

Township of Millburn
Minutes of the Zoning Board of Adjustment
May 2, 2016

A regular meeting of the Township of Millburn Zoning Board of Adjustment was held on **Monday, May 2, 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
Joseph Steinberg, Chairman

Also present:

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

MINUTES

A motion to approve the minutes of March 7, 2016, was made by Mary McNett, seconded by Michael Birnberg and carried with a unanimous voice vote.

A motion to approve the minutes of March 21, 2016, was made by Michael Birnberg, seconded by Mary McNett, and carried with a unanimous voice vote.

A motion to approve the minutes of April 4, 2016, was made by Steve Togher, seconded by Craig Ploetner, and carried with a unanimous voice vote.

MEMORIALIZATIONS

Cal#3471, Richard & Sachi Lucas, 23 Meadowbrook Road Short Hills.

A motion to approve the resolution memorializing the granting of variance relief to

Richard & Sachi Lucas to construct an addition on the property located at 23 Meadowbrook Road was made by Steve Togher, seconded by Jessica Glatt, and carried with the following roll-call vote:

Michael Birnberg – yes
Mary McNett – yes
Craig Ploetner – yes
Steve Togher – yes
Jessica Glatt – yes
Joseph Steinberg – yes

Cal#3472, Russell Reich, 132 Greenwood Drive, Millburn

A motion to approve the resolution memorializing the denial of variance relief to Russell Reich to construct an addition on the property located at 132 Greenwood Drive was made by Craig Ploetner, seconded by Jessica Glatt, and carried with the following roll-call vote:

Michael Birnberg – yes
Craig Ploetner – yes
Steve Togher – yes
Jessica Glatt – yes
Joseph Steinberg – yes

Cal#3475, Joshua & Julie Landau, 22 Tioga Pass, Short Hills

A motion to approve the resolution memorializing the granting of variance relief to Joshua & Julie Landau to construct an addition on the property located at 22 Tioga Pass was made by Michael Birnberg, seconded by Steve Togher, and carried with the following roll-call vote:

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

Cal#3476, Elizabeth & Richard Cohen, 39 Nottingham Road, Short Hills

A motion to approve the resolution memorializing the granting of variance relief to Elizabeth & Richard Cohen to construct a patio to the property located at 29 Nottingham Road was made by Mary McNett, seconded by Craig Ploetner, and carried with the following roll-call vote:

Mary McNett – yes

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

Cal#3478, GC Property Estates, 33 Bleeker Street, Millburn

A motion to approve the resolution memorializing the granting of variance relief to GC Property Estates to install a ground graphic on the property located at 33 Bleeker Street was made by Jessica Glatt, seconded by Mary McNett, and carried with the following roll-call vote:

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

Cal. #3482, Landing 68, LLC, 70 Essex Street, Millburn

A motion to approve the resolution memorializing the issuance of a certificate of non-conforming use to Landing 68, LLC for the property located at 70 Essex Street was made by Vanessa Scaglione, seconded by Steve Togher, and carried with the following roll-call vote:

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

APPLICATIONS

CAL#3439, ZHONGHAN FENG, 300 GLEN AVENUE, MILLBURN

The matter was carried to May 16, 2016 with no further notice required.

CAL#3483, JAYME GOLDSTEIN, 56 WESTVIEW ROAD, SHORT HILLS

Jayme Todd Goldstein appeared and was sworn. The applicant would like to install a fence. Proposal is in violation of:

510.1 – Front yard fences are prohibited.

Mr. Goldstein stated that there is a front yard fence currently in his Mohawk Road front yard. The existing fence is a split-rail fence. He would like to replace the fence with a 4 foot black aluminum fence.

Eileen Davitt, Zoning Officer, was sworn. She stated that the ordinance would allow the applicant to replace the fence, in kind, with a maximum height of 4 feet. She indicated that the existing front yard fence is over the applicant's property line. The applicant will be re-locating the new fence on his property.

Overall, Board members felt the proposal was an aesthetic improvement to the property and the streetscape.

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

Michael Birnberg – yes
Mary McNett – yes
Craig Ploetner – yes
Vanessa Scaglione – yes
Steve Togher – yes
Jessica Glatt – yes
Joseph Steinberg – yes

Cal#3483, Jayme Goldstein, 56 Westview Road, was **APPROVED**.

CAL#3460, ELLIOT ROGOFF, 101 MILLBURN AVENUE, MILLBURN

Steve Azzolini, Attorney for the applicant, stated his appearance. He stated that he is prepared to present a licensed real estate professional as well as the applicant's architect and planner.

Dr. Elliot Rogoff appeared and remains sworn. Upon questioning by his attorney, Dr. Rogoff stated that he has been trying to rent his medical office space since January 2015 but has had no interested medical professionals.

Daniel Cannizzo, licensed real estate professional, appeared and was sworn. His credentials were presented and accepted by the Board. He stated that he has been involved with many residential and commercial transactions over the past 20 years in his field. He concentrates his practice in the Millburn/Short Hills area.

Mr. Cannizzo stated that he is aware that Dr. Rogoff has been trying to rent his medical office space since 2015 with no success. He stated that most medical professionals, at this time, prefer to be in a larger medical setting with their peers. This property is better suited as a 2-family dwelling, rather than a single-family dwelling, due to its location and the fact that there is no outdoor entertainment area. There is a very small backyard area, which is a driveway on an

easement. This takes up the majority of the backyard. There is a side-by-side 2-family dwelling located 2 doors away from the subject property.

Entered as A-4: schedule of area, yard and building regulation
Entered as A-5: photo of subject property

John Buchholz, applicant's architect, appeared and remains sworn. He gave a brief description of the proposal. There is a section of parking that the applicant will be removing. This parking area was used when the space was used as a medical office. As a residential space, this area of parking is no longer necessary. As a result, the need for variance relief for front yard parking has been eliminated. It also reduces the need for variance relief from the 35% front yard coverage maximum.

John Buchholz indicated that the first floor residential unit will have an area of approximately 1,627 square feet. The second floor residential unit will have an area of 2,309 square feet. Both units would share a 428 square foot garage. John Buchholz stated that this property is a unique property in the zone.

Board Attorney, Gail Fraser, asked if the paved area will be replaced with grass. John Buchholz stated that the area is to be replaced with grass.

Richard Keller, P.P., appeared and remains sworn. He stated that this property would be difficult to market as a single-family dwelling. He stated that the site is particularly suited for the proposed use, as was testified to by the applicant's real estate professional. This corner property is the only one in the RO zone that has no usable space in the rear yard area, due to the existing active easement. He stated that the proposed use has no negative impact on the surrounding properties. There will be less traffic with the proposed use than was previously generated by the medical use. Richard Keller stated that this proposed use also transitions nicely into the adjoining R-6 zone along Norwood Terrace.

Steve Azzolini gave a brief summary of the application. He stated that testimony has been provided that shows this property is particularly suited for a 2-family dwelling.

Chairman Joseph Steinberg stated that he is still a little troubled by this case. He feels the testimony was persuasive on the positive criteria. However, he feels the second prong of the negative criteria has not been met. He feels there was testimony presented that doctors no longer wish to maintain practices in residential type settings. There is another property next door which is in a similar situation to the subject property. This indicates a general problem in the zone that he feels perhaps the Township Committee should act on.

Steve Togher stated that this will remain vacant, as will the property next door. He is in favor of the application, as presented.

Mary McNett feels the benefits of granting the variance outweigh the detriments. She feels it is burdensome to expect the applicant to request a zone change before the Township Committee. This is something the Board can bring to the Township Committee's attention.

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

Mary McNett – yes
Craig Ploetner – yes
Steve Togher – yes
Michael Birnberg – yes
Jessica Glatt – yes
Joseph Steinberg – no

Cal#3460, Dr. Elliot Rogoff, 101 Millburn Avenue, “d” use variance relief was **APPROVED**.

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

Mary McNett – yes
Craig Ploetner – yes
Steve Togher – yes
Michael Birnberg – yes
Jessica Glatt – yes
Joseph Steinberg – no

Cal#3460, Dr. Elliot Rogoff, 101 Millburn Avenue, “c” variance relief for front yard coverage, was **APPROVED**.

CAL#3481, STEVEN & JENNIFER FISHKOFF, 9 CANOE BROOK ROAD, SHORT HILLS

Steven & Jennifer Fishkoff, and Matthew Rosenbaum, Architect, appeared and were sworn. The applicants would like to construct an addition to their dwelling. Proposal is in violation of:

606.2e1d – Front yard setback
606.2e1f – Combined side yard setback
606.2e1e2b – Side yard setback
606.2e2a – Building coverage
606.2e2b – Lot coverage
606.2e1g – Rear yard unoccupied

Matthew Rosenbaum's credentials were presented and accepted by the Board. He gave a brief description of the proposal and outlined the variance relief requested by the applicants.

Front yard setback variance relief is required in order to permit a front yard setback of 67.16 feet where the average front yard setback established is 71.44 feet. This is due to the expansion of the front porch. The intent of the front porch is to enable the applicants to watch their grandchildren play in the front yard area. Side yard setback variance relief is required to allow an 11.6 foot setback where the required setback is 15 feet. This is an existing condition.

Entered as A-1: sheet SP-1 (front yard setback highlighted)

Entered as A-2: sheet SP-1 (side yard setback highlighted)

Entered as A-3: sheet SP-1 (combined side yard setback highlighted)

The combined side yard setback is also an existing non-conformity. The proposal is to add a small 15 square foot addition that will maintain the existing non-conformity.

Entered as A-4: sheet SP-1 (rear yard unoccupied highlighted)

The existing property is deficient in rear yard unoccupied. The proposal calls for an expansion of the garage area which will decrease the size of the rear yard area, thereby necessitating variance relief for rear yard unoccupied.

Entered as A-5: photoboard

Entered as A-6: sheet SP-1 (building coverage highlighted)

The zone permits 14% building coverage. The existing house is currently non-conforming by 138 square feet. After construction, the building coverage will be 19%, which is an additional 833 square feet.

Entered as A-7: sheet SP-1 (lot coverage highlighted)

The existing property is non-conforming at 35.1%. The proposal will result in lot coverage of 37.9% (7,637 square feet).

Joseph Steinberg stated that this Board has to look beyond the needs of a particular family. This is an oversized lot asking for six variances.

Mary McNett questioned if the “in-law suite” denoted on the first floor is a bedroom. Matthew Rosenbaum indicated that it is intended to be used as Mrs. Fishkoff’s bedroom.

Jessica Glatt was troubled by the application. She feels the addition of the front porch will be out of character for the neighborhood. She stated that there were no other houses in the area that have porches.

Steve Togher feels that the applicant is asking for too much and would not vote in favor of the proposal.

Joseph Steinberg was in agreement with Ms. Glatt and Mr. Togher.

Matthew Rosenbaum requested an adjournment.

The matter was carried to June 27, 2106 with no further notice.

ADJOURNMENT

A motion to adjourn was made by Craig Ploetner, seconded by Steve Togher, and carried with a unanimous voice vote. (9:30 PM)

Eileen Davitt
Board Secretary

Motion: MM
Second: JG
Date Adopted: 6/27/16