

The meeting was opened by Chairman Palmieri at 7:30 p.m.

Chairman Palmieri 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 The Coaster and the Asbury Park Press.*

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

Ms. Connolly took roll call.

Present Mr. Palmieri, Mr. Slazyk, Mr. Lomangino, Mr. Battista, Mr. McKinley,  
Ms Berk, Ms. Hatami

Absent: Mr. Porzio, Mr. Brawner

Also present: Mr. Hirsch, Esq.  
Mr. Neff, Board Engineer  
Ms. Connolly, Board Secretary

Chairman Palmieri read a statement of procedural guidelines.

### **New Business**

#### **BA 2017-06 – Drennan, John & Christina, 15 Partridge Lane, Blk 38.03 lot 25, Lot coverage; building coverage**

Mr. Hirsch states that he has reviewed the Affidavit of Publication and Proof of Service and they are in order as to form.

Mr. Lomangino makes a motion to accept service, Seconded by Mr. Battista. All in Favor.

Mr. Hirsch swears in John Drennan, residing at 15 Partridge Lane, Tinton Falls and is the applicant in this matter.

Chairman Palmieri asks Mr. Drennan to state why he is before this Board tonight. Mr. Drennan states he wishes to add an in-ground pool in the backyard, put concrete around the pool and add a 450 sq. ft. addition to the back of the house. He states that the lot

coverage proposed is 23% where 18% is permitted and the building coverage proposed is 9 ½ % where 8% is permitted.

Chairman Palmieri notes the pool location survey revised on May 19, 2017.

Mr. Drennan explains where his patio and pavers are located on the survey. He also points out where a former addition from a few years back is located. The prior addition enlarged a one-car garage to a two-car garage and bumped the back of the house out. He states that he has lived in the house for approximately ten or eleven years.

Mr. Drennan explains where he wants to install the pool and the concrete apron. This brings the proposed lot coverage percentage to 23%.

Mr. Palmieri brings up the prior addition and Mr. Drennan states that no variances were needed at that time. Mr. Neff states that the existing building coverage is 7.9% where 8% is permitted.

Mr. Palmieri asks questions as to where his neighbors' homes are located in relation to his property lines.

Mr. Palmieri notes that based on the survey, it looks like the driveway is over the property line. Mr. Neff states that based on the survey, it does look that way.

Mr. Palmieri also looks at the fence on the survey.

Mr. Palmieri asks about the building coverage. Mr. Neff states that proposed would be 9.5%

Mr. Battista asks about the basketball court in the back yard. The survey states that it is "paved area." Mr. Drennan states that there is a playground/swing set with a slide, the paved area is an asphalt basketball court. Mr. Neff states that the playground is not included in the lot coverage but the basketball court is. Mr. Neff states that the basketball court is 27' x 27'

Chairman Palmieri explains what lot coverage means to Mr. Drennan. Grading and drainage are discussed.

Chairman Palmieri asks the applicant how he can reduce his proposed improvement to get closer to the 18% permitted coverage.

Mr. Neff states that if the basketball court were to be removed, the lot coverage would go down to 20 ½ %

Chairman Palmieri explains what a "hardship" is to Mr. Drennan.

Chairman Palmieri asks if any Board members have any comments. Mr. Lomangino states that he believes the applicant should take some time and figure out a way to come back before the Board with a plan that results in less lot coverage. Ms. Hatami agrees.

The applicant asks for clarification. Mr. Hirsch explains that the Board is having a problem with the 5% overage on lot coverage. The Board wants you to find a way to reduce that percentage. Mr. Hirsch states that it is your choice and the Board has made a few suggestions. For example, one of the suggestions is that if the basketball court were to be removed, your coverage would go down to 20 ½ % , you would still need a variance but you would be reducing your percentage significantly. The Board is not saying that you have to make a decision this second, you can carry this application to the next available meeting. It has also been suggested that professionals help you with your plan.

Mr. Drennan asks when the next available meeting date is should his hearing be continued. July 20, 2017 is given as the next available date.

Mr. Drennan would like to take a few minutes to call his wife and discuss. Chairman Palmieri states that he can take some time tonight and come back at the end of the meeting, which he elects to do.

**BA 2017-09 Michalski, William, 14 Hialeah Court, Blk. 64.02 lot 6**

Mr. Hirsch states that he has reviewed the affidavit and proof of service and they are in order as to form.

Motion is made by Mr. Lomangino and seconded by Mr. Battista to accept service. All in favor.

Kevin Kennedy, Esq. states that he is representing the applicant and makes his opening statement. Mr. Kennedy states that he is relying on the papers submitted. Mr. Kennedy states that the applicant is the original owner of the home and in 2003 hired a contractor to install a paver patio and in 2008 hired a contractor for a play house, permits were not obtained and he is now in the process of selling the property. It has been discovered that these improvements are located in the front yard area requiring variance relief.

Mr. Hirsch swears in William Michalski, 14 Hialeah Court, Tinton Falls, NJ. Mr. Michalski explains why the improvements were constructed at their current locations. Mr. Kennedy asks that the tax map showing this property and it's irregular shape be marked as A-1.

Mr. Michalski explains where the paver patio is located and that it is 510 sq. ft. Mr. Kennedy asks that the four pictures be marked into evidence and they are marked A-2 through A-5.

Mr. Michalski explains that when he moved into the home there were no mature trees providing privacy along his back property which runs alongside Rte. 537 and it is this

reason that he put the patio and playhouse where it is located today, which is the front yard. Also, Mr. Michalski states that he lives on a cul de sac and it is a safe place for the kids to play.

Mr. Michalski states that when he retained a contractor, he was told that he did not need to get permits because it was removable. Mr. Michalski explains the pictures marked into evidence.

A-2 – Front walkway, to the left is where the patio is constructed.

A-3 – Front of the house

A-4 – Picture of the play house

A-5 – Picture of the patio

Mr. Michalski explains the location of the existing playhouse and the details of the structure. He testifies that it is constructed of wood and that it is approximately 20 or 30 feet from the patio. It is less than 100 sq. ft. It was installed in approximately 2008 and is on cement blocks.

Mr. Michalski states that he was unaware that permits were needed for this structure.

Mr. Kennedy asks Mr. Michalski if the patio or playhouse is too close to any of the neighbors and that there is sufficient distance from the side property lines. Mr. Michalski states in the affirmative.

Mr. Hirsch asks Mr. Kennedy to go to the survey and state where the improvements are with regard to adjacent lots. Mr. Neff states that the applicant is lot 6 and the adjacent lots are 4, 5 and 7. There is also a lot 6 in back of the defendant in an older development on Wellington Drive. Property lines are discussed and where the improvements lie with regard to neighboring property lines.

Mr. Kennedy asks the applicant if there have ever been any complaints regarding the patio and playhouse in the front yard. Mr. Michalski states there have never been any complaints.

Chairman Palmieri asks about this property having two front yards/reverse frontage. He also asks if there is a backyard. Mr. Neff states that technically there are two front yards and two side yards. Mr. Neff states that the accessory structures could be located on the sides of the house.

Ms. Hatami asks where the front yard ends and the side yard begins.

Mr. Battista states that he looked at the satellite view of the property and notes that where the patio and playhouse are located, has the most buffering and is in the most secluded part of the yard.

Mr. Neff agrees that the lot is very irregular. He states that he is not sure the setbacks on the survey are correct. He asks Mr. Kennedy if he agrees that there is a hardship on this property due to the shape of the lot – the fact that it is on a cul-de-sac and that it is on a dual frontage lot, no rear yard. Mr. Kennedy agrees.

Chairman Palmieri asks if there is any public has any questions or comments.

Ms. Yvonne Mazza, 11 Hialeah Court, is sworn in by Mr. Hirsch. Ms. Mazza states she lives on lot 7 next door. She states her property is next to the playhouse and patio in question. Ms. Mazza states she constructed a 4 ft. fence because she was not allowed to install a 6 ft. fence. She states that she has the same front-yard issues. Ms. Mazza states that on her survey, the landscaping from 14 Hialeah is over the property line and is on her property. In order to put up her fence, she had to have the landscaping and rocks moved. Ms. Mazza states that directly over her fence, just a few feet from her property line, is the playhouse. Mr. Mazza states that the playhouse can be seen from the street and she is concerned that the next owner may not keep the playhouse and patio as nice as it is currently.

Chairman Palmieri states that the resolution can state that the buffering be maintained.

She states that it is odd to have a BBQ and party on the front lawn, whether it is hidden or not. It is noisy.

Mr. Hirsch asks how far her house is from the property line. Ms. Mazza states that she has brought a copy of her survey and it is marked M-1 into evidence. There is discussion regarding the survey. Ms. Mazza states that her fence was installed in a straight line even though her property is angled. She states that the playhouse is right over her fence.

Mr. Hirsch asks how far the playhouse is from the property line. Mr. Neff states it is approximately 12 ft. from the property line.

Mr. Hirsch asks how far the patio is from the common property line. Mr. Neff states that it is approximately 52 ft. from the property line.

Mr. Hirsch asks if she would like to state anything else for the record, Ms. Mazza states not now.

Ms. Hatami asks how high the playhouse is. Mr. Michalski states it is 8 ft.

Mr. Battista asks further questions about the buffering and keeping the existing trees. Mr. Hirsch states that a landscape plan would be beneficial specifying what is there.

Mr. Kennedy asks Mr. Michalski if the Board were to approve the application would you provide a landscaping plan indicating the nature and the number with the understanding that the shrubbery around the playhouse and patio would have to be replaced or maintained as necessary. Mr. Michalski that he is fine with that.

Chairman Palmieri asks how big the playhouse is. Mr. Neff states that it is approximately 89 sq. ft. and is approximately 12 ft. from the property line. No setback issues.

Ms. Mazza reiterates that the applicant's landscaping is on her property. Also that the playhouse does not have a permit and is on the front lawn. She states that the patio does not have a permit and is on the front lawn. She states that she does not understand why there is this zoning process if people can build without permits and these things can just stay there for years. She states that she did not install the fence that was her first choice because she obtained a permit and followed the rules.

Mr. Hirsch states that the Board looks at it as the improvements do not exist and does it make sense to allow these variances with the facts that exist. The Board does not look at the application as if the improvements are there and already built. The Board looks at it as if the improvements are not existing.

Ms. Mazza states that there is side property, these things do not have to in the front yard in front of the front door. She understands that there are two front yards but there is side property.

Mr. Slazyk states that you could have come before the Zoning Board to ask for a variance for the fence that you wanted. Ms. Mazza states that she understands that.

Ms. Mazza clarifies that she would like the playhouse moved closer to the patio/ playground area.

Chairman Palmieri reiterates that it is a very irregular lot with the shape and reverse frontage along Rte. 537.

Chairman Palmieri asks to close the public portion of this application.

Mr. Lomangino makes a motion to close the public portion and it is seconded by Mr. Battista. All in Favor.

Chairman Palmieri asks if there is any discussion.

Mr. Battista states that he would like to make a motion to approve, taking into account the landscape plan/ buffer remain and maintained in perpetuity so long as those improvements exist. Second by Ms. Hatami.

#### Roll Call

Ayes: Mr. Battista, Ms. Hatami, Chairman Palmieri, Mr. Slazyk, Mr. Lomangino, Mr. McKinley, Ms Berk  
Nays: None

Absent: Mr. Porzio, Mr. Brawner  
Not eligible: None

Chairman Palmieri states that there will be a short 5 minute break at this time – 8:57 p.m.  
Back on the record at 9:05 p.m.

Chairman Palmieri states that Mr. **Drennan (BA 2017-06)** is back regarding his application from earlier this evening.

Mr. Hirsch reviews that Mr. Drennan is back after requesting some time to consider whether to carry his application or to work up a revised plan reducing the lot coverage.

Mr. Drennan asks if he reduces the size of the basketball court and reduces the pavers and the front sidewalk from the front yard, would that be the answer.

Mr. Neff states that if the front walkway were removed and the basketball court and patio were reduced, it would only be a reduction of about 426 sq. ft.; whereas if the basketball court were removed that would be a reduction of 723 sq. ft. which would take the percentage down to 20 ½ %. Mr. Neff states that trimming multiple areas would require some kind of plan. If an entire section were to be removed, that could be looked at now because the numbers could be calculated quickly and easily. If you are trying to trim everything to get down closer to 20%, we would need to see a separate plan.

Mr. Hirsch reviews and explains the coverage amounts and polls the Board if they are relatively comfortable with the 20.5% number for lot coverage.

Mr. Neff asks if it is possible to approve a percentage and look at the plot plan after the approval. Multiple members of the Board state they would need to see how the backyard would look on a plan, they are not comfortable with approving a percentage.

Chairman Palmieri reiterates that the problem with the application is the lot coverage issue.

Mr. Drennan said he wants everything in the backyard and does not want to remove the basketball court. Mr. Drennan states he will come back again at the end of the meeting.

### **Acceptance of Meeting Minutes**

Chairman Palmieri states that the meeting minutes of June 1, 2017 have been previously distributed for review. All present are eligible to vote except for Mr. Slazyk.

Motion is made by Ms. Berk and seconded by Mr. McKinley to approve same. All in favor.

**Resolutions**

**BA 2017-02 – Standard Supply Co., 40 Shark River Road, Blk 146, lot 2.01 –**

Mr. Hirsch explains that this resolution has been amended to reflect that the lot width variance was not needed. There was essentially an error in that the lot width was shown as 120 ft. when actually the lot width was 125 ft. and a variance was therefore not needed. The Resolution has been amended to clarify the record. Mr. Slazyk and Ms. Hatami are not eligible to vote.

Motion is made by Mr. Lomangino and seconded by Mr. Battista to memorialize the Amended Resolution of Standard Supply Co., All in Favor by those eligible to vote.

**BA 2017-03 – David Jones, 23 Sire Stakes Drive, Blk. 62.01 lot 23 –**

Chairman Palmieri states that this Resolution has been previously forwarded for review. Mr. Porzio and Mr. Slazyk are not eligible to vote.

Motion is made by Ms. Berk and seconded by Mr. Lomangino to memorialize this Resolution. All in favor by those eligible to vote.

**BA 2017-04 – Perosi, Nicholas & Nicole, 44 Gallant Fox Dr., Blk. 62.04 lot 6 -**

Chairman Palmieri states that this Resolution has been previously forwarded for review. Mr. Slazyk is not eligible to vote.

Motion is made by Mr. Lomangino and seconded by Mr. McKinley to memorialize this Resolution. All in favor by those eligible to vote.

Chairman Palmieri states that we are at the end of the meeting and we are back to the **BA 2017-06 – Drennan** application.

Mr. Drennan states that he doesn't want to lose the basketball court so he wants to know if he trims the lot coverage back to 21%, will that be good enough.

Mr. Neff reiterates that the lot coverage permitted is 18%. Originally you came in at 23%.

Chairman Palmieri reiterates that they cannot approve a number/percentage.

Mr. Lomangino suggests returning with a couple of different plans to present.

Chairman Palmieri suggests figuring out your priorities and basing your plan on that.

Mr. Drennan says he doesn't want to take out the basketball court and will come back.

Mr. Drennan confirms that he wishes to carry this matter to July 20, 2017. He is aware that he is the third applicant listed for that date. He is aware and states that there is a possibility that he will not be heard that night because there are two prior applications listed and that the Board does not work past 11:00 p.m.

Motion is made by Mr. Lomangino and seconded by Mr. Slazyk to close the meeting at 9:30 p.m. All in Favor.

Respectfully submitted,

Colleen Connolly  
Zoning Board Secretary

Approved at Board of Adjustment  
Meeting on July 6, 2017