

Township of Millburn  
Minutes of the Zoning Board of Adjustment  
January 23, 2017

A regular meeting of the Township of Millburn Zoning Board of Adjustment was held on **Monday, January 23, 2017** 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 Hirsch  
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

**APPROVAL OF MINUTES**

A motion to approve the minutes of December 19, 2016 was made by Mary McNett, seconded by Craig Ploetner, and carried with a unanimous voice vote.

**MEMORIALIZATIONS**

**Cal#3528, Mengjun Cao/Yue Zhang, 21 Rahway Road, Millburn**

A motion to approve the resolution memorializing the granting of variance relief to Mengjun Cao and Yue Zhang to construct an addition on the property located at 21 Rahway Road was made by Matthew Brett, seconded by Jessica Glatt, and carried with the following roll-call vote:

Matthew Brett – yes  
Mary McNett – yes  
Craig Ploetner – yes

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

**Cal#3529, Jon Gordon/Jordana Horn, 153 Highland Avenue, Short Hills**

A motion to approve the resolution memorializing the granting of variance relief to Jon Gordon and Jordana Horn to construct an addition on the property located at 153 Highland Avenue, was made by Mary McNett, seconded by Michael Birnberg, and carried with a roll-call vote as follows:

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

**APPLICATIONS**

**CAL#3533, MICHAEL & SUSAN PRIORE, 21 RECTOR STREET, MILLBURN**

Michael Priore and Terry Degroot, P. E., appeared and were sworn. Mr. Degroot's credentials were presented and accepted by the Board. The applicants would like to install an in-ground pool on their property. Proposal is in violation of:

501.3 – Maximum accessory use coverage  
501.5 – Pool equipment setback  
606.3e2b – Lot coverage

Mr. Degroot gave a brief description of the proposal. He indicated that the installation of the pool requires variance relief to allow accessory coverage of 43% where the ordinance permits 20%. Variance relief is also being sought to allow lot coverage of 64.3% where the ordinance permits 45%, and to allow the installation of pool equipment in the side yard 4.37 feet from the property line.

Mr. Priore stated that he has lived in Millburn for many years and would like to install a pool in order to enjoy their outdoor space.

Mr. Degroot stated that the existing lot coverage on the property is non-conforming at 2,990 square feet or 58%. There are 2 ground mounted A/C units in the proposed location of the mechanicals. The applicant initially wanted a larger pool but reduced the size of the pool in order to comply with the 12 foot side yard setback requirement. Mr. Degroot stated that the installation of the pool will have no negative impacts to the streetscape or the neighbors.

Matthew Brett asked if the existing A/C units were in conforming locations and if they were installed with proper permits. Mr. Priore indicated that the A/C units have been in the existing location for many years and had the necessary permits.

Chairman Joseph Steinberg indicated that he is absolutely opposed to the application. He stated that this is an oversized lot and the variance relief being requested is excessive. The applicant is asking for accessory coverage more than 100% of that allowed in the zone. The same holds true for the total lot coverage. There is an existing patio on site that adds to the accessory and lot coverage.

Jessica Glatt indicated that she completely agrees with Chairman Steinberg. This property does not lend itself to having an in-ground pool.

Vanessa Scaglione feels the maximum coverage is entirely too much for this property. She feels there will be a problem with rainwater and she is not in favor of the proposal.

Mary McNett agreed and felt this was asking for excessive variance relief.

Matthew Brett felt that this proposal does not have a negative impact on the property or the streetscape. He was concerned with the location of the pool equipment but does not feel this proposal will have a substantial negative impact.

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

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

Cal#3533, Michael & Susan Priore, 21 Rector Street, was **DENIED**.

**CAL#3535, SUMIT HALDAR, 439 WYOMING AVENUE, MILLBURN**

Sumit Haldar appeared and was sworn. He stated that he would like to enclose his existing front portico. Proposal is in violation of:

606.2e1d – Front yard setback

Mr. Haldar stated that the enclosed portico would allow them to utilize the space as an entryway/mudroom to prevent rainwater and mud from coming in the house. Mr. Haldar stated

that his property is located in the Wyoming Historic District and he received an exemption from Barton Ross, HPC Consultant.

Chairman Joseph Steinberg asked Mr. Haldar to explain the aesthetics of his proposal. Mr. Haldar indicated that the roof currently exists and he would like to install 3 walls and windows. All the materials used to construct the enclosure will match the current materials on the house.

Steve Togher asked how the applicant proposes to construct the enclosure in order to blend in with the existing dwelling. Mr. Haldar stated that the footprint of the porch would remain and he is using the existing roof. He intends to match the clapboard of the existing house.

Vanessa Scaglione feels this will have a negative impact on the neighborhood. The houses in this neighborhood are known for their open front stoops and this will be out of character.

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

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

Cal#3535, Sumit Halder, 439 Wyoming Avenue, was **APPROVED**.

**CAL#3538, JOHN BOOZAN, 30 NOTTINGHAM ROAD, SHORT HILLS**

Diana Hoffman, Architect, and John Boozan appeared and were sworn. Ms. Hoffman's credentials were presented and accepted by the Board. The applicant would like to install a patio and generator. Proposal is in violation of:

606.2e3a – Accessory structure setback  
501.6 – Generator setback

Mr. Boozan stated that they have an existing patio but would like to reconfigure the patio which will require variance relief. The generator is proposed to be 6.9 feet from the side property line where the ordinance requires 12 feet. There are bushes and a wall that will buffer the generator from view from the street as well as the adjoining neighbor. Mr. Boozan stated that the adjacent neighbor's dwelling is approximately 20 feet from the side property line.

Entered as A-1: photoboard of 4 photos of existing conditions

Ms. Hoffman stated that the existing patio in the side yard goes up to the property line. They are proposing the additional patio in order to connect to the existing patio area. The generator location is proposed in order to allow placement in close proximity to the utilities for the house.

Entered as A-2: sheet A-2 highlighted

Entered as A-3: sheet A-3 highlighted

Board Attorney, Gail Fraser, asked for clarification of the proposed generator location. She indicated that there is a discrepancy in the requested setback. Ms. Hoffman indicated that they are requesting a 6.6 foot setback.

Craig Ploetner stated that the new patio is a nice addition and he is in favor of the application. He is not opposed to the placement of the generator.

Overall, Board members were in favor of the proposal.

Upon a motion made by Mary McNett, 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  
Jessica Glatt – yes  
Joseph Steinberg – yes

Cal3538, John Boozan, 30 Nottingham Road, was **APPROVED**.

**CAL#3534, 132 HARTSHORN JMPOG, LLC, 132 HARTSHORN DRIVE, SHORT HILLS**

It is noted that Michael Birnberg and Chairman Joseph Steinberg recused and left the meeting. Vice Chairwoman Jessica Glatt took over as Chairwoman.

Daniel R. Bever, Attorney for the applicant, stated his appearance. The applicant proposes to construct a single family dwelling on a vacant lot. Proposal is in violation of:

510.1 – Wall height  
606.2e1d – Front yard setback  
606.2e2c – Building height from average grade  
301.9a – Building height from lowest elevation

Kimberly Tone, Architect for the applicant, appeared and was sworn. Her credentials were presented and accepted by the Board. She gave a brief description of the applicant's proposal. She indicated that the lot is currently vacant. The applicant is proposing the construction of a single family dwelling. There is a 44 foot drop off from front to back on the property which poses some difficult topographical conditions.

Entered as A-1: photoboard of subject lot

Ms. Tone explained the layout of the dwelling indicating that the applicant is proposing a side facing garage, forward of the main dwelling. Ms. Tone stated that the height of the dwelling, after construction, will be only slightly higher than the allowable. She spoke to the variance relief required. Variance relief is required to permit front yard walls that exceed the ordinance maximum height of 2 feet. She indicated that the walls in the front yard will vary in height with a maximum height of 4 feet. The extra height is needed in order to allow for the driveway. The wall will not be visible from the street due to the slope of the property.

Ms. Tone stated that variance relief is required to permit a front yard setback of 52 feet where the average established setback is 66.6 feet. Variance relief is needed to allow a building height of 39.2 feet from the average grade where 35 feet is permitted. The topography of the lot makes it difficult to construct a dwelling without requiring variance relief. The only way to obtain a conforming height would be to construct the dwelling with a flat roof. She stated that this would be an extremely unattractive alternative.

Gail Fraser asked for the front yard setback from the property line to the main house. Ms. Tone stated that it is approximately 82 feet.

Matthew Brett asked if the variance relief for building height is caused due to the topography of the lot. Ms. Tone responded in the affirmative. She stated that after construction, the dwelling will be only slightly higher than the allowable 35 foot height.

Craig Ploetner stated that this is a difficult lot to develop. He feels it has been sensibly developed and well thought out.

Matthew Brett agreed and stated that this is a difficult topography to develop. He feels the application has been well-presented and he supports the application.

Mary McNett feels the proposed dwelling will be a benefit to the neighborhood.

Overall, Board members were in favor of the proposal.

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

Matthew Brett – yes

Mary McNett – yes  
Ellen Nimaroff Hirsch – yes  
Craig Ploetner – yes  
Vanessa Scaglione – yes  
Steve Togher – yes  
Jessica Glatt – yes

Cal#3534, 132 Hartshorn JMPOG, LLC, 132 Hartshorn Drive, “d” variance relief for building height was **APPROVED**.

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  
Ellen Nimaroff Hirsch – yes  
Craig Ploetner – yes  
Vanessa Scaglione – yes  
Steve Togher – yes  
Jessica Glatt – yes

Cal#3534, 132 Hartshorn JMPOG, LLC, 132 Hartshorn Drive, “c” variance relief for wall height and front yard setback was **APPROVED**.

### **ADJOURNMENT**

A motion to adjourn was made by Matthew Brett, seconded by Craig Ploetner, and carried with a unanimous voice vote. (8:50 PM)

Eileen Davitt  
Board Secretary

Motion: ST  
Second: MM  
Date Adopted: 2/6/17