

**MINUTES OF REGULAR ZONING BOARD OF ADJUSTMENT  
MEETING HELD ON TUESDAY, JULY 11, 2023**

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Vice Chairman Zapf called to order the regular meeting of the Board and announced the meeting was duly advertised in compliance with the Open Public Meetings Act by notice sent to the Daily Record, Suburban Trends, and posted on the bulletin board and website at Borough Hall. All stood for the Pledge of Allegiance.

**PRESENT: DUBOWSKY, KENNEDY, LUCIANO, WOLFSON, ZAPF, AND VILLAVICENCIO (ALT. #1)**

**ALSO PRESENT: PETRESKI, ENGINEER AND LIPARI, COUNSEL**

**ABSENT: BYRNE AND ZALEWSKI**

Vice Chairman Zapf stated the first order of business is the minutes from our meeting in January. The first one is the reorganization meeting minutes which has all the resolutions in it for the Borough engineer, attorney, planner, and meetings. I did not have any corrections on that one. Does anybody have anything else?

Ms. Ward stated the members that can vote are Dubowsky, Kennedy, Luciano, Wolfson, and Zapf.

Vice Chairman Zapf made the motion to accept the minutes as is.

Mr. Luciano seconds.

**Roll call:**

**Yes: Zapf, Luciano, Dubowsky, Kennedy, and Wolfson**

**No: None**

**Abstain: None**

Ms. Ward stated they're approved.

Vice Chairman Zapf stated the next order of business is the regular meeting minutes from January 10<sup>th</sup> which were short and sweet. I did not have any correction on those minutes.. Did anybody else notice anything they wanted to raise up?

I'll make the motion to approve.

Mr. Dubowsky seconds.

**Roll call:**

**Yes: Zapf, Dubowsky, Kennedy, Luciano, and Wolfson**

**No: None**

**Abstain: None**

Ms. Ward stated okay they are approved.

Vice Chairman Zapf stated the next order of business is completeness waiver request by Robert and Pamela Van Zant pertaining to Item #12 – steep slopes on the General Checklist with reference to Variance Application #2022-02 on property known as Block 80, Lot 5 on the municipal tax map also known as 15 Allegany Path.

Mr. Lipari swore in Robert and Pamela Van Zant.

Vice Chairman Zapf stated this is a completeness waiver relating to steep slopes. Would you like to address that?

Mr. Petreski stated sure. Our ordinance covers disturbances in steep slopes and steep slopes are generally slopes that exceed 15%. Usually, we would require that if we knew there was going to be disturbance in the area where the slopes are more than 15%. The lot looks generally flat so we have no engineering objection to granting a waiver for completeness.

Vice Chairman Zapf stated okay. The next one can we do them together?

Ms. Ward stated you need to do them separately so we can deem the application complete, and then you can go onto the public hearing.

Vice Chairman Zapf stated okay. This letter here relates to the second one.

Ms. Ward stated the waiver request is also mentioned in it.

Vice Chairman Zapf stated okay we have them together.

Ms. Ward stated yes, you will need to vote on the waiver and then they will be complete..

Vice Chairman Zapf stated okay. Our engineer doesn't have any objection to granting this waiver for steep slopes. They are on the side of a hill and there is a lot going on on the property, and our engineer has seen it and understands the layout and the structure of it. Does anybody else have any questions for the applicant?

Ms. Kennedy stated no.

Mr. Luciano stated no.

Vice Chairman Zapf asked if somebody would like to make the motion to grant the waiver.

Mr. Dubowsky moved it.

Mr. Luciano seconds.

**Roll call:**

**Yes: Dubowsky, Luciano, Kennedy, Wolfson, Zapf, and Villavicencio (Alt. #1)**

**No: None**

**Abstain: None**

**Absent: Byrne and Zalewski**

Ms. Ward stated the waiver is granted and the application is complete.

Vice Chairman Zapf stated okay. Now that it is complete we will move onto Variance Application #2022-01 by Robert and Pamela Van Zant, on property known as Block 80, Lot 5 on the municipal tax map also known as 15 Allegany Path. This is a public hearing.

Ms. Ward stated the notice is good.

Vice Chairman Zapf stated I don't see any members of the public here. Do you want to go through your letter or should they explain what they are trying to do?

Mr. Petreski stated we can do it either way.

Ms. Ward stated they should do a brief synopsis of their application and then Alex can go over his report.

Vice Chairman Zapf stated why don't you give us a brief description of what you are trying to do.

Mr. Van Zant testified a front porch was added onto the house and we sought a variance to get

that completed.

Vice Chairman Zapf stated okay..

Mr. Petreski stated they are seeking after-the-fact approvals for enclosing an existing porch in the front yard, and they also constructed a deck to it which triggers a front yard setback variance.

Vice Chairman Zapf stated okay.

Mr. Petreski stated during the course of our review of the application, we noticed several other structures on the site which I will go through point-by-point in my letter. The first subparagraph calls out the addition which we just addressed.

There is the chicken coup which is conforming in setbacks and area per the Borough Ordinance. Robert mentioned that he had Health Department approval for the chickens.

Mr. Van Zant testified we have the application from the Health Department and there were no issues with anything, so that has already been done. I let her know that was in the bulk variance application.

Ms. Ward stated we have a copy of the paperwork from the Health Department for the chicken coup.

Vice Chairman Zapf stated okay.

Mr. Petreski stated there are several structures. I'm using terminology from the surveyor's survey, so there is a roof over the paver patio which is located on the southeast corner of the home. Our office doesn't have any prior approval for this enclosed porch so it seems to have been constructed sometime after 7/10 from aerial imagery, and since it is attached to the principal structure it must meet the same setback requirements. So, in order to memorialize that roof over the patio area a variance would be required. The setback is 18.07 feet where a minimum of 35 feet is required for a rear yard. If you look on the surveyor's plan where it says paver patio, there is a thick dash line that is slightly gray, it is called roof over and that is what I'm talking about.

Vice Chairman Zapf stated okay. Does everybody see that?

Mr. Petreski stated that was a paver patio area and they constructed a roof on it and we don't have prior approvals, so that would need to be subsumed and included in this application.

Vice Chairman Zapf stated so this is just to the rear of the one-story enclosed porch.

Mr. Petreski stated yes.

Vice Chairman Zapf asked everybody has that right. So that is one variance.

Mr. Petreski stated yes. That is the first variance for the addition/construction in front of the house that we mentioned earlier, and the second variance is for the setback of the roof over the patio area.

The next structure is the enclosed porch which there were previous approvals for. It is 12 x 17 feet and just to the west, or just in front of the roof over the patio according to the surveyor.

Vice Chairman Zapf asked the angled lines.

Mr. Petreski stated yes the double dashed line. That is conforming and it appears it was constructed in accordance with the approval from 2007. We don't have a project completion report or a certificate of occupancy for that, but Robert mentioned before the meeting that he has documentation.

Mrs. Van Zant testified we have to find it but we were granted it at that time.

Mr. Van Zant testified Sal did the inspection.

Mr. Zapf stated okay so we think there is actually a project completion report now.

Mr. Van Zant testified yeah, when I started this whole project I had asked Joan if there were any open permits and I was told that all the permits were closed.

Ms. Ward stated the permits were closed, but in reviewing the planning file there was no project completion report or an as-built survey per the resolution of approval. When you do the project completion report for this project, I think you should have that put on the as-built survey so we can put one in that file too.

Vice Chairman Zapf stated so 95% of it was done so we just have to do the very last step.

Ms. Ward stated right, show everything on the as-built survey.

Mr. Petreski stated we can take care of that as part of this application.

Vice Chairman Zapf okay. Is that going to be a third variance or is that just a --

Mr. Petreski stated no we are going to handle that.

Vice Chairman Zapf stated okay.

Mr. Petreski stated the next structure is the detached deck located at the southern end of the property called a framed deck, next to the octagonal shape of the railroad tie wall. Does everyone see it?

Board yes.

Mr. Petreski stated so that looks like it was used to access the above ground swimming pool. We don't have prior approvals for this, so after-the-fact approvals would be required for this. It is considered an accessory structure because it is not connected to the principal structures, so accessory structures must have a minimum of 10 foot side yard setback and this one is approximately 2.13 feet, so a variance would be required. I visited the site this afternoon and it looks like that detached deck has been removed.

Vice Chairman Zapf stated that can be a non-issue.

Mr. Van Zant testified it was an old thing that I just hadn't had time to take down yet and we weren't planning on doing another pool so it has since been removed.

Vice Chairman Zapf stated okay so we can cross that one off.

Mr. Petreski stated maybe they can give some testimony in what was put there in place.

Mr. Van Zant testified there was a small deck. If you look at that deck picture where it elongates in the back, there was an 8 x 8 deck that was built for a small portable hot tub. I removed the pool deck off of there and brought that small deck down to the edge of where the pool deck use to be, so now it is probably about 15 feet or so feet off of the property line.

Vice Chairman Zapf asked so you got rid of the big portion of the deck and took the small portion and moved it over okay.

Mr. Van Zant testified yeah.

Mr. Petreski asked the small portion is no closer than 2.13 feet to the property line.

Mr.. Van Zant testified that whole deck has been moved down. I cut the back railing out of the old pool deck and attached that deck to it. When I removed the old pool deck it was just freestanding. There are no footings on it it's just on the ground because of the way our property slopes.

Mr. Petreski asked so this is what is remaining (inaudible) around it. Is it elevated?

Mr. Van Zant testified no, there are actually 4 x 4's underneath the bottom of it and patio blocks in the corners, actually I guess it is on the ground because it is on patio blocks/concrete blocks so it isn't touching the dirt.

Mr. Petreski stated that would mean that you still have a structure there.

Mr. Van Zant testified there is still a deck there.

Mr. Petreski asked it is no closer to the property line than what was there.

Mr. Van Zant testified no. It is at least I would say 15 feet down from where it was.

Mr. Petreski stated okay, probably at least 16 feet down.

Mr. Van Zant testified that would put it at least 17 feet off the property line.

Mr. Petreski stated about 17 feet from the property line.

Mr. Van Zant testified yes.

Mr. Petreski stated so that would mean no variance would be required because of the minimum setback is 10 feet.

Mr. Van Zant testified so no variance.

Vice Chairman Zapf asked you are comfortable with his estimation. I don't want them to get into trouble down the road. You are comfortable with him saying it is more than 10 feet?

Mr. Petreski stated I kind of peaked my head over the fence so this is what I saw today.

Mr. Van Zant asked would you like me to pass this around.

Mr. Petreski stated if you like.

Mr. Van Zant testified sure. The front edge of it is where the old pool deck was 14 feet, so right where these railroad ties are this little deck that is underneath here has been put down from that 2 foot mark.

Mr. Luciano stated the big one is gone and you just moved that one in a sense where the big one was

(Inaudible numerous members speaking at once)

Ms. Ward stated we are going to mark this as Exhibit A-1.

Mr. Van Zant testified that is the separation to hold the rocks back.

Vice Chairman Zapf stated okay.

Mr. Van Zant testified that big deck has been removed and the deck has been put down here.

Vice Chairman Zapf stated okay.

Ms. Ward asked is that clear enough for you Mike.

Mr. Lipari stated yes.

Mr. Van Zant testified if you look at this drawing where the old pool deck use to be that is where this is now, this little structure is.

Mr. Lipari asked how about the roof that is the pop up.

Mr. Van Zant testified yes, so that has to come down in the fall.

Vice Chairman Zapf asked Alex are you comfortable with what he is telling you that it is more than 10 feet.

Mr. Petreski stated based upon what I'm seeing in the photo it doesn't look like it is more than 10 feet from that side fence.

Vice Chairman Zapf stated okay it has to be 10 feet.

Mr. Petreski stated it has to be a minimum of 10 feet.

Vice Chairman Zapf asked can he get back to you with an exact measurement off the property line of where it is now.

Mr. Petreski stated if he can give me an approximate dimension from the fence, then we can estimate the distance from the property line from that.

Vice Chairman Zapf stated okay.

Ms. Ward stated I'll take that for the exhibit.

Mr. Van Zant testified the fence is back here.

Mr. Petreski stated unfortunately it is hard for me to see depth from this photo from here.

Mr. Van Zant testified this was 14 feet and removed down 14 feet. It was 2 point something and 16.20. The measurement off the fence and the drawing from the survey that the deck has now since been removed so that deck space is (inaudible).

Vice Chairman Zapf asked how can we word this so we close it out with our procedure tonight. Approval would be contingent upon him getting back to you or Joan with the exact measurement off the fence, and if it is less than 10 feet, then we have to grant a variance.

Mr. Petreski stated I would prefer or maybe this is something we can pick up as part of the project completion report with the final as-built.

Vice Chairman Zapf stated okay.

Mr. Van Zant testified I'm confident, and they are going to have to do a final inspection regardless right?

Mr. Petreski stated if he is confident, it is hard for me to see depth per the plans here. It looks close but you live there and you know better than I do. If we are comfortable with us taking --

Mr. Van Zant testified I said it is 14 feet and that whole deck has been removed now, so that is 14 feet further away.

Mr. Petreski stated when you do your project completion report and the as-built survey, that will confirm it is more than 10 feet, and if it does not, you may have to make another appearance before the Board.

Mr. Van Zant testified okay.

Vice Chairman Zapf stated we are just making sure that this doesn't get dragged on forever by making sure we didn't miss anything.

Mr. Van Zant testified I understand.

Mr. Luciano stated plus what you are talking about in a sense is a non-stationary thing that was

removed right?.

Mr. Van Zant testified yeah.

Mr. Luciano stated you removed the thick deck and then this little thing went behind it and you can pick it up and put it away.

Mr. Van Zant testified yeah.

Mr. Luciano stated so in a sense it is mobile.

Mr. Van Zant testified yes.

Mr. Luciano stated okay.

Mr. Petreski stated if they do another survey and it is less, they can pick it up and move it a little bit.

Mr. Van Zant testified it is actually 8 x 8.

Mr. Luciano stated it can be 8 feet today and 12 feet tomorrow.

Mr. Van Zant testified yes.

Mr. Petreski stated if there is any approval, the approval is going to state how many feet to the property line.

Mr. Van Zant testified okay.

Vice Chairman Zapf stated we will take that off and that is something that has to be right.

Mr. Van Zant testified yup.

Vice Chairman Zapf stated going down the road this goes with the property and not with you, you can move tomorrow or something.

Mr. Van Zant testified yeah, if they didn't want it they can remove it. But if we move tomorrow it would stay.

Vice Chairman Zapf stated okay.

Mr. Petreski stated there is a one-story framed shed kind of tucked in underneath the existing home in the northeast corner, has everyone found it?

Board yes.

Mr. Petreski stated It is currently in a nonconforming location at 7.19 feet to the side yard where a minimum of 10 feet is required. The shed was subject to Variance Application 2007-3 where the applicant agreed to relocate the shed to comply with the setback requirements. In 2007 our records indicate that he agreed to move it to a conforming location for a minimum of 10 feet to the property line, or whomever made that application at that time. The applicant is seeking after-the-fact approval to memorialize the current location of the shed, and a variance would be required for the minimum side yard setback of 7.19 feet existing/proposed where a minimum of 10 feet is required.

Vice Chairman Zapf stated so that is our fourth one.

Mr. Petreski stated yes. Robert would you like to give some testimony on that?

Mr. Van Zant testified as I explained before, I didn't realize that there was still an issue with the shed when we did our final inspection. If you are looking at the print, in the top right corner of my property I used to have a metal shed up there and Sal had asked me to bring that down into

compliance and the shed was moved down, but since it has been removed from the property. When I saw this paperwork that there was a problem with the shed in the back corner of the house, I didn't realize that I needed to move that shed.

Vice Chairman Zapf stated okay, so that would be our fourth variance.

Mr. Lipari asked the fourth one or three.

Vice Chairman Zapf stated the first one is the front.

Mr. Lipari asked the addition. The second one is roof over the patio. The third one we eliminated.

Mr. Petreski stated the detached deck we eliminated.

Vice Chairman Zapf stated right.

Mr. Petreski stated so the third one becomes the shed.

Vice Chairman Zapf stated okay. Next.

Mr. Petreski stated there is a roof over the graveled area. So, if you look along the southern property line, along the right side of the drawing, there is a seating area with a roof over it. You can see the gravel hatching and then the dash lines around it. Has everyone located it?

Vice Chairman Zapf stated yeah.

Mr. Petreski stated not including the side yard setback approximately 3 feet is existing where a minimum of 10 feet is required. Our office says we don't have any prior approvals, so we ask for after-the-fact approvals so a variance would be required for the side yard setback of 3.28 feet is existing and proposed where a minimum of 10 feet is required.

The last variance is for impervious surface. The ground surface around the home is finished with a paver patio, gravel, slate walkway, asphalt driveway and paver driveway, and in Lincoln Park gravel, paver patios, pools and decks are considered pervious and should not be included in the list of impervious surfaces. No changes to the prior approval. No changes to impervious surface as proposed as part of this application, however, since many of the improvements have been constructed without prior approvals a variance will be required for impervious surface. Thirty point seven (30.7) percent is existing and proposed where a maximum of twenty-five (25) percent is permitted, and that is our fifth variance.

Vice Chairman Zapf stated okay.

Mr. Petreski stated so I can go onto the technical review portion of our letter. Just some comments that I had in the testimony the applicant gave.

Vice Chairman Zapf stated sure.

Mr. Petreski stated the applicant is seeking after-the-fact approval for enclosing an open deck attached to the front of the house which is the first variance. The work appears to have been completed sometime in 2015 in my estimation. Can the applicant provide some testimony for the need for enclosing the deck and creating an enclosed floor space? Why do you need it?

Mr. Van Zant testified that space was created just for an area to get in from outside for shoes and hanging up your jackets. We have 3 children and we just needed a little extra space on the inside of the house.

Mr. Petreski stated okay.

The second comment was on the shed that we talked about in the northeast corner of the property, the one that is currently 7.19 feet where 10 feet is required. Can you give us some testimony on why you can't relocate that shed to a conforming location?



Mr. Van Zant testified the property by us, if I need to move it now, it has been there probably over 24 years, and if you look at the other sheds on the other properties, my neighbor's shed is 3.79 feet from my property line. The neighbor next to them their garage is 3 feet from the property line. My other neighbor's garage is 5 feet from the property line. My shed I guess is 7.19 feet and it is very easy to clean around it. There is no mess around it and it is maintained. The properties where we live on the hill are small. If you have a shed to conform, it would be in the middle of my backyard and that is not very usable if you are putting a shed in the middle of your backyard.

Mr. Petreski stated Item #3 is talking about the detached deck that we mentioned was partially removed. I guess my question was will the pool be replaced?

Mr. Van Zant testified no and that is why the deck was removed. The pool was removed and then I just hadn't had time to take the deck down and the deck has since been removed.

Mr. Petreski stated the final question, number 4 is, you may need a variance for existing improvements for which we don't have prior approvals. Since you are asking for a variance for impervious coverage, can you give us some testimony on each structure and its current use? There are several covered outdoor seating areas and can any of those structures be removed to make the impervious coverage below the 25%?

Mr. Van Zant testified the roof over the patio connected to the house next to the sunroom, the same thing with the upper patio, we use to use easy up tents or the tents you could take down in the wintertime. We've had them and they've been up for a while, and we had those early October snows and the canopies were still on them and it crushed them. The tent that I had by the koi pond that actually got crushed in the big snowstorm that we had in October and that was like a \$700 tent, so I just decided as these things kept getting crushed so I made it out of wood. If I end of taking it down, then I would just have to put up a pop up tent again and take it down in the wintertime.

Mr. Petreski stated okay. Technical Item #5 is just clarification that any approval from the Board of Adjustment does not constitute Building Department approval. You will need to comply with all the requirements of the Lincoln Park Building Department and the Uniform Construction Code of the State of New Jersey if any approvals are granted tonight.

Item #6 is, if the application is approved, the applicant agrees to provide a project completion report and 4 signed and sealed as-built surveys prepared by a land surveyor. A final inspection by the Construction Official and Borough Engineer will be required prior to any issuance of a certificate of approval to insure all items of construction are in conformance with these plans. The as-built survey shall provide the location of all aboveground and below ground improvements, including septic systems, wells, drainage structures and utilities. You understand that you are going to be required, if the application is approved, to provide a project completion report.

Mr. Van Zant testified yes.

Mr. Petreski stated that is my letter.

Mr. Van Zant asked with the project completion report since the frame deck has been moved do I have to get the survey reconstructed.

Mr. Petreski stated yes exactly. We will need it updated.

Mr. Van Zant asked another updated survey.

Mr. Petreski stated yes.

Vice Chairman Zapf stated and we need a copy of the previous project completion report too.

Mr. Van Zant testified we can do them separately.

Vice Chairman Zapf stated yes.

Mr. Van Zant testified we had a variance when we built the house and then we did a variance when we put the sunroom on.

Ms. Ward stated I think you should put it all on one.

Mr. Petreski stated yes. I think we will include that in the –

Vice Chairman Zapf stated it should be part of all of this..

Ms. Ward stated instead of 4 as-builts do 6 so we can put it in the respective files.

Mr. Van Zant testified okay.

Ms. Ward stated and you'll get a signed as-built back for your records.

Vice Chairman Zapf asked anybody on the Board have any questions for the applicant.

Ms. Ward stated in the resolution just mention they need to keep the escrow account current. Alex, we don't need to put in there about providing inspection fees right?

Mr. Petreski stated no that should be enough.

Ms. Ward stated we just need to make sure there is enough in the account for inspections.

Mr. Van Zant testified I think you asked me for another \$2,000.

Ms. Ward stated yes. I believe there is about \$600 left in the account today.

Mr. Van Zant testified if you need extra just let me know.

Ms. Ward stated I will.

Mr. Van Zant testified okay.

Vice Chairman Zapf asked does anybody have any questions for the applicant.

Mr. Dubowsky asked I have a question. How many chickens do you have?

Mr. Van Zant testified 6.

Ms. Ward stated and you are permitted to have 8.

Mr. Van Zant testified yes. They lay a decent amount in early spring, sometimes you will get 8 or 9 eggs in a day. When it gets to summertime they start to molt so they will lose some of their feathers and then they stop laying eggs for a couple of weeks, and then they start up again and they will molt one more time before the winter.

Mr. Dubowsky thanked him.

Vice Chairman Zapf asked does everybody understand that we have six variance requests, one now is a moot point so we are now down to five.

I will open it up for public comment. Seeing no one, I will close the public portion.

Does everybody understand we should do all five at once? Would somebody like to make a motion?

Mr. Dubowsky moved it.

Mr. Luciano seconds.

**Roll call:**

**Yes:** Dubowsky, Luciano, Kennedy, Wolfson, Zapf, and Villavicencio (Alt. #1)

**No:** None

**Abstain:** None

**Absent:** Byrne and Zalewski

Ms. Ward stated the resolution will be on for the August 8<sup>th</sup> meeting. You don't have to attend I will provide you with a copy prior to the meeting. If there is an issue with it, just contact us.

Mr. Van Zant testified okay I appreciate it.

Vice Chairman Zapf stated you don't need to attend and be here so you are done.

Mr. Van Zant thanked everyone.

Vice Chairman Zapf asked do we have any other business this evening.

Ms. Ward stated I have nothing.

Vice Chairman Zapf entertained a motion to adjourn the meeting.

Mrs. Kennedy made the motion to adjourn.

Mr. Wolfson seconds.

Meeting adjourned 7:40 P.M.

Respectfully submitted:

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Joan Ward, Secretary

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Thomas Zapf, Vice Chairman