

**MINUTES OF REGULAR ZONING BOARD OF ADJUSTMENT  
MEETING HELD ON TUESDAY, AUGUST 9, 2016**

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Chairman Byrne called to order the regular meeting of the Board and announced the meeting was duly advertised in accordance with the Open Public Meetings Act by notice dated August 2<sup>nd</sup>, 2016 sent to the Daily Record, Suburban Trends and posted on the bulletin board and website at Borough hall.

**PRESENT: BYRNE, ERICKSON, FOREMAN, KUBISKY, WOLFSON, ZAPF, DUBOWSKY (ALT. #1) AND ZALEWSKI (ALT. #2)**

**ALSO PRESENT: BOORADY, ENGINEER AND LORBER, COUNSEL**

**ABSENT: BRACCHITTA**

Chairman Byrne announced the first order of business is the approval of minutes from the June 14<sup>th</sup>, 2016 meeting.

Ms. Ward mentioned everybody that is here can vote on the minutes. Tom any changes?

Mr. Zapf stated one. Right past the whereas up at the top of the page it should say all persons, it says all person.

Ms. Ward mentioned okay.

Mr. Zapf stated everything else was perfect.

Ms. Ward mentioned that was from the resolution I cut and pasted it in the minutes. Maybe I should leave it that way.

Mr. Zapf stated I'll move it.

Chairman Byrne asked if there was a second.

Ms. Kubisky seconds.

Roll call:

Yes: Zapf, Kubisky, Byrne, Erickson, Foreman, Wolfson and Dubowsky (Alt. #1)

No: None

Abstain: None

Chairman Byrne stated the next order of business is the waiver request with reference to Variance Application #2016-03 by Dorothy Ippolito on property known as Block 46.4, Lot 269.1 on the municipal tax map also known as 242 Pine Brook Road.

Mrs. Kubisky recused herself from this application due to a possible conflict of interest.

Chairman Byrne asked the applicant to come up.

Mr. Herrmann stated good evening my name is Fred Herrmann and I'm here to explain the request for the waivers from your regulations with regard to certain professionals, specifically addressing certain matters.

Mr. Lorber asked Mr. Herrmann what his relationship is to the applicant.

Mr. Herrmann stated a friend.

At one time they prepared a subdivision of the property to which they subdivided and I was working for a company by the name of Romundi Associates and Romundi Associates did the subdivision, the plot plan and the engineering and surveying stuff involved with the actual construction that was involved with the development of the property as it is today.

The reason why I'm here offering the testimony to explain this is I'm probably the best qualified person to address all the facts associated with it. I have lived in town for almost 50 years, 48 years, the Ippolitos moved in around the same time that we did. I live up the block from them on Pine Brook Road and socially we became very good friends. Our children were of similar ages and the fact that I have this expertise in addressing this I told Dora I would be more than happy to help her and guide her through this to get this off her shoulders, so that's why I'm coming here offering the testimony.

Mr. Lorber asked are you a licensed engineer.

Mr. Herrmann stated I'm a licensed engineer and have been licensed since 1970.

We are not involved with any new construction here. This isn't construction and I think I remember seeing it in either Tom's report, or in the application an almost after-the-fact situation that happened and we'd like to get it straightened out.

Chairman Byrne stated okay. Mrs. Ippolito can you come up and just put on the record that it is all right for him to speak on your behalf. Just state your name and that it is all right for him to speak on your behalf.

Ms. Ippolito stated Dorothy Ippolito.

Chairman Byrne asked is it all right if he speaks on your behalf regarding this matter.

Ms. Ippolito stated yes.

Chairman Byrne thanked her. I just want to make sure it was on the record.

Tom do you want to take us through your report?

Mr. Boorady stated sure. I issued my report on August 1<sup>st</sup> and I summarized all the information that we've obtained to date, and I've also done a completeness review that is on page 2 of my August 1<sup>st</sup> report.

The applicant is seeking after-the-fact approvals to convert a garage to living floor space area, so that's already been done and the garage has been converted. Section 28-42.B.3 requires two off-street parking spaces and at least one needs to be in a covered space either a carport or a garage. They don't have any room on the side yard to construct a carport or an additional garage, and the driveway is long enough for at least two if not more cars.

An additional third space is required because they've also set up an extended-family dwelling unit on that same first floor where the garage is and the conversion of a garage to living floor space area requires a variance since no carport or garage exists and they are not proposing one, so it is really an after-the-fact approval.

The checklist items are listed on page two. For the general checklist information it starts in the middle of page two of my report and Item #1 is to coordinate with Joan after the application is deemed complete.

Item #9 they are asking for a checklist waiver from supplying signed and sealed dwelling floor plans and a signed and sealed property survey. What they've submitted in the way of a survey is the subdivision map from 1991 that Joan still had on record with her signature, the chairperson at the time and the former engineer. We have the subdivision map. The existing conditions today are virtually the same as they were in 1991. There haven't been any changes to the property so they would like to use that.

Mr. Lorber asked are the floor plans the same.

Mr. Boorady stated I'm working on the survey right now.

Mr. Lorber stated oh okay.

Mr. Boorady stated I don't have an engineering objection to using a survey from 1991 as long as no one on the Board has an objection to granting a checklist waiver because when you drive by the site today, the pool was there at that time, the fence, the house, the driveway, and everything is virtually the same as it was in 1991 and I think we'll ask Mrs. Ippolito to confirm that. Is that correct?

Mrs. Ippolito stated yes.

Mr. Boorady stated okay. So that is the one checklist waiver, and the other one is from having signed and sealed floor plans. As Mr. Herrmann explained, he prepared a floor plan showing the area that was converted to living floor space that was a garage, and he also highlights the area that is used as an extended family dwelling unit. He prepared the floor plan and the areas involved, so again this is an after-the-fact approval so there is no real work being done. Any approvals that you may grant to them still require Building Department approval, after-the-fact for all the plumbing and electrical work that was done so what Mr. Herrmann prepared is really a floor plan of existing conditions just to show what is there.

Mr. Lorber asked is it signed and sealed Tom.

Mr. Boorady stated no.

Mr. Lorber asked why not.

Mr. Herrmann stated all it is is an as-built situation. The floor plan that I drew is a sketch to assist the Board in understanding this application it was a measurement of the existing rooms. Those rooms were there when the house was built in 1968 or 1969. It just so happened that in raising their family they opted to assist one child getting started and have them use the lower level, but those rooms were the same rooms when the house was built.

Mr. Lorber stated those go to the merit of the application. The checklist item that is required you are asking for a waiver of it? The checklist requires a signed and sealed dwelling floor plan and you've presented one that is not signed and sealed is that basically where we are?

Mr. Boorady stated it is similar with the survey it is not signed and sealed because it is from 1991 and the firm no longer exists. Again this is an after-the-fact approval.

Mr. Lorber mentioned Tom this is not a new floor plan.

Mr. Herrmann stated no it is not.

Mr. Boorady stated I realize that and if I could, on single-family residential applications this Board frequently accepts sketches from the homeowner to approve bulk variances. The homeowner is on her own and is seeking the help of Fred to help her draw this, so what you see before you is a sketch that a homeowner might draw.

Mr. Lorber mentioned we don't have it that's the problem.

Mr. Boorady stated I know you don't have it yet but I can pass this around this is my copy. Why don't I do that?

Mr. Lorber stated yeah that was really the only question.

Mr. Boorady asked Fred if he had extra copies.

Mr. Herrmann mentioned I asked if I should bring them.

Mr. Boorady mentioned let's pass this around and see if anybody has a question. How long has this been existing?

Mr. Zapf stated I would really like to know when the alterations were made.

Mr. Boorady stated you are going to have to ask the applicant.

Mr. Foreman asked I have another question to understand what you were saying, if you don't mind answering. What is the difference between converting a garage and the extended living space? I'm sorry I don't understand what the two different things are.

Mr. Boorady stated it is my understanding that the garage space that was converted to living floor space is a

common room and that the extended family dwelling unit is on that same floor but to the right if you will. So you walk in the front door, to the left is the family room that was the garage that is a common room and it is quite large and not part of the extended family dwelling unit. If you walk to the right, that is the extended family dwelling unit with a bedroom, kitchen and bathroom.

Mr. Foreman stated okay.

Mr. Boorady mentioned when you see that floor plan that is coming around, eventually you'll see the crossed hatched area is the extended family dwelling unit and the area to the left is the garage that was converted.

Mr. Foreman stated so now it is all covered with electrical, plumbing and all that stuff so it has been that way for a while.

Mr. Boorady stated well whatever date that is and I don't recall the date. When was that?

Mrs. Ippolito stated I would say 15 years ago the garage was converted.

Mr. Boorady stated now if you've been by the house, from the front of the house it appears that there is a garage there, they essentially left the door intact and you wouldn't know that it is a family room unless you went inside.

Mr. Herrmann stated this is the lower level of the entire structure.

Mr. Lorber stated you can't say that because everything is being recorded. If you say this is, the machine doesn't know what you are referring to.

Mr. Herrmann stated I understand that I'm sorry.

Mr. Lorber mentioned you have to wait until questions are asked. That's okay I'm trying to make it easier for everyone.

Mr. Foreman mentioned why don't you wait until we pass this around and maybe we will have some specific questions and you can address it that way.

Mr. Herrmann asked should I pass it around now sir.

Mr. Foreman stated we are passing it around now.

Chairman Byrne mentioned we have a copy.

Mr. Boorady stated I will need that back that's my copy.

Chairman Byrne stated right. The garage was converted about 25 years ago, when was the extended family dwelling unit done?

Mrs. Ippolito stated I would say a couple of years after we moved there.

Chairman Byrne mentioned okay.

Mr. Boorady asked about 40 some years ago.

Mrs. Ippolito mentioned we've been there 55 years.

Mr. Boorady stated I don't mean to interrupt but the garage was converted much later.

Mr. Ippolito stated yes.

Mr. Boorady mentioned the extended family dwelling unit would have been before.

Mr. Foreman stated okay now I understand.

Mr. Boorady stated that extended family dwelling unit was likely put in prior to that being in your ordinance which was before Lincoln Park created the extended family dwelling unit ordinance.

Chairman Byrne asked did everyone hear that, so mostly this was done before we actually had an ordinance for an extended family dwelling. Do we have anyone who could testify to that?

Mr. Lorber mentioned that would be for the hearing.

Mr. Boorady stated that probably will be Mr. Herrmann, or if there is anybody else that might be able to testify too.

Chairman Byrne stated yeah.

Mr. Foreman asked Mr. Herrmann you know all this because you were there when this first happened this building, this renovation.

Mr. Herrmann stated yes sir.

Mr. Foreman mentioned now I understand more about your role in this it wasn't clear to me, sorry.

Mr. Zapf asked if the alternations came before the subdivision or after, or both at the same time, I mean it is pretty close in date. Does it indicate?

Mr. Boorady mentioned the subdivision was in 1991 correct? The garage was converted before or afterward?

Mrs. Ippolito stated no after.

Mr. Boorady mentioned after 1991.

Mrs. Ippolito stated yes.

Mr. Herrmann mentioned the subdivision was approved in 1991.

Chairman Byrne stated okay.

Mr. Zapf mentioned well 25 years ago is 1991.

Mr. Boorady asked it must have been right after you sold the lot next to you that you got rid of the garage.

Mrs. Ippolito stated yes well only because my son wanted to live there and this is why we finished it off so that he could be there. He was there like for six years so that is the reason we did it.

Mr. Lorber asked Tom if he recommends with regard to Item #9 that we accept the floor plans from 1991.

Mr. Boorady mentioned well I recommend accepting the survey and the floor plan as a checklist waiver only, so as the public hearing goes on and if the Board feels there is not enough information here for some reason, you can send them home and say we really need a licensed architect to give us plans or a signed and sealed survey. I would recommend the checklist waiver only with the option that you can ask for those items if you need them.

Mr. Lorber asked does everyone understand what Tom is saying.

Board members stated yes.

Mr. Boorady mentioned they are asking for that waiver because they are going to provide you with enough information to make your decision without having the expense of an architect and the surveyor because everything again was done within the four walls of the house which was the original house. No additions were put on or anything like that so they are at their own risk asking for the checklist waiver, but you also have the option for asking for more if you need it later so I don't have an objection to it.

Mr. Herrmann asked Mr. Lorber can I offer some information that might help you out.

Mr. Lorber stated you are winning I don't think you have to okay.

Mr. Boorady mentioned moving on for the checklists for variances, Item 1.D) and 1.E) which are repetitive from Item 9, so there are some carry overs from checklist to checklist so we don't need to revisit that. Item #2, I ask that the applicant put on the record that the survey from 1991 is the same as the existing conditions of the property as it is today.

Mr. Herrmann asked do you want a letter to the Board or something like that to put in the file.

Mr. Boorady stated that is all Item #2 is. If you want to sign a letter Mrs. Ippolito stating that your property is exactly as it was in 1991 on the outside, then you wouldn't need the waiver for Item #2 unless the Board wants to accept it now as oral testimony? It is up to Charlie what he thinks is better.

Chairman Byrne stated I think it would be fine if we did it orally.

Mr. Lorber asked don't you want a letter.

Chairman Byrne stated no.

Ms. Ward mentioned I think a letter for the file would be a good thing.

Mr. Lorber stated if you are going to take testimony I have to swear her in. I think a letter would be a good thing too.

Mr. Boorady asked isn't it easy enough just to put a letter together Fred.

Mr. Herrmann stated sure.

Mr. Boorady stated that way there is something in the file.

Mr. Zapf stated the house is up for sale and at least it is on the record.

Mr. Lorber mentioned if somebody wants to come in and look at your file it is there.

Ms. Ward stated that's exactly why I said in the file.

Mr. Boorady mentioned so the checklist waivers are Items #9 from the general checklist, Item #1.D and 1.E from the checklist for variances; and Item #2 we would not recommend granting the checklist waiver because she'll provide us with a signed/notarized letter. There are quite a few notaries in the building. Have it notarized that the property as it exists today is the same as it was in 1991 when the subdivision was prepared okay.

Mrs. Ward mentioned we have notaries upstairs. Just make sure you sign the letter in front of the notary.

Chairman Byrne asked those are the only ones right.

Mr. Lorber mentioned as far as the technical comments those should just be held until next month.

Mr. Boorady mentioned correct and those come from the Lincoln Park Ordinance. There is a deed restriction involved with an extended family dwelling unit and some other items they have to confirm.

Mr. Lorber mentioned Mr. Herrmann has a copy of this letter.

Mr. Herrmann stated yes I do.

Mr. Lorber stated you understand that once you provide that letter everything else is going to be deemed complete, assuming the Board votes to approve Tom's recommendations with regard to page two. Then on page three all of the technical comments you are going to have to testify to at the meeting next month, do you understand that?

Mr. Herrmann stated fine.

Ms. Ward mentioned we will need copies of all the information for the Board members then we can deem it complete.

Mr. Lorber mentioned yeah the right number of copies and everything.

Mr. Boorady mentioned I would get the letter about the survey tomorrow and get your copies made because September 13<sup>th</sup> comes quickly and there is a Labor Day holiday, you want to get the notice in the paper and Joan will help you coordinate all that, but I would get going in making all your copies if these checklist waivers are approved.

Ms. Ward stated you have to get your legal notice in the Daily Record.

Mr. Herrmann asked the notice.

Ms. Ward mentioned the notice has to be published in the Daily Record and I have to be able to deem the application complete in order to send the letter to you stating that you are complete. Also you'll have to get the certified list updated prior to the hearing to make sure all the neighbors are the same.

Chairman Byrne asked does anyone have any questions regarding the two remaining waivers that are #9 and 1.D and 1.E.

Mr. Boorady mentioned yeah that is correct they are exactly the same as Item 9.

Chairman Byrne stated all right.

Ms. Ward mentioned this is only for completeness waivers not full waivers.

Chairman Byrne asked does anyone have any questions for the applicant. Does someone want to move this?

Mr. Erickson stated I'll move it.

Mr. Foreman seconds.

Roll call:

Yes: Erickson, Foreman, Byrne, Wolfson, Zapf, Dubowsky (Alt. #1) and Zalewski (Alt. #2)

No: None

Abstain: None

Chairman Byrne mentioned the waivers are granted for those two items. The third item, the certification for the survey you'll need to get the notarized letter.

Ms. Ward mentioned she is still incomplete until we get the letter, all of the required copies that we need and the certified list updated.

Mr. Herrmann stated it is our intention to get the information that we just discussed but a lot of it has been done already, but you should have it in your office by Friday.

Ms. Ward stated okay.

Chairman Byrne mentioned I like that. Then it would go on the calendar for next month.

Ms. Ward stated it should.

Mr. Herrmann mentioned the one thing that can hold us up is the certified tax list.

Mr. Boorady stated the assessor is here Tuesdays and Thursdays.

Mr. Herrmann stated the notices will go out after we get the list updated. I don't know if we'll get that out by Friday but the information to the Board we will get.

Ms. Ward mentioned the notice has to be out at least 10 days prior to the hearing.

Mr. Herrmann stated we are only at the 10<sup>th</sup> of the month.

Chairman Byrne stated it goes fast. Mr. Herrmann at the hearing we are going to want to discuss the ten technical items that Tom has listed in his report.

Mr. Lorber mentioned there will be another report from Tom just before the hearing date and it is going to outline just about everything that you are going to have to testify to okay.

Mr. Boorady stated I may not be issuing another report because Item #2 is almost verbatim from the ordinance and there is not any new construction so there is not a lot for me to say.

Mr. Lorber stated okay.

Mr. Boorady mentioned you are approving something that is already there.

Mr. Lorber mentioned if it is approved.

Mr. Boorady stated yes.

Chairman Byrne stated so the only real thing is getting someone that maybe can testify other than yourself against the timeline of when that was constructed or modified, other than that I think we are good. Does anyone else have any questions or comments? Okay thank you we appreciate it.

Mr. Herrmann thanked the Board.

Chairman Byrne mentioned we need to talk about this third thing.

Ms. Ward mentioned Mary has rejoined the meeting.

Mr. Lorber mentioned Josh Gorski is a lawyer with my office. I am trying to teach him about zoning and planning and he's been doing real estate in the office for like about the last two years now.

Chairman Byrne stated we are one of the nicest Boards.

Mr. Zapf stated we really are very cooperative but it is very quiet tonight because there is not a whole lot to work with.

Chairman Byrne mentioned the next order of business is the closed session on the Bower application.

Mr. Wolfson recused himself from this application and left the meeting.

Ms. Ward mentioned would you like to adopt the resolution.

**RESOLUTION OF THE LINCOLN PARK  
ZONING BOARD OF ADJUSTMENT  
RE: BOWER & DE FALCO MATTER TO BE  
DISCUSSED IN CLOSED SESSION**

**WHEREAS**, the Zoning Board of Adjustment of the Borough of Lincoln Park (the "Board") deems it necessary to discuss a certain matter in closed session, with the public excluded, as permitted by *N.J.S.A.* 10:4-12.b.; and

**WHEREAS**, the subject matter to be discussed in closed session comes within a specific exception

(under *N.J.S.A.* 10:4-12.b.) to the requirement under *N.J.S.A.* 10:4-12.a. that all Board meetings be open to the public; and

**WHEREAS**, the Board desires to adopt this resolution prior to entering the closed session, as required by *N.J.S.A.* 10:4-13.

**NOW, THEREFORE, BE IT RESOLVED** by the Zoning Board of Adjustment of the Borough of Lincoln Park as follows:

1. That the Board's discussion of the matter covered by the attorney-client privilege shall be conducted in closed session, with the public excluded.
2. That the matter discussed in closed session can be disclosed to the public at a future time to be determined by the Board.

Mr. Zapf made the motion to adopt the resolution.

Mr. Dubowsky seconds.

Ms. Ward asked all in favor.

Board stated aye.

Ms. Ward mentioned it's adopted.

**\*Closed Session\***

Ms. Ward mentioned we are back in open session.

Chairman Byrne asked any other business to come before us.

Mrs. Ward mentioned none.

Chairman Byrne asked does someone want to move to adjourn the meeting.

Mr. Lorber mentioned move to adjourn both sessions.

Mr. Zapf moved to adjourn both sessions.

Mr. Dubowsky seconds.

Meeting adjourned 8:12 P.M.

Respectfully submitted:

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Joan Ward, Secretary

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Patrick Byrne, Chairman