

Tenafly Board of Adjustment
Regular Meeting
January 3, 2022 7:30 pm
MINUTES

OPEN PUBLIC MEETINGS ACT STATEMENT:

Chairperson Kaminsky read the Open Public Meetings Act Statement:

"In accordance with the provisions of the Open Public Meetings Act P.L. 1975, chapter 231, adequate notice has been made of this meeting by sending the same to The Record and The Star Ledger. Posting said notice on the public bulletin board in the lobby of the Municipal Center, posted to the Municipal Web-Site, and filing said notice with the Tenafly Municipal Clerk, all which occurred within 10 days for the calendar year of 2022. Additionally, Amended and Restated Notice of Annual Meetings of the Zoning Board of Adjustment notice has been made of this meeting by sending the same to The Record and The Star Ledger. Posting said notice on the public bulletin board in the lobby of the Municipal Center, posted to the Municipal Web-Site, and filing said notice with the Tenafly Municipal Clerk, all which occurred on December 23, 2021."

ROLL CALL:

Present: Mr. Brensilber, Mr. Callahan, Mr. Friedman, Mr. Kominsky, Mr. Lieberman,
Mr. Cho, Ms. Toro, Ms. Khorozian

Absent: Mr. Cytryn

Also Present: Mr. Menon, Ms. Chalarca, Ms. Lopez, Mr. Madaio, Mr. Kaufman, Mr. Zenn,
Mr. Hals, Mr. Grossman, Ms. De Nobile,

REORGANIZATION:

Swear in Re-Appointed Members:

- Mr. Cytryn was nominated as Vice Chair; motion by Mr. Friedman, second by Mr. Cho; all other members voted in favor
- Mr. Friedman was nominated as assistant to the Vice Chair

Swear in New Members:

- Mr. Kominsky was sworn in as Chair by Mr. Zenn
- Ms. Khorozian was sworn in as 2nd Alternate by Mr. Zenn
- Mr. Cho was sworn in as Full Member by Mr. Zenn

Appointment of Officers for 2022:

- Chair:** Motion by Mr. Friedman, second by Mr. Callahan to nominate Mr. Kominsky as Chair. There were no further nominations. A voice vote carried the motion.
- Vice Chair:** Motion by Mr. Friedman, second by Mr. Cho to nominate Mr. Cytryn as Vice Chair. There were no further nominations. A voice vote carried the motion.
- 2nd Vice Chair:** Motion by Mr. Cho, second by Mr. Friedman to nominate Mr. Callahan. Another motion was made by Mr. Lieberman, second by Mr. Brensilber to nominate Mr. Friedman. A voice vote carried the motion in favor of Mr. Friedman, 4-3.
- Bd. Secretary:** Motion by Mr. Cho, second by Mr. Friedman to nominate Mrs. Lopez as Board Secretary. There were no further nominations. All members were in favor.
- Asst. Secretary:** Motion by Mr. Friedman, second by Ms. Toro to nominate Ms. Chalarca as Asst. Secretary. There were no further nominations. All members were in favor.
- Bd. Attorney:** Motion by Mr. Friedman, second by Mr. Cho to nominate Mr. Zenn as Bd. Attorney. There were no further nominations. All members were in favor.
- Bd. Engineer:** Motion by Mr. Lieberman, second by Mr. Friedman to nominate Mr. Hals as Bd. Engineer. There were no further nominations. All members were in favor.

Approval of Minutes: December 6, 2021

A motion was made by Mr. Friedman and second by Mr. Lieberman to approve the minutes for December 6, 2021. A voice vote carried the motion. All voted in favor; none were opposed.

UNFINISHED BUSINESS:

Approved: Ranawat, 248 Devon Road

New Construction of single family structure *(received 5/11/21; decision by 9/10/21)*

Kominsky requested Lieberman to take Chair, and the resolution to approve the requested variances was discussed. A motion was made by Ms. Toro and seconded by Mr. Lieberman to memorialize the resolution for 248 Devon Road. Members Mr. Brensilber, Mr. Callahan, Mr. Friedman, Mr. Lieberman, Ms. Toro and Mr. Kominsky voted in favor, and none were in opposition. The resolution was memorialized.

NEW BUSINESS:

Hu, 49 Nelson Place (ZB-2021-28)

New home construction *(received 11/16/21; decision by 3/15/22)*

Construction of a new single-family home. Disturbance of steep slope requires planning board approval.

Present was attorney Mark Madaio on behalf of owner Anthony Hu to discuss a steep slope matter. Members were reminded to look at the Site Plan (revised on 12-10-21). Witness Sean McClellan, architect, was sworn in and accepted as an expert in that field.

Mr. Madaio presented that the board would discuss slopes greater than 25%, and the homeowner's intention is to remove the existing home and replace with new. Because of the slope, a deviation is needed from the steep slope. An earlier plan was produced, but Board Engineer Mr. Hals had concerns, so a new design was incorporated. Mr. McClellan presented the A1 set of plans and explained the proposal as follows: Discussion centered around the front yard and the driveway. Prior home was already removed. Members favor a curving driveway that lessens the intensity of the slope. The end of the driveway near the garages would be setback 7.4' off the property line (zoning requires 15'). Current driveway only 2.3" off the property line. Mr. Hals' letter was marked as A2 (12-27-21) by Mr. Madaio. Mr. Madaio read from paragraph 6 of the ordinance concerning driveways. Variance was filed for the 7'4," though not required as it was roughly 3 times larger than prior driveway.

Mr. Hals was sworn in by Mr. Zenn in order to discuss his review of the application, specifically the driveway, and he confirmed a variance was not necessary. In this case, with the slope in the front yard, the steep slope area is localized and likely man-made when the home was originally built.

Witness McClellan agreed with Mr. Hals' opinion, and confirmed there was no detrimental environmental impact to crossing the steep slope area. Drainage would also improve in this new plan. Members did not have any further questions for Mr. McClellan.

A question from the public was asked by Mr. Rosato, a neighbor of 49 Nelson Place. Mr. Rosato asked for clarification on the 4th item of the letter he had received concerning this matter. Mr. Madaio responded that this item was a "catch-all" phrase to address any additional variances that were not known at the time the notice was sent out. Mr. Zen explained that the applicant requested only one variance, and the "catch-all" phrase had no bearing on this matter. There were no other questions from the public.

Mr. Hals had no concerns with the plan, other than any approval of the application is contingent on a landscaping plan which addresses a retaining wall along the driveway (to be included in the resolution approval).

There were no questions from the members or the public for Mr. Hals.

Mr. Madaio summed up that the topography on this property presented a hardship, and that the plan as now presented would be an improvement on what currently exists.

There were no questions from the public regarding this application.

A motion was made by Mr. Lieberman, seconded by Mr. Friedman, to move to executive session. A voice vote carried the motion. Mr. Lieberman explained why he would approve this application. Motion made by Mr. Cho, seconded by Mr. Friedman, to approve this application with a landscaping plan as a requirement.

Roll Call Vote: Motion passed, 7-0

| In Favor | Opposed |
|----------------|---------|
| Mr. Lieberman | |
| Mr. Friedman | |
| Mr. Brensilber | |
| Mr. Callahan | |
| Mr. Cho | |
| Ms. Toro | |
| Mr. Kominsky | |

Kaufman, 16 Oak Avenue (ZB-2021-27)

Three season room and paver patio *(received 11/5/2; decision by 3/7/22)*

The application is to replace a screened porch with a larger three-season room (with windows but without HVAC) and proposed paver patio. 25% is the maximum lot coverage, and 29% is proposed (27.5 existing). 37.5% FAR is the maximum allowed, and 38.5% is proposed. 45% impervious coverage permitted, and 51.5% is proposed.

Owner Mr. Kaufman and licensed architect Ms. De Nobile were present. Mr. Zenn confirmed that any prior discussion regarding this property would be retained, and starting over would not be necessary. Ms. De Nobile reviewed her credentials and was sworn in.

The required maximum lot coverage is 25%, existing is 27.5%, and the plan calls for an increase to 29.2% (first variance).

The required maximum floor ratio is 37.5%, existing is 37.2%, and proposed is 38.5% (second variance).

Maximum impervious coverage is required at 45%, and existing is 48%, and the proposal calls for an increase to 51.5% (third variance).

Maximum rear impervious coverage is required at 50%, and existing is 34.2%, and the proposal calls for an increase to 39.2%, which is conforming.

The porch will be extended from 9 to 12', and the width from 13.5' to 15, for a more usable space. Ms. De Nobile explained that the driveway coverage would be slightly reduced due to the enlarging of the patio, and overall, there would be no impact to neighbors as the proposed addition is well within property lines.

Mr. Friedman asked for clarification regarding the impact that the plan would have on impervious coverage. Ms. De Nobile reviewed her calculations and agreed that there was an error in the calculations regarding the third variance. The impervious coverage was changed to 2645.5', resulting in an increase to 53.2% (not the proposed 51.5% above).

Chair Kominsky adjourned the meeting for 5 minutes.

Back in session, Ms. De Nobile corrected the rear impervious coverage figure to 45.2% (still conforming), and explained that the long driveway and undersized lot created a hardship, which resulted in the request to go 8% over the maximum impervious coverage.

Mr. Zenn asked for the dimensions for the screened in porch area. Ms. De Nobile explained that the existing length increased from 9' to 12', and the width increased from 13.5' to 15'.

Questions from the public: Mr. Grunes, neighbor from 18 Oak Avenue, asked about the impact of water flow on his, and other properties nearby. Ms. De Nobile mentioned that the paver patio could be sloped towards the driveway, which flows to the street, and away from Mr. Grunes' house. Chair Kominsky asked Ms. De Nobile about accommodations for runoff, and she explained runoff exposure would be minimal, and leaders and gutters would be added to the final drawing.

Comments from the public: Mr. Grunes was sworn in by Mr. Zenn. He wanted his and his neighbors' houses to remain dry, and he was concerned that water could enter these properties (as witnessed by recent major weather events). He urged the Board to strictly enforce the existing regulations so that damage to adjacent properties does not occur. Ms. De Nobile reinforced that the rear impervious coverage is under the maximum figure allowed by the town ordinance, and this is where the work is taking place.

Mr. Lieberman asked for a review of the total impervious coverage number and percentage.

A motion was made by Mr. Lieberman, seconded by Mr. Friedman, to move to executive session. A voice vote carried the motion.

Mr. Kominsky referred to the maximum impervious coverage going 8% over the allowed coverage, and that the application would require the patio to be sloped. Mr. Friedman was concerned about the runoff going down the driveway and pooling in the street, yet he was sympathetic about the restrictions of the small lot at 16 Oak.

Mr. Zenn reminded the Board that they could impose conditions to ameliorate any concerns they may have about drainage impact.

Mr. Lieberman commented that it seemed like a lot of impervious coverage for a small lot, yet he remained torn on the matter. Mr. Cho was concerned with the 8% overage, and questioned if a smaller porch (three-season room) could resolve the issue. Mr. Brensilber echoed his colleague's sentiments. Mr. Friedman suggested that the size of the patio was the main problem, and that a larger porch would likely be more important to the homeowner than the patio.

Mr. Kominsky asked Mr. Zenn if a variance for 180 sq. ft less than requested could be approved, and Mr. Zenn confirmed this was possible. There was a discussion about where the 180 sq. ft would be subtracted. Mr. Lieberman asked if the variance could remove the paver patio, but he felt that should require consultation with Mr. Kaufman. Mr. Zenn suggested they could ask Mr. Kaufman to revise the plan. When Mr. Kominsky asked how he felt about this, Mr. Kaufman replied he would consider the request to reduce the size of the patio, but was concerned about the placement of the steps leading from the patio. Ms. DeNobile suggested a patio landing of 20 sq. ft at the bottom of the stairs, and calculated the new impervious coverage at 2485.5 (49.9%). Mr. Zenn summarized that the new application would reflect this new figure.

Motion made by Mr. Lieberman, seconded by Mr. Cho, to approve the modified application.

Roll Call Vote: Motion passed, 7-0

| In Favor | Opposed |
|----------------|---------|
| Mr. Lieberman | |
| Mr. Cho | |
| Mr. Brensilber | |
| Mr. Callahan | |
| Mr. Friedman | |
| Ms. Toro | |
| Mr. Kominsky | |

Grossman, 270 Hickory Avenue (ZB-2021-29)

Entry foyer (received 12/10/21; decision by 4/11/22)

The plan is to construct an extended foyer on the front of the house. The front yard has a required setback of 33sq. ft, and a 20 sq. ft. setback is proposed.

Present was the applicant homeowner Benjamin Grossman, without a witness. He was sworn in by Mr. Zinn. Mr. Grossman wanted to enclose the front steps of his house in order to expand the foyer and make the entrance to his home handicapped-accessible. Mr. Grossman accepted the limitation that the application would only be for handicap-accessible capacity, and explained that this work would enable him to add an interior chairlift in the future.

Mr. Cho asked about the current front yard setback (25'), and Mr. Friedman confirmed that the construction would only involve the entrance, and not the entire width of the house. Other questions from the board concerned the amount of space in the interior landing before the steps, and the amount of frontage.

Chair Kominsky clarified that the plan should be approved as submitted, and not include any handicapped accessibility. Further discussion led by Mr. Zenn concerned the measurements of the proposed construction.

Mr. Lieberman questioned why the homeowner wouldn't just come to the board when any handicap accessibility was necessary. Mr. Grossman explained why his plan came to be.

Mr. Kominsky asked Mr. Zenn if the application was specific enough to grant a variance, and he confirmed that it was.

Ms. Khorozian asked how much a future exterior ramp would extend from the house, and Mr. Grossman did not have that figure.

Questions from the public: None

Comments from the public: None

A motion was made by Mr. Friedman, seconded by Mr. Lieberman, to move to executive session. A voice vote carried the motion.

Ms. Toro had concerns about the ADA-compliance features in the future, which was echoed by Chair Kominsky. Mr. Friedman countered that this plan would improve the definition of the front door on

Hickory Ave, and the request would have a minimal impact on the surrounding area. Mr. Cho was supportive of the application as it only called for 5' of construction.

Motion made by Mr. Friedman, seconded by Mr. Cho, to approve the modified application.

Roll Call Vote: Motion passed, 5-2

| In Favor | Opposed |
|--------------|----------------|
| | Mr. Lieberman |
| Mr. Cho | |
| | Mr. Brensilber |
| Mr. Callahan | |
| Mr. Friedman | |
| Ms. Toro | |
| Mr. Kominsky | |

Motion made by Mr. Cho, seconded by Mr. Friedman, to move to closed session. A voice vote carried the motion; none opposed.

CLOSED SESSION:

Discussion of possible litigation.

Motion made by Mr. Friedman, seconded by Mr. Cho, to close the closed session. A voice vote carried the motion; none opposed.

ADJOURNMENT:

Motion made by Mr. Cho, seconded by Ms. Toro, to adjourn the meeting. A voice vote carried the motion, and the meeting adjourned at 10:35 p.m.

Respectfully submitted,

Marisol Lopez

Board Secretary