

**BOROUGH OF TINTON FALLS
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
DECEMBER 3, 2020**

The meeting was opened by Chairman Battista at 7:30 PM.

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 then led the meeting in a salute to the flag.

Ms. Sena took roll call.

Present Chairman Battista, Mr. Slazyk, Mr. Porzio, Mr. McKinley, Ms. Berk, Mr. Kuzmin

Absent: Mr. Palmieri, Mr. Lomangino, Ms. Hatami

Also Present: Ms. Sena, Board Attorney Mr. Hirsch, Engineer Mr. Neff

Chairman Battista gave a brief explanation of the COVID-19 guidelines in place for tonight's meeting.

MINUTES-

Chairman Battista stated that the Minutes of the October 1, 2020 meeting have been previously distributed via email for the Board Members to review.

Mr. Porzio offered a motion to approve the minutes of the October 1, 2020 meeting, seconded by Mr. McKinley.

ROLL CALL

AYES: Mr. Porzio, Mr. McKinley, Chairman Battista, Ms. Berk, Mr. Kuzmin

NAYES: None

ABSENT: Mr. Palmieri, Mr. Lomangino, Ms. Hatami

INELIGIBLE: Mr. Slazyk

Chairman Battista stated that the Minutes of the November 5, 2020 meeting have been previously distributed via email for the Board Members to review.

Mr. Porzio offered a motion to approve the minutes of the October 1, 2020 meeting, seconded by Mr. McKinley.

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ROLL CALL

AYES: Mr. Porzio, Mr. McKinley, Chairman Battista, Mr. Slazyk

NAYES: None

ABSENT: Mr. Palmieri, Mr. Lomangino, Ms. Hatami

INELIGIBLE: Ms. Berk, Mr. Kuzmin

RESOLUTIONS-

BA2020-08 RESOLUTION IN THE MATTER OF LISA IVANICKI, 29 PILGRIM AVENUE

Chairman Battista advised that the proposed Resolution in this matter has been previously forwarded to the Board Members prior to tonight's meeting.

Chairman Battista asked if any of the Board Members have any comment on said Resolution? Hearing none, Mr. Battista asked for a motion to adopt Resolution BA2020-08.

Mr. Porzio offered a motion to memorialize Resolution BA2020-08 seconded by Mr. McKinley

ROLL CALL

AYES: Mr. Porzio, Mr. McKinley, Chairman Battista, Mr. Slazyk

NAYES: None

ABSENT: Mr. Lomangino, Ms. Berk, Mr. Kuzmin

INELIGIBLE: Ms. Berk, Mr. Kuzmin

NEW BUSINESS-

BA2020-07 ERIC PUMA 6 MANZO COURT, BLOCK 97.01 LOT 1.04 APPLICATION FOR BULK VARIANCE

Attorney Hirsch stated that he has reviewed the proofs and affidavit of service from the applicant, all is in order as to form.

Motion is made to accept service, all present voted in favor.

Attorney Hirsch swore in Eric Puma as the Applicant.

Attorney Hirsch swore in Amanda Collazo, 6 Manzo Court

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Mr. Puma introduced himself and Fiancé Amanda Collazo as the current homeowners of 6 Manzo Court. He gave a brief introduction of his application before the Board this evening. He began by explaining issues his property has experienced with water runoff since they purchased the home in December of 2017. He referenced neighboring properties that also experience the same runoff issue and explained the builder has refused to address their concerns.

Mr. Puma stated that in April of 2020 he hired King Pavers to construct a paver-patio in his backyard. He explained that King Pavers were hired to construct the patio and were responsible for submitting the proper permits to the Borough. The contractor from King Pavers began construction of the patio prior to receiving any approvals from the Borough. The contractor ensured Mr. Puma that the work could begin prior to receiving any permits.

Regarding water runoff, Mr. Puma explained that the patio has actually helped remediate some of the problems with the water. The constructed patio has leveled out the backyard eliminating the slope that caused runoff. Mr. Puma stated that he also intends to install a dry well in his backyard to better assist the flow of water.

Chairman Battista inquired about the timeline in which the patio was constructed by King Pavers and when the permit was denied by Zoning. Mr. Puma stated that when he confronted the contractor with denial and asked him to come to this meeting, the contractor stopped returning Mr. Puma's phone calls.

Mr. Neff discussed the timeline from the Borough's understanding and stated that the initial Zoning Application was submitted in May of 2020. Mr. Puma was then informed that the application would be denied due to lot coverage and would require a variance. It was the Borough's understanding that the patio had not yet been constructed. After the patio was denied, Mr. Puma requested to amend the Zoning Permit to include a fence instead of putting in the patio. Thus, the permit was denied for a patio and Mr. Puma received a Zoning Permit for a fence.

Mr. Hirsch inquired about when Mr. Puma was notified by the Borough that he would need to apply for a Variance. Mr. Neff stated that denial letter was dated May 21st. On June 4, 2020 Mr. Puma informed Mr. Neff that he would like to amend his permit to include a fence and not move forward with the patio.

Mr. Puma stated that the construction of the patio was complete within two weeks of the initial filing of the permit application. It is Mr. Puma's understanding that that construction of the patio was disclosed to the Borough by a neighbor.

For the record, Mr. Hirsch noted that according to the Borough's records the initial Zoning Permit Application was submitted on May 11, 2020. Mr. Puma stated that he started construction of the patio on May 15, 2020.

Discussion ensued in regard to the grading and drainage at various properties on Manzo Court.

Mr. Porzio asked what house is located behind 6 Manzo Court? Mr. Puma stated that 7 Crown Court is behind his property.

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Mr. Kuzmin inquired about the square footage of the patio. Mr. Neff stated that the total square footage of the patio is approximately 1,050 square feet.

Mr. Hirsch explained to Mr. Puma that if there is someone here that he would like to call as one of his witnesses, he now has the opportunity to have them testify. If there are none, the Chairman can open the meeting to the public.

Attorney Hirsch swore in Keta Patel, 4 Manzo Court- Ms. Patel stated her property is located to the left of Mr. Puma's property. She stated that the construction of Mr. Puma's patio has not affected her property at all. Her neighbor at 2 Manzo Court has also had work done to their property that has not affected her home. She has had issues with runoff on her property, however it has remained the same since the construction of the patio.

Attorney Hirsch swore in John Esposito, 7 Crown Court- Mr. Esposito discussed issues he has experienced with rain and runoff at his property prior to the development on Manzo Court being built. Since the construction of Mr. Puma's patio, he has seen an improvement with the flooding he would get on his property.

Attorney Hirsch swore in Michael Acquavella, 8 Manzo Court- Mr. Acquavella stated that property is located to the right of Mr. Puma's. He explained that he is still experiencing issues with water on his property since the construction of the patio.

Mr. Porzio inquired if there is a HOA in this development? Mr. Puma stated that a HOA was recently formed.

Attorney Hirsch swore in Sumin Acquavella, 8 Manzo Court- Ms. Acquavella referenced pictures she has of the water flow in Mr. Puma's backyard during a recent rainstorm. She stated that since the patio was constructed, his backyard no longer has water, while her property is still flooded. She clarified that there has not been an increase in water, however it has stayed the same. Ms. Acquavella stated that she has planted 4 trees in her backyard with the hopes the roots would absorb some of the water.

Mr. Puma stated that most of his neighbors here tonight have indicated that they have not seen any significant increase or decrease in water since his patio was built. Overall, most have seen a slight decrease in water accumulation on their properties.

Mr. Neff stated that it is possible that the patio isn't eliminating the water runoff, however just moving it to a different location, the water still needs to go somewhere. Mr. Neff stated that he was pleased to hear from some of the neighbors who confirmed they have not had any significant changes in runoff since the construction of the patio. Mr. Neff stated that if Mr. Puma did install a drywell, it would help his property and the surrounding properties.

Discussion ensued in regard to the overall issue with drainage and runoff in this development.

Mr. Hirsch explained that the Board has to consider whether or not a Variance should be granted for a patio that is 470 square feet over what is permitted. It is possible the Board could consider a condition in which Mr. Puma would have to install a drywell in his yard.

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Mr. Porzio asked Mr. Puma if the contractor was aware of the issues with water and runoff before he constructed the patio? Mr. Puma stated that he has consulted the builder and other contractors about possibly installing a drywell.

Chairman Battista stated that although the issues with water and runoff are a concern, Mr. Puma is here this evening seeking a variance for the size of the patio. He asked Mr. Puma if he has thought of any other options to possibly reduce the size of the patio? Mr. Puma apologized that this was done without proper permits and approvals, however he is here this evening seeking approval for the patio as it was constructed.

Mr. Hirsch stated that the Board must look at this application as if the patio does not exist. The Board could consider a condition such as installing a drywell for the variance to allow the larger size patio. Mr. Hirsch clarified that the size of the patio exceeds the allowable lot coverage.

Chairman Battista asked if the patio was constructed at this size because of the issue with water? Mr. Puma stated that it was not.

Mr. Neff explained that all towns in New Jersey have lot coverage requirements, all towns are different depending on their Zoning.

Attorney Hirsch swore in Frank Camuglia, 22 Manzo Court. Mr. Camuglia discussed other neighbors who have submitted proper permits and had to amend their plans to conform to the Ordinance. He stated that this patio should have received the proper approvals before having it constructed. Mr. Puma briefly responded to Mr. Camuglia's testimony and explained that he is currently in a civil lawsuit with three of his neighbors who are in this court room tonight.

Mr. Hirsch gave a brief explanation of the Municipal Land Use Law and how it relates to this particular application.

Attorney Hirsch swore in Mr. Matthews, 11 Manzo Court- Mr. Matthews stated that this patio has only been here for six months, therefore the overall impact is not yet known. He discussed lot coverage regulations and why they exist. Mr. Matthews stated that 470 square feet is a significantly over what is allowed.

Attorney Hirsch swore in Mikhail Talapila, 2Manzo Court- Mr. Talapila stated that his house is located to two lots down from Mr. Puma's property. He discussed issues he has had with waterflow and stated is property drains to Pinebrook Road. He stated that Mr. Puma's patio is beautiful, and he designed his to look similar.

Chairman Battista referenced an aerial photograph provided by Mr. Neff that shows a pool on Mr. Talapila's property. Mr. Neff clarified that the lot at 2 Manzo Court is larger than Mr. Puma's at 6 Manzo Court.

John Esposito, 7 Crown Court- Mr. Esposito briefly discussed runoff before and after the patio was constructed and overall issues with the water in this development. Chairman Battista stated that these issues cannot be discussed before the Zoning Board.

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Mr. McKinley asked if Mr. Puma's lot is undersized? Mr. Neff stated that he does not believe it is. Mr. Neff stated that this property is located in the R-2 Zone.

Mr. Porzio offered a motion to close the Public Discussion, seconded by Mr. Kuzmin.

Mr. Kuzmin stated that the Board is presented with an Application that is almost 4% over the allowable lot coverage. Mr. Kuzmin would like to see the overall size of the patio minimized before a variance is granted. He is concerned that if this application is approved as is, and Mr. Puma would like to add any additional improvements to his property, he will be even more over his allowable coverage.

Mr. Porzio stated that he agrees with Mr. Kuzmin's comments stating its too far over the allowable coverage.

Chairman Battista asked Mr. Puma if he would like to table this application to another meeting to give him an opportunity to revise his plans, or the Board can vote on the application presented before them this evening.

Mr. Puma agreed that tabling the application would be the best solution for himself and the Board. Discussion ensued in regard to how the Board considers applications presented to them.

Chairman Battista stated that if Mr. Puma would like to consider coming back with another plan the Board will not vote tonight and table the Application to another meeting.

Mr. Neff suggested that Mr. Puma have a surveyor or architect prepare a set of plans to-scale so the Board has an accurate plan to review. He also stated that Mr. Puma should take into consideration future improvements he may wish to add to his property when he revises his plans, keeping lot coverage in mind.

Mr. Hirsch stated that the Municipal Land Use Law requires the Board to act on an Application within a certain period of time. If he wishes to carry this Application, he would need to indicate to the Board that he will waive the time frame in which the Board has to act. Mr. Puma agreed to grant the Board an extension of time to act.

Ms. Sena indicated that the next available hearing date would be Thursday, February 4, 2021 at 7:30 PM. Mr. Neff stated that any revised plans must be submitted two weeks prior to the hearing date for review.

This application was carried on record to the February 4, 2021 Zoning Board Meeting, no further notice is required.

Sandra Berk, Alternate #1 tendered her resignation from the Board on record.

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MOTION TO ADJOURN

Chairman Battista asked for a motion to adjourn.

Mr. Porzio offered a motion to adjourn, seconded by Mr. McKinley.

All in Favor: AYE

Respectfully submitted,


Trish Sena
Zoning Board Secretary

APPROVED AT A BOARD OF ADJUSTMENT MEETING ON: **February 4, 2021**