

**ZONING BOARD OF ADJUSTMENT**

**MINUTES OF THE MEETING**

**MAY 2, 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. Toronto, Mr. Badenhause, Mr. Frankel, Ms. Schoenberg, Board Attorney Davies, Board Engineer Tiberi
- Absent:** Mr. Khoury

**ORAL COMMUNICATIONS**

There was no one who wished to come forward with questions or comments of the Board this evening.

Bruce Whitaker, attorney for The Learning Experience, said that he has obtained a copy of the resolution from Mr. Davies, the Board Attorney. He recommended language that would clarify the issue of restrictions on weekend activities that take place from time to time at the facility and Board Members agreed to this change.

**OLD BUSINESS**

Cal.#2013-4 Application for Admani, 949 Blue Hill Terrace, Block 2409.02, Lot 4, 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>
Rear Yard Setback	25'		17'	8'	300-102
Side Yard Setback	25'		20'	5'	300-102
Total Coverage	25%	26.95%	33.47%	8.47%	300-102
Pool Location	Behind any Rear Wall of House		Side Yard	Yes	300-121.E.(1)

Greg Meese introduced himself as the attorney for Dr. and Mrs. Admani. This is the continuation of a hearing from April 4<sup>th</sup>. Mr. Davies explained that because of technical issues the meeting was not recorded so any members who were absent had nothing to review. Mr. Meese agreed to treat this meeting as the initial meeting relative to this application. He gave a summary of the original application stating that the applicant was seeking approval for considerable coverage variances. Members present were very concerned about the number of variances being requested and the applicant choose to withdraw its original application and to present a new plan with amendments designed to address concerns relative to the pool. The remaining variances include: pool location in the side yard rather than the rear yard and coverage of 29.21% versus the maximum allowable of 25%. The applicant has reduced the size of the driveway, pool and patio and the pool has been relocated so that there is no encroachment on the side or rear yard.

Mark J. Mantyla, engineer for the project was introduced and sworn by Mr. Davies. Mr. Mantyla stated that the size of the pool and patio has been considerably reduced in order to remain outside of the no disturbance buffer and the setback. As currently proposed, the pool is less than 500 square feet and is slightly smaller than an average size pool. A small retaining wall (one and a half feet) is required between the driveway and the pool and there is additional fencing to enclose the pool area. The pool equipment no longer encroaches into the rear yard. Mr. Davies marked as Exhibit A-3: Pool Site Plan, for Admani Residence, Borough of Franklin Lakes, Bergen County, New Jersey, Lot 4, Block 2409.02, dated December 23, 2012, revised through April 6, 2013, prepared by Mark J. Mantyla. Mr. Mantyla testified that the home was built around 1997 and the Admanis were not the original owners of the home.

A motion was made and seconded to open the public portion of the meeting for questions of Mr. Mantyla. No one from the public came forward and a motion was made and seconded to close the public portion of the meeting.

David Karlebach, 38 East Ridgewood Avenue, Ridgewood, N.J. was sworn by Mr. Davies. Mr. Karlebach is a licensed Professional Planner in New Jersey and he said that there are reasons to support this variance application. He described the lot as being shallow for the zone with only about 9 feet of area or building envelope where some sort of construction could take place. The pool size is not excessive and is actually smaller than the average size pool in this neighborhood. Lot coverage limitations address aesthetic and environmental concerns and Mr. Karlebach said that these concerns can be addressed through landscaping to soften the appearance of the pool. He introduced Exhibit A-4: A series of four photographs showing views of area trees and neighboring properties. The photos were taken by Mr. Karlebach two months ago. The applicant has indicated that he will comply with all landscaping requests made by the Board. Mr. Karlebach felt that the issue of increased coverage is correctly handled through engineering design and increased landscaping. In his opinion, there is no detriment to the area as a result of the proposed construction because there is no increase in noise or other impacts to neighboring properties in this cul-de-sac area. This is a normal and reasonable development and any visual impact is solved through fencing. Mr. Karlebach concluded that it is impossible to comply with the ordinances and all building is proposed within the building envelope. He added that the fence encroachment is being addressed.

A motion was made and seconded to open the public portion of the meeting for questions of Mr. Karlebach. No one from the public came forward and a motion was made and seconded to close the public portion of the meeting.

Mr. Meese concluded that the proposed location is the only location on the property that will work for the pool which is below average in size. In his opinion, the Board should grant a C-2 variance with no adverse impact on the zoning ordinance or adjacent properties.

Mr. DiFlora recalled that the plans to develop this property, which was originally farmland, was originally presented to the Zoning Board in the 1980s. At that time, it was understood that pools would not be possible on these properties and even when the impervious coverage ordinance was rewritten and softened it would still not be possible to locate a pool on some of these properties. Mr. Meese argued that this is a case of genuine hardship and he would not want the owner to go through the expense of litigation with the Borough.

A motion was made and seconded to open the meeting for comments from the public. No one from the public came forward and a motion was made and seconded to close the public portion of the meeting.

Mr. Messaros made a motion to deny the application, seconded by Mr. DiFlora.

Roll Call Vote

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

Nays: Mr. Badenhausen, Mr. Toronto, Ms. Schoenberg

Cal.#2013-5 Application for Vander Plaat – Vermeulen, Inc. (Funeral Home), 530 High Mountain Road, Block 3103.01, Lot 14, Use Variance and 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>
Funeral Home	Not Permitted	Nonconforming	Expansion	Yes	300-107.A.
Accessory Structures					
Side Yard Setback (Garage)	25'	11.75'	11.75'	13.25'	300-121A(1)(a)
Front Yard Setback (Trellis)	50'		30'+/-	20'+/-	300-121.A.(1)
Setback from Principal Building	10'		9.58'	.42'	300-121.A.(1)(b)

Retaining Walls Not

Tiered	Walls Tiered				
	Over 4'		4'-6"	Yes	300-121.F.(3)
Total Coverage	22.5%	53.60%	55.33%	32.83%	300-102
Parking	52 spaces	39 spaces	35 spaces	17 spaces	300-71.A.
Permanent Signs Permitted – One Professional Name Plate Not to Exceed 180 inches per Professional Occupant. Shall not be Freestanding. Proposed – Two Freestanding Signs – 20 square feet.					

300-128.C.(2)(a)[2]

THE APPLICANT’S ATTORNEY HAS CITED ADDITIONAL VARIANCES REQUESTED IN HIS NOTICE NOT INCLUDED IN THE ZONING OFFICER’S DENIAL APPLICANT HAS REQUESTED A WAIVER FROM SUBMITTING TO THE NJDEP GIVEN THAT THEY ARE NOT IN A WETLANDS.

Stephen Cytryn, attorney, introduced himself and stated that he is representing VanderPlaat – Vermeulen, Inc., located at 530 High Mountain Road, Franklin Lakes. The applicant is proposing to build a 615 square foot, 1 ½ story addition to the existing funeral home. Construction includes a water fountain, several walkways, parking lot addition and various landscaping features and two new freestanding signs. The applicant requires a D-2 use variance to permit this expansion which is a pre-existing, nonconforming addition. The applicant also requires several C bulk variances for the pre-existing, nonconforming structures and planned improvements. The addition will allow for the expansion of the main chapel in the funeral home and accessible rest rooms which will better serve the needs of the community. Additional proposals will beautify the property and the plan includes modification to the lighting at the site which will increase the impact on surrounding properties. The proposed expansion and improvements are well suited for the existing use of the site, will benefit the public good, the general welfare of the community and will not impair existing Borough ordinances.

Nick Tsapatsaris was sworn by Mr. Davies and stated that his office is located at 20 Wilsey Square, Ridgewood, N.J. The following exhibits were marked:

Exhibit A-1: Elevation and landscape of the proposed addition and landscaping on the outside prepared by Tapestry Landscape Architecture

Exhibit A-2: Entire site plan packet A200, A201 Proposed Elevations; consisting of

- A100: Proposed Basement Floor Plan
- A 101 – Proposed Ground Floor Plan
- A-102- Proposed Second Floor Plan
- SP1 – Proposed Site Plan
- SP2 – Grading and Utility Plan
- SP3 - Soil Erosion and Sediment Control Plan
- SP4 – Site Lighting
- SP4.1 – Site Lighting Plan Typical Evening
- SP5 – Landscape Plan
- SP6 – Existing Conditions Survey
- SP7 – Site Plan Details
- SP8 – Site Plan Details
- T 1 – Title Sheet-

Exhibit A-4: Site Plan, Typical Evening, dated 4/16/2013 after using photometric measurements.

Mr. Tsapatsaris referred to Exhibit A and said that this is an application for an addition to the existing building. He described the drawings in detail and said that the new materials will be the same as what exists at this time. The basement remains unchanged.

Mr. Tsapatsaris spoke regarding the site plan which shows a 615 square foot addition with improved site circulation and the parking spaces have been made to comply with current standards. Line striping is proposed to delineate parking spaces. A fountain in the front and several trellises, also in the front, are proposed to the northeast. Some of the grades have been adjusted to comply with the steep slope ordinance and the engineer agrees with the change in grading. Mr. Tsapatsaris stated that all lighting will comply with Franklin Lakes' ordinances. Because of the trellis and the fountain, the impervious coverage is being increased by less than 1% and which is nonconforming. The rear yard setback for the accessory building is an existing nonconforming variance along with the building height for the accessory building. The

setback from the principal building for the trellis is approximately 8.87 feet which is nonconforming. The existing number of parking spaces provided is 33 versus the required 47 spaces and is an existing non-conformity. He suggested 9 ft. x 18 ft. parking along with a variance for the aisle width. A variance is also requested for two freestanding signs.

A motion was made and seconded to open the public portion of the meeting for questions of Mr. Tsapatsaris. Gay Burn, adjoining resident at 5 Cranberry Court, North Haledon was concerned about the lighting plan. She asked for a description of the trellis and Mr. Tsapatsaris said that the trellis has a trellis roof which is exposed. No one else from the public came forward and a motion was made and seconded to close the public portion of the meeting.

Kathryn Gregory of Gregory Associates, 96 Linwood Place, Fort Lee, N.J., was sworn by Mr. Davies. She stated that she is the Professional Planner for the applicant. Ms. Gregory distributed a photo exhibit which was marked as Exhibit A-5 entitled Existing Conditions and Surrounding Neighborhood Characteristics, 530 High Mountain Road, Franklin Lakes, N.J. The exhibit consists of two aerial photographs from several internet sites which give a good view of the existing property and the surrounding area. Ms. Gregory pointed out that funeral homes are not a use that is permitted anywhere in the ordinances of Franklin Lakes. The funeral homes has existed since 1960 and the proposed 650 ft. addition is not large for a commercial use. The addition is to be located on the side of the home facing the north or the Temple and the garage is located in the rear of the property. Ms. Gregory said that approval of the application will promote the Municipal Land use Law including the general welfare. The applicant has chosen to enhance the front of the property which is not possible in the rear of the property due to parking constraints.

Ms. Gregory stated that the applicant is seeking several C variances and she pointed out that this is a triangular shaped property with limited parameters. She listed the specific ordinance requirements that would apply. The impervious coverage is only being raised by 1.73% and a small number of parking spaces have been removed. The applicant has a lease allowing them to use 75 parking spaces at the neighboring temple. The signs will face the motorist on High Mountain Road or the Reservoir and will not affect the residents. Ms. Gregory concluded that approving the application would have no substantial impairment to the public good. Regarding the zoning ordinance, she reiterated that funeral homes are missing from the zoning ordinance; however, the proposed expansion does not seem to impact the zoning plan.

A motion was made and seconded to open the public portion of the meeting for questions of Ms. Gregory. No one from the public came forward and a motion was made and seconded to close the public portion of the meeting.

Mr. Vander Plaat, property owner, 880 Goffle Road, Hawthorne, N.J., was sworn by Mr. Davies. He explained the operation of the funeral home stating that he has owned it since 1970. There is a small upstairs apartment which is occupied to provide additional security as well as to provide assistance after hours if needed. Mr. Vander Plaat described Exhibit A-3 which is a ten year agreement that was made with the Temple two years ago which allows the funeral home patrons to use the temple parking lot. Mr. Davies marked this agreement as A-3. There was a discussion relative to the apartment at the funeral home which is now occupied by a widow. Mr. DiFlora said that it is necessary to have the apartment legally approved through the Building Department; however, the Board is approving an application to expand the use of an existing building which is not a permitted use in a residential zone.

Juan Ospina, licensed Landscape Architect, of Tapestry Landscape Architecture, 7 Argyle Rd, Haskell, N.J., was sworn by Mr. Davies. Mr. Ospina testified regarding the water feature and stated that there is a pre-fabricated basin which houses a recirculating spicket and not a towering fountain. It will be drained in the winter and will not be covered. Low voltage lighting around the circumference of the patio space is proposed. The lighting is operated by timers that are on at dusk and go off at 10:30 or 11:00 P.M. During visitations at the funeral home additional low voltage lights will operate for safety reasons.

A motion was made and seconded to open the public portion of the meeting for questions of Mr. Vander Plaat and Mr. Ospina. Robert Burn, 5 Cranberry Court, North Haledon, was concerned because this is a residential area and asked if a residential security light was different from a business security light. Mr. Davies asked which lights will stay on all night for security purposes. Mr. Tsapatsaris said that low level lights will remain on and he did not expect them to affect nearby residents on Reservoir Drive. Ms. Tiberi recalled that the applicant testified that they would modify the lighting on site to conform with the

ordinance which does not allow illumination beyond the property lines. No one else from the public came forward and a motion was made and seconded to close the public portion of the meeting.

A motion was made and seconded to open the meeting for comments from the public. Josephine Espurck, 3 Split Rock Road, North Haledon, disputed the statement that there will be no impact to neighboring residents. Her home faces the rear of the funeral home and the trellis will impede her view of the reservoir and impact the value of her home. Gay Burn, 5 Cranberry Court, agreed stating that the height of the trellis will block her view as well. Mr. DiFlora pointed out that the ground level of the trellis is lower than the ground level of the building because the property drops towards High Mountain Road. The building addition will block a small area of Ms. Espurck’s view. Mr. Burn pointed out that the Board must consider and weigh the negative effects of the proposal on the neighbors. Mr. DiFlora stated that the applicant is making a slight alteration to a building that has existed since 1960. No one else from the public came forward and a motion was made and seconded to close the public portion of the meeting.

Mr. Davies recited the following conditions of approval:

The applicant will revise the plan to show that all three lights located off the property which serve the property will be removed. All lighting will fully conform to Borough ordinances.

The applicant will revise page one to show the additional sheet 4.1.

Applicant will clean out the existing storm drains and catch basins adjoining and serving applicant’s property.

The Board is not ruling that the apartment is permitted or not permitted.

Applicant agrees to turn lights on when it is dark and off by 11 P.M. around the building and fountain except for security illumination. All three pole lights will be removed. The fountain turns off when the lights are turned off. Appropriate security illumination will be determined by the Borough Engineer.

Each parking space to be numbered on the revised plan in order to verify 33 parking spaces.

Mr. Toronto made a motion to approve the application, seconded by Ms. Schoenberg.

Roll Call Vote

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

Nays: None

**NEW BUSINESS**

Cal.#2-13-6 Application for Montano, 729 Windswept Lane, Block 1512, Lot 7, Dimensional Variance, which is in violation of the following Section of the Ordinance:

<b><u>TYPE</u></b>	<b><u>REQUIRED</u></b>	<b><u>EXISTING</u></b>	<b><u>PROPOSED</u></b>	<b><u>VARIANCE</u></b>	<b><u>CODE</u></b>
Total Coverage	25%	28.89%	28.62%	3.62%	300-102

Anthony Montano, 729 Windswept Lane, Franklin Lakes, was sworn by Mr. Davies. Glen Lumia, president of Creative Time Construction, North Haledon who is the builder for the applicant, was sworn by Mr. Davies. Mr. Montano said that he has lived in Franklin Lakes since 1990 and is now retired. He wants to give the house to his daughter. The house was built in 1978 and needs upgrading which would include an addition. Coverage is currently 28.89% and would be reduced to 28.62%. Mr. Montano added that the shed and the bocce court on the property will be removed as well as a section of the driveway and pool patio area. The addition is 28 ft. deep and 40 ft. wide or 1,440 sq. ft.

The Board discussed the application and were concerned about the concrete that will be replaced along with the relocation of the front walkway. Verification of coverage was also discussed. When the meeting was opened to the public, Judy Inglesise (did not state her address) came forward and asked whether she would be able to see the addition from the street. Mr. DiFlora explained that the proposal is within the

setback which is allowed. Ms. Inglesise said that she had no objection to the proposal. No one else from the public came forward and a motion was made to close the public portion of the meeting.

Mr. Davies recited the following conditions of approval:

The applicant may not exceed 27.5% total coverage.

The addition will match the size and finish of the existing structure.

The applicant will revise the plans to show the proposed new location of the walkway.

The bocce ball area and the shed will be removed. A landscape plan will be submitted to show landscaping in the buffer area where the driveway will be removed to help stabilize the area.

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

Roll Call Vote

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

Nays: None

### **RESOLUTION**

#### **The Learning Experience, Block 1512.01, Lot 6**

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

Roll Call Vote

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

Nays: None

#### **Kayal, Block 1209, Lot 7**

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

Roll Call Vote

Ayes: Mrs. Gerber, Mr. Badenhausen, Mr. Bavagnoli, Ms. Schoenberg

Nays: None

### **MINUTES**

The minutes of April 4, 2012 were presented for approval.

Mr. Toronto made a motion to approve the Minutes, as presented, seconded by Ms. Schoenberg.

Roll Call Vote

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

Nays: None

### **VOUCHER**

Mr. Bavagnoli made a motion to approve the Voucher, as presented, seconded by Mrs. Gerber

Roll Call Vote

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

Nays: None

ZONING BOARD OF ADJUSTMENT MEETING

5-2-13

PAGE 7

Mr. Bavagnoli made a motion to adjourn the meeting seconded by Mr. Toronto. All in favor (aye).

The meeting adjourned at 11:32 PM.