

Township of Millburn
Minutes of the Zoning Board of Adjustment
March 7, 2016

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

Chairman Joseph Steinberg 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
Mary McNett
Craig Ploetner
Vanessa Scaglione
Jessica Glatt
Joseph Steinberg

Also present:

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

BUSINESS

Board members discussed the 2015 Annual Report. A motion to approve the 2015 Annual Report was made by Mary McNett, seconded by Jessica Glatt, and carried with a unanimous voice vote.

APPROVAL OF MINUTES

A motion to approve the minutes of February 8, 2016 was made by Matthew Brett, seconded by Michael Birnberg, and carried with a unanimous voice vote.

MEMORIALIZATIONS

Cal#3455, Ralph Ferdinand, 56 Walnut Avenue, Millburn

A motion to approve the resolution memorializing the granting of variance relief to Ralph Ferdinand to maintain a patio on the property located at 56 Walnut Avenue was made by Mary McNett, seconded by Matthew Brett, and carried with the following roll-call vote:

Matthew Brett – yes
Mary McNett – yes
Craig Ploetner – yes
Jessica Glatt – yes
Joseph Steinberg – yes

Cal#3459, John Gerbino/Katerine Eklund, 125 Forest Drive, Short Hills

A motion to approve the resolution memorializing the granting of variance relief to John Gerbino/Katerine Eklund to construct an addition on the property located at 125 Forest Drive was made by Matthew Brett, seconded by Craig Ploetner, and carried with the following roll-call vote:

Matthew Brett – yes
Mary McNett – yes
Craig Ploetner – yes
Jessica Glatt – yes
Joseph Steinberg – yes

Cal#3461, Michael Gordon, 36 Hobart Avenue, Short Hills

A motion to approve the resolution memorializing the granting of variance relief to Michael Gordon to construct an addition on the property located at 36 Hobart Avenue was made by Mary McNett, seconded by Jessica Glatt, and carried with the following roll-call vote:

Matthew Brett – yes
Mary McNett – yes
Craig Ploetner – yes
Jessica Glatt – yes
Joseph Steinberg – yes

APPLICATIONS

CAL#3456, MICHAEL SEIFER, 10 BIRCHWOOD DRIVE, SHORT HILLS

*It is noted that Michael Birnberg and Matthew Brett recused and left the meeting room

Nancy Dougherty, Architect, Michael & Margaret Seifer, appeared and remain sworn from their previous January 25, 2016 appearance.

Michael Seifer stated that they went back after the last meeting and revised their plans, based on comments from the Board.

Nancy Dougherty explained the differences between the previous submission and the current submission. Initially, the plans were to build a raised deck. It was determined at the

January 25 meeting that the deck extended into a 15' easement. The original submission also sought variance relief for a side yard setback encroachment. In response to concerns, they replaced the raised deck with a grade level patio. The patio will not extend any further toward the sideline than the existing house and there will be stairs extending from the 2nd floor to the proposed patio.

Entered as A-1: Property survey

The patio on grade will not encroach to the rear into the easement area. The patio and steps are 17' x 18' and require 3 variances. Variance relief is required for rear yard unoccupied. 25% is required and 9.9% is proposed. A large rear yard area is covered in black top in order to accommodate an existing rear-entry garage. Variance relief is also required for lot coverage. The ordinance permits 45% coverage and the proposal will result in total lot coverage of 55.7%. Finally, side yard setback variance relief is required to permit a patio 10.4' off the property line where the ordinance requires 12'. The new patio will be in line with the existing house.

Nancy Dougherty felt the application will not cause substantial detriment to the zone plan or the zoning ordinance.

Betty Grosman, 14 Birchwood Drive, appeared and was sworn. She stated that the steps proposed to be constructed in order to enter the patio from the second floor will cause issues with respect to privacy on her property. She feels the stairs can be moved and descend away from her house. She stated that construction of the egress deck stairs will not allow her family to enjoy their outdoor area.

Alan Grosman, 14 Birchwood Drive, appeared and was sworn. He stated that he does not understand the applicants' purpose of having a lengthy stairway outside the house to get to street level. There is no need to have this long exterior stairway. Access to the proposed patio can be achieved by exiting from the first floor area.

Nancy Dougherty stated that the stairs are proposed in order to access the patio from the dining room area. The properties are divided by a 6' fence, which is on the neighbors' property.

Vanessa Scaglione stated that she does not have any concerns with the patio area but is troubled by the staircase.

Joseph Steinberg stated that he does not feel the 17" encroachment of the stairs into the side yard setback will result in substantial detriment. He believes that a deed restriction that the fence be maintained could be made a condition of approval.

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

Mary McNett – yes
Craig Ploetner – yes

Vanessa Scaglione – no
Jessica Glatt – yes
Joseph Steinberg – yes

Cal#3456, Michael Seifer, 10 Birchwood Drive, was **APPROVED** with the condition that the 6' privacy fence be maintained in perpetuity and a deed restriction be filed with the Essex County Register's office and a copy submitted to the Board Secretary.

CAL#3466, CHARLES & HELENE RAIFMAN, 3 ATHENS ROAD, SHORT HILLS

*Matthew Brett and Michael Birnberg returned to the meeting room.

Albert Martorano, Architect, and Charles & Helene Raifman, appeared and were sworn. Albert Martorano's credentials were presented and accepted by the Board.

The applicants would like to construct a small extension to the northern side of the structure. Proposal is in violation of:

606.2e1e2b – Side yard setback over 18' in height
606.2e2a – Building coverage

The property in question is a ranch-style home on the corner of White Oak Ridge Road and Athens Road. The purpose of the proposal is to open the kitchen area and provide access to the small area to the rear of the kitchen. The proposed addition is 181 square feet in area. The proposal is to follow the line of the existing dwelling.

The property line gets closer to the dwelling to the west, causing the need for side yard setback variance relief. The adjacent neighbor's dwelling will not be affected by the proposal since it is located closer to White Oak Ridge Road.

Matthew Brett stated that he feels the proposal can be granted without substantial detriment to the zone plan or zoning ordinance.

Overall, Board members were in favor of the proposal.

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

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

Cal#3466, Charles & Helene Raifman, 3 Athens Road, was **APPROVED**.

CAL#3439 ZHONGHAN FENG, 300 GLEN AVENUE, SHORT HILLS

Zhonghan Feng and Gary Junkroft, Architect, appeared and were sworn. Gary Junkroft'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
- 606.2e2a – Building coverage
- 606.2e2b – Lot coverage
- 606.2e1h – Rear yard setback
- 606.2e2d – FAR
- 606.2e1g – Rear yard unoccupied

Gary Junkroft gave a brief description of the proposal. He stated that the property is a small 7,619 square foot property in the R-4 zone, which has a minimum lot size of 20,000 square feet. The variances being requested are all pre-existing non-conforming conditions.

Joseph Steinberg asked for testimony from the architect that would speak to the impact of this proposal on the neighboring properties.

Gary Junkroft stated that the portion of the neighbor's lot behind the applicant's property is heavily wooded and has a stream that runs through it.

Joseph Steinberg alerted the applicant's architect to the fact that there are restrictions in the Township's ordinance that relate to the distance of any new construction to the stream. He indicated that if the applicant receives variance approval from this Board and it is later determined that the applicant violates the Riparian buffer, he will need to come back to this Board to seek additional variance relief.

Vicki Sanborn, 303 Glen Avenue, appeared and was sworn. She stated that she has lived in her house for 36 years and the house currently at 300 Glen was originally built as a summer house for someone who lived in East Orange. She is concerned with the potential impact that this construction will have on the way the water flows. She stated that this is an extremely undersized lot in the R-4 zone

Ralph Hennings, 90 Old Short Hills Road, appeared and was sworn. He stated that he is concerned with the excavation that will be taking place in the rear of the subject dwelling.

Mary McNett stated that this is a tiny house on a tiny property. She feels the expansion of this house will negatively affect the neighborhood.

Joseph Steinberg feels that this proposal will have little visual effect on the neighbors. However, he is concerned that there may be riparian issues that should be addressed prior to the Board's vote.

Board Attorney, Gail Fraser, indicated that the applicant should consider hiring an engineer to speak to the Board's water run-off and drainage concerns.

Craig Ploetner stated that this is a very small lot and he is concerned with allowing the structure to be enlarged.

Michael Birnberg stated that he is trying to look at each variance individually. He has no concern with the front yard setback but expressed concerns with the proposed construction in the rear yard area.

Matthew Brett stated that he has no concern with the front yard setback variance relief being requested or the area under the deck, which is basement area. That portion is really not going to be visible. He is concerned with the potential water issue. He does not feel comfortable voting in favor of the application if there is a possibility that it will cause further drainage issues to the area.

Vanessa Scaglione stated that she is slightly concerned with the expansion under the deck. She feels it should be included in the FAR calculation.

Joseph Steinberg is concerned with the construction in the rear, under the deck. He stated that it would be in the applicant's best interest to get an engineer who can speak to the issues that have been raised by Board members with regard to water issues.

The matter was carried to April 4, 2016 with no further notice required.

CAL#3465, XIAOQING HAN/DAYU LIN, 24 REEVE CIRCLE, MILLBURN

Arthur Henn, Architect, Xiaoqing Han & Dayu Lin appeared and were sworn. Arthur Henn'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:

- 606.2e1h – Rear yard setback
- 606.2e2a – Building coverage
- 606.2e2d – FAR

Arthur Henn gave a brief description of the proposal. The applicant is seeking 3 variances in order to construct an addition at the back of the current two-story dwelling. The proposed construction includes the addition of a family room and enlarged office area to accommodate an in-law bedroom on the first floor. The second floor construction will allow for a master suite.

Arthur Henn indicated that the property is a fan-shaped lot located on a cul-de-sac. He spoke to the variances required for the proposed construction. A rear yard setback variance is required to allow a setback of 17.5% (18.74') where the ordinance requires 20% (21.4'). A variance for building coverage is needed to permit 23.3% where the ordinance allows 23%. A floor area ratio variance is needed to permit 37.9% where the ordinance permits 36%.

Entered as A-1: photo handout

Arthur Henn stated that the front of the house will have no change other than the addition of a roof top for the existing front landing area. The addition to the rear of the house will make the house more visually appealing.

Mary McNett asked if the addition could be made any smaller in order to bring the small deviations into conformance with the ordinance. Arthur Henn stated that he feels the room sizes have been designed to be the smallest possible while still provided functional living area.

Joseph Steinberg indicated that this lot is an oversized lot in the R-6 zone. This is an 8,468 square foot lot in a zone with a minimum lot size of 6,000 square feet.

Overall, Board members felt the application could be revised in order to bring the proposal more into conformance.

After consulting with his clients, Arthur Henn indicated that they have agreed to shave off 6" along the proposed width of the addition as well as construct the mud room in the garage area. The proposed reduction will result in the elimination of the need for building coverage and rear yard unoccupied variance relief.

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

Michael Birnberg – yes
Matthew Brett – yes
Mary McNett – yes
Craig Ploetner – yes
Vanessa Scaglione – yes
Jessica Glatt – yes
Joseph Steinberg – yes

Cal#3465, Xiaoqing Han/Dayu Lin, 24 Reeve Circle, was **APPROVED** with the condition that revised plans be submitted to the Board Secretary, depicting compliant building coverage and rear yard unoccupied.

CAL#3467, CINDY & DAVID COOPER, 10 LANCER DRIVE, SHORT HILLS

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

- 606.2e2a – Building coverage
- 606.2e1e2b – Side yard setback

Timothy Klesse gave a brief description of the proposal. The lot is a 20,470 square foot lot in the R-4 zone. The proposal is to construct an addition to the left side of the existing dwelling. The proposal requires variance relief for building coverage in order to allow 15.1%, where the ordinance permits 14%. A variance is required for side yard setback in order to allow a setback of 12.7' where the ordinance requires 15'.

Mr. Klesse stated that the house to the left of the subject dwelling is a corner lot and is very far from the applicant's dwelling. The proposed construction will have no negative impact on the neighbor to the left.

Entered as A-1: photoboard

Jessica Glatt asked if the tree in the front nearest to the proposed construction will remain. Tim Klesse stated that there are 4 trees proposed to be removed. However, they are along the side property line closer to the rear yard area. The trees in the front will remain.

Overall, Board members were in favor of the proposal.

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

- Matthew Brett – yes
- Mary McNett – yes
- Craig Ploetner – yes
- Vanessa Scaglione – yes
- Michael Birnberg – yes
- Jessica Glatt – yes
- Joseph Steinberg – yes

Cal#3467, Cindy & David Cooper, 10 Lancer Drive, was **APPROVED**.

ADJOURNMENT

A motion to adjourn was made by Mary McNett, seconded by Matthew Brett, and carried with a unanimous voice vote. (10:00 PM)

Eileen Davitt
Board Secretary

Motion: MM
Second: MBI
Date Adopted: 5/2/16