

Tenaflly Board of Adjustment
Regular Meeting
March 7, 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 Tenaflly 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 Tenaflly Municipal Clerk, all which occurred on December 23, 2021.”

ROLL CALL:

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

Absent: Mr. Cho, Mr. Cytryn

Also Present: Mr. Menon, Ms. Chalarca, Ms. Lopez, Mr. Zenn, Mr. Capizzi, Mr. Simring, Mr. Hall, Mr. Albert, Mr. Roos, Mr. Abergel, Mr. Rigg, Mr. Caine, Mr. Skrable, Mr. Nadel, Mrs. Nadel, Mr. Kooij, Mr. Toltsis, Ms. Dungherr

Approval of Minutes: February 7, 2022

A motion was made by Mr. Friedman and seconded by Ms. Khorozian to approve the minutes for February 7, 2022 with one minor correction: Mr. Callahan was present, as he arrived after the first application. A voice vote carried the motion. All voted in favor; none were opposed.

UNFINISHED BUSINESS:

Bachar, 40 Mellon Lane (ZB-2022-01)

New home construction (*received 1/6/22; decision by 5/6/22*)

Regarding the denial resolution, Mr. Kominsky asked the Board for their opinion of Mr. Zenn's proposed resolution. Mr. Friedman motion to approve the denial resolution, and Ms. Toro seconded.

Roll Call Vote: Motion approved (denial), 5-0

In Favor	Opposed
Mr. Friedman	
Ms. Toro	
Mr. Brensilber	
Ms. Khorozian	
Mr. Kominsky	

Zhou, 56 Berkeley Drive (ZB-2022-02)

New home construction *(received 1/13/22; decision by 5/13/22)*

Regarding the approval resolution, Mr. Kominsky asked the Board for their opinion of Mr. Zenn’s proposed resolution. Mr. Friedman motioned to approve the resolution, and Ms. Toro seconded.

Roll Call Vote: Motion approved, 6-0

In Favor	Opposed
Mr. Friedman	
Ms. Toro	
Mr. Brensilber	
Ms. Khorozian	
Mr. Callahan	
Mr. Kominsky	

NEW BUSINESS:

Simring, 72 Churchill Road (ZB-2022-03)

Construction of in-ground granite swimming pool 20’ x 40’ with automatic cover, retaining walls, and patio. *(received 1/11/22; decision by 5/11/22)*

Present was attorney Mr. Capizzi on behalf of owner Mr. Simring to seek site plan approval (proposed location in front half of the lot whereas the ordinance requires it to be in the rear of the property). The lot is over-sized, and the request is for the pool to be 110’ from the front property line instead of the required 225’ distance. With the patio being in line with the existing front setback of the home and the pool placed closer to the house, it would reduce the extent of impervious coverage, reduce the disturbance to the property, and keep it further away from the neighbor’s property.

Mr. Skrable’s engineering credentials were reviewed, and he was sworn in as an expert in his field. Mr. Capizzi asked Mr. Skrable to bring up the site plan for discussion and speak about the existing conditions on the property. Mr. Skrable outlined what currently exists on the property, and the location of the proposed construction. He read from the ordinance and interpreted the statement, “depth furthest from the fronting street,” should apply to the longest side yard, which is about 450’ from Churchill Road. The ordinance states that the pool would have to be constructed in the rear half of that figure, which would be about 225’ from the fronting street. The proposed location is at 110’ from Churchill Road.

Mr. Skrable understood the intent behind the ordinance, but due to the over-sized property's deep lot and rear downhill slope, it wouldn't make sense to move the pool back another 115.' Doing so would lead to further disturbance of the property (removal of trees and adding an additional walkway), and it would place the pool closer to the neighbor's property.

Questions from the public: Mr. Caine (neighbor to the rear of 72 Churchill Road) asked about the construction of the fence in relation to an existing manhole cover. Mr. Skrable stated that the owner would be flexible with regards to the placement of the fence, which would allow the town access to the manhole cover. Mr. Capizzi added that as a condition of approval, the owner would work with the town DPW to coordinate the fence placement and provide access to the drainage easement.

Comments from the public: Mr. Caine was sworn in by Mr. Zenn. Mr. Caine approved of the pool's placement, and reinforced the importance of maintaining access to the drainage easement.

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

Mr. Lieberman agreed that the placement of the pool made sense, as long as the fence issue is resolved. Mr. Friedman agreed with Mr. Lieberman, and added that the property's depth made this request reasonable.

Motion by Mr. Brensilber, seconded by Mr. Friedman, to approve the application.

Roll Call Vote: Motion approved, 7-0

In Favor	Opposed
Mr. Brensilber	
Mr. Friedman	
Mr. Callahan	
Mr. Lieberman	
Ms. Toro	
Ms. Khorozian	
Mr. Kominsky	

Toltsis, 8 Lindley Ave. (ZB-2022-04)

Addition and alteration to a single-family home (*received 1/24/22; decision by 5/24/22*)

Present was architect Mr. Hall on behalf of owner Mr. Toltsis to seek site plan approval. Mr. Hall was sworn in as an expert in his field, and he reviewed his architect licensing and credentials at Mr. Zenn's request.

Mr. Hall displayed the site plan for discussion. The application is for an addition to both the 1st and 2nd floors of the residence. The lot size is 6000 sq. ft. (50' x 120'), and the ordinance requires a 9000 sq. ft. lot (75' width) for this proposed addition. The perimeter of the existing house would remain the same, with the exception of the proposed single-width garage addition. The 2nd floor addition would cover the existing 1st floor, and roughly half of the proposed garage.

Mr. Toltsis is seeking a variance to the lot width at the front yard setback as described above, as well as a variance to the placement of the 2nd floor addition at the front of the house. Mr. Hall explained

that in order to keep the front of the 2nd floor addition in line with the existing foundation, a slight variance of 24.7' from the front yard setback is requested, whereas 26' is required.

The third variance is for a reduced side yard setback of 5' on the right side of the property whereas 10' is required, due to the construction of the attached garage. The current detached garage at the rear of the property would be removed.

The fourth variance is for an increase to the excess building coverage to 31% whereas 25% is currently allowed. This is due to the narrowness of the lot.

The fifth and final variance is for an increase to the excess floor area ratio due to the 2nd floor addition. The application calls for coverage of 42.9% whereas 37.5% is permitted.

A benefit of the proposed construction is that impervious coverage would decrease from an excess of 53.5% to a compliant 44.9% due to the removal of the detached garage.

Several members of the board asked about the placement of the 2nd floor addition with regards to the side yard setback. Mr. Hall responded that the proposed 2nd floor addition could not be built in a cantilever style over the 1st floor, and if columns were added below to support the addition, the homeowner could not construct a new garage. Mr. Hall also clarified that building a one-car garage would not get the plan under the required FAR, and explained that the application tried to be conscious of the ordinance within the confines of a lot that is 2/3 the size of what the ordinance calls for.

Questions from the public: Neighbor to the right Iris Dugherr asked about the water retention plan regarding this new construction. Mr. Hall clarified that while there was no current water retention plan, the excess impervious coverage would be improved.

Comments from the public: Ms. Dugherr was sworn in by Mr. Zenn. Ms. Dugherr commented on the water retention issues on the block due to recent storms. She also commented on the placement of the garage as it relates to fire prevention concerns. Mr. Hall stated the Uniform Construction Code is largely a fire code, and the proposed garage walls are one-hour fire rated. Ms. Dugherr's concerns are addressed by the building code.

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

Mr. Friedman was not concerned with the front yard setback or the garage placement. His biggest concern was the FAR, which is a function of the size of the property. Mr. Lieberman approved of the thoughtfully constructed plans and the manner in which Mr. Hall explained them. Mr. Lieberman added that the proposal would be a nice improvement on the current house. Mr. Kominsky praised Mr. Hall's presentation, but ultimately was concerned with the garage placement and the FAR guidelines. Mr. Brensilber understood the homeowner's request and disagreed with Mr. Kominsky. With regards to Mr. Friedman's comment about the FAR being a function of the size of the property, Mr. Zenn clarified that the applicant's request for a variance was due to the exceptional nature of the lot being undersized. Ms. Khorozian approved of the plan in light of the small lot size.

Motion by Mr. Lieberman, seconded by Ms. Toro, to approve the application.

Roll Call Vote: Motion passed, 6-1

In Favor	Opposed
Mr. Lieberman	
Ms. Toro	
Mr. Brensilber	
Mr. Callahan	
Mr. Friedman	
Ms. Khorozian	
	Mr. Kominsky

Nadel, 51 Bliss Ave. (ZB-2022-05)

In-ground pool and spa with pool equipment (*received 1/19/22; decision by 5/19/22*)

Present was civil engineer Mr. Rigg on behalf of owners Mr. & Mrs. Nadel to seek site plan approval. Mr. Rigg was sworn in as an expert in his field, and he reviewed his civil engineering licensing and credentials at Mr. Zenn’s request.

Mr. Rigg presented the details of the proposed 30’ x 14’ swimming pool and 580 sq. ft patio. The application calls for 8.5’ side yard setback whereas 20’ side yard is required; 6’ for the rear yard setback whereas 15’ is required; 10’ for the side yard setback whereas 20’ is required; pool equipment to be placed in the front half of the property whereas the rear half of the property is required; 5,882 sq. ft proposed for impervious coverage whereas 3,757 sq. ft is permitted.

Mr. Friedman questioned Mr. Rigg’s claim that the pool would benefit the neighborhood as a whole, when a 6’ fence would conceal it from view. Mr. Kominsky asked if it was possible to design a smaller pool, and Mr. Rigg said it was possible, though the proposed size was what the homeowner desired. There was also a discussion about the possibility of flipping the location of the spa so that it wouldn’t encroach on the neighbor’s property.

Owner Mrs. Nadel was sworn in by Mr. Zenn. She explained that she had a discussion with her neighbor about the proposed construction, and he agreed with the plans. This neighbor, however, was not present tonight, as he was out of the country. Mr. Zenn explained that this was hearsay. Mr. Brensilber felt that if the homeowners added some color to the presentation, it would help their application. Mrs. Nadel responded that if the board was concerned with the location of the spa, she would be open to moving it. Mr. Kominsky adjourned the meeting for a short break so that the homeowners could speak to Mr. Rigg about any issues as a result of moving the spa.

After the break, Mr. Rigg announced that Mr. & Mrs. Nadel wished to proceed with the application as initially intended.

Questions from the public: None.

Comments from the public: Neighbor Mr. Abergel was sworn in by Mr. Zenn. He stated that based on the level of renovations that Mr. & Mrs. Nadel had undertaken, as well as the benefit to children, the proposed pool and spa would be a welcome addition to the neighborhood.

Neighbor Mr. Roos was sworn in by Mr. Zenn. He agreed that the pool would benefit the neighborhood, and spoke highly of Mr. & Mrs. Nadel.

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

Mr. Kominsky asked the board members if they were comfortable with the spa being 8.5' from the side yard. Ms. Khorozian wanted clarity on the number of variances. Mr. Zenn restated the proposed and allowed figures from the initial application. Ms. Khorozian felt that the 5 variances and the proposed layout was excessive. Mr. Friedman had an issue with the impervious coverage going up on the property, and felt that the pool was too large for the size of the backyard. Both Mr. Lieberman and Mr. Brensilber agreed with fellow board members.

Motion by Mr. Lieberman, seconded by Ms. Toro, to deny the application.

Roll Call Vote: Motion passed (denial), 7-0

In Favor	Opposed
Mr. Lieberman	
Mr. Friedman	
Mr. Brensilber	
Mr. Callahan	
Ms. Toro	
Ms. Khorozian	
Mr. Kominsky	

Kooij, 11 Birchwood Place (ZB-2022-06)

Installation of portable hot tub in rear of house (*received 1/21/22; decision by 5/24/22*)

Present were Mr. & Mrs. Kooij to seek site plan approval. Mr. Kooij was sworn in and explained that because the hot tub was portable, he did not seek a permit or variance when he installed it. He added that he's submitted applications for permits in the past (pergola construction), so he never intended to purposely break any town building laws. Mr. Kooij displayed a set of 5 photos and 2 drawings (Exhibit A-1) to give a clearer picture of his property and the hot tub placement. He explained the reasoning behind the placement of the spa with regards to some unique features of his property and the proximity of neighbors.

Mr. Friedman asked Mr. Kooij to clarify how far from the side property line the hot tub was, and if he had considered placing it in front of the patio. Mr. Kominsky reminded Mr. Kooij that the board could not take into account that the hot tub was already installed when making a decision on this application.

Questions from the public: None.

Comments from the public: None.

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

Mr. Callahan felt that it was an honest mistake, and added that the homeowners should have consulted an expert to help them consider options to move the hot tub. Mr. Lieberman felt that the location of the hot tub was fine, and because Mr. Kooij was not trying to hide anything by seeking a

permit for the pergola, he would vote to approve the application. Mr. Friedman agreed with Mr. Lieberman's opinion, while Mr. Kominsky was up in the air. Ms. Toro felt that moving the hot tub to the front middle of the yard was problematic because of the size of the hot tub. Mr. Kominsky then stated that the application could be approved with the condition that the shrubs next to the hot tub remain in place.

Motion by Ms. Toro, seconded by Mr. Lieberman, to approve the application with the above condition.

Roll Call Vote: Motion passed, 5-2

In Favor	Opposed
Ms. Toro	
Mr. Lieberman	
Mr. Brensilber	
	Mr. Callahan
Mr. Friedman	
Ms. Khorozian	
	Mr. Kominsky

ADJOURNMENT:

Motion made by Mr. Brensilber, seconded by Mr. Lieberman, to adjourn the meeting. A voice vote carried the motion, and the meeting adjourned at 10:11 p.m.

Respectfully submitted,

Marisol Lopez

Board Secretary