

Township of Millburn  
Minutes of the Zoning Board of Adjustment  
April 25, 2016

A regular meeting of the Township of Millburn Zoning Board of Adjustment was held on **Monday, April 25, 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, Alt. #2  
Matthew Brett  
Ellen Nimaroff Hirsch, Alt. #1  
Mary McNett  
Craig Ploetner  
Vanessa Scaglione  
Steve Togher  
Jessica Glatt, Vice Chairwoman – arrived 7:29 PM  
Joseph Steinberg, Chairman

Also present:

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

**BUSINESS**

Chairman Joseph Steinberg welcomed new Board member, Ellen Nimaroff Hirsch, Alternate #2, with a term to expire 12/31/16.

Joseph Steinberg spoke to the Board about a memo that has been circulated to Board members tonight regarding the Board recommended amendments to the Land Development Ordinance. This memo was received by Board Attorney, Gail Fraser, from Township Attorney, Christopher Falcon. It indicates that Mayor Bourke has requested that the Township Planner, Paul Phillips, analyze the suggested zoning amendments that this Board has forwarded to the Township Committee and Township Planning Board. In addition, a subcommittee of the Township Committee has been formed to review any draft ordinances that will be produced.

**MEMORIALIZATIONS**

**Cal#3456, Michael Seifer, 10 Birchwood Drive, Short Hills**

A motion to approve the resolution memorializing the granting of variance relief to Michael Seifer to construct a patio on the property located at 10 Birchwood Drive was made by Craig Ploetner, seconded by Mary McNett, and carried with the following roll-call vote:

Mary McNett – yes  
Craig Ploetner – yes  
Joseph Steinberg – yes

**Cal#3464, Leslie & Dean Shulman, 10 Bodwell Terrace, Millburn**

A motion to approve the resolution memorializing the granting of variance relief to Leslie & Dean Shulman to construct an addition on the property located at 10 Bodwell Terrace was made by Matthew Brett, seconded by Steve Togher, and carried with the following roll-call vote:

Matthew Brett – yes  
Mary McNett – yes  
Craig Ploetner – yes  
Steve Togher – yes  
Joseph Steinberg – yes

**Cal#3469, Kevin & Kristin Sterling, 15 Cayuga Way, Short Hills**

A motion to approve the resolution memorializing the granting of variance relief to Kevin & Kristin Sterling to construct an addition on the property located at 15 Cayuga Way was made by Michael Birnberg, seconded by Matthew Brett, and carried with the following roll-call vote:

Michael Birnberg – yes  
Matthew Brett – yes  
Mary McNett – yes  
Craig Ploetner – yes  
Steve Togher – yes  
Joseph Steinberg – yes

**Cal#3470, Trang & Nu Suwankosai, 22 Berkeley Road, Millburn**

A motion to approve the resolution memorializing the granting of variance relief to Trang & Nu Suwankosai to construct an addition to the property located at 22 Berkeley Road was made by Mary McNett, seconded by Craig Ploetner, and carried with the following roll-call vote:

Michael Birnberg – yes  
Mary McNett – yes

Craig Ploetner – yes  
Steve Togher – yes  
Joseph Steinberg – yes

**REQUEST FOR EXTENSION**

**Cal#3407, Patricia McMahon, 33 Coniston Road, Short Hills**

A motion to grant a 1-year extension of variance approval, to expire 9/28/17, was made by Mary McNett, seconded by Michael Birnberg, and carried with a unanimous voice vote.

**APPLICATIONS**

**CAL#3454, ILYA SAMUYLOV, 136 SILVER SPRING ROAD, SHORT HILLS**

Ilya Samuylov appeared and was sworn. He would like to replace a retaining wall in his front yard. Proposal is in violation of:

510.1 – Front yard wall height shall not exceed 2' in height

Mr. Samuylov stated that the wall has been on the site for many years and has deteriorated. He would like to replace the wall.

The Board had no objections to the applicant's request.

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  
Steve Togher – yes  
Michael Birnberg – yes  
Joseph Steinberg – yes

Cal#3454, Ilya Samuylov, 136 Silver Spring Road, was **APPROVED**.

**CAL#3473, ROBERT CHIN & JANET CHEN, 76 JEFFERSON AVENUE, SHORT HILLS**

Robert Chin and Timothy Klesse, Architect, appeared and were sworn. The applicant would like to construct an addition to the dwelling. Proposal is in violation of:

606.2e2d – FAR

606.2e1h – Rear yard setback  
606.2e2a – Building coverage

Timothy Klesse’s credentials were presented and accepted by the Board.

Timothy Klesse gave a brief description of the proposal. The property is located in the R-3 zone, is undersized for the zone and is irregular in shape.

Entered as A-1: photoboard of 3 photos

\*It is noted that Jessica Glatt arrived at this time (7:29 PM)

The proposed addition is to the rear of the dwelling, and is barely visible from the street. The proposed construction will allow for the addition of a family room, mud room and sun room.

Variance relief is being sought in order to allow a floor area ratio of 25.2% where 25% is permitted, a rear yard setback of 18.6%, where 20% is required and building coverage of 15.8% where 13% is permitted.

The lot is extremely undersized, yet appears much larger from the street. Because the proposed addition is concealed in the rear of the dwelling, the proposal minimizes the impact to the surrounding properties. The unusual shape of the lot results in the need for rear yard setback variance relief.

Mary McNett and Steve Togher expressed concern with the proposed storage area and felt the removal of it would result in a more conforming floor area ratio.

Joseph Steinberg felt the property could accommodate the additional floor area ratio.

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

Matthew Brett – yes  
Mary McNett – yes  
Craig Ploetner – yes  
Vanessa Scaglione – yes  
Steve Togher – yes  
Michael Birnberg – yes  
Joseph Steinberg – yes

Cal#3473, Robert Chin/Janet Chen, 76 Jefferson Ave., “d” variance relief for FAR was **APPROVED**.

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

Matthew Brett – yes  
Mary McNett – yes  
Craig Ploetner – yes  
Vanessa Scaglione – yes  
Steve Togher – yes  
Michael Birnberg – yes  
Joseph Steinberg – yes

Cal#3473, Robert Chin/Janet Chen, 67 Jefferson Avenue, “c” variance relief for rear yard setback and building coverage was **APPROVED**.

**CAL#3474, JULIE & STEPHEN WINER, 47 WOODLAND ROAD, SHORT HILLS**

Stephen & Julie Winer, and Timothy Klesse, Architect, appeared and were sworn. Timothy Klesse’s credentials were presented and accepted by the Board. The applicants would like to construct an addition to their dwelling. Proposal is in violation of:

606.2e1d – Front yard setback

Timothy Klesse gave a brief description of the proposal. The property is a corner lot in the R-6 zone, which has a minimum lot size of 6,000 square feet. This property is over-sized for the zone at 10,261 square feet. The proposed construction will add a second floor over the existing dwelling, which has a front yard setback of 28.5 feet along Woodland Road and 14.6 feet along Oak Hill Road. The ordinance requires a minimum front yard setback of 40 feet. The front yard setback of all of the neighboring houses is similar to the existing front yard setback of the subject property.

Entered as A-1: photoboard with 4 photos

Joseph Steinberg asked if the proposed 2<sup>nd</sup> floor on the Woodland Road side is set back further than the setback of the house to the left. Timothy Klesse stated that the setback is about the same.

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

Matthew Brett – yes  
Mary McNett – yes  
Craig Ploetner – yes  
Vanessa Scaglione – yes  
Steve Togher – no  
Jessica Glatt – yes  
Joseph Steinberg – yes

Cal#3474, Julie & Stephen Winer, 47 Woodland Road, was **APPROVED**.  
**CAL#3477, SHILPA VASWANI/ABHAYAD KAMAT, 37 TENNYSON DRIVE, SHORT HILLS**

Abhayad Kamat, Shilpa Vaswani, Richard Keller, P.E., P.P., and Daniel Encin, Architect, appeared and were sworn. Daniel Encin's credentials were presented and accepted by the Board. Richard Keller's credentials were presented and accepted by the Board.

The applicants would like to construct an addition to the dwelling. Proposal is in violation of:

- 606.2e2a – Building coverage
- 606.2e3d – Front facing garage is prohibited
- 606.2e1f – Combined side yard setback

Daniel Encin gave a brief description of the proposal. The current garage doors face the rear of the property. The applicants would like to make the garage a front facing garage, as well as expand the width of the garage slightly in order to accommodate 2 cars. This will allow for an addition to the rear of the dwelling in order to provide for an in-law suite for the applicants' parents.

Entered as A-1: Alternate site plan

Daniel Encin showed an alternate site plan, whereby the existing garage is converted to the in-law suite and a new rear-facing garage is constructed behind the existing garage area. This resulted in an increase of approximately 1300 square feet of impervious coverage.

Steve Togher referred to the alternate site plan and asked if the parking and turnaround area are the same as what currently exists. Daniel Encin indicated that there would be additional area in order to accommodate the newly created garage area.

Matthew Brett asked how many other homes in the area have front-facing garages. Daniel Encin indicated that he would defer to Richard Keller, who will be presenting planning testimony to that regard.

Robert Broder, 27 Audubon Court, asked for the total lot area of the property. Daniel Encin indicated that the property has a lot area of 20,010 square feet.

Richard Keller gave a brief summary of the variance relief being sought. He stated that the property is a fully conforming lot in the R-4 zone. It is about 15 feet wider than the zone requirement.

- Entered as A-2: area and zone map
- Entered as A-3: photoboard of 6 photos

Richard Keller indicated that this lot, although located in the R-4 zone, is accessed through the Poet section of the Township, an R-5 zone that permits front facing garages.

Entered as A-4: aerial topography of subject area

Richard Keller spoke to the variances being requested. Variance relief is required for combined side yard setback in order to permit 31% where 35% is required. The existing dwelling is currently non-conforming at 33%. Relief is required in order to allow building coverage of 15.5% where 14% is permitted. Finally, relief is required in order to permit a front facing garage in a zone which prohibits them. Richard Keller stated that the proposal advances the goals and purposes of the master plan and provides a desirable visual environment. There is no substantial detriment to the zone plan or the surrounding properties.

Vanessa Scaglione asked about the tree in the proposed driveway area. Richard Keller stated that they are proposing to flip the driveway area in order to retain the tree in question.

Steve Togher asked if the cupola on the garage is ornamental or functional. Daniel Encin stated that it is ornamental.

Ellen Nimaroff Hirsch asked what the property would look like if the in-law suite was in the front of the house. Daniel Encin stated that they would try to incorporate aesthetics that reflected the current architectural elements of the existing dwelling.

Richard Broder, 27 Audubon Court, appeared and was sworn. He stated that there are zoning laws in the Town for a reason. He feels the ordinances should be adhered to.

Vanessa Scaglione stated that she feels this is a distinct neighborhood and the rules of the zone should be respected with regard to the front facing garage. There is a lot of space in the house that could be looked at in order to create an in-law suite and she does not feel a case has been made to allow deviation from the ordinance.

Michael Birnberg agreed with Vanessa Scaglione with regard to the front facing garage. The prohibition in this zone should be respected.

Mary McNett indicated that she did not hear testimony tonight that would persuade her to grant relief for a front facing garage.

Joseph Steinberg echoed the comments of his fellow Board members. Personal hardships cannot play a role in the Board's decision. This is a unique area of Town and he does not feel the benefits outweigh the detriments.

Matthew Brett felt there are other alternatives that could be explored that would avoid the need for a front facing garage.

Richard Keller stated that they would like an opportunity to explore other options and requested an adjournment.

The matter was carried to June 6, 2016 with no further notice required.

**CAL#3479, JONATHAN CHUNG/PHUONG VU, 116 HOBART AVENUE, SHORT HILLS**

Phuong Vu and Douglass Asral, Architect, appeared and was sworn. Douglass Asral'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:

- 606.2e1e1b – Side yard setback
- 606.2e1f – Combined side yard setback

Douglas Asral indicated that the proposed addition is restricted to the existing building footprint. The existing second floor bedrooms are narrow and confining due to sloping ceilings. The dormer addition will make the bedrooms more functional. The dwelling is currently a 3-bedroom and will remain a 3-bedroom. The property is located in the R-5 zone and the dwelling, after construction, will be in size and scale to neighboring dwellings.

Steve Togher asked for the potential impact to the adjoining properties. Douglas Asral stated that there will be minimal impact to the neighbors.

Joseph Steinberg stated that there were 2 houses in the area that are true 2-story houses. The remaining houses are small in stature. This proposal will not be in size and scale to the neighborhood and he feels it will loom over the other structures. The deviation from the front yard setback requirement is significant and will alter this part of Hobart Avenue. He is not in favor of the proposal.

Steve Togher stated that there is no way to hide any of this proposed expansion.

Vanessa Scaglione feels this house is already forward of many of the neighboring houses. This proposal will bring the house even more forward.

Craig Ploetner feels this house will have a negative impact on the area and he is not in favor.

Doug Asral indicated that they would like an opportunity to revise their plans and requested an adjournment.

The matter was carried to June 27, 2016 with no further notice required.

**CAL#3484, STEVEN & LAUREN HOLLANDER, 12 TROY LANE, SHORT HILLS**

\*It is noted that Mary McNett and Michael Birnberg recused and left the meeting room.

Steven & Lauren Hollander and Richard Keller, P.E., P.P., appeared and were sworn. Richard Keller's credentials were presented and accepted by the Board. The applicants would like to install a pool, patio, fence and gazebo on the property. Proposal is in violation of:

- 505 – Accessory structure location on a corner lot
- 501.3 – Maximum accessory use coverage
- 510.1 – Front yard fences are prohibited

Lauren Hollander gave a brief description of the proposal. She stated that they would like to install an in-ground pool and gazebo in order to enjoy the outdoor area on the property.

Richard Keller gave a brief summary of the variance relief required. He stated that the property in question is a corner lot, which requires that accessory structures be 80 feet off both front property lines and may not be in the front yard. The area available to construct any accessory structures is further burdened by a 20-foot wide sanitary sewer easement that runs along the southwest property line. The pool/patio area is proposed to be 73.31 feet from the Great Hills Terrace front lot line. The maximum accessory use coverage is proposed to be 9.39% where the ordinance permits 7% on a corner lot. Finally, variance relief is required in order to permit a front yard fence to be installed in the Great Hills Terrace front yard. The existing and proposed landscape materials will effectively screen the pool and patio area from the streetscape. As part of the application, the Hollanders will be removing 537 square feet of driveway in order to comply with the overall maximum lot coverage requirement of 35%.

Joseph Steinberg questioned why the fence could not be installed directly around the pool area rather than in the front yard. Richard Keller stated that the fence is proposed to be set back 6 feet from the Great Hills Terrace property line. He indicated that installing the fence immediately around the pool area would almost bisect the yard into separate areas.

Vanessa Scaglione was not in favor of the proposal and indicated that the fence would be visible from the street.

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

- Matthew Brett – yes
- Ellen Nimaroff Hirsch – yes
- Craig Ploetner – yes
- Vanessa Scaglione – no
- Steve Togher – yes
- Jessica Glatt – yes
- Joseph Steinberg – yes

Cal#3484, Steven & Lauren Hollander, 12 Troy Lane, variance relief for the location of the pool/gazebo was **APPROVED**.

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

Matthew Brett – yes  
Ellen Nimaroff Hirsch – yes  
Craig Ploetner – yes  
Vanessa Scaglione – no  
Steve Togher – yes  
Jessica Glatt – yes  
Joseph Steinberg – no

Cal#3484, Steven & Lauren Hollander, 12 Troy Lane, variance relief for a front yard fence was **APPROVED**.

### **ADJOURNMENT**

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

Eileen Davitt  
Board Secretary

Motion: CP  
Second: MBI  
Date Adopted: 6/27/16