleeker described the plan he submitted entitled, "As-Built Survey, Mr. and Mrs. Weber, 626 Dakota Trail, Lot 18, Block 2101.05, Borough of Franklin Lakes, Bergen County, New Jersey" dated October 27, 2012, revised through December 3, 2012.

Marisa Tiberi, Board Engineer, asked if Mr. Bleeker had staked out the 25 foot setback and Mr. Bleeker answered that he did not do this. Upon questioning by Ms. Tiberi, Mr. Bleeker explained that the area behind the rear of the house is gravel to combat the severe drainage problem caused by the steepness of the hill. Ms. Tiberi asked that the applicant define the size of the gravel area to make sure that the lot coverage is compliant or an additional variance could be necessary.

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

Mr. Davies reviewed the hardships of the application which include the fact that the existing structure would have to be relocated in order to comply with Borough ordinances and the topographical conditions encourage re-orientating the structure five feet to the left. The question is whether it would be detrimental to the neighborhood to leave the conditions as they exist at this time.

Mr. DiFlora again asked if anyone from the public wished to comment. No one came forward at this time.

Mr. Messaros made a motion to approve the variance request, seconded by Mr. Bavagnoli.

ROLL CALL VOTE

Ayes: Mr. DiFlora, Mrs. Gerber, Mr. Messaros, Mr. Bavagnoli, Mr. Frankel, Ms. Schoenberg
Nays: None

Mr. Bleeker was again advised to check the impervious coverage and get this information to Ms. Tiberi who would determine whether a variance is necessary. Ms. Tiberi mentioned that there were some items in the no disturbance zone such as stepping stones that she would also be looking at as potential variance items.

Cal.#2013-3 Application For Mandelbaum, 729 Orchard Lane, Block 3301.01, Lot 1.05, Dimensional Variances, which are in violation of the following Sections of the Ordinance:

TYPE	REQUIRED	EXISTING	PROPOSED	VARIANCE	CODE
Total Coverage	25%	27.83%	27.50%	2.5%	300-102
Driveway Setback	20'	15'	19'	1'	300-71-D(J)

SLFLK-2709

DATE DEEMED COMPLETE: February 7, 2013

DETERMINATION DATE: 6-7-13

Robert Weissman, engineer for the applicant, 686 Godwin Avenue, Midland Park, introduced himself and was sworn by Mr. Davies. The applicant, Kenneth Mandelbaum, 729 Orchard Lane, Franklin Lakes, was also sworn by Mr. Davies. Mr. Weissman stated that the applicant is seeking a coverage variance and a variance for a slight setback relative to the driveway. The applicant is proposing a one story addition which would create a family room at the rear of the dwelling. The proposal is to remove some of the driveway area to compensate for the additional coverage generated by the addition which would be slightly less than exists today. Mr. Weissman stated that the only improvement done by Mr. Mandelbaum is a walkway from the driveway to the patio. He also had a septic field to the south of the property replaced for which he obtained Board of Health approval. At that time, the size of the driveway was reduced and the applicant is proposing to further reduce the width of the driveway.

Mr. Mandelbaum explained that the family needs a family room to accommodate their combined family of five children. He and his wife looked into moving but many realtors indicated that their house would be more difficult to market because of the lack of a family room.

The Board discussed the possibility of removing some space from the area of the circular driveway. Mr. Mandelbaum said that he values the space on the side for parking and Mr. Weissman pointed out that there is a 25 foot setback in this area. Mr. Weissman reviewed the Boswell Engineering letter dated January 7th and addressed the outstanding concerns that were noted.

Mr. Messaros made a motion to open the meeting to the public for questions, seconded by Mrs. Gerber, all ayes. No one came forward and Mr. Messaros made a motion to close the public portion of the meeting, seconded by Mrs. Gerber, all ayes.

Mr. Davies cited the following conditions of approval:

1. Applicant will amend the plans to show a one story addition instead of two.
2. Applicant will amend the plans to show that the driveway will be setback at least 50 feet from the sideline at the point where the driveway extends beyond the 50 foot front setback line required by the ordinance.
3. Applicant will address the items listed in the latest Boswell Engineering review letter.

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

ROLL CALL COTE

Ayes: Mr. DiFlora, Mrs. Gerber, Mr. Messaros, Mr. Bavagnoli, Mr. Frankel, Mr. Schoenberg
Nays: None

MINUTES

The Minutes of February 7, 2013, were presented for approval.

Mr. Bavagnoli made a motion to approve the minutes, seconded by Mrs. Schoenberg.

ROLL CALL VOTE

Ayes: Mr. DiFlora, Mrs. Gerber, Mr. Messaros, Mr. Bavagnoli, Mr. Frankel, Mrs. Schoenberg
Nays: None

Mr. Weissman said that he has a client who wants to build a church on Pulis Avenue on a two acre lot in the residential zone. There are existing wetlands and buffer restrictions. Board Members advised against this site due to various reasons including parking.

The meeting was adjourned at 9:22 P.M.