

Township of Millburn  
Minutes of the Zoning Board of Adjustment  
February 4, 2019

A regular meeting of the Township of Millburn Zoning Board of Adjustment was held on **Monday, February 4, 2019** at 7:00 PM in Millburn Town Hall.

Chairman Joseph Steinberg opened the meeting by reading Section 5 of the Open Public Meetings Act.

The following members were present for the meeting:

Mary McNett  
Craig Ploetner  
Jyoti Sharma  
Joy Siegel  
Wolfgang Tsoutsouris  
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#3664-18, Sara & Jason Singer, 177 Highland Avenue, Short Hills**

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

Mary McNett – yes  
Craig Ploetner – yes  
Joy Siegel – yes  
Wolfgang Tsoutsouris – yes  
Joseph Steinberg – yes

the following memorializing resolution was adopted:

Mister Chairman, I move the adoption of the following resolution memorializing the granting of variance relief requested by the Applicants, Sara and Jason Singer, in Calendar No. 3664-18 for permission to construct a two-car garage on property located at 177 Highland Avenue, Short Hills, New Jersey, known and designated as Lot 5, Block 3104 on the tax map of the Township of Millburn.

**RESOLUTION**

**WHEREAS**, the Millburn Township Zoning Board of Adjustment (hereinafter referred to as the “Board”) has held a public hearing according to law on January 7, 2019 in Calendar No. 3664-18 filed by Sara and Jason Singer (hereinafter referred to as the “Applicants”) for permission to construct a two-car garage on property located at 177 Highland Avenue, Short Hills, New Jersey, known and designated as Lot 5, Block 3104 on the tax map of the Township of Millburn; and

**WHEREAS**, the Board does hereby set forth the following findings of fact, circumstances, reasons, and conclusions:

1. The Applicants appeared without counsel. No objectors or interested parties appeared or testified at the hearing.
2. The property is located in the R-3 zone, where front facing garage doors are prohibited. The garage doors on the proposed two-car garage would be front facing on Highland Avenue. Therefore, the Applicants require variance relief.
3. The Board received and considered the following in support of the application:
  - A. Plans prepared by Lazar Architecture, LLC, consisting of three sheets, Sheets A-6, A-10 and A-17, dated April 8, 2018 and revised through December 21, 2018.
  - B. A variance application plan consisting of one sheet prepared by Casey & Keller, Inc. dated November 15, 2018.
4. Applicants Sara and Jason Singer, and Richard Keller, P.E./P.P., testified in support of the application.
5. The Applicants and their children have resided in Short Hills for many years. They purchased the subject property approximately four years ago. The subject property is a Contributing Historic District Resource within the Short Hills Park Historic District. The property is a large 59,078 square foot lot in a prominent corner lot located at the intersection of Highland Avenue and Stewart Road. The existing dwelling is angled on the lot so that it faces

the intersection. In addition, the existing driveway is located at the northeast corner of the lot in close proximity to the intersection.

6. The Applicants are in the process of constructing two conforming additions to the dwelling, which do not require variance relief, a one-story addition on the left, or east side of the dwelling, and a one-story addition at the rear of the existing dwelling. The additions presently under construction on the property, as well as the proposed two-car garage, include interior and exterior renovations designed to improve the functionality of this 1924 dwelling for modern use, while retaining the historic integrity of the home. The existing two-car detached garage on the left, or east, side of the dwelling faces a motor court located at the front of the dwelling. Although the existing garage has two garage doors, the garage is too small to accommodate large modern vehicles such as SUVs. Moreover, with bicycles and other items stored in the existing garage, it is difficult to enter and exit cars parked in the garage.

7. The R-3 zone district permits a maximum of four garage parking spaces and the Applicants wish to construct a two-car garage on the west, or right, side of the dwelling. The proposed garage would contain two garage bays, but it is intended to serve as parking space for one vehicle, while the fourth garage bay would serve as storage space. The proposed garage would also face the motor court at the front of the dwelling. The motor court would be squared off and become accessible via a new circular driveway with curb cuts on both Highland Avenue and Stewart Road, which would be located farther away from the intersection to provide safer ingress and egress from the property. The existing gravel driveway at the intersection would become a gravel walkway for pedestrian access to the property.

8. The garage doors of the proposed two-car garage would technically face Highland Avenue, requiring variance relief to permit front facing garage doors. Although the Applicants could construct the proposed two-car garage without the need for variance relief by placing the garage doors facing the neighboring property on Stewart Road, such a location would require additional pavement and have a greater impact on the neighbors to the west. The placement of the garage doors proposed by the Applicants would be more than 125 feet from Highland Avenue and the visibility of the garage doors would be largely blocked from view by the existing garage on the opposite side of the motor court, the one-story addition being constructed on the east side of the dwelling and the landscaping along Highland Avenue. In addition, the garage doors would be on an angle facing Highland Avenue which will also serve to decrease their visibility from the street. The orientation of the proposed two-car garage with garage doors facing the motor court would provide a more symmetrical appearance in keeping with the architecture of this historic property by balancing the existing garage on the east side of the motor court.

9. The Applicants' planner, Richard Keller, testified that the proposed variance to permit front facing garage doors on the proposed two-car garage satisfies the positive criteria required by the Municipal Land Use Law under N.J.S.A. 40:55D-70c(1) and c(2). Mr. Keller testified that under a c(1) analysis, the need for variance relief is the result of the corner lot location of the property and the angled placement of the dwelling on the property. In addition, the proposed garage orientation presents a better planning alternative than a conforming location

because it promotes the conservation of a historic site and improved aesthetics, advancing the zoning purposes set forth in N.J.S.A. 40:55D-2i and j. He also testified that the proposed placement would not result in a negative impact on the public good or the zone plan and zoning ordinance as the proposed garage doors would be more than 125 feet from Highland Avenue and generally concealed from view from Highland Avenue by the existing garage on the opposite side of the motor court and existing landscaping. In addition, the proposed site improvements will result in 22% lot coverage, which is only two-thirds the lot coverage permitted in the zone district for this property. Moreover, the Millburn Historic Preservation Commission, the entity responsible for protecting the character of the historic districts in Millburn Township, has reviewed the proposed garage and other site improvements and determined that the proposed project will not detract from the contributions this property makes to the Short Hills Park Historic District, qualifying for the issuance of a regulatory decision authorizing the issuance of a certificate of appropriateness.

10. The Board is satisfied that variance relief may be granted to permit the proposed two-car garage with garage doors front facing on Highland Avenue. The Board is satisfied that the need for variance relief is the result of the corner lot location of the property and the angled placement of the historic dwelling on the property. The Board is satisfied that these conditions are exceptional circumstances that result in undue hardship and practical difficulties to the Applicants. Alternatively, the Board is also satisfied that benefits of the proposed placement of the garage, combined with the addition to the existing garage and other site improvements, results in improved aesthetics as the proposed garage will create a symmetrical appearance in keeping with this historic structure. The Board is satisfied that the benefits of granting variance relief will outweigh the detriments associated with the garage doors front facing on Highland Avenue. In fact, the Board is satisfied that although the proposed garage will have garage doors front facing on Highland Avenue, the proposed garage will be set back more than 125 feet from Highland Avenue and will be largely concealed from view from the street by the existing garage on the opposite side of the motor court and existing landscaping on the property. Therefore, the Board concludes that the granting of variance relief can be done without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

**NOW, THEREFORE, BE IT RESOLVED** on this 4th day of February, 2019 that variance relief to permit a two-car garage with garage doors front facing on Highland Avenue, granted by this Board on January 7, 2019, be and it is hereby memorialized pursuant to the provisions of N.J.S.A. 40:55D-10(g) subject to the following conditions:

1. Construction shall be in accordance with the testimony at the hearing and the variance application plan consisting of one sheet prepared by Casey & Keller, Inc. dated November 15, 2018 and the plans prepared by Lazar Architecture, LLC, consisting of three sheets, Sheets A-6, A-10 and A-17, dated April 8, 2018 and revised through December 21, 2018.
2. The Applicants shall apply for a building permit within 365 days from the date of publication of this resolution, or this variance approval shall expire unless one or more of the

provisions of Section 422 of the Township Land Development Ordinance shall provide otherwise.

3. Prior to the issuance of a Certificate of Occupancy, the Applicants shall remove all debris from the subject premises immediately upon completion of construction and shall maintain the site in reasonable order during construction.

4. The Applicants shall be bound to comply with the representations made before this Board by the Applicants and the Applicants' professionals and other witnesses at the public hearing, as set forth in the Board's findings of fact contained in this Resolution. The Board has relied upon such representations in adopting its findings of fact and granting the approvals set forth herein. Such representations are hereby made conditions of such approvals.

5. The Applicants shall comply with all other rules, regulations and requirements affecting development in the Township, County and State.

**CLERK CERTIFICATION**

I, Eileen Davitt, Secretary of the Zoning Board of Adjustment of the Township of Millburn, County of Essex, State of New Jersey, hereby certify that the foregoing is a true and exact copy of a Resolution adopted at the meeting of the Zoning Board of Adjustment of the Township of Millburn held on the 4th day of February, 2019.

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**APPLICATIONS**

**CAL#3662-18, DAVID & MARA SILBER, 20 RANDALL DRIVE, SHORT HILLS**

\*Craig Ploetner recused and left the meeting room.

David Silber appeared and was sworn. The applicant would like to install a patio area and open air pavilion with a fireplace and enclosed storage area. Proposal is in violation of:

- 606.2e2b – Lot coverage
- 609.1c – Maximum accessory coverage

Antoine Hajjar, P. E., appeared and was sworn. His credentials were presented and accepted by the Board. He gave a brief description of the applicant's proposal. The applicant is proposing a modification to the existing patio area in order to square it off and make it more symmetrical. He referred to sheet 1 of the submitted plans which showed the existing conditions of the property.

Richard Keller, P. P., appeared and was sworn. His credentials were presented and accepted by the Board. He briefly described the proposal. The proposed improvements will not be visible from the street due to the slope gradient in the front yard. In addition, fencing further

screens the backyard and there is a 10-foot berm in the rear of the property which will screen the proposed improvements from the neighboring lot.

Entered as A-1: revised zoning calculation form

The proposed project is compliant with the rear yard unoccupied requirement, indicating that there is a substantial amount of open area in the backyard. Richard Keller stated that the existing lot coverage is 34.8% and the proposed will be 35.9%. The existing accessory coverage is 17.81% and the proposed will be 20.8%.

Entered as A-2: photoboard of 6 photos

Joy Siegel stated that the lot coverage and accessory coverage calculations are so close to conformity. She questioned why further patio area could not be eliminated in order to be compliant.

Richard Keller indicated that the applicant is agreeable to reducing the amount of patio area in order to bring it into compliance. He indicated that they are withdrawing their request for accessory coverage variance relief and they are not seeking only lot coverage variance relief. The reduced patio size will also bring the lot coverage variance relief required to 35.8%.

Robert Costenbader, attorney for adjoining property owners, Robert and Barbara McGinn, stated his appearance. He stated that the McGinns are concerned with added drainage. Mr. Hajjar indicated that water will drain toward the street.

Robert Hessels, Landscape Architect, appeared and was sworn. His credentials were presented and accepted by the Board. He described the landscaping that is proposed on the property.

Entered as A-3: sheet L-1 rendering reference 1/31/19

Entered as A-4: sheet L-1 planting plan 1/31/19

Entered as A-5: 14-page rendering/photos/planting plan

There are 19 Green Giant arborvitae proposed along the left side property line between the wall and the property line. There are also 8 Norway spruce proposed in the right rear corner to provide a buffer. The dense landscaping proposed will provide a substantial aesthetic buffer of the proposed improvements from street and neighboring property view.

Upon a motion made by Mary McNett, a second by Joy Siegel, and with a roll-call vote as follows:

Mary McNett – yes  
Jyoti Sharma – yes  
Joy Siegel – yes  
Wolfgang Tsoutsouris – yes

Jessica Glatt – yes  
Joseph Steinberg – yes

Cal#3662-18, David & Mara Silber, 20 Randall Road, was **APPROVED**.

**CAL#3663-18, ABHAYAD KAMAT/SHILPA VASWANI, 37 TENNYSON DRIVE, SHORT HILLS**

\*Craig Ploetner returned to the meeting room.

Shilpa Vaswani and Daniel Encin, Architect, appeared and were sworn. The applicants would like to construct an addition. Proposal is in violation of:

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

Ms. Vaswani stated that she received approval from this Board in 2016 for the construction of this addition. However, they did not seek building permits within the required 1-year period and are before the Board again seeking the same variance relief but on a slightly smaller scale.

Daniel Encin's credentials were presented and accepted by the Board. He stated that when the applicants received bids on the project, they made some modifications in order to make the addition slightly smaller.

Mr. Encin referred to sheet A-1 of the submitted plans. The applicant proposes a 2-story addition at the rear of the house in order to create additional living space as well as an in-law suite. He added that the layout of the existing house dictates that location of the new living area. In addition, the width of the house creates an issue with combined side yard setback. However, the required side yard setbacks are being met.

The originally approved plans permitted building coverage of 15%. The updated plans will result in building coverage of 14.5%. The combined side yard setback remains the same at 31% where 35% is required.

Upon a motion made by Wolfgang Tsoutsouris, a second by Mary McNett, and with a roll-call vote as follows:

Mary McNett – yes  
Craig Ploetner – yes  
Jyoti Sharma – yes  
Joy Siegel – yes  
Wolfgang Tsoutsouris – yes  
Jessica Glatt – yes  
Joseph Steinberg – yes

Cal#3663-18, Abhayad Kamat/Shilpa Vaswani, 37 Tennyson Drive, was **APPROVED**.

**CAL#3668-19, INVESTORS BANK, 101 JFK PARKWAY, SHORT HILLS**

Clara Harelik, Attorney for the applicant, stated her appearance. The applicant would like to install signage. Proposal is in violation of:

609.10a – Maximum height

69.10d4b – Signs not permitted above 2<sup>nd</sup> floor line

Ms. Harelik stated that the property is located in the OR-1 zone. It is a large 6-story building with no branding for the applicant, making it difficult to find the site.

The proposed sign will be at the 6<sup>th</sup> floor line and will be 4-1/2 feet in height. The proposed graphic encompasses only 1% of the wall façade where the ordinance allows 10%.

Grace Paulo, project manager/design coordinator, appeared and was sworn. She stated that currently there is no branding on the building. The building is set back significantly from JFK Parkway which results in a compliant sign not being visible.

Entered as A-1: lease amendment

Dennis O'Hara, NW Sign Senior VP, appeared and was sworn. He briefly described the proposed signage at the subject location. He explained the severe setback of the building from JFK Parkway which warrants a sign at a height higher than permitted by ordinance.

The proposed wall sign will be installed on the south-face of the building. The sign will be 4-1/2 feet tall at the 6<sup>th</sup> floor level. The sign will be black during the day and face-lit white at night. He stated that the granting of variance relief will not result in a substantial negative impact on the zone plan or surrounding properties.

Several members were concerned that other tenants in the building may potentially want to install similar signage. Ms. Harelik stated that the lease agreement between the landlord and the applicant grants them exclusive permission to install signage on this side of the building.

Upon a motion made by Mary McNett, a second by Jyoti Sharma, and with a roll-call vote as follows:

Mary McNett – yes

Craig Ploetner – yes

Jyoti Sharma – yes

Joy Siegel – yes

Wolfgang Tsoutsouris – yes

Jessica Glatt – yes

Joseph Steinberg – yes

Cal#3668-19, Investors Bank, 101 JFK Parkway, was **APPROVED**.

**CAL#3665-19, STEPHANIE & HOWARD VOGEL, 38 SINCLAIR TERRACE, SHORT HILLS**

\*Jessica Glatt recused and left the meeting.

Chairman Steinberg alerted the applicants that a majority vote is required and we have only 6 voting Board members at this time. He stated that it is up to the applicant as to whether they would like to proceed at this time or adjourn to a future meeting.

Kerry Moriarty, Attorney for Mr. & Mrs. Freund, adjoining property owners, stated his appearance. He indicated that his applicant has hired a planner who, unfortunately, was not available tonight,

Mr. Keller questioned if the application would be voted on tonight or if the matter would be adjourned in order for the objector's planner to be present. Chairman Steinberg stated that since counsel has appeared tonight indicating that a professional has been retained for this matter, it would be this Board's position to accommodate that request.

The matter was carried to March 18, 2019 with no further notice required.

**BUSINESS**

Board Attorney, Gail Fraser, gave an update on the Vinegrad/Miller litigation matter. She stated that they had oral argument on January 15, 2019 but she has not yet received a final decision.

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

**ADJOURNMENT**

A motion to adjourn was made by Craig Ploetner, seconded by Mary McNett, and carried with a unanimous voice vote. (9:20 PM)

Eileen Davitt  
Board Secretary

Motion: JSi  
Second: JSh  
Date Adopted: 3/4/19