

Township of Millburn  
Minutes of the Zoning Board of Adjustment  
January 11, 2016

A regular meeting of the Township of Millburn Zoning Board of Adjustment was held on **Monday, January 11, 2016** at 7:00 PM in Millburn Town Hall.

Eileen Davitt opened the meeting by reading Section 5 of the Open Public Meetings Act.

A roll-call indicated the following members were present:

Michael Birnberg  
Matthew Brett  
Jessica Glatt  
Mary McNett  
Michael Parlavecchio  
Vanessa Scaglione  
Joseph Steinberg  
Steve Togher

Also present:

Gail Fraser, Board Attorney  
Eric Fishman, Court Reporter  
Eileen Davitt, Zoning Officer/Board Secretary

**ORGANIZATION OF THE BOARD**

Eileen Davitt asked for a nomination for Chairman of the Zoning Board.

A motion to nominate Joseph Steinberg for Chairman was made by Michael Parlavecchio, seconded by Mary McNett, and carried with the following roll-call vote:

Matthew Brett – yes  
Jessica Glatt – yes  
Mary McNett – yes  
Vanessa Scaglione – yes  
Steve Togher – yes  
Michael Parlavecchio – yes  
Michael Birnberg – yes

The meeting was turned over to Chairman Joseph Steinberg who asked for a nomination for Vice Chairman of the Zoning Board. A motion to nominate Michael Parlavecchio for Vice Chairman was made by Vanessa Scaglione, seconded by Matthew Brett, and carried with the following roll-call vote:

Matthew Brett – yes  
Jessica Glatt – yes  
Mary McNett – yes  
Vanessa Scaglione – yes  
Steve Togher – yes  
Michael Birnberg – yes  
Joseph Steinberg – yes

A motion to appoint Gail Fraser as Board Attorney was made by Mary McNett, seconded by Steve Togher, and carried with the following roll-call vote:

Matthew Brett – yes  
Jessica Glatt – yes  
Mary McNett – yes  
Vanessa Scaglione – yes  
Steve Togher – yes  
Michael Parlavecchio – yes  
Joseph Steinberg – yes

A motion to appoint Eileen Davitt as Board Secretary was made by Michael Parlavecchio, seconded by Jessica Glatt, and carried with the following roll-call vote:

Matthew Brett – yes  
Jessica Glatt – yes  
Mary McNett – yes  
Vanessa Scaglione – yes  
Steve Togher – yes  
Michael Parlavecchio – yes  
Joseph Steinberg – yes

## **MEMORIALIZATIONS**

### **Cal#3435, Jason Miller, 21 Richard Drive, Short Hills**

A motion to approve the resolution memorializing the granting of variance relief Jason Miller to install an AC condenser unit on the property located at 21 Richard Drive was made by Matthew Brett, seconded by Vanessa Scaglione, and carried with the following roll-call vote:

Matthew Brett – yes  
Vanessa Scaglione – yes  
Joseph Steinberg – yes

**Cal#3438, James & Christine Cofer, 76 South Terrace, Short Hills**

A motion to approve the resolution memorializing the granting of variance relief to James & Christine Cofer to construct an addition on the property located at 76 South Terrace was made by Michael Birnberg, seconded by Matthew Brett, and carried with the following roll-call vote:

Michael Birnberg – yes  
Matthew Brett – yes  
Jessica Glatt – yes  
Vanessa Scaglione – yes  
Joseph Steinberg – yes

**Cal#3442, Anil Patel, 1 Moraine Place, Short Hills**

A motion to approve the resolution memorializing the granting of variance relief to Anil Patel to construct a patio/wall on the property located a 1 Moraine Place was made by Mary McNett, seconded by Vanessa Scaglione, and carried with the following roll-call vote:

Matthew Brett – yes  
Jessica Glatt – yes  
Mary McNett – yes  
Vanessa Scaglione – yes  
Steve Togher – yes  
Michael Parlavecchio – yes  
Joseph Steinberg – yes

**Cal#3443, Steven & Ilene Klinger, 74 Kean Road, Short Hills**

A motion to approve the resolution memorializing the granting of variance relief to Steven & Ilene Klinger to construct an addition on the property located at 74 Kean Road was made by Matthew Brett, seconded by Jessica Glatt, and carried with the following roll-call vote:

Matthew Brett – yes  
Jessica Glatt – yes  
Vanessa Scaglione – yes  
Joseph Steinberg – yes

**Cal#3444, Randy & Jason Roth, 102 Whitney Road, Short Hills**

A motion to approve the resolution memorializing the granting of variance relief to Randy & Jason Roth to construct an addition on the property located at 102 Whitney Road was made by Vanessa Scaglione, seconded by Matthew Brett, and carried with the following roll-call vote:

Michael Birnberg – yes

Matthew Brett – yes  
Jessica Glatt – yes  
Vanessa Scaglione – yes  
Joseph Steinberg – yes

**Cal#3447, Patricia Aresty, 32 Lakeview Avenue, Short Hills**

A motion to approve the resolution memorializing the granting of variance relief to Patricia Aresty to install a patio on the property located at 32 Lakeview Avenue was made by Matthew Brett, seconded by Vanessa Scaglione, and carried with the following roll-call vote:

Michael Birnberg – yes  
Matthew Brett – yes  
Jessica Glatt – yes  
Vanessa Scaglione – yes  
Joseph Steinberg – yes

**Cal#3448, Footnotes, 275 Millburn Avenue, Millburn**

A motion to approve the resolution memorializing the granting of variance relief to Footnotes to install a street graphic on the property located at 275 Millburn Avenue was made by Matthew Brett, seconded by Michael Birnberg, and carried with the following roll-call vote:

Michael Birnberg – yes  
Matthew Brett – yes  
Jessica Glatt – yes  
Vanessa Scaglione – yes  
Joseph Steinberg – yes

**APPLICATIONS**

**CAL#3425, GARY XIA/CHRISTINE SHEN, 51 SILVER SPRING ROAD, SHORT HILLS**

The matter was carried to February 22, 2016.

**CAL#3441, MINGJUN & FENG HUANG, 52 WELLINGTON AVENUE, SHORT HILLS**

Timothy Klesse and Mingjun Huang appeared and remain sworn. Richard Keller, PE, appeared and was sworn. Mr. Keller's credentials were presented and accepted by the Board.

Timothy Klesse stated that the applicant made revisions to his original application, based on comments from Board members at the previous meeting. The detached garage was moved closer to the existing dwelling and set further back from the Claremont Drive property line. Initially, the garage was proposed to be 20.5' from Claremont Drive. The revised plan results in

a setback of 34' from Claremont Drive. In addition, the side yard setback of the detached garage was increased from 3' to 18.2'.

Timothy Klesse indicated that he spoke to the Township Forester, Tom Doty, as to the existing trees on the property. Mr. Klesse stated that Mr. Doty approved of the removal of one tree in the area of the proposed driveway. The 2 trees along Claremont Drive will remain. Mr. Doty also notified Mr. Klesse of the planting that would be required, which has been indicated on the site survey.

Joseph Steinberg asked if the pitch from the street to the garage has been altered at all. Timothy Klesse indicated that it has not been altered.

Richard Keller, PE, spoke to the drainage issues on the subject site.

Entered as A-3: aerial topographic survey of 52 Wellington Avenue

Mr. Keller indicated that there is a drainage problem at the corner of Wellington Avenue and Claremont Drive. There are documented problems of water back-up in the area. When enough water builds up, it flows down the applicant's driveway and into the current basement garage. If this application is approved, a grading plan will be required to be filed with the Township Engineering department. Mr. Keller stated that this plan will allow the water to bypass the garage and continue the path it has always followed. This project will have no negative impact to the surrounding properties and the flow of rain-water will not be altered from its present course.

Matthew Brett asked if the applicant would be required to obtain a grading permit from the Engineering department if this application were approved. Mr. Keller indicated that a grading permit would be required to be submitted and approved by the Township Engineering department prior to the issuance of any building permits.

Vanessa Scaglione asked why this Board should not wait until the Township has addressed the issue as to why this intersection floods as it does. She stated that she is not comfortable voting on an application when the problem has not been taken care of. She also indicated that she believes that the water that has been flooding the applicant will be pushed onto surrounding properties. Mr. Keller stated it is costly for the issues to be addressed and the applicant cannot wait until the Township has opted to research the problem. He feels the application, as proposed, will address the flooding problems on the applicant's property without causing adverse conditions to the surrounding properties.

Matthew Brett stated that he is much more comfortable with the revisions that have been made to the application. He feels the Township is aware of the problems in this area and the Township Engineering department will require a grading/lot drainage plan to be submitted and approved prior to the issuance of a building permit.

Upon a motion made by Mary McNett, seconded by Jessica Glatt, and with a roll-call vote as follows:

Matthew Brett – yes  
Jessica Glatt – yes  
Mary McNett – yes  
Vanessa Scaglione – no  
Steve Togher – yes  
Michael Parlavecchio – yes  
Joseph Steinberg – yes

Cal#3441, Mingjun & Fen Huang, 52 Wellington Avenue, was **APPROVED**.

**CAL#3445, JACQUELINE HOLMES, 27 WHITNEY ROAD, SHORT HILLS**

\*It is noted that Vanessa Scaglione recused and left the meeting room.

Jacqueline and Gerald Holmes and Timothy Klesse, Architect, appeared and were sworn. Mr. Klesse's credentials were presented and accepted by the Board. The applicant would like to construct an addition to the dwelling. Proposal is in violation of:

606.2e1d – Front yard setback  
606.2e2d – FAR

Timothy Klesse stated that the property is a corner lot at the intersection of Whitney Road and Hawthorne Road. The proposal is to add to the existing garage and construct a master bedroom suite over the garage. The applicant is requesting variance relief for a front yard setback in order to permit a setback of 25.95' where 40' is the minimum required. The front yard setbacks in the area vary between 25' and 30'. A variance is required to permit a floor area ratio of 2,631 square feet (39%) where 2,425 square feet (36%) is permitted.

Entered as A-1: photoboard of subject area

Mary McNett asked what impact this construction will have on the neighbor directly adjacent on Hawthorne Road. Mr. Klesse indicated that the construction proposed is further back than the adjoining dwelling and will not negatively affect the adjoining neighbor.

Upon a motion made by Michael Parlavecchio, seconded by Steve Togher, and with a roll-call vote as follows:

Michael Birnberg – yes  
Matthew Brett – yes  
Jessica Glatt – yes  
Mary McNett – yes  
Steve Togher – yes

Michael Parlavecchio – yes  
Joseph Steinberg – yes

Cal#3445, Jacqueline & Gerald Holmes, 27 Whitney Road, was **APPROVED**.

\*It is noted that Vanessa Scaglione returned to the meeting room.

**CAL#3446, GEORGE WOLFSON/JOANNE GOULD, 3 CAPE COURT, MILLBURN**

George Wolfson, Joanne Gould, and Timothy Klesse, Architect, appeared and were sworn. The applicants would like to construct an addition to their dwelling. Proposal is in violation of:

606.2e2a – Building coverage  
606.2e1d – Front yard setback  
606.2e2d – FAR

Timothy Klesse briefly spoke to a variance approval granted by the Zoning Board in 1999 for this subject site. The applicants are requesting variance approval in order to allow for the construction of a 2-story addition and a 2<sup>nd</sup> floor addition over the existing building.

Entered as A-1: photoboard

Mr. Klesse addressed the variance relief being requested. He stated that the proposal requires variance relief for building coverage to allow 23.2% where 23% is permitted. Variance relief is also required to allow floor area ratio of 37.1% where 36% is permitted. Finally, front yard setback variance relief is required to allow a front yard setback of 8.8' (portico), 12.4' (dormers), 22' (2<sup>nd</sup> floor on Cape Court) and 28.7' (Glen Avenue).

Frank Meyer, 7 Cape Court, appeared and was sworn. He stated that he is concerned with the effect this construction will have on Cape Court, which is a narrow road. He is worried that the construction vehicles will have difficulties accessing the subject site and there is not enough room on the subject site for the construction vehicles to park.

Joanne Gould indicated that the property has a 2-car parking area on the Glen Avenue side of the property. Since she works during the day, that space will be available for construction vehicles.

Jessica Glatt stated that she was initially concerned that there was a little too much being proposed for this dwelling. However, after hearing the testimony presented she is comfortable with the construction, as proposed.

Upon a motion made by Mary McNett, seconded by Steve Togher, and with a roll-call vote as follows:

Matthew Brett – yes  
Jessica Glatt – yes  
Mary McNett – yes  
Vanessa Scaglione – yes  
Steve Togher – yes  
Michael Parlavecchio – yes  
Joseph Steinberg – yes

Cal#3446, George Wolfson/Joanne Gould, “d” variance relief for floor area ratio was **APPROVED** with the condition that all construction vehicles be confined to the Glen Avenue side of the property.

Upon a motion made by Michael Parlavecchio, seconded by Mary McNett, and with a roll-call vote as follows:

Matthew Brett – yes  
Jessica Glatt – yes  
Mary McNett – yes  
Vanessa Scaglione – yes  
Steve Togher – yes  
Michael Parlavecchio – yes  
Joseph Steinberg – yes

Cal#3446, George Wolfson/Joanne Gould, “c” variance relief for building coverage and front yard setback was **APPROVED**.

**CAL#3449, JIMING YU, 8 ELMWOOD PLACE, SHORT HILLS**

Zhe Wang, Jiming Yu, Margaret Peterson, Architect, and Richard Keller, PE, PP, appeared and were sworn. The applicants would like to construct an addition to the dwelling. Proposal is in violation of:

606.2e1d – Front yard setback  
606.2e1e1b – Side yard setback  
606.2e2d – FAR

Margaret Peterson’s credentials were presented and accepted by the Board. She stated that the applicant’s would like to rebuild the second floor of the existing 2-story home and add 1- and 2-story additions. The additions will provide an additional garage space, an open kitchen/family room and a guestroom on the first floor. A master bedroom suite is proposed to be added over the 1<sup>st</sup> floor garage.

Ms. Peterson stated that the existing dwelling is an outdated, small Colonial with very low ceilings. The construction proposed is an aesthetic enhancement to the property and

neighborhood. She stated that she has varied the architectural elements of the house in order to break down the massing as well as provide shade, shadow and visual interest to the home.

Entered as A-1: sheet A1 shaded to show addition

Eileen Davitt, Zoning Officer, appeared and was sworn. Joseph Steinberg asked for clarification as to the proposed front yard setback. Eileen Davitt indicated that the applicant's Attachment E indicating a front yard setback of 24.59' is the correct calculation.

Michael Parlavecchio indicated that this is an oversized lot for the zone. He asked if any consideration was given to keeping the additional floor area ratio to 1000 square feet instead of the 1500 square feet proposed, in order to keep the FAR in conformance with the ordinance requirement. Ms. Peterson indicated that they kept the rooms to a fairly minimal size. She stated that the additional garage space accounts for a large portion of the FAR calculation.

Richard Keller's credentials were presented and accepted by the Board. He spoke to the variances being requested. He stated that the current front yard setback is 23.58'. The applicant proposes to remove the existing cantilever and build a second floor above the existing first floor, proposing a front yard setback of 24.59', where the ordinance requires a setback of 40'. Richard Keller stated that this R-6 property is 7,872 square feet in area, an oversized lot for the zone.

Entered as A-2: aerial photo

Entered as A-3: photoboard #1

Entered as A-4: photoboard #2

Entered as A-5: neighborhood analysis of FAR

Richard Keller spoke to the floor area ratio. He indicated that he obtained records in order to calculate the approximate floor area ratios of surrounding properties. This proposal would result in a 41% floor area ratio (3231 square feet). Many of the surrounding properties are non-conforming and have FAR's that range from 38.7% to 50.7%.

Entered as A-6: variance plot plan (colorized version)

Richard Keller indicated that the proposal advances the purposes of the Municipal Land Use Law and the benefits of granting the variance relief outweigh any potential detriment.

Entered as A-7: sheet A2 of architect's plan (shaded)

Matthew Brett asked if the adjacent property on Meadowbrook will be affected by this proposal. Richard Keller indicated that this proposal meets the required side yard setback on that side and provides a setback of 18'. It will have no negative impact on the adjoining property on Meadowbrook.

Joseph Steinberg asked if the only portion of the variance needed for height to side yard is located in the attic area. Richard Keller responded affirmatively. Joseph Steinberg asked if

bedroom #3 on the 2<sup>nd</sup> floor were 11' deep from front to back and 11' wide from left to right, would variance relief for the height to side yard be required. Richard Keller stated that variance relief would not be required but it would be difficult structurally and would compromise the aesthetics of the roof line.

Vanessa Scaglione felt it was a very elegant design. However, she felt the request for FAR variance relief is significant. She is concerned that the house, after construction, will not be in scale to the neighboring dwellings.

Several Board members expressed concern for the request for floor area ratio variance relief.

Matthew Brett indicated that he had initial concerns with the floor area ratio variance request. However, after hearing testimony, he feels this lot can adequately accommodate the variance being requested and would be in favor of the proposal.

Joseph Steinberg stated that in looking at the neighborhood analysis, the square footage of this house, after the proposed additions, would be 40% greater than the others. He agrees with Matthew Brett in that this house is at the end of the block and the construction is to the rear, minimizing the impact of the proposal.

Based on the comments of the Board, Richard Keller indicated that the applicants were agreeable to make some changes. He indicated that the existing 10' garage is too small to accommodate a car and associated recreational equipment. They amended their plan to add 5' to the existing garage, thereby maintaining a 1-car garage. As well, the proposed 2<sup>nd</sup> floor would be reduced. The revision would reduce the floor area ratio by 209.5 square feet resulting in an FAR of 38.3% (3,021 square feet), a 6.6% deviation from the standard.

Overall, Board members were in favor of the application as amended.

Upon a motion made by Steve Togher, seconded by Jessica Glatt, and with a roll-call vote as follows:

Matthew Brett – yes  
Jessica Glatt – yes  
Mary McNett – yes  
Vanessa Scaglione – no  
Steve Togher – yes  
Michael Parlavecchio – yes  
Joseph Steinberg – yes

Cal#3449, Jiming Yu, 8 Elmwood Place, “d” variance relief for floor area ratio was **APPROVED**.

Upon a motion made by Mary McNett, seconded by Steve Togher, and with a roll-call vote as follows:

Matthew Brett – yes  
Jessica Glatt – yes  
Mary McNett –yes  
Vanessa Scaglione – no  
Steve Togher – yes  
Michael Parlavecchio – yes  
Joseph Steinberg – yes

Cal#3449, Jiming Yu, 8 Elmwood Place, “c” variance relief for side yard setback and front yard setback was **APPROVED**.

**CAL#3453, BRANDON & CORRINE HAASE, 45 W. BEECHCROFT ROAD, SHORT HILLS**

Brandon & Corrine Haase, and Thomas Baio, Architect, appeared and were sworn. The applicants would like to construct a 2<sup>nd</sup> floor addition over existing 1<sup>st</sup> floor area. Proposal is in violation of:

606.2e1d – Front yard setback

Thomas Baio’s credentials were presented and accepted by the Board. He indicated that the applicants would like to construct a 2<sup>nd</sup> floor addition in order to create a larger bedroom. The existing front yard setback of the dwelling is non-conforming at 27’, where the ordinance requires a front yard setback of 40’. They would like to add a 2<sup>nd</sup> floor that will have a front yard setback of 32’.

Upon a motion made by Vanessa Scaglione, seconded by Matthew Brett, and with a roll-call vote as follows:

Matthew Brett – yes  
Jessica Glatt – yes  
Mary McNett – yes  
Vanessa Scaglione – yes  
Steve Togher – yes  
Michael Parlavecchio – yes  
Joseph Steinberg – yes

Cal#3450, Brendan & Corrine Haase, 45 W. Beechcroft Road, was **APPROVED**.

**ADJOURNMENT**

A motion to adjourn was made by Michael Parlavecchio, seconded by Steve Togher, and carried with a unanimous voice vote. (10:20 PM)

Eileen Davitt  
Board Secretary

Motion: MB  
Second: ST  
Date Adopted: 2/8/16