

Township of Millburn
Minutes of the Zoning Board of Adjustment
June 27, 2016

A regular meeting of the Township of Millburn Zoning Board of Adjustment was held on **Monday, June 27, 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
Mary McNett
Craig Ploetner
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 April 25, 2016 was made by Craig Ploetner, seconded by Michael Birnberg, and carried with a unanimous voice vote.

A motion to approve the minutes of May 2, 2016 was made by Mary McNett, seconded by Jessica Glatt, and carried with a unanimous voice vote.

A motion to approve the minutes of May 16, 2016 was made by Michael Birnberg, seconded by Craig Ploetner, and carried with a unanimous voice vote.

A motion to approve the minutes of June 6, 2016 was made by Mary McNett, seconded by Craig Ploetner, and carried with a unanimous voice vote.

BUSINESS

Cal#3384, John Boo, 252 Brookhaven Way, Short Hills

Request for extension of variance approval.

A motion to grant a 1-year extension of variance approval, to expire on June 30, 2017, was made by Michael Birnberg, seconded by Craig Ploetner, and carried with a unanimous roll-call vote.

Cal#3488, Edward Talia, 29 Delwick Lane, Short Hills

Request for rehearing and reconsideration

Bartholomew Sheehan, Attorney for the applicant, addressed the Board with regard to a recent application heard before the Zoning Board of Adjustment. He indicated that the applicants appeared before the Board for a steep slope variance, which was ultimately denied. He stated that he is before the Board tonight to make a formal motion for rehearing and reconsideration of the Board's vote. Mr. Sheehan indicated that the Board's denial by a vote of 5-2 was rooted in the members' consideration of the impact of the Millburn Township Tree Removal and Replacement Ordinance on the lot. He further stated that the Board's deliberation was undertaken notwithstanding the legal advice from the Board's attorney and Chairman, that consideration of the Tree Removal and Replacement Ordinance is beyond the jurisdiction of the Board of Adjustment and rather is exclusively within the jurisdiction of the Governing Body.

Board Attorney, Gail Fraser, indicated that the memorializing resolution for this matter has not been drafted, as of yet. Therefore, the Board still has jurisdiction over this matter.

A motion to grant the applicant's request for re-hearing and reconsideration was made by Mary McNett, seconded by Michael Birnberg, and carried with the following roll-call vote:

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

APPLICATIONS

CAL#3480, DOUGLAS & BETH MILLER, 35 BROOKSIDE DRIVE, MILLBURN

The matter was carried to August 15, 2016.

CAL# 3499, NATALIE & DAVID REICHMAN, 515 WYOMING AVENUE, MILLBURN

Natalie & David Reichman, Tim Klesse, Architect and Richard Keller, P. P., P. E., 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
- 606.2e1e1a – Side yard setback
- 606.2e1e1b – Addt'l side yard setback

Timothy Klesse's credentials were presented and accepted by the Board. He gave a brief description of the proposal. The subject property is an over-sized lot in the R-6 zone district. However, the 50-foot lot width is under the required lot width of 60 feet for the R-6 zone. The addition has been kept to a minimum in order to keep it in size and scale consistent with other houses in the neighborhood. The proposal calls for the addition of a mud room on the first floor and additional bedroom space on the second floor.

Entered as A-1: highlighted BOA-2 plan

Richard Keller, P. E., P. P., appeared and was sworn. His credentials were presented and accepted by the Board. He gave a brief description of the proposal and a summary of the variance relief being requested. The property is oversized because it is deep but undersized in its lot width. The existing dwelling has only 1 bedroom on the 2nd floor. The proposed construction will allow for a half bathroom and mudroom on the 1st floor. The 2nd floor will contain a master suite and 3 bedrooms, in addition to a full bath and laundry room.

Front yard setback variance relief is required to permit the construction of a new stoop and portico roof. The average front yard setback is 42.08 feet and the applicant is proposing a front yard setback of 38.5 feet. The undersized lot width also results in the need for side yard setback and combined side yard setback variance relief. The R-6 zone requires an 8 foot setback for the structure up to 18 feet in height. The existing setbacks are 6.47 feet on the right side and 7.7 feet on the left side. The front addition requires variance relief in order to continue these setbacks. In addition, the right side setback is 6.9 feet at the right rear of the dwelling and this setback is proposed to be continued for the 2-story addition. Finally, combined side yard setback variance relief is required to permit 28.3% where the ordinance requires 35%. This is a pre-existing condition.

Entered as A-2: photoboard

Mr. Keller gave a brief description of the surrounding properties and indicated that the addition has been kept to a minimum and the house, after construction, will be in size and scale consistent with other homes in the surrounding area.

Overall, the Board was comfortable with the plans, as presented.

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

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

Cal#3499, Natalie & David Reichman, 515 Wyoming Avenue, was **APPROVED**.

CAL#3491, JASON SHUM, 99 WELLINGTON AVENUE, SHORT HILLS

Jason Shum appeared and was sworn. He would like to install a storage shed and expand his driveway area. Proposal is in violation of:

505 – Accessory structure location on a corner lot
606.2e3a – Accessory structure side yard setback
607.3 – Front yard parking area not permitted

Mr. Shum gave a brief description of the proposal. He stated that he would like to install a small storage shed, approximately 21.5 feet from the Wellington Avenue front property line, where the ordinance requires 80 feet. In addition, the 8 foot by 12 foot shed is proposed to be 5 feet off the side property line, where the ordinance requires a 12 foot setback. He also would like to expand his front driveway area to accommodate the need for additional driveway space.

Mr. Shum stated that he is proposing the installation of six 5 foot high cypress trees in order to buffer the shed from street view.

Mary McNett indicated that she is not typically in favor of front yard parking areas. However, this property is located at a very high-traffic corner.

Chairman Joseph Steinberg felt this property is a very prominent location and he is troubled by the request for parking space in the front yard.

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

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

Cal#3491, Jason Shum, 99 Wellington Avenue, variance relief to construct a shed was **APPROVED**.

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

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

Cal#3491, Jason Shum, 99 Wellington Avenue, variance relief for a front yard parking area was **APPROVED**.

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

Matthew Rosenbaum, Architect, appeared and remains sworn. He stated that the applicant considered the Board's comments from the previous meeting and they have revised the plans to present a more conforming addition. They have reduced the originally requested 6 variances and now require only 2 variances for the proposed construction.

Richard Keller, P. E., P. P., appeared and was sworn. His credentials were presented and accepted by the Board. He gave a brief description of the proposal and the variances being requested. The applicant thought about the comments of the Board members and revised the plans to present a project that is more in-keeping with the ordinance requirements. The new proposal reflects a decrease in the size of the garage addition, the front and side porch additions and the deck area. As a result, they have eliminated 4 of the original variances that were needed.

Entered as A-8: SP-1 marked up to show rear yard unoccupied

The proposal will still require rear yard unoccupied variance relief to permit 20.6%, where the ordinance requires 25%. The original plans requested rear yard unoccupied of 19.4%. Variance relief is also required for exceeding the allowable building coverage of 14%. The proposal will result in building coverage of 15.9%, where the ordinance permits 14%. The original plans requested a building coverage variance to permit 19%.

Chairman Steinberg was pleased with the concessions the applicant made and the revisions proposed. He stated that the applicant took the Board's comments and listened carefully to the Board's comments and concerns. They have reworked the project to maximize the benefit to the applicant and minimize the impact on the neighborhood.

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

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

Cal#3481, Steven & Jennifer Fishkoff, 9 Canoe Brook Road, was **APPROVED**.

CAL#3500, ALEX ZALTSMAN, 28 MARION AVENUE, SHORT HILLS

Alex Zaltsman appeared and was sworn. The applicant would like to install a fence on his property. Proposal is in violation of:

510.1 – Front yard fences are prohibited

Mr. Zaltsman stated that his property is a thru lot that fronts on Marion Avenue and Glen Brook Crest Drive.

Anna Zaltsman appeared and was sworn. She stated that they would like to install a 4 foot solid wood fence in the Glen Brook Crest Drive front yard of their property.

Mary McNett asked Ms. Zaltsman if she would be agreeable to installing a 4 foot black aluminum estate style fence. The applicant indicated that she would be agreeable to estate style fencing.

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

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

Cal#3500, Alex Zaltsman, 28 Marion Avenue, was **APPROVED**.

CAL#3490, YUSUFALI & NAOMI MUSAJI, 55 ADDISON DRIVE, SHORT HILLS

Robert Hernandez, Architect, and Yusuf Musaji, appeared and were sworn. The applicant would like to construct an addition to his dwelling. Proposal is in violation of:

606.2e1e1a – Side yard setback

606.2e1f – Combined side yard setback
606.2e2a – Building coverage
606.2e2b – Lot coverage

Robert Hernandez' credentials were presented and accepted by the Board. The applicant would like to construct an addition in order to add bedroom and bathroom space. The proposed second floor will be constructed over the existing 1st floor footprint.

Entered as A-1: 3-page photo handout of surrounding lots
Entered as A-2: hand-drawn map of the area

Mr. Hernandez spoke to the variances being requested. Side yard setback and combined side yard setback conditions are existing non-conforming conditions. Variance relief is required to permit building coverage of 18.9% where the ordinance permits 18%. Variance relief is required to permit lot coverage of 39.56% where 35% is permitted.

Craig Ploetner questioned whether the proposed family room needed to be so large. He stated that the property in question is an oversized lot in the R-5 zone. He feels the rooms could be reduced in size in order to bring the project into conformity.

Joseph Steinberg felt the plans are over-reaching and would like to see the plans scaled back.

Richard Menino, 51 Addison Drive, asked if the family room addition will have a crawl space or full basement. Robert Hernandez indicated that it will be a full basement.

Richard Menino, 51 Addison Drive, appeared and was sworn. He stated that he is somewhat concerned with the proposed family room addition and the effect it will have on the open space on the property as well as his view.

Lisa Menino, 51 Addison Drive, asked for clarification of the re-located AC units. Mr. Hernandez stated that the AC units will be re-located to the rear of the dwelling.

Naomi Musaji appeared and was sworn. She stated that the family room may appear large but it is the size they need in order to accommodate a family of their size.

Michael Birmberg felt this was a significantly large addition. The construction proposes a lot of bedrooms, an in-law suite, large family room, large living room, large dining room. He feels this project can be brought into a more conforming state.

Jessica Glatt stated that this is an oversized lot asking for variance relief. She does not feel that a case has been made to grant variance relief.

Mary McNett felt that the positive criteria have not been met. She indicated that the proofs need to be made and that has not been done.

Craig Ploetner stated that this lot is larger than the zone's minimum size. He indicated that he is not in favor of the project as proposed.

Chairman Joseph Steinberg indicated that he is more concerned with coverage than side yard setback. He indicated that the coverage deviation from the statute is a 13% deviation. He is also troubled by a proposed .9% overage on building coverage. He feels that with a project of this size, the applicant should be able to find 135 SF that could be eliminated.

Robert Hernandez requested an adjournment.

The matter was carried to August 1, 2016.

ADJOURNMENT

A motion to adjourn was made by Michael Birnberg, seconded by Craig Ploetner, and carried with a unanimous voice vote. (9:50 PM)

Eileen Davitt
Board Secretary

Motion: MM
Second: CP
Date Adopted: 8/15/16