

**BOROUGH OF TINTON FALLS
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
April 7, 2022**

The meeting was opened by Mr. Lomangino at 7:30 PM.

Mr. Porzio read a statement of compliance with the *New Jersey Open Public Meetings Law* as follows:

This is a regular meeting of the Zoning Board of Adjustment of the Borough of Tinton Falls and is being held in compliance with the New Jersey Open Public Meetings Law. Adequate notice of this meeting has been given by posting on the bulletin board of the Municipal Building and by publishing in the Coaster and the Asbury Park Press.

Mr. Lomangino then led the meeting in a salute to the flag.

Ms. Sena took roll call.

Present: William Kuzmin, Charles Lomangino, Steven Porzio, Marc McKinley, Sheila Hatami, Emily DeMaio, Scott Provines

Absent: None

Also Present: Ms. Trish Sena, Board Secretary
Mr. Thomas Neff, Board Engineer
Mr. Thomas Hirsch Esq., Board Attorney

MINUTES-

Mr. Lomangino indicated that the minutes of the January 6, 2022, meeting have been previously distributed via email for the Board Members to review.

Mr. Lomangino offered a motion to approve the minutes of the January 6, 2022, meeting. The motion was seconded by Mr. Kuzmin.

ROLL CALL

AYES: Mr. Lomangino, Mr. Kuzmin, Mr. McKinley, Ms. Hatami, Ms. DeMaio, Mr. Provines

NAYES: None

ABSENT: Chairman Battista, Vice-Chairman Palmieri

INELIGIBLE: Mr. Porzio

Mr. Lomangino indicated that the minutes of the February 3, 2022, meeting have been previously distributed via email for the Board Members to review.

Mr. McKinley offered a motion to approve the minutes of the February 3, 2022, meeting. The motion was seconded by Mr. Kuzmin

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ROLL CALL

AYES: Mr. McKinley, Mr. Kuzmin, Mr. Lomangino, Mr. Porzio, Ms. Hatami, Ms. DeMaio, Mr. Provines

NAYES: None

ABSENT: Chairman Battista, Vice-Chairman Palmieri

INELIGIBLE: None

RESOLUTIONS-

BA2021-12 Resolution in the Matter of D.R. Horton

Mr. Lomangino advised that the proposed Resolution in this matter has been previously distributed to the Board Members prior to tonight's meeting. The Board previously approved this application on February 3, 2022.

Mr. Lomangino asked if any Board Members have any comment on said Resolution?

Ms. Hatami inquired about the language in the Resolution that would prohibit the sale of four-bedroom townhomes as discussed during the hearing? Attorney Hirsch explained that the Resolution states they were approved for three-bedroom units, therefore, they cannot have four-bedroom units. Mr. Neff also confirmed that the Resolution only approves the use of three-bedroom townhomes. He explained that if the Zoning Department were to receive an application proposing a fourth bedroom, it would be denied based upon the language in the Resolution. Ms. Hatami inquired about what would happen if someone did convert the unit into four-bedrooms without any permits or approvals? Mr. Neff explained that in the past the Borough has caught developers advertising for more than what they were approved for.

Mr. McKinley offered a motion to memorialize Resolution BA2021-12, the motion was seconded by Mr. Kuzmin

ROLL CALL

AYES: Mr. McKinley, Mr. Kuzmin, Mr. Lomangino, Mr. Porzio, Ms. DeMaio, Mr. Provines

NAYES: None

ABSENT: Chairman Battista, Vice-Chairman Palmieri

INELIGIBLE: Ms. Hatami

NEW BUSINESS-

BA2021-14

Jamie Luna Davila and Alexis Morales

112 Clinton Place

Block 1.02, Lot 55

Application for Bulk Variances

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Attorney Hirsch stated for the record that he has reviewed the proofs and affidavit of service from the applicant, all is in order as to form, the Board has jurisdiction to hear this matter.

Mr. McKinley offered a motion to accept service, the motion was seconded by Mr. Kuzmin. All present voted in favor.

Attorney Hirsch swore in the following witnesses

Alexis Morales, 112 Clinton Place- Applicant

Mr. Morales explained that with this application, they are seeking approval to construct an addition to the rear of the structure for a dining room. The house does not currently contain a dining room. He stated that they are also seeking approval for a paver patio that was previously constructed without permits or approvals. He explained that the paver patio was installed, and they were unaware that a permit was required. Mr. Morales indicated that they are also seeking approval to extend and close off the front porch as well.

Mr. Lomangino asked Mr. Morales to briefly describe the homes surrounding his property on Clinton Place. Mr. Morales testified that the house to the right of the subject property has a similar setback. He stated that his dwelling is approximately 10 feet to the neighboring property line. Mr. Kuzmin indicated that according to Mr. Neff's report the dwelling is approximately 4.0 feet to the property line, this is a pre-existing nonconformity.

Mr. Neff clarified that the additions both in the rear and the front of the dwelling have been reduced and therefore no longer require variance relief. The Applicant does not need a variance for building or lot coverage. He explained that the setbacks for the proposed additions also meet the Ordinance requirements. Mr. Neff explained that the paver patio in the rear yard that was installed without permits must be 10 feet to any property line, whereas the patio appears to only have a setback of 1 foot. Mr. Neff asked if the patio is even with the side of the house and Mr. Morales confirmed that it is. Mr. Neff then clarified that the patio has a setback of 4 feet.

Mr. Neff indicated that an accessory structure, such as the proposed pavilion that is less than 10 feet in height shall not be closer than 5 feet to a side lot line, whereas 3 feet is proposed.

Mr. Neff noted that both the house and the paver patio have a side-yard setback of four feet.

Mr. Porzio inquired if the pavilion structure is proposed to stay, as it looks crossed out in one of the plans. Mr. Morales confirmed that it will remain on the property.

Mr. Kuzmin asked if there is a particular reason why the pavilion structure cannot be moved two feet to meet the setback? Mr. Morales explained that because it was constructed without permits, they added it to this application to seek the proper approval. Mr. Neff asked if it is set in footings or attached to the ground at all? Mr. Morales further explained that it is moveable.

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Ms. Hatami asked that since the pavilion is not in any footings, would the Applicant consider moving it to have it conform with the setback Ordinance? Mr. Morales confirmed that they will move the pavilion structure to meet the proper setbacks.

Ms. Hatami asked Mr. Neff to describe the drainage in the area of Clinton Place. Mr. Neff explained that the properties are relatively flat in this area, however the Applicant noted that the paver patio was installed to help with drainage. Mr. Morales explained that the property does slope into the backyard. Mr. Neff stated that he has not received any complaints from residents in this area in regard to drainage.

Mr. Lomangino asked if the Board Members have any further questions of this witness? Hearing none, he asked if there were any members of the public who would wish to ask a question? Hearing none, he asked if any members of the public wish to make a statement in regard to the testimony?

Seeing none, Mr. Lomangino asked for a motion to close the public discussion.

Mr. Porzio offered a motion to close the public discussion, the motion was seconded by Mr. Kuzmin. All present voted in favor.

Mr. Lomangino asked for a motion.

Ms. Hatami offered a motion to approve BA2021-14, the motion was seconded by Mr. Porzio.

ROLL CALL

AYES: Ms. Hatami, Mr. Porzio, Mr. Kuzmin, Mr. Lomangino, Mr. McKinley, Ms. DeMaio, Mr. Provines

NAYES: None

ABSENT: Chairman Battista, Vice-Chairman Palmieri

INELIGIBLE: None

BA2022-04

Leonard & Stefanie Hoffman

14 Daniel Court

Block 105, Lot 42.02

Application for Bulk Variances

Attorney Hirsch stated for the record that he has reviewed the proofs and affidavit of service from the applicant, all is in order as to form, the Board has jurisdiction to hear this matter.

Mr. Kuzmin offered a motion to accept service, the motion was seconded by Mr. McKinley. All present voted in favor.

Attorney Hirsch swore in the following witnesses

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Leonard Hoffman, 14 Daniel Court- Applicant

Mr. Hoffman explained that he is here this evening seeking approval for an inground pool which requires a variance for lot coverage. He stated that there is an easement on the side of his property which is causing his lot coverage to exceed what is permitted in the Ordinance. He further explained that the easement is for a driveway that leads to his neighbor's property.

Mr. Neff clarified that 28% lot coverage is permitted, whereas 34.6% is being proposed. He explained that if the additional driveway easement is excluded, the Applicant is proposing a lot coverage of 26.1%

Mr. Hoffman explained that Mr. Neff's Engineering Review letter asked that the Applicant provide testimony on any existing drainage issues. Also, he noted that the driveway and fence exist beyond the property line. Mr. Hoffman explained that he hired a company two years ago to install the fence and he was unaware that they did not install it properly.

Mr. Hoffman noted that Mr. Neff's Engineering Review letter also described a pre-existing nonconformity in which the existing building coverage is 10.3% whereas 10% is permitted. Mr. Hoffman explained that he purchased the house this way and has not made any improvements that would affect the building coverage. Attorney Hirsch advised the Board that this should be treated as a variance, that way it corrects any violation on the property.

Mr. Neff clarified that the lot coverage that would have to be approved is for 34.6%

Ms. Hatami inquired about the easement and when it was granted? Mr. Hoffman stated that the easement was already in place when he purchased the property. Mr. Neff explained that a landlocked lot was created, therefore the only access to the landlocked lot is through the driveway easement.

Mr. Lomangino asked Mr. Neff if there are any issues with drainage? Mr. Neff stated that the Applicant is not drastically changing the grading therefore he does not anticipate any drainage issues.

Mr. Lomangino asked Mr. Hoffman to describe the distance from this home to the common property line? Mr. Hoffman stated that there is no other house to the right of his property, and the driveway easement is located to the left of his dwelling.

Ms. Hatami inquired about the distance from the rear deck to the property line? Mr. Kuzmin stated that they are here for a variance for lot coverage not for side-yard setbacks.

Attorney Hirsch asked if the Applicant agrees to remove the encroachments of the driveway and fence, and Mr. Hoffman confirmed that he will remove it.

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Ms. Hatami inquired about the landlocked lot and where it is located in relation to the subject property. Mr. Neff stated that his letter includes an aerial photograph which depicts the distance between the two properties which is approximately 40 feet.

Mr. Kuzmin clarified that the fence does not need to be removed, it just needs to be moved to meet the property line. Mr. Hoffman stated that when the pool company begins work, they will remove that portion of the fence and then put it back properly.

Mr. Lomangino asked if the Board Members have any further questions of this witness? Hearing none, he asked if there were any members of the public who would wish to ask a question? Hearing none, he asked if any members of the public wish to make a statement in regard to the testimony?

Michael Bruno, 6 Daniel Court- Mr. Bruno explained that he recently purchased the property at 6 Daniel Court and was informed about tonight's hearing at his closing. He stated that Mr. Hoffman provided him with all of the information for his proposed pool. Mr. Bruno stated that as his neighbor he has no comments or objections to the proposed plan. Mr. Bruno also indicated that he is a licensed Professional Engineer, and he sees no impacts on drainage with this project.

Seeing no further statements, Mr. Lomangino asked for a motion to close the public discussion.

Mr. Kuzmin offered a motion to close the public discussion, the motion was seconded by Mr. Porzio. All present voted in favor.

Mr. Lomangino asked for a motion.

Mr. Kuzmin offered a motion to approve BA2022-04, the motion was seconded by Mr. Lomangino.

ROLL CALL

AYES: Mr. Kuzmin, Mr. Lomangino, Mr. Porzio, Mr. McKinley, Ms. Hatami, Ms. DeMaio, Mr. Provines

NAYES: None

ABSENT: Chairman Battista, Vice-Chairman Palmieri

INELIGIBLE: None

MOTION TO ADJOURN

Mr. Lomangino asked for a motion to adjourn.

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Mr. Porzio offered a motion to adjourn, seconded by Mr. Kuzmin.

All in Favor: AYE

Time: 8:21 P.M.

Respectfully submitted,


Trish Sena
Zoning Board Secretary

APPROVED AT A BOARD OF ADJUSTMENT MEETING ON: May 5, 2022