

**BOROUGH OF TINTON FALLS  
ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING  
October 6, 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 special 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, Vice-Chairman Palmieri, William Kuzmin, Charles Lomangino, Steven Porzio, Marc McKinley, Scott Provines

**Absent:** Sheila Hatami, Emily DeMaio

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

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

**MINUTES**

Chairman Battista indicated that the minutes of the special meeting held on September 15, 2022, meeting have been previously distributed via email for the Board Members to review.

*Vice-Chairman Palmieri offered a motion to approve the minutes of the September 15, 2022, meeting. The motion was seconded by Mr. Lomangino.*

**ROLL CALL**

AYES: Vice-Chairman Palmieri, Mr. Lomangino Chairman Battista, Mr. Kuzmin, Mr. Porzio, Mr. McKinley, Mr. Provines

NAYES: None

ABSENT: Ms. Hatami, Ms. DeMaio

INELIGIBLE:

**RESOLUTIONS**

None

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**NEW BUSINESS-**

**BA2022-08**

**Michael DeVito**

**134 Cloverdale Circle**

**Block 48.07, Lot 1**

**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.

*Vice-Chairman Palmieri offered a motion to accept service. The motion was seconded by Mr. Kuzmin. All present voted in favor.*

Attorney Hirsch swore in the following witness.

*Michael DeVito, 134 Cloverdale Circle – Applicant*

Mr. DeVito submitted the following Exhibit:

A-1 Booklet with photographs taken by the Applicant showing existing and proposed conditions.

Referencing Exhibit A-1, Mr. DeVito acknowledged the Borough ordinance which states that his corner-lot home has two front yards. He is seeking relief to replace the four-foot picket fence on one of those front yards which is situated on the side of his home. Referencing Exhibit A-1, Mr. DeVito highlighted the proposed six-foot vinyl fence which will replace the existing fence. He highlights the photo of the three proposed gates which will replace the two current gates. Mr. DeVito referenced the proposed 4-foot-tall evergreens which will be planted four feet apart along the fence.

Mr. DeVito called attention to the photos in Exhibit A-1 showing several six-foot tall fences on corner lots throughout the Borough.

Vice-Chairman Palmieri asked Mr. Neff to detail the ordinance regarding the specifications of fences located in the front yard. Mr. Neff responded that fences cannot exceed 4 feet and must be 50% open. However, he stated, Mr. DeVito's residence is located on a corner lot and therefore, the side of the house would be considered a secondary front yard. The ordinance dictates that the Applicant may have a 6-foot-tall fence, however, the 0-foot front yard setback must be met and there must be evergreen screening.

Vice-Chairman Palmieri asked how far the Applicant's fence is from the house? Mr. DeVito explained that the fence is 32 feet from the house which is highlighted in Exhibit A-1. The Applicant stated that he received a variance in 1995 for the current fence, which Mr. Neff added complies with the current ordinance.

Mr. Lomangino asked the Applicant if he has given any thought to installing a wrought iron fence? Mr. DeVito said that he is seeking more privacy than a wrought iron fence would provide.

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Mr. Hirsch asked Mr. Neff if there are other homes along Meadow Drive with similar setbacks? Mr. Neff replied in the affirmative and confirmed that the other properties have a setback of approximately 40 feet.

Vice-Chairman Palmieri compared the photos of the neighboring homes included in Exhibit A-1 and concluded that the Applicant's proposed fence conforms with the neighborhood. Chairman Battista stated that he is familiar with the neighborhood and agrees with the Applicant's assessment.

Chairman Battista asked the public if they have any questions for the Applicant? Upon hearing none, Chairman Battista asked the public if they have any statements for the Applicant?

Attorney Hirsch swore in the following witness:

Michelle Mackay, 130 Cloverdale Circle

Ms. Mackay stated that she is in support of Mr. DeVito's variance being granted and that the proposed fence is in line with the neighborhood aesthetics.

Vice-Chairman Palmieri asked if the Applicant would be willing to add more evergreens to the fence facing Cloverdale Circle? Mr. DeVito said he would be open to that suggestion.

Chairman Battista asked if there were any more comments from the public or from the Applicant?

Mr. McKinley asked if the rear fence is on his property line? Mr. DeVito answered that it is inside the property line.

Chairman Battista asked if there were any more comments from the public or from the Applicant?

*Upon hearing none, Chairman Battista made a motion to close the public portion. The motion was seconded by Mr. Porzio. All present voted in favor.*

Chairman Battista asked for a motion.

*Mr. Kuzmin made a motion to approve BA2022-08. The motion was seconded by Mr. Porzio.*

**ROLL CALL**

AYES: Mr. Kuzmin, Mr. Porzio, Chairman Battista, Vice-Chairman Palmieri, Mr. Lomangino, Mr. McKinley, Mr. Provines

NAYES: None

ABSENT: Ms. Hatami, Ms. DeMaio

INELIGIBLE:

Mr. DeVito asked if he needs to wait for an approval for the permit? Chairman Battista explained that the Approval will be Memorialized at the next meeting.

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**BA2022-16  
Brock Siebert  
736 Sycamore Avenue  
Block 21, Lot 1  
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.

*Vice-Chairman Palmieri offered a motion to accept service. The motion was seconded by Mr. Porzio. All present voted in favor.*

Attorney Hirsch swore in the following witnesses:

Brock Siebert, 736 Sycamore Avenue  
Jennifer Wetjen, 736 Sycamore Avenue

Mr. Siebert stated that they have a three-bedroom, 1.5-bathroom home to which they are proposing to add two bedrooms, one bathroom, a pantry, and a laundry room. He stated that they are adding to an existing second floor. Ms. Wetjen stated that the room entitled "three seasons room" on the blueprints is a living room. Chairman Battista confirmed with the Applicant that the permitted lot coverage is 28%, the existing, a pre-existing non-conformity, is 30% and the proposed is 35.3%. He confirmed that the permitted building coverage is 10%, the existing is 10% and the proposed is 15%. Mr. Siebert said the garage is used for storage and that the driveway does not meet the entrance to the garage.

Mr. Neff interjected that the Applicant will not be able to add a patio or deck to their property under this application. If that is the desire in the future, the Applicant will need to come again before the Zoning Board for approval.

Mr. Kuzmin asked what is the size of the garage? Mr. Siebert estimated the size of the one car garage as being 18 x 15 feet. Mr. Kuzmin asked if the Applicant considered removing the garage and adding a shed? Mr. Kuzmin asked if there is any likelihood that the garage will become a usable garage? Mr. Neff indicated that the garage is 18 x 18 feet.

Vice-Chairman Palmieri expressed concern with the amount of lot coverage being sought. He asked if the proposed addition would have a crawlspace and would it be used for storage? Ms. Wetjen responded that there is a proposed crawlspace which will not be used for storage. Mr. Neff interjected that the lot is approximately 13,000 square feet which is significantly undersized and stated that if the Applicant's lot was at the permitted 30,000 square feet, the coverage would be well within the ordinance specifications.

Mr. Lomangino asked if removing the garage would trigger a variance? Mr. Neff responded that it would. Vice-Chairman Palmieri asked if the Applicant had inquired about the availability to purchase the adjacent lot 2.01? Ms. Wetjen responded that it would be too expensive. Mr. Neff indicated that there

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is a home on lot 2.01 however it is situated very far from the Applicant's property line. Mr. Hirsch asked for a description of what is on the opposite side of the Applicant's property? Ms. Wetjen stated that there is a home on that property facing Palomino Place which is approximately 60 feet from the Applicant's property line.

Attorney Hirsch asked Mr. Neff if the 20-foot side yard setback, which is a pre-existing condition, will be exacerbated by the Applicant's proposal? Mr. Neff responded that the Applicant has revised their original plans to avoid triggering a side-yard setback.

Mr. Siebert mentioned that, upon consulting Google Earth, the estimated distance from his property line to the next-door neighbor's house facing Palomino is 110 feet.

Mr. Neff asked if the Applicant is adding any retaining walls or changing the topography of the yard? Mr. Siebert stated that there will be no change to the current slope and that they are not adding any retaining walls. Mr. Porzio asked if there are any draining issues? Mr. Neff answered that there aren't any. Mr. McKinley asked if there is a commercial entity in the back of their home? Mr. Siebert answered in the affirmative and stated that there is an approximately 30-foot area between the parking lot for the business and his residence. Mr. Lomangino asked if the exterior of the home will be consistent throughout including the siding and windows? The Applicant responded that it will, and that the shed will be included in that uniformity.

Chairman Battista explained that there needs to be a demonstration of hardship for the variance to be granted. He asked for specifics regarding the Applicant's property which create a hardship. Mr. Neff interjected that the horseshoe driveway contributes to the lot coverage on an already undersized lot. This driveway is necessary for safety reasons and therefore, cannot be removed. Mr. Neff continued that it is a pie-shaped lot, which is narrower at the front of the property, and this contributes to the hardship.

Vice-Chairman Palmieri asked where the paved driveway ends? Mr. Siebert answered that it is paved to the end of the existing house and that there is approximately one foot between the driveway and the house. Vice-Chairman Palmieri expressed concern over the building coverage increasing from 10% to 15%. Mr. McKinley mentioned that there is very little space for parking for the Applicant if they have guests to the home.

Mr. Neff reiterated that the proposed coverage on the Applicant's existing lot is 35.3%. If the Applicant were on a 30,000 square foot lot with the same proposed improvements, the lot coverage would be 15.8%. The building coverage on a 30,000 square foot lot would be 7.1% whereas 10% is allowed.

Mr. Kuzmin asked if the Applicant has considered reconfiguring the second floor? Ms. Wetjen responded that the result would create a bedroom that is only accessible through another bedroom. To avoid that, they would have to reconfigure the entire first and second floor. Mr. Neff added that a variance would be triggered if the Applicant added a second floor to the area indicated by Mr. Kuzmin.

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

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Attorney Hirsch stated that the Board cannot consider an odd-shaped or undersized lot as a detriment to the Applicant's proposal. He advised the Board to consider the surrounding area, the coverage allowed by ordinance, and the percentage of coverage permitted. When considering these factors, Attorney Hirsch reminded the Board to consider if granting the variance will have a substantial detrimental impact on the surrounding properties or substantially impair the intent and purpose of the zoning plan of the Borough.

Mr. Lomangino asked if there are any drainage issues which will negatively impact the neighboring properties? Mr. Neff said that he does not see or anticipate any drainage concerns.

Chairman Battista stated that the proposed addition presents no change to the frontal aesthetics of the home and that if the variance is granted, the structure would not be within 100-feet of any other residence. Attorney Hirsch asked if the Applicant's property size is one of the smaller lots in the vicinity? Mr. Siebert answered that his home was built in the 1940's before larger lots were being established in the area.

Chairman Battista mentioned that if the Applicant were to make any additional changes to the property outside of those being proposed in the application, and subsequently sells the property, they may be required to come before the Board.

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

*Upon hearing none, Chairman Battista made a motion to close the public portion. The motion was seconded by Mr. Lomangino.*

All present voted in favor.

Mr. Lomangino made a motion to approve BA 2022-16. The motion was seconded by Mr. Kuzmin.

Vice-Chairman Battista expressed concern that the Board will be setting a precedence with the approval of this application for neighboring properties with undersized lots. Mr. Neff stated that the Applicant is the smallest lot in the area. Mr. McKinley pointed out that the Applicant's lot is less than half of the ordinance permits. Chairman Battista reiterated that the proposed addition will not negatively affect the character of the surrounding area and based on the unique qualities of this lot, he does not see it as setting a precedence for other applicants.

Mr. Porzio asked Mr. Neff the proximity of other small lots in relation to the Applicant? Mr. Neff responded that they are to the Northeast, however, the Applicant's lot appears to be the smallest. Mr. Porzio stated he appreciates the hardships presented by the Applicant and the unique qualities of the lot and that those factors help alleviate his concern for setting a precedence with this application.

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**ROLL CALL**

AYES: Mr. Lomangino, Mr. Kuzmin, Chairman Battista, Vice-Chairman Palmieri, Mr. Porzio, Mr. McKinley,  
Mr. Provines

NAYES: None

ABSENT: Ms. Hatami, Ms. DeMaio

INELIGIBLE:

**MOTION TO ADJOURN**

*Chairman Battista made a motion to adjourn. The motion was seconded by Mr. Porzio.*

All in Favor: Aye

Time: 8:59pm

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. Acken'.

Regina Acken  
Board Secretary

APPROVED AT A BOARD OF ADJUSTMENT MEETING ON: November 3, 2022