

**BOROUGH OF TINTON FALLS
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
August 3, 2023**

The meeting was opened by Chairman Battista at 7:39pm.

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 led the meeting in a salute to the flag.

Ms. Acken, Board Secretary, took roll call.

Present: Chairman Ronald Battista, Vice-Chairman William Kuzmin, Mr. Ronald Palmieri, Mr. Charles Lomangino, Mr. Steven Porzio, Mr. Marc McKinley, Ms. Sheila Hatami, Mr. Scott Provines

Absent: Ms. Emily DeMaio

Also Present: Ms. Regina Acken, Board Secretary
Mr. Thomas Neff, Board Engineer
Ms. Christine Bell, Board Planner
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 regular meeting held on June 1, 2023, have been previously distributed via email for the Board Members to review.

Vice-Chairman Kuzmin offered a motion to approve the minutes of the June 1, 2023, meeting. The motion was seconded by Mr. Palmieri.

ROLL CALL:

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

NAYES: None

ABSENT: Ms. DeMaio

INELIGIBLE: None

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RESOLUTION

BA2022-13

Stavola Realty Company
157 Hamilton Road & 1810 Wayside Road
Block 109, Lots 12.01, 13.01, 15, 16, 18-24, 29.02
Bulk Variance and Site Plan

Chairman Battista advised that the proposed Resolution in this matter has been distributed to the Board Members prior to tonight's meeting. The Board denied this application on June 1, 2023.

Chairman Battista asked if any Board Members have any comment regarding the Resolution.

Ms. Hatami offered a motion to memorialize Resolution BA2022-13. The motion was seconded by Mr. Porzio.

ROLL CALL:

AYES: Ms. Hatami, Mr. Porzio, Vice-Chairman Kuzmin, Chairman Battista

NAYES: None

ABSENT: Ms. DeMaio

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

NEW BUSINESS

BA2022-15

Anthony J. Evans
24 Shark River Road
Block 146, Lot 1
Bulk Variance

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

Vice-Chairman Kuzmin made a motion to accept service, which was seconded by Mr. Palmieri. All present voted in favor.

Attorney Hirsch swore in the Applicant, Anthony J. Evans.

Edmund Fitterer, Esq. Ocean Twp, NJ - Attorney for the Applicant, asked Mr. Evans to describe the property and entrances, the irregular size and shape as well as how the current configuration came to be. Mr. Evans described the improvements that he has made to the property and stated that when making the upgrades, he didn't realize he needed permits.

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After discussing the ample size of the driveway in comparison to the property and to the expressed need, Ms. Bell commented that, under current conditions, there is 41% lot coverage, whereas 28% is permitted. Prior to the Applicant expanding the driveway, the lot coverage was 31%. The Applicant responded that the increase in driveway space was necessary due to his undersized lot and to provide safety for his family and visitors.

Chairman Battista noted that the original application included adding a porch to the residence, while the current discussions are only addressing the lot coverage. He proposed that the Applicant may want to consider adding the porch and reducing the driveway simultaneously. Based upon feedback from the Board, the Applicant decided to re-examine his plans and provide the Board with Plan B. The Application is carried to November 2, 2023.

BA2023-04

Julianne Toto
63 Water Street
Block 68.01 Lot 9
Bulk Variance

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

Mr. Porzio made a motion to accept service, which was seconded by Mr. Lomangino. All present voted in favor.

John Jackson, JJJ Law Firm, Manasquan, NJ - Attorney for the Applicant, submitted the following Exhibit:

A-1 Eight-page colorized photos, aerials, blueprints, and sketch of proposed renovation prepared by John Lombardi of John Anthony Architecture & Design, NJ

Attorney Hirsch swore in the following witness:
John Lombardi of John Anthony Architecture & Design, NJ

Mr. Lombardi presented his credentials to the Board and was accepted as an expert witness in Architecture.

Mr. Jackson explained the variance being sought and explained the pre-existing nonconformities. Mr. Jackson highlighted the structural, electrical, and aesthetic upgrades to the property and stated that there will be no impact on the septic or driveway because of the proposed renovation. He stated that the increase to lot coverage and building coverage would be minimal.

Attorney Hirsch swore in the Applicant, Julianne Toto. Ms. Toto said that her home requires renovations for practical, safety and esthetic purposes.

Chairman Battista asked if there were any statements or questions from the public for the Applicant. Upon hearing none, he asked for a motion.

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Mr. Porzio made a motion to close the public hearing. The motion was seconded by Mr. Palmieri. All present voted in favor.

Mr. Palmieri made a motion to approve BA2023-04. The motion was seconded by Mr. Lomangino.

ROLL CALL:

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

NAYES: None

ABSENT: Ms. DeMaio

INELIGIBLE: Mr. Provines

BA2023-05

Daniel and Larijean Hirce
82 Leland Terrace
Block 58.01 Lot 25
Bulk Variance

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

Mr. Lomangino made a motion to accept service, which was seconded by Mr. Porzio. All present voted in favor.

Mark Aikins, Attorney for the Applicant, described the Applicant's proposal which triggers the need for two variances which are being requested. The first is for maximum building coverage and the second is for maximum lot coverage.

Attorney Hirsch swore in the following witness:

Robert W. Adler, Jr, 1049 Broadway, West Long Branch, NJ

Mr. Adler presented his credentials to the Board and was accepted as an expert witness in Architecture.

Mr. Adler detailed the plans of the proposed renovation, with special attention being given to the specifications that triggered the variance. Referencing the Board Engineer's review letter, Mr. Adler addressed the Applicant's driveway which is currently encroaching onto the neighbor's property. In the review letter, Mr. Neff recommended that the required 5-foot setback be provided, however, Mr. Adler stated that the Applicant would prefer to keep it to the proposed 1-foot 8-inch setback. Mr. Neff asked that the Applicant agree to landscape the setback area. The Applicant agreed to provide a supplemental landscaping plan to the Mr. Neff.

Regarding the building coverage, Mr. Adler pointed out that the coverage is currently at 12.02%, whereas 10% is permitted. They are proposing 13.28%. The enlargement of the footprint is at the rear of the home with Naval Base Earle being the rear neighbor.

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Chairman Battista asked if there were any statements or questions from the public for the Applicant. Upon hearing none, he asked for a motion.

Mr. Porzio made a motion to close the public portion. The motion was seconded by Ms. Hatami. All present voted in favor.

Mr. Porzio made a motion to approve BA2023-05. The motion was seconded by Mr. Palmieri.

ROLL CALL:

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

NAYES: None

ABSENT: Ms. DeMaio

INELIGIBLE: Mr. Provines

The Board took a break at 8:57pm. Back on the record at 9:05pm.

BA2023-02

Triangle Tinton Falls

Off Green Grove Road

Block 128.03, Lot 39.01 and 29.01

Use Variance

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

Vice-Chairman Kuzmin made a motion to accept service, which was seconded by Mr. Palmieri. All present voted in favor.

Mr. Ken Pape, Heilbrunn Pape, Millstone, NJ, Attorney for the Applicant, stated it is a bifurcated application with use variance being proposed at this time with the site plans to be discussed in a later hearing if the Applicant is granted the use variance. He advised the Board of the witnesses that would be appearing throughout the hearing.

Attorney Hirsch swore in the following witness:

David Stires, David A. Stires Associates, LLC, 678 Route 206 Suite 6, Bridgewater, NJ

Mr. Stires presented his credentials to the Board and was accepted as an expert witness in Civil Engineering.

Mr. Stires submitted the following Exhibits:

A-1 "Aerial Exhibit" – color aerial view

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A-2 Color Rendering
A-3 "Access Exhibit"

Mr. Stires described the site using A-1 as a visual for the Board. He provided a general description of the topography of the site and highlighted the easement, which is the only access to the site. He described the proposed layout of the site as well as highlighting some of the particulars of the building and parking lot. He noted that half of the driveway is on the property owned by the Applicant and the remaining is on the easement owned by the Applicant.

Referencing Nuckel v. Borough of Little Ferry Planning Board, 208 N.J. 95 (2011), Attorney Hirsch raised an issue to the Applicant. In this case, the court found that creating a driveway from one commercial lot to another commercial lot for a different use created a second principal use requiring a D-1 variance, which was not indicated in the Notice of Hearing.

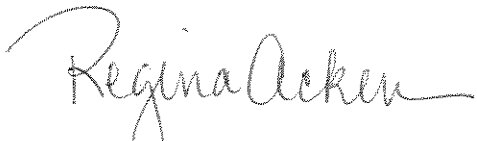
Mr. Pape asked for a brief recess at 9:28pm. Back on the record at 9:34pm

Upon returning, Mr. Pape requested that the application be carried to the October 5, 2023, Zoning Board Meeting. The Applicant will re-notice and provide the notice to Attorney Hirsch for his approval.

Chairman Battista made a motion to adjourn, which was seconded by Mr. Palmieri. All present voted in favor.

Time: 9:37pm

Respectfully submitted,

A handwritten signature in cursive script that reads "Regina Acken". The signature is written in dark ink and is positioned above the printed name and title.

Regina Acken
Zoning Board Secretary

APPROVED AT A BOARD OF ADJUSTMENT MEETING ON: September 7, 2023