

**Borough of Ho-Ho-Kus
Bergen County, New Jersey
Zoning Board Minutes
October 5, 2023
Regular Meeting**

Meeting Called to Order at 7:00PM by Chairman Tarantino

Open Public Meeting's Statement: Read into the record by the Board Secretary.

Flag Salute

Roll Call: Ms. Metzger, Mr. Madden (absent), Ms. Raschdorf, Ms. Deegan, Mr. Martinez, Chairman Tarantino

Also in attendance: Gary J. Cucchiara, Esq., Board Attorney; JoAnn Carroll, Board Secretary

Completeness Review:

Docket #06-2023: Mr. & Mrs. C. Comey, 38 Fairlawn Street, Block 218, Lot 6, R3 Zone: applicants seek to construct a 2-car detached garage; non-compliance with IV 85-11 I (4) side yard setback for an accessory structure, 10 ft. required, 3 ft. proposed; IV 85-11 I (5) rear yard setback for an accessory structure, 10 ft. required, 8 ft. proposed.

Chairman Tarantino: stated, for both the 38 Fairlawn Street and 502 Hollywood Avenue applications, both are just Completeness Reviews; no testimony will be taken or witnesses heard or any exhibits received this evening; the matters will not be discussed on their merits in anyway; the sole purpose of the applicants' appearances this evening is for the Board to determine if the applications are complete, and if so, to schedule a public hearing which would be held on November 2, 2023.

Ms. Raschdorf: asked for the applicant to provide information regarding buffering, if any, on the property; pictures would be sufficient. (applicant agreed)

Application deemed complete; public hearing scheduled for November 2, 2023.

Completeness Review:

Docket #07-2023: Mr. & Mrs. S. Fowler, 503 Hollywood Avenue, Block 219, Lot 11; R3 Zone: applicants seek to add a covered porch to the rear of the existing home; additionally, the applicant seeks to add a second level to the home; property has two front yards (Hollywood Avenue and Elmwood Avenue)/ corner lot; the two new structures will be located 26.8' from Elmwood Avenue, where 30' is required; non-compliance with IV 85-10 F (1): front yard setback/ corner lot. Please note: the Zoning Officer has determined that the existing screened porch does not require a variance as it already has a floor, some wall structure, and a roof; the footprint of the existing screen porch is not changing.

Ms. Raschdorf: asked for the applicant to provide information regarding existing vegetation, pictures would be sufficient. (applicant agreed)

Completeness Review/Public Hearing:

Docket #05-2023: Mr. & Mrs. J. Zawacki, 62 Edgewood Drive, Block 1102, Lot 7, R2 Zone: an in-ground pool is currently under construction which includes a paver patio; the permit was issued with the understanding that a portion of the patio would be removed to avoid a variance for ILC (ILC); a portion of the patio was not removed; the applicants seek to construct a pergola, outdoor kitchen and a paver patio to surround the pool currently under construction; non-compliance with IV 85-10 G ILC; VI 85-33 B patio setback; IV 85-10 I (4) interior lot side line setback for detached accessory building and structure (outdoor kitchen and pergola) please note: the outdoor kitchen and patio is currently being constructed prior to applying for variance relief

Motion to Deem Application Complete:

Metzger, Aye

Raschdorf, Aye

Deegan, Aye

Martinez, Aye

Chairman Tarantino, Aye

Application deemed complete.

Please note: the following exhibits were marked:

Exhibit #	Document
A1 marked on 10/5/23	Variance application; received 5/26/2023
A2 marked on 10/5/23	Letter of explanation; received 5/26/2023
A3 marked on 10/5/23	Zoning Officer denial letter; dated 3/23/2023
A4 marked on 10/5/23	Site Plan; prepared by GB Engineering dated April 17, 2023; consisting of 1 page
A5 marked on 10/5/23	Survey; prepared by GB Engineering dated January 14, 2021
A6 marked on 10/5/23	Pool Plan; prepared by GB Engineering dated November 22, 2022, with a revision date of December 27, 2022; consisting of 1 page
A7 marked on 10/5/23	11 pictures of property submitted during 10/5/2023 hearing

Bruce Whitaker, Esq., applicant's attorney: reviewed the application and property; lot is conforming as far as setbacks for the existing home; applicant is in the process of completing improvements to the rear yard which consists of an in-ground pool and patios; the zoning denial was submitted with the Board application; 3 variances are being sought; patio, pergola and outdoor kitchen; variance for ILC; the variance for the setback of the patio has been eliminated; the patio will maintain a setback of 4 ft., not 3 ft., from the side yard property line; the pergola has to maintain 10' from the side property line; it has no walls and no roof; only slats.

Mr. Cucchiara: confirmed with Mr. Whitaker that paragraph B was being removed from the Zoning Officer's denial letter; confirmed with Mr. Whitaker that he was satisfied with the exhibit list the Board Secretary had prepared.

Mr. Whitaker: stated some of the improvements have already been made and have triggered a need for variance relief for ILC; the Board, per the MLUL, must view this application as if the improvements were not there; will submit pictures this evening to show the Board what the property looks like with the improvements; two major considerations for ILC variances; aesthetics and drainage; will focus on both this evening.

Chairman Tarantino: stated, regarding drainage, the Board's Engineer has not reviewed the application to provide the Board with a report; will have Mr. Whitaker proceed with the application with the understanding the Board may decide to have Mr. Hals review the application before a decision is made.

Mr. Whitaker: stated what is being designed and being finalized is aesthetically very pleasing; will provide testimony regarding drainage; drainage improvements are robust and beyond the minimums; looking at the site from a planning perspective under c1; unusual conditions including unusual topographic conditions; there is a topographic issue with this property; backyard is not level; it is tiered; the retaining walls add to the ILC; walls are all natural; nothing out of character; house is set 50 ft. back where 30 ft. is required; this adds additional driveway area to reach the garage; the walkway in the front yard adds to the ILC as well; driveway accommodates a 2 car garage, not a 1 car garage; if the pergola was approved, a stipulation can be added to the resolution that it can never be enclosed or have a solid roof.

Chairman Tarantino: asked for the height of the pergola.

The answer was given later in the meeting by the applicant's engineer; the height is 7 ft.

Mr. Whitaker: stated the pool itself does not count towards improved lot coverage; not proposing a very large patio around the pool; patio has been constructed; still a 46' width of lawn in the back; upper level on tier patio area outside the house; appropriate place to accommodate activity; modest outdoor kitchen area; the lot can accommodate these improvements; the lot is 12,000 sf in area over the required minimum lot size for the zone; hardscape is proper from a landscaping perspective; no concrete; aesthetics and drainage are appropriate; a c1 variance would be warranted.

Mr. Thomas Stearns, PE, applicant's engineer; sworn in by Mr. Cucchiara; gave his educational and professional background; license in good standing; accepted as an expert in the field of engineering.

Mr. Stearns: stated he has visited the site and prepared the plans; existing conditions reviewed; the lot is located on the easterly side of Edgewood; described lot and dwelling; setback for house is approximately 50 ft.; regarding setbacks, all bulk standards are met; there is an increase in the driveway area due to the fact the house is set back further than what is required; 300 sf of additional driveway; reviewed the grading and topographic features of the site; reviewed elevations; walls installed in the front and rear; walls are calculated in the ILC; the percentage is

3.2% which is over 400 sf; walls are made of natural stone which are common to the area; there is a driveway in front; walkway with steps to house; bluestone patio area in the back surrounded by walls and steps to grass areas; there is an existing seepage pit which handles stormwater from the roof and driveway; proposal to basically build a pool in the rear of the property; 18 x 30; perimeter patio not shown around the whole pool; pool and patio elevations given; 3 ft. difference between both; the pool is modest in size from an engineering standpoint; the patio will conform to be 4 ft. from the property line instead of needing a variance for being 3 ft. from the property line; the pergola is 10 x 12 and 7 ft. high; open wood structure; there is an evergreen buffer along the side where the pergola is located; the evergreens are 6-8 ft. high; there is a solid fence on that side as well which is the neighbor's fence; 10 ft. area to the pool coping; right side 15 ft.; northerly side 46 ft. which is all lawn.

Chairman Tarantino: stated he understands the thrust of the argument in regards to the walls being counted towards ILC and the extra driveway due to the house being setback.

Mr. Martinez: asked why the additional driveway is relevant; if no setback, you would be losing all that area as well; the front of the house is not all pavement; proportional to the rest of the area.

Mr. Whitaker: stated when there is an allowable maximum 35% ILC, the ordinance is promulgated based in part on the setback, in this zone, the setback is 30 ft., while the house sits at 50 ft.; if the house was pushed forward, there would be less ILC.

Chairman Tarantino: stated he understood the issue with the walls being included in the ILC; agrees with Mr. Martinez; does not agree that it is an actual offset if it is lowered.

Ms. Raschdorf: stated the whole streetscape has an average frontage; the driveways are longer and the houses are higher; they are penalized because they need a longer driveway to reach their garage; if you remove the extra driveway and the walls, the coverage is reduced to an overage of 3.3%.

Chairman Tarantino: confirmed the patio was all new; asked if the lot could conform if there was a reduction in the patio.

Mr. Whitaker: stated the patio was set at 3 ft. to the property line, now it will be at 4 ft, making it conform; the patio goes to the tier, not grass; patio is only on 2 sides; need stairs to get to it; all of those improvements count towards ILC; original basis for variance relief; two principles; drainage and aesthetics; aesthetically it works; natural stone; blue stone on site and natural stone on walls; nothing out of character for Ho-Ho-Kus.

Chairman Tarantino: asked if there was a way to reduce the ILC.

Mr. Whitaker: stated he will discuss the options shortly.

Mr. Stearns: (continued) showed the patio which is part of the ILC; part of the patio is being removed to conform with the 4 ft. setback; there are 2 sets of steps to the higher patio.

Chairman Tarantino: asked if there were sliding glass doors to the patio, and if yes, what was the height from the sliding glass door to the patio.

Mr. Stearns: stated yes and the patio is one step down from the door; proposal is to install a seepage pit in the rear of the property; 1,000-gallon seepage pit; will pick up the surface run off from around the pool and the patios; will not pick up the blue stones; have inlets in the grass area for the patio runoff.

Chairman Tarantino: asked if Mr. Hals has reviewed the application.

Mr. Whitaker: stated engineering will review when the building permit is submitted.

Mr. Stearns: stated he has designed drainage for these types of permits before; no adverse effects to neighbors; run off contained on site; property can accommodate more underground drainage if engineering requires it; no trees are being removed; reviewed landscaping; arborvitaes; natural stone in rear of property; have plantings along northerly side as well; the wall in the rear is at grade; a mounded wall.

Mr. Martinez: asked if the patio on the side of the pool was pitched.

Mr. Stearns: stated there is a small natural wall underneath to bring it to grade; elevated stone on the right side; prevents water from going onto the neighbor's property; inlet at front of patio; pitching forward; reviewed Exhibit A7; 11 pictures of property; (description of pictures in italic) *looking at front of house with wall along driveway; location at right rear corner of house; stairs to pool patio, 6 steps up, arborvitae shown.*

Chairman Tarantino: asked where the inlet was located.

Mr. Stearns: stated it had not yet been installed; continued reviewing the pictures: *blue stone patio looking toward rear; tiered wall, natural stone, pool behind that; outdoor kitchen on bluestone; elevated look from the second floor of house showing the wall in rear.*

Mr. Martinez: asked where the proposed drain was in the picture.

Mr. Stearns: stated it had not yet been installed.

Mr. Martinez: asked if a portion of the patio would need to be cut to install the inlet.

Mr. Stearns: stated it will be located on the edge of the patio to the left side; the plan will be revised with engineering approval.

Mr. Martinez: asked for clarification if a shed was shown in one of the pictures.

Mr. Stearns: stated what is shown is not a permanent structure; small playhouse; continued reviewing the pictures: *standing on blue stone patio looking up at tiered*

wall, steps on right, pool patio and fence; left side above playhouse and patio is the outdoor kitchen in rear, left expanse of lawn.

Chairman Tarantino: asked when the bluestone patio was constructed. **The answer was given later in the meeting by the applicant; the patio was constructed in 2020/2021 right after renovations were done to the home.**

Chairman Tarantino: stated the arborvitae look smaller than 6-8 ft. in height.

Mr. Stearns: stated there are larger ones on the lower end; there are smaller ones which measure 4-5 ft. tall.

Ms. Raschdorf: asked the square footage of the patio in the front.

Mr. Stearns: stated 128 sf or 1.06%.

Ms. Raschdorf: asked the square footage of the patio which the playhouse is currently sitting on.

Mr. Stearns: stated 114 sf or .95%.

Mr. Martinez: asked why it was not shown on the plan.

Mr. Stearns: stated it is calculated into the 44% but it is not shown on the plans.

Ms. Deegan: asked where the inlet was going to be installed.

Mr. Stearns: stated basically at the edge of the patios at the top of the stairs.

Chairman Tarantino: asked for the description of a lawn inlet.

Mr. Stearns: stated it will be a 12 x 12 inlet; it will pick up surface run off; not like the steel or iron grates you see on the street; will be piped into a seepage pit.

Mr. Martinez: asked where the inlet would be located.

Mr. Stearns: stated on the right side of the patio.

Mr. Martinez: asked if the inlet was already piped to the seepage pit.

Mr. Stearns: stated he did not know.

Chairman Tarantino: asked what the dotted line connecting to the seepage pit on the plans represented.

Mr. Stearns: stated it is proposed; modifications to inlets to pick up run off to patios and run to the pit.

Please note: at this time the meeting was opened to the public for questions of the applicant's engineer; there was one member of the public in the audience besides the applicant; no one came forward.

Mrs. Zawacki, sworn in by Mr. Cucchiara: stated there are six arborvitaes behind the grill island that are approximately 7-8 ft. in height; two more around the dogwood tree and then two more mature ones; 10-15 ft. apart; part of them are under the patio level; installed in 2021; bigger ones installed last year.

Chairman Tarantino: asked if she had any conversations with her neighbors.

Mrs. Zawacki: stated yes; they said to do what we wanted; they like the privacy; all neighbors are supportive; no complaints about the project.

Mr. Whitaker: stated a condition of approval would stipulate the pergola would remain as is and would never be able to be enclosed.

Chairman Tarantino: asked what other alternatives can be considered in reducing the ILC.

Mrs. Zawacki: stated part of the stone walls could be removed that were not serving a purpose; could remove some of the smaller rock walls as well; could remove the front walk or another front walk also.

Please note: at this time the meeting was opened to the public for comments.

Ms. Gail Fayerweather, 68 Edgewood Drive: was in favor of the application.

Public portion closed.

Mr. Whitaker: stated the improvements are appropriate for the property; unusual conditions; ILC pertains to drainage and aesthetics; is aesthetically appropriate; could reduce the number; could remove walls; could end up being a drainage or erosion problem; taking away the front walkway would look odd; if granted, still subject to building department and engineering reviews; stipulated will comply with drainage requirements; pergola would always be an open structure; outdoor kitchen infringes on the side yard setback; solid fence and arborvitaes screening; variance relief warranted under c1; aesthetics and drainage being addressed; it is counterproductive to remove the walls.

Ms. Metzger: stated the walls look very loose; the walls in the front look solid; asked if the walls with the loose rocks would still count toward ILC due to the fact water would flow through them; believes the walls should not be removed.

Mr. Stearns: stated all the walls count towards ILC.

Mr. Martinez: stated he does not feel comfortable voting on the application; with the drainage and the plans not showing it correctly; some items are already built; may have to remove pavers that are already set; drainage plan should be reviewed and commented on by Mr. Hals before anything could be approved; need updated plans.

Chairman Tarantino: stated, the issue is, the Borough's experts should review the application; we must ensure what is being proposed is correct in terms of drainage before we vote; agrees with Mr. Martinez; believes the application should be carried to the November 2, 2023 meeting; Mr. Hals to conduct his due diligence; a review by

Mr. Hals and revised plans showing all improvements and proposed drainage to be submitted at least 10 days before the November 2, 2023 hearing date.

Mr. Whitaker: stated he and Mr. Stearns will interface with Mr. Hals.

Ms. Raschdorf: stated the biggest issue, in her opinion, is the plans do not reflect the actual conditions; reviewed percentages; agreed with Ms. Metzger that the walls should not be removed; asked if the seepage pit had been installed.

Mrs. Zawacki: stated yes.

Ms. Raschdorf: stated the seepage pit has been sized adequately for the pool, but does not know if it has been sized for the increased pavement; the zoning schedule needs to be amended.

Please note: after a brief discussion, the Board decided the Borough/Board Planner did not need to review the application; just the Borough/Board Engineer.

Motion to carry the application to the November 2, 2023 meeting without further notice required: Chairman Tarantino

Seconded by: Raschdorf

Ayes: Metzger, Raschdorf, Deegan, Martinez, Chairman Tarantino

Nays: None

Approval of September 7, 2023 minutes carried to the November 2, 2023 meeting of the Board.

Motion to Adjourn: Chairman Tarantino

Seconded by: Metzger

All in Favor

None Opposed

Meeting adjourned at 8:15PM.

Respectfully submitted by:


JoAnn Carroll
Zoning Board Secretary
October 12, 2023

APPROVED ON NOVEMBER 2, 2023