

BOROUGH OF TINTON FALLS
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
August 4, 2022

The meeting was opened by Chairman Battista at 7:35 PM.

Chairman Battista 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.

Chairman Battista then led the meeting in a salute to the flag.

Ms. Acken took roll call.

Present: Chairman Battista, William Kuzmin, Charles Lomangino, Steven Porzio, Marc McKinley, Emily DeMaio, Scott Provines

Absent: Vice-Chairman Palmieri, Sheila Hatami

Also Present: *Ms. Regina Acken, Board Secretary*
Mr. Thomas Neff, Board Engineer
Mr. Thomas Hirsch, Esq., Board Attorney

Chairman Battista introduced the new Board Secretary, Ms. Regina Acken.

Chairman Battista read the Statement of Procedural Guideline for Public Hearing.

MINUTES

Chairman Battista indicated that the minutes of the July 7, 2022, meeting have been previously distributed via email for the Board Members to review.

Mr. Kuzmin offered a motion to approve the minutes of the July 7, 2022, meeting. The motion was seconded by Mr. Porzio.

ROLL CALL

AYES: Chairman Battista, Mr. Kuzmin, Mr. McKinley, Mr. Porzio, Ms. DeMaio, Mr. Provines

NAYES: None

ABSENT: Vice-Chairman Palmieri, Ms. Hatami

INELIGIBLE: Mr. Lomangino

RESOLUTIONS

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BA2022-01 5171 Asbury Avenue, LLC, 5171 Asbury Avenue

Chairman Battista advised that the revised 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 June 2, 2022.

Chairman Battista asked if any Board Members have any comment regarding the Resolution?
Hearing none, Chairman Battista asked for a motion to memorialize BA2022-01.

Mr. Kuzmin offered a motion to memorialize Resolution BA2022-01. The motion was seconded by Mr. McKinley.

ROLL CALL

AYES: Chairman Battista, Mr. Kuzmin, Mr. Lomangino, Mr. McKinley

NAYES: None

ABSENT: Vice-Chairman Palmieri, Ms. Hatami

INELIGIBLE: Mr. Porzio, Ms. DeMaio, Mr. Provines

BA2021-08 Ramon Rubio and Valeria Nieto, 1145 Hope Road

Chairman Battista advised that the proposed Resolution in this matter has been previously distributed to the Board Members prior to tonight's meeting. The Board approved this application on July 7, 2022.

Chairman Battista asked if any Board Members have any comment regarding the Resolution?
Hearing none, Chairman Battista asked for a motion to memorialize BA2021-08.

Mr. Kuzmin offered a motion to memorialize Resolution BA2021-08. The motion was seconded by Mr. McKinley.

ROLL CALL

AYES: Chairman Battista, Mr. Kuzmin, Mr. McKinley, Mr. Provines

NAYES: None

ABSENT: Vice-Chairman Palmieri, Ms. Hatami

INELIGIBLE: Mr. Lomangino, Mr. Porzio, Ms. DeMaio

BA2022-04 Arthur Hotaling, 14 Garrison Drive

Chairman Battista advised that the proposed Resolution in this matter has been previously distributed to the Board Members prior to tonight's meeting. The Board denied this application on July 7, 2022.

Chairman Battista asked if any Board Members have any comment regarding the Resolution?
Hearing none, Chairman Battista asked for a motion to memorialize BA2022-04.

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Mr. Porzio offered a motion to memorialize Resolution BA2022-04. The motion was seconded by Ms. DeMaio.

ROLL CALL

AYES: Chairman Battista, Mr. Porzio, Ms. DeMaio

NAYES: None

ABSENT: Vice-Chairman Palmieri, Ms. Hatami

INELIGIBLE: Mr. Kuzmin, Mr. Lomangino, Mr. McKinley, Mr. Provines

NEW BUSINESS

BA2022-05

Joel Patterson

55 Apple Orchard Drive

Block 61.05 Lot 19

Bulk Variance

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

Mr. Porzio offered a motion to accept service. The motion was seconded by Mr. Provines. All present voted in favor.

Attorney Hirsch swore in the following witness:

Joel Patterson, 55 Apple Orchard Drive, Applicant

Mr. Patterson explained that his denial letter from the Borough stated that the Applicant's renovation plan violated the setback ordinance and that the plan might also be violating the maximum building coverage as well. Mr. Patterson explained that when he consulted with his architect who drew up the plans, the architect made the proper adjustment for the setback and then assured the Applicant that he was not in violation of the building coverage. Understanding now that he is, in fact, still in violation of the building coverage ordinance, Mr. Patterson requested that the Board consider splitting his application into two phases, which would permit them to proceed with the renovation of the interior of the home, while waiting to work on the exterior phase until the spring.

Mr. Patterson told the Board that his family has made many changes to their interior space in anticipation of the renovation and noted hardship and inconvenience if not granted the relief.

Mr. Hirsch asked Mr. Patterson to explain his experience with receiving the denial. The Applicant reiterated that they initially received a denial notification due to the setback violation. It was indicated in the letter that there is potentially a building coverage violation. After making the adjustment to be

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compliant with the setback ordinance, the Applicant didn't take any action regarding the building coverage because Mr. Patterson's architect assured him that they were within legal limits.

Chairman Battista clarified with the Applicant that their proposed expansion is approximately 60 feet from the neighbor's house. Mr. Neff explained that the Applicant was initially declined for setback violation and that the Borough advised the Applicant to have his architect consult his exact measurements to determine the lot coverage percentage. Upon advice from his architect, the client resubmitted the application without concern for the building coverage. It was determined at that time that the applicant was in violation and a variance would be required.

Attorney Hirsch asked if the proposed changes would have any negative impact on drainage. The Applicant said that he doesn't foresee any issues.

Attorney Hirsch asked Mr. Patterson to explain the reconfiguration of the interior of the house. The Applicant said that they are creating a "Jack and Jill" bedroom and bathroom for their children and that they are utilizing some garage space to this end. They will leave ample footage in the garage to accommodate a car.

Chairman Battista asked if the home will be aesthetically consistent with the neighborhood if variance is granted? Mr. Patterson assured the Board that the renovation to his home is in alignment with the neighborhood as well as being obscured by trees. Mr. Lomangino asked if the addition would have the same siding as the original home. The Applicant assured the Board that it will.

Chairman Battista asked the public if they have any questions for the Applicant?

Chairman Battista asked the public if they have any statements for the Applicant?

Upon hearing none, he asked for a motion to close the public portion of the hearing.

Mr. Porzio made a motion to close the public portion. The motion was seconded by Mr. Kuzmin.

All present voted in favor.

Chairman Battista asked for a motion.

Mr. Porzio made a motion to approve BA2022-05. Mr. Lomangino seconded the motion.

ROLL CALL

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

NAYES: None

ABSENT: Vice-Chairman Palmieri, Ms. Hatami

INELIGIBLE: None

Chairman Battista introduced the concern regarding hearing the high number of Zoning Board applications currently with the Borough in a timely manner. He asked the Board if they would consider

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adding another meeting or two before the year ends. Going forward into 2023, he asked the Board to consider adding meetings as needed or if the Board should hold two meetings per month and remove one if it is not needed. Mr. Hirsch commented that historically, a second consecutive hearing would be added to the calendar for large applicants that may need more than one meeting. Mr. Hirsch stated that, in that situation, the applicant would not need to re-Notice because they would be in a public hearing upon making that decision. He also stated that some Boards have several dates per year which would be available for meetings if the need arises. Mr. Neff pointed out that these concerns are for the resident applications. Chairman Battista concurred and pointed out that waiting three or more months for a hearing date is not fair to the residents of Tinton Falls. Mr. Lomangino agreed in full and stated that the Zoning Board should meet twice a month in fairness to the taxpayers looking to improve their homes. He said it is easier to cancel than it is to add a meeting. Mr. Porzio asked if changing to two meetings per month is wise when some meetings only have one application. Chairman Battista suggested that the Board schedule one meeting per month with the second meeting only if there is a need. Mr. Neff pointed out that scheduling applicants is problematic at times because applicants cancel, don't provide Notice of Hearing properly, etc. These cancellations usually happen too late to add anyone to the agenda which adds to unexpected backlogs.

Mr. Lomangino asked the Board Secretary to give the Board 30 – 60 days' notice as to the volume of applicants.

After much discussion, the Board agreed that they are amenable to adding an extra meeting to both September and October in order to work through the current backlog. A decision regarding the schedule for 2023 will be discussed in a future gathering.

Mr. Kuzmin suggested scheduling three applicants per meeting in order to work most efficiently. Mr. Neff pointed out that oftentimes, the agenda is initially full, however, an applicant will cancel or not provide Notice of Hearing properly, etc. These cancellations usually happen days before a meeting which is too late to add another applicant to the agenda.

Mr. Brock Siebert addressed the Board regarding the lag time between applying for a variance and having a hearing. He pointed out that residents should be given priority over commercial concerns and/or there should be two meetings per month to meet the needs of the residents.

Mrs. Jennifer Siebert supported her husband's position and added that the delay in being granted a hearing until October or November delays their renovation project until March or April. She suggested a cancellation policy for applicants.

Chairman Battista told Mr. and Mrs. Siebert that the Board is working toward expediting all applications in the next several months.

MOTION TO ADJOURN

Chairman Battista asked for a motion to adjourn.

Mr. Porzio made a motion to adjourn. The motion was seconded by Mr. Lomangino.

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All in Favor: Aye

Time: 8:28pm

Respectfully submitted,

Regina Acken
Board Secretary

APPROVED AT A ZONING BOARD OF ADJUSTMENT MEETING ON: September 15, 2022

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