

Township of Millburn
Minutes of the Zoning Board of Adjustment
July 18, 2016

A regular meeting of the Township of Millburn Zoning Board of Adjustment was held on **Monday, July 18, 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
Ellen Nimaroff Hirsch
Mary McNett
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

MEMORIALIZATIONS

Cal#3439, Zhonghan Feng, 300 Glen Avenue, Millburn

A motion to approve the resolution memorializing the granting of variance relief to Zhonghan Feng to construct an addition on the property located at 300 Glen Avenue 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
Jessida Glatt – yes

Cal#3468, Huiyuan Shan/Lihua Yang, 822 Ridgewood Road, Millburn

A motion to approve the resolution memorializing the granting of variance relief to Huiyuan Shan & Lihua Yang to construct an addition on the property located at 822 Ridgewood

Road was made by Matthew Brett, seconded by Mary McNett, and carried with the following roll-call vote:

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

Cal#3477, Shilpa Vaswani/Abhayad Kamat, 37 Tennyson Drive, Short Hills

A motion to approve the resolution memorializing the granting of variance relief to Shilpa Vaswani & Abhayad Kamat to construct an addition on the property located at 37 Tennyson Drive was made by Mary McNett, seconded by Jessica Glatt, and carried with the following roll-call vote:

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

Cal#3487, Denise Chao, 163 Myrtle Avenue, Millburn

A motion to approve the resolution memorializing the granting of variance relief to Denise Chao to construct an addition on the property located at 163 Myrtle Avenue was made by Jessica Glatt, seconded by Matthew Brett, and carried with the following roll-call vote:

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

Cal#3492, James Maguire, 86 Minnisink Road, Short Hills

A motion to approve the resolution memorializing the granting of variance relief to James Maguire to install a fence on the property located at 86 Minnisink Road was made by Jessica Glatt, seconded by Mary McNett, and carried with the following roll-call vote:

- Matthew Brett – yes
- Mary McNett – yes

Steve Togher – yes
Jessica Glatt – yes
Joseph Steinberg – yes

Cal#3494, St. Stephen’s Church, 119 Main Street, Millburn

A motion to approve the resolution memorializing the granting of variance relief to St. Stephen’s Church to install a fence on the property located at 119 Main Street was made by Matthew Brett, seconded by Mary McNett, and carried with the following roll-call vote:

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

APPLICATIONS

CAL#3502, WENDY & BRETT PRAGER, 17 FOREST DRIVE, SHORT HILLS

* Michael Birnberg recused and left the meeting room.

John James, Architect, and Wendy Prager, appeared and were sworn. John James’ credentials were presented and accepted by the Board. The applicant would like to construct an addition to their dwelling. Proposal is in violation of:

606.2e1d – Front yard setback
606.2e3d – Front facing garages not permitted

John James gave a brief description of the proposal. The applicants propose to construct a two-story addition in the rear center of the dwelling and a two-story attached carriage house. The property is a designated site in the Short Hills Historic District. As such, the application has been presented to, and approved by the Historic Preservation Commission.

The lot is a corner lot located at the intersection of Park Place and Forest Drive. It is a 51,000 square foot lot in the R-3 zone. Currently, there is a 2-car garage on the property. The proposal will result in a 3-car garage, requiring front yard setback variance relief. The average front yard setback is 71.29 feet and the proposal will result in a front yard setback of 64.47 feet.

The addition has been designed to complement the existing structure and continue the feel of the historic nature of the site.

Overall, Board members were pleased with the proposal as presented.

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

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

Cal#3502, Wendy & Brett Prager, 17 Forest Drive, was **APPROVED**.

*Michael Birnberg returned to the meeting room.

CAL#3501, LES & CINDY TOMPKINS, 44 CYPRESS STREET, MILLBURN

William Leslie Tompkins appeared and was sworn. He would like to construct a deck on the property. Proposal is in violation of:

606.2e2b – Lot coverage

Mr. Tompkins gave a brief description of the proposal. The proposed deck is 20 feet x 10 feet and will be a welcome addition to the structure as well as to the neighborhood. He feels the proposal will have no substantial detriment to the surrounding properties.

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

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

Cal#3501, Les & Cindy Tompkins, 44 Cypress Street, was **APPROVED**.

CAL#3495, NANCY & JAMIE DURANDO, 81 STEWART ROAD, SHORT HILLS

Tim Klesse, Architect, Nancy & Jamie Durando, appeared and were sworn. Tim Klesse's credentials were presented and accepted by the Board. The applicant would like to install a fence and construct several small additions. Proposal is in violation of:

510.1 – Front yard fences are prohibited

606.2e1h – Rear yard setback
606.2e1g – Rear yard unoccupied

The property is a non-designated site in the Short Hills Historic District. The proposal has been presented to and approved by the Historic Preservation Commission.

The applicant would like to add several small additions. However, due to the configuration of the lot, variance relief is necessary. The property is a flag lot located in the R-3 zone district, with a lot area of 76,814 square feet.

The additions result in the need for variance relief from the rear yard unoccupied requirement. The ordinance requires a rear yard unoccupied of 25% of the lot area. The house is currently non-conforming in rear yard unoccupied at 15,123 square feet where 19,250 square feet is required. The proposal will result in a rear yard unoccupied of 14,876 square feet, which is the equivalent of 19.3%.

Rear yard setback variance relief is required to permit a rear yard setback of 10.3%, where 20% of the lot depth is required. The flag lot nature of the property results in an exaggerated lot depth.

Finally, variance relief is being requested in order to allow a fence to be extended on the property. The ordinance does not permit front yard fences and this fence will extend into the front yard area of the property.

Entered as A-1: sheet HPC-11 marked up to show fence proposal

Gail Fraser asked for clarification as to whether any portion of the 2nd floor addition requires rear yard setback variance relief. Eileen Davitt, Zoning Officer, was sworn and indicated that based on the lot depth of the property, the required rear yard setback is 102.6 feet. Any portion of the second floor within the required 102.6 feet requires rear yard setback variance relief.

Susan Kogan, 83 Stewart Road, asked for clarification as to the location of the additions to the fence and the new proposed fencing. Gail Fraser indicated that the survey indicates that the fence is located on the applicant's property. Ms. Kogan asked about the possibility of any added run-off that might result from the proposed additions. Chairman Steinberg indicated that all drainage issues will be addressed by the Township Engineering department as part of the permitting process.

Susan Kogan, 83 Stewart Road, appeared and was sworn. She was appreciative of the building/zoning office for their help in making copies of the plans and explaining the variances needed for the proposal. However, she expressed concern about the exact location of the existing and proposed fencing along the shared property line which she feels may be on her property.

Overall, Board members were in favor of the applicants' proposals.

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

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

Cal#3495, Nancy & Jamie Durando, 81 Stewart Road, was **APPROVED**.

CAL#3497, RIE & KIRK OBERLIESEN, 35 CAMPBELL ROAD, SHORT HILLS

Tim Klesse, Architect, and Rie & Kirk Oberliesen, appeared and were sworn. The applicants would like to construct a small addition. Proposal is in violation of:

606.2e1e1a – Side yard setback

Tim Klesse gave a brief description of the proposal. The current lot is a corner property in the R-6 zone. The determination was made by the zoning officer that the garage on the property was not presently attached to the principal dwelling. The applicants would like to construct an addition in order to attach the garage to the dwelling. The garage is 3 feet off the property line.

Entered as A-1: photoboard of 4 photos

The garage, if attached to the dwelling, would require an 8 foot side yard setback. If variance relief is not granted, 5 feet of the existing garage would have to be demolished in order to bring the attached garage into conformance.

Overall, Board members felt the proposal would have minimal impact on the surrounding properties.

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

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

Jessica Glatt – yes
Joseph Steinberg – yes

Cal#3497, Rie & Kirk Oberliesen, 35 Campbell Road, was **APPROVED**.

CAL#3498, CHRIS & PAULA PASTORE, 8 MIDHURST ROAD, SHORT HILLS

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

Tim Klesse, Architect, and Paula & Chris Pastore, 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
606.2e1e1b – Side yard setback
606.2e2d – FAR

Tim Klesse's credentials were presented and accepted by the Board. He stated that the applicants are proposing to make additions to the right side and rear of the existing dwelling. The property is located in the R-6 zone and has a non-conforming front yard setback. The existing front yard setback is 26.96 feet and the new 2nd floor addition will have a front yard setback of 28.96 feet. Side yard combined is non-conforming at 23% and will continue to be 23% which will require variance relief from the 35% required. Side yard setback relief is required to permit the construction of the 2nd floor addition. Finally, floor area ratio variance relief is required in order to allow 38.3% FAR, where the ordinance permits 36% in the R-6 zone. This equates to 159 square feet.

Tim Klesse stated that they have confined the mass of the addition to the rear of the dwelling in order to minimize the impact of the addition on the streetscape and the surrounding properties.

Entered as A-1: photoboard of site area

Mary McNett asked what would be required in order to eliminate the need for FAR variance relief. Tim Klesse stated that the bathroom would have to be taken off the plans. However, there is currently only 1 bathroom in the house.

Mr. Pastore stated that they have gone through many changes in the plans in order to keep the variances to a minimum.

Vanessa Scaglione asked if the new roof on the right side could be redesigned in order to eliminate the need for side yard setback relief. She feels the roof, as designed, makes the house seem massive. Tim Klesse stated that he could redesign the roof and eliminate the need for side yard setback relief.

Mary McNett feels the house is charming and would like to see it retain that character. She stated that she supports the application.

Vanessa Scaglione feels the revised roof line makes the addition more in scale with the neighboring houses.

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

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

Cal#3498, Chris & Paula Pastore, 8 Midhurst Road, “d” variance relief for FAR was **APPROVED** with the condition that the plans be revised to show the redesigned roof line on the right side 2nd story addition, thereby eliminating the need for a side yard setback variance.

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

Matthew Brett – yes
Ellen Nimaroff Hirsch – yes
Mary McNett – yes
Vanessa Scaglione – yes
Steve Togher – yes
Jessica Glatt – yes
Joseph Steinberg – yes

Cal#3498, Chris & Paula Pastore, 8 Midhurst Road, “c” variance relief for combined side yard and front yard setback was **APPROVED**.

*It is noted that Michael Birnberg returned to the meeting room.

CAL#3496, EMILY BALDWIN, 73 WHITNEY ROAD, SHORT HILLS

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

Tim Klesse, Architect, and Emily Baldwin appeared and were sworn. Tim 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:

606.2e1d – Front yard setback
606.2e1e1a – Side yard setback
606.2e1f – Combined side yard setback
606.2e2a – Building coverage
606.2e2d – FAR

Tim Klesse gave a brief description of the proposal. The property is located in the R-6 zone. The existing lot has no garage. The proposal is to add a small attached garage and mudroom. The attached garage will have a 6.4 foot side yard setback at the front right corner and a 3 foot side yard setback at the rear corner. The mudroom, at its closest point, will have a 5.52 side yard setback. The garage will have a front yard setback of 28.2 feet, where 40 feet is required. The existing house is currently non-conforming with a front yard setback of 27.1 feet. Combined side yard setback variance relief is required in order to allow 16.9% where the ordinance requires 35%. Building coverage variance relief is required in order to allow 26.1% where the ordinance allows 23%. Finally, floor area ratio variance relief is required in order to allow 43.7% where the ordinance allows 36%.

Entered as A-1: photoboard of streetscape

Joseph Steinberg indicated that this is a difficult application. This is a small property and a beautiful home. The applicant is asking for a large deviation from the FAR standard, far greater than this Board typically grants. He also does not feel the addition of the small garage is going to solve the problem of storage of bicycles and other children's play equipment.

Jessica Glatt stated that she was initially troubled by the application but has been persuaded by the testimony presented by Mr. Klesse.

Mary McNett agreed with Mr. Steinberg's analysis of the FAR issue. However, she feels that the benefit of having a garage far outweighs the detriment.

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

Michael Birnberg – yes
Ellen Nimaroff Hirsch – yes
Mary McNett – yes
Vanessa Scaglione – yes
Steve Togher – yes
Jessica Glatt – yes
Joseph Steinberg – no

Cal#3496, Emily Baldwin, 73 Whitney Road, “d” variance relief for FAR was **APPROVED**.

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

Michael Birnberg – yes
Ellen Nimaroff Hirsch – yes
Mary McNett – yes
Vanessa Scaglione – yes
Steve Togher – yes
Jessica Glatt – yes
Joseph Steinberg – no

Cal#3496, Emily Baldwin, 73 Whitney Road, “c” variance relief for building coverage, front yard setback, side yard setback and combined side yard setback, was **APPROVED**.

NEW BUSINESS

There were no members of the public who wished to speak about non-agenda items.

ADJOURNMENT

A motion to adjourn was made by Vanessa Scaglione, seconded by Steve Togher, and carried with a unanimous voice vote. (9:40 PM)

Eileen Davitt
Board Secretary

Motion: MBr
Second: MBi
Date Adopted: 10/24/16