

**ZONING BOARD OF ADJUSTMENT**

**MINUTES**

**NOVEMBER 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, Mr. Messaros, Mr. Badenhausen, Ms. Schoenberg,  
Board Attorney Davies, Board Engineer Tiberi

**Absent:** Mrs. Gerber, Mr. Khoury, Mr. Toronto, Mr. Frankel

**ORAL COMMUNICATIONS**

There were no questions or comments from audience members.

**NEW BUSINESS**

Cal.#2013-10 Application of Guttilla, 785 Ewing Avenue, Block 3204, Lot 2.01, Dimensional Variance which is in violation of the following Section of the Ordinance:

<b>TYPE</b>	<b>REQUIRED</b>	<b>EXISTING</b>	<b>PROPOSED</b>	<b>VARIANCE</b>	<b>CODE</b>
Berm	15'	N/A	0	15'	300-42.1.F.(3)

DATE DEEMED COMPLETE: August 13, 2013

DETERMINATION DATE: 11-11-13

Joseph Guttilla, 1143 High Mountain Road, Franklin Lakes and Mark Palus, of MAP Engineering, 170 Kinnelon Road, Kinnelon, N.J., were sworn by Mr. Davies. Mr. Palus stated that the applicant is proposing to remove the home presently located on the property. The variance is relative to an ordinance which recently took effect in the Borough restricting the changes to the grade within 15 feet of the property line. When soil tests were done for the septic work it was discovered that there is a high water level on the property which could affect the septic system as well as the dwelling. A decision was made to elevate the four to five feet above the existing grade in order to avoid basement flooding. The structure will conform to the height requirement despite the raising of the home; however, the septic field is being raised to conform to the States regulations. The septic field is located in the western portion of the property because it is the driest area and it is as far away as possible from a pond located on the property. The applicant is asking approval to raise the grade at the front of the house which would include the area along the right-of-way of Ewing Avenue. This would create a two foot high berm along Ewing Avenue which will also help to maintain privacy from this well-travelled thoroughfare. Landscaping will be provided along the berm to make the area more attractive.

The Board discussed the landscaping and the applicant said he would prefer arborvitae which is consistent with what exists on Ewing Avenue. Mr. Guttilla stated that the concrete foundations and the shed in the rear of the property will be removed. Because of the pond on the property, Ms. Tiberi suggested that the applicant create and record a drainage easement which would allow the municipality to correct future issues that could affect the Borough's drainage system. After a lengthy discussion, Board Members indicated agreement; however, the applicant was reluctant to grant the easement.

Mr. Messaros made a motion to open the public portion of the meeting. An inaudible resident from 712 Saber Drive was concerned about potential water runoff. Mr. Palus explained that although water runoff is increased the calculations he provided show that the run-off is actually reduced from what exists at this time. This is achieved through underground seepage pits tied to roof drain gutters where the water is collected below ground. The driveway runoff will also be collected and directed to the seepage pits. No one else from the public came forward and the public portion of the meeting was closed.

Mr. Davies stated that the reason for the granting of the variance is due to the high water table. He recited the following conditions for approval:

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1. Applicant would amend the plans to show a sight triangle to the satisfaction of the Borough Engineer with a height limit of 30 inches along the corner of Ewing Avenue and Saber Drive.
2. Applicant will show spot grades on the top and bottom of the timber wall to the satisfaction of the Borough Engineer.

There was more discussion of an easement; however, the property owner indicated that the potential for problems in this regard were minimal.

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

Roll Call Vote

Ayes: Mr. DiFlora, Mr. Badenhause, Mr. Messaros, Ms. Schoenberg

Nays: None

Cal.#2013-11 Application of Keshishian, 100 Delaware Lane, Block 3207, Lot 14, 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>
Total Coverage	25%	28.58%	38.86%	13.86%	300-102
Side Yard Setback Rock Wall in No Disturbance Area	20'	13.2'	13.2'	6.8'	300-102
Side Yard Setback Paver Patio	25'	17.5'	17.5'	7.5'	300-102
Rear Yard Setback Rock Wall in No Disturbance Area	20'	18.5'	18.5'	1.5'	300-102
Rear Yard Setback Waterfall	25'	18.4'	18.4'	6.6'	300-102
Rear Yard Setback Pool	25'	19.8'	19.8'	5.2'	300-102
Rear Yard Setback Paver Patio	25'	17.2'	17.2'	7.8'	300-102
Playground in No Disturbance Area	20'	3.3'	3.3'	16.7'	300-102

DATE DEEMED COMPLETE: September 20, 2013

DETERMINATION DATE: 1-8-14

**MR. CASCIO, THE APPLICANT'S ATTORNEY HAS REQUESTED THAT THIS APPLICATION BE CARRIED TO THE DECEMBER 5, 2013 MEETING.**

Ms. Schoenberg made a motion to carry this application to December 5, 2013, seconded by Mr. Messaros.

Roll Call Vote

Ayes: Mr. DiFlora, Mr. Badenhause, Mr. Messaros, Ms. Schoenberg

Nays: None

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Cal.#2013-12 Application of Kulick, 887 Scioto Drive, Block 2101.08, Lot 25, 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>
Retaining Wall	4'	N/A	8'	4'	300-121.F.(2)
Retaining Wall	15'	N/A	5'	10'	300-42.1.F.(3)
Retaining Wall	15'	3'	3'	12'	300-42.1.F.(3)
Roof Ridge Elevation	476.2	N/A	468.2	8	300-102
Driveway Construction	15'	N/A	12'	3'	300-42.1.F.(3)
Steps	15'	0	0	15'	300-121.A.1(a)
Retaining Wall	2'	4'	4'	2'	300-42.1.F.(3)

DATE DEEMED COMPLETE: September 23, 2013

DETERMINATION DATE: 1-11-14

Mr. Reppeto, (I am not sure of the name as it was difficult to hear) attorney, introduced himself on behalf of the applicant. Mark Palus, engineer, was sworn by Mr. Davies and stated that he has an office at 170 Kinnelon Road, Kinnelon, N.J. Mr. Palus described the property is located between Scioto Drive and Franklin Lake Road and noted that the applicant received all necessary approvals for the construction of a single family home which is presently under construction. Mr. Palus confirmed that the most recent plans are entitled "Soil Moving Plan, Lot 25, Block 2101.08, Borough of Franklin Lakes, Bergen County, N.J." dated October 23, 2012, revised through June 19, 2013, prepared by MAP Engineering. The plans were marked as Exhibit A-1. Mr. Reppeto stated that a recently adopted ordinance requires that all retaining walls, berms be setback a minimum of 15 feet from all property lines. The previous requirement was 20 feet which means that a variance is necessary for this property. The house itself remains fully conforming. The applicant is proposing additional improvements to the property including a swimming pool. Mr. Reppeto presented photos which were marked as Exhibit A-2 that show a drop off in elevation from Scioto Road to Franklin Lake Road. After studying various locations for the pool, the applicant has chosen to locate the pool just outside of the back door of the existing home at the main level of the house. It is an elevated pool located close to the house and as far away as possible from the lake that exists on the property. The height calculation of the house changes due to the location of the pool and because of the new ordinance the area where the building height of the house is measured also changes. Exhibit A-3, entitled An Expansion of the Rear Portion of the House, was distributed to Board Members. Mr. Palus indicated that this house does not appear expansively tall. The grade behind the pool is 432.5 feet or 5 feet higher than allowed by ordinance. The Zoning Officer determined that the patio and pool along with the infinity edge that spills over the pool running down to a lower level patio and supported by retaining walls are now part of the house in addition to being the lowest elevation of the house. The ridge of the house doesn't change but the measured point changes. By ordinance, when the patio is raised more than 30 inches, it is considered part of the house similar to a deck. Mr. Palus is comfortable using the edge of the pool at elevation 432.5 feet to measure the height. The only area where the elevation may be visible is from the rear of the property but it is somewhat obscured by Franklin Lake Road. The property and entire neighborhood will benefit from the natural screening which will be added and will deter from the height. Mr. Palus concluded that there will be no impact on the adjacent neighborhood.

Mr. Palus stated that the municipality permits wall heights up to 4 feet and there are a series of walls on the property that are less than 4 feet. The exception is a single wall on the eastern side of the proposed raised patios which is proposed at 8 feet. This wall will be significantly buffered by landscaping and Mr. Palus pointed out that there is no impact of the wall on adjacent homes because there are no homes in the area.

Mr. Palus responded to the letter dated July 11, 2013 from Boswell Engineering. He confirmed that all items will be addressed. The landscape architect will present a proposal to reduce the size of the driveway. Mr. DiFlora commented that in this case the focus is on the ridgeline of the structure which is conforming and not at the bottom portion of the lot.

Mr. DiFlora opened the public portion of the meeting for questions of Mr. Palus. No one from the public came forward and a motion was made to close the public portion of the meeting.

Richard Zimmer, landscape architect, for the applicant, was sworn. Mr. Zimmer stated that he is employed with Tapestry Landscaping, 7 Argyle St., Haskell, N.J. Mr. Zimmer referred to Exhibit A-4 which is the conceptual rear yard sketch dated 11/7/2013. He testified that the goal is to use broad sweeps of natural plantings to screen the walls especially the wall requiring the variance. He recommended boxwoods,

climbing vines and hydrangeas. Pre-existing lawn areas in the rear will be enhanced and maintained in addition to a buffer zone that is in close proximity to the stream. It was confirmed that the walls are made of structured poured concrete faced with real stone veneer.

Mr. Zimmer referred to the driveway plan which was marked Exhibit A-5. The coverage and amount of driveway has been decreased significantly and is located more towards the eastern side of the property. This relocation creates an elegant front lot with a walkway. The piers on the original plan have been removed. The driveway will have a 3 foot retaining wall.

Mr. Reppeto said that the applicant is seeking a C 1 variance in connection with the topography and there is a public benefit to the plan which requires the granting of a C 2 variance. Mr. Davies said that Mr. Palus would have to modify his drawings to reflect the new location of the driveway. Mr. Palus indicated he would revise the plan accordingly and would also address several other comments from the Borough Engineer.

Mr. DiFlora opened the meeting for questions of the Mr. Zimmer. No one came forward and Mr. DiFlora announced that that the public portion of the meeting was now closed.

Mr. Davies recited the following conditions of approval:

1. The applicant will amend the plan to reflect the 50 foot Riparian buffer.
2. Applicant will keep the silt fence and other construction improvements out of the 50 foot Riparian buffer.
3. Applicant will provide revised drainage calculations.
4. Applicant will amend the plans to show that all retaining walls will be faced with natural stone veneer.
5. Applicant will revise the plans to show the driveway in the new location in conformity with the Landscape Architect's plans showing same.
6. Variance to be granted at a maximum ridge height of the dwelling of 476.2 feet and a variance of 3.7 feet measured from the north corner of the upper patio/pool. This must be clearly shown on the revised plan.

Mr. Messaros made a motion to approve the variance with the above conditions, seconded by Ms. Schoenberg.

Roll Call Vote

Ayes: Mr. DiFlora, Mr. Badenhausen, Mr. Messaros, Ms. Schoenberg

Nays: None

**RESOLUTION**

**AB JC Investments/Estate of Frank & Yvonne Weidanz Block 1424.02 Lot 2 DENIED 10-3-13**

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

Roll Call Vote

Ayes: Mr. DiFlora, Mr. Badenhausen, Mr. Messaros, Ms. Schoenberg

Nays: None

**MINUTES**

The Minutes of October 3, 2013 were presented for approval. Ms. Schoenberg made a motion to approve the minutes as presented, seconded by Mr. Messaros.

Roll Call Vote

Ayes: Mr. DiFlora, Mr. Badenhausen, Mr. Messaros, Ms. Schoenberg

Nays: None