

Township of Millburn  
Minutes of the Zoning Board of Adjustment  
March 5, 2018

A regular meeting of the Township of Millburn Zoning Board of Adjustment was held on **Monday, March 5, 2018** 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:

Michael Birnberg  
Ellen Hirsch  
Mary McNett  
Craig Ploetner  
Jyoti Sharma  
Joy Siegel  
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

**BUSINESS**

A motion to approve the 2017 Annual Report was made by Mary McNett, seconded by Craig Ploetner, and carried with a unanimous roll-call vote.

**APPROVAL OF MINUTES**

A motion to approve the minutes of January 22, 2018 as corrected was made by Joy Siegel, seconded by Steve Togher and carried with a unanimous voice vote.

**MEMORIALIZATIONS**

**Cal#3601-18, Guofeng Qi/Yaming Pan, 16 The Crescent, Short Hills**

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

Mary McNett – yes  
Craig Ploetner – yes  
Jyoti Sharma – yes  
Joy Siegel – yes  
Steve Togher – yes  
Jessica Glatt – yes  
Joseph Steinberg – yes

the following resolution was approved:

**GUIFENG QI AND YAMING PAN  
BLOCK 1603, LOT 5**

**CALENDAR NO. 3601-18  
MARCH 5, 2018**

Mister Chairman, I move the adoption of the following resolution memorializing the granting of variance relief requested by the Applicants, Guifeng Qi and Yaming Pan, to permit the construction of a rear patio and an addition on the dwelling on property located at 16 The Crescent, Short Hills, New Jersey known and designated as Lot 5, Block 1603 on the tax map of the Township of Millburn.

#### **RESOLUTION**

**WHEREAS**, the Millburn Township Zoning Board of Adjustment (hereinafter the “Board”) has held a public hearing according to law on January 22, 2018 in Calendar No. 3601-18 filed by Guifeng Qi and Yaming Pan (hereinafter the “Applicants”) for permission to construct a rear patio and an addition on the dwelling on property located at 16 The Crescent, Short Hills, New Jersey; and

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

1. The application and service of notice were found to be in order. The Applicants appeared without counsel. Prim LaCapra of 22 The Crescent and Barry Ogramowitz of 45 Hilltop Road appeared and testified at the hearing as interested parties, and Stephanie and Eray Donmez, of 21 The Crescent appeared and testified at the hearing as objectors.

2. The property is located in the R-5 zone district. The R-5 zone district requires a maximum 30% floor area ratio, maximum 18% building coverage, minimum 40 foot front yard setback, minimum 12 foot side yard setback, minimum 16 foot second story side yard setback, minimum 35% combined side yard setback and minimum 25% unoccupied rear yard. The Applicants propose to construct a rear patio and an addition on the dwelling that would result in a 29.05 foot front yard setback, 11 foot side yard setback, 11 foot second story side yard setback, 31.7% combined side yard setback and 17.2% unoccupied rear yard. Therefore, variance relief is required. Initially, the Applicants also requested variance relief to permit 30.5% floor area ratio and 18.33% building coverage, but revised their plans to eliminate the need for those two variances.

3. The Board received and considered the following documents:

a. Plans prepared by Klesse Architects, consisting of five sheets, HPC-11 dated August 14, 2017 and revised through October 16, 2017 and HPC-12 through HPC-15 dated August 14, 2017.

b. A survey of the property prepared by Parker Engineering and Surveying P.C., dated October 3, 2017 and a copy of the survey marked up by the Applicants' architect to depict the proposed addition.

c. A photograph of the subject property, which was admitted into evidence as A-1.

d. A photograph of the subject property, which was admitted into evidence as A-2.

e. An exhibit prepared by Klesse Architects consisting of four photographs of the existing dwelling, which was admitted into evidence as A-3.

f. A photo exhibit prepared by Prim LaCapra, which was admitted into evidence as O-1.

4. Applicants Guifeng Qi and Yaming Pan and Timothy Klesse, Licensed Architect, testified in support of the application. The Board also heard the testimony of Prim LaCapra of 22 The Crescent, Barry Oramowitz of 45 Hilltop Road, and Stephanie and Eray Donmez, of 21 The Crescent.

5. The Applicants purchased the property in April 2017 but they have not moved into the dwelling as they proposed to construct renovations before doing so. They intend to reside at the property with their children. They wish to modernize the dwelling by constructing an addition that would contain a family room on the first floor and master bedroom suite on the second floor. They also propose to replace an existing brick patio in the rear yard with a 120 square foot patio adjacent to the new addition.

6. The subject property contains a Victorian home, which is a contributing resource in the Short Hills Park Historic District. The Applicants applied to the Millburn Historic Preservation Commission ("HPC") for a Certificate of Appropriateness for the proposed addition, which was authorized by the HPC on October 4, 2017.

7. The property is an oddly shaped triangular lot with a lot area of 9,584 square feet, whereas the R-5 zone requires a minimum 14,500 square foot lot area. The existing dwelling has a skewed placement on the lot. As a result, the dwelling has a pre-existing nonconforming 34 foot front yard setback from The Crescent. Because of the skewed placement of the home in relation to the street, the proposed addition would be closer to The Crescent than the existing dwelling, which would reduce the front yard setback to 30 feet.

8. The existing 27 foot and 21.7 foot side yard setbacks substantially exceed the minimum setbacks required in the zone and combined side yard setback is also a conforming condition. However, the locations available on the property for the placement of an addition to the dwelling are extremely limited due to the undersized lot area, triangular shape of the lot, the placement of the dwelling and the location of the driveway and detached garage. The Applicants cannot place the proposed addition on the right side of the existing dwelling due to the existing paved driveway that serves the detached garage at the rear of the lot. An existing porch and the internal configuration of the dwelling preclude the placement of the proposed addition at the rear of the dwelling. The proposed addition would be located on the left side of the dwelling, replacing an existing deck and bay window. Because of the tapering side property line and the skewed placement of the dwelling, a triangular portion of the rear southeast corner of the proposed addition would violate the 12 foot side yard setback and the 16 foot second story side yard setback. Similarly, a triangular portion of the rear southeast corner of the proposed addition also violates the required 36.05 foot combined side yard setback because of the skewed placement of the home and tapering side property line. The existing dwelling has a pre-existing nonconforming 20% rear yard unoccupied, which would be further reduced to 17.2% after the construction of the proposed patio and addition. The proposed addition has been designed to utilize building materials appropriate to the architecture of the dwelling and in keeping with its status as a contributing historic district resource.

9. Various neighbors testified regarding the Applicants' proposed addition. Mrs. Prim LaCapra is the neighbor to the left of the subject property and closest to the proposed addition. She expressed the concern that the Applicants' proposed addition would be too large for the property and that the property would appear to be even more cramped after the construction of the addition due to three very tall pine trees on the property. She advised the Board that some time ago, one of the trees on the property fell, narrowly avoiding damage to her property, and she recommended that the Applicants remove the existing pine trees on their property. Mr. Oramowitz advised the Board that he is a good friend of Mrs. LaCapra and he supported her concerns. He offered his opinion that removal of the pine trees and general cleanup of the overgrown landscaping would benefit the Applicants and the neighbors. Mr. & Mrs. Donmez, who reside across the street from the subject property at 21 The Crescent, also testified. They advised the Board of their opinion that the existing dwelling is a cute historic house and they do not wish to see any change in the subject property, which would impact on the view from their property. Mr. Donmez advised the Board that when he and his wife purchased their own property, they limited their improvements to interior changes only. Mr. Donmez acknowledged that the landscaping on the Applicants' property is overgrown and he supports cleaning up the landscaping to improve its appearance for the benefit of Mrs. La Capra. Mr. Donmez acknowledged that the Applicants' dwelling is smaller than the Donmez home at 21 The Crescent. He also expressed his opinion that the Applicants have not demonstrated any proof of hardship.

10. In response to the neighbors' concerns, the Applicants testified that they are committed to removing the pine trees, cleaning up the existing landscaping to improve the appearance of the property, and constructing an addition that would improve the utility of the

home but remain consistent with the existing architecture of the dwelling and the historic neighborhood as reflected by the certificate of appropriateness issued by the Millburn HPC. The Applicants also testified that the undersized lot area, irregular triangular shape of the lot and the placement of the existing dwelling are all hardships relating to the property which justify variance relief.

11. The Board concludes that variance relief may be granted to permit the proposed addition on the dwelling. The property has a lot area of 9,584 square feet, which is substantially less than the minimum 14,500 square foot lot area required in the zone district. In addition, the property has an irregular triangular shape which tapers towards the rear of the lot. Moreover, the property contains a long paved driveway that runs the length of the property to provide access to the detached garage at the rear corner of the lot. The driveway and garage contribute to the rear yard unoccupied condition. In addition, the existing dwelling is skewed in relation to the property lines and the placement of the dwelling and other existing improvements on the lot result in a pre-existing nonconforming front yard setback and rear yard unoccupied. The proposed addition would be located on the east side of the existing dwelling, replacing an existing side porch and bay window. As a result of the skewed placement, the front corner of the addition would be closer to the street than the existing dwelling and the rear corner of the proposed addition would be closer to the tapering side property line. The Board is satisfied that these conditions present exceptional circumstances uniquely affecting the property that justify variance relief. The Board is satisfied that if this lot had a conforming lot area, the need for variance relief would be reduced or eliminated. Although a portion of the proposed addition will extend farther into the front yard, and the rear corner of the addition will be closer to the side property line than permitted by the Township Ordinance, the Board is satisfied that the proposed addition will not have any negative impact on the streetscape. Similarly, the proposed patio will replace an existing patio and it will be located at the rear of the house where it will not be visible from the street. The Board finds that the proposed addition and patio are a modest expansion of the existing dwelling, which will improve the function and efficiency of this dwelling, which is a contributing historic resource. Due to the Applicants' proposal to reduce the size of the addition, the Applicants have eliminated two of the variances originally requested. The home with the proposed addition will satisfy the floor area ratio and building coverage permitted in the zone. The Board is satisfied that the home with the addition and patio will continue to be in keeping with the Victorian architecture of the existing home and the historic neighborhood in which it is located. 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 5th day of March, 2018 that variance relief granted by this Board on January 22, 2018 to permit the construction of a patio and an addition on the dwelling resulting in a 29.05 foot front yard setback, 11 foot side yard setback, 11 foot second story side yard setback, 31.7% combined side yard setback and 17.2% unoccupied rear yard, be and it hereby is memorialized pursuant to the provisions of N.J.S.A. 40:55D-10(g) subject to the following conditions:

1. Prior to the issuance of a building permit, the Applicants shall submit revised plans depicting the 1 foot reduction of the width of the proposed addition, eliminating the need

for floor area ratio and building coverage variances. Construction shall be in accordance with the testimony at the hearing and the plans prepared by Klesse Architects, consisting of five sheets, HPC-11 dated August 14, 2017 and revised through October 16, 2017 and HPC-12 through HPC-15 dated August 14, 2017 and as further revised in accordance with this condition.

2. Prior to the issuance of a building permit, the Applicants shall submit the revised Klesse plans to the Millburn HPC and obtain the Commission's approval of the modification.

3. Prior to the issuance of a building permit, the Applicants shall submit a tree removal plan for the removal of the pine trees to the Township Forester and obtain the Township Forester's approval.

4. The Applicants shall apply for a building permit within 365 days from the date of publication of this decision.

5. The Applicants shall be bound to comply with the representations made before this Board by the Applicants and the Applicants' professional 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.

6. Prior to the issuance of a Certificate of Occupancy/Approval, 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.

7. 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 5th day of March, 2018.

-----

**Cal#3602-18, Amanda & Ramsey Cabbani, 330 Hobart Avenue, Short Hills**

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

- Michael Birnberg – yes
- Ellen Hirsch – yes
- Jyoti Sharma – yes
- Joy Siegel – yes
- Jessica Glatt – yes
- Joseph Steinberg – yes

the following resolution was approved:

**AMANDA AND RAMSEY CABBANI  
BLOCK 3409, LOT 1**

**CALENDAR NO. 3602-18  
MARCH 5, 2018**

Mister Chairman, I move the adoption of the following resolution memorializing the granting of variance relief requested by the Applicants, Amanda and Ramsey Cabbani, to permit them to maintain an existing patio in the front yard of property located at 330 Hobart Avenue, Short Hills, New Jersey known and designated as Lot 1, Block 3409 on the tax map of the Township of Millburn.

**RESOLUTION**

**WHEREAS**, the Millburn Township Zoning Board of Adjustment (the “Board”) has held a public hearing according to law on February 5, 2018 in Calendar No. 3602-18 filed by Amanda and Ramsey Cabbani (the “Applicants”) for permission to maintain an existing patio in the front yard of property located at 330 Hobart Avenue, Short Hills, New Jersey; and

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

1. The application and service of notice were found to be in order. The Applicants appeared without counsel. Laura Kessler, of 31 Knollwood Road appeared and testified as an interested party.

2. The subject property is located in the R-3 zone, which requires a minimum 80 foot accessory structure front setback on a corner lot and accessory structures shall not be located in the front yard. In this case, a patio was constructed in the front yard with a 46.0 foot setback from Hobart Avenue and a 12.6 foot setback from Coniston Road. Therefore, the Applicants require variance relief to permit them to maintain the existing patio.

3. The following documents were submitted in support of the application:

A. A plan prepared by Klesse Architects consisting of one sheet, BOA-1, dated November 24, 2017.

B. A survey of the property prepared by James W. Halsey, and a copy of the Halsey survey marked up by Klesse Architects to depict the “as built” existing patio.

4. The Applicants, Amanda and Ramsey Cabbani, and Timothy Klesse, Licensed Architect, testified in support of the application. Laura Kessler, of 31 Knollwood Road, testified as an interested party in support of the application.

5. The subject property is a corner lot, which fronts on three streets, Hobart Avenue, Coniston Road and Windermere Terrace. The Applicants purchased the property in 2017. At the time of their purchase, they were aware that seller needed to do interior work on the dwelling in order to obtain a Certificate of Occupancy for the sale of the residence. However, the Applicants did not know that the prior owner of the property constructed the patio without a permit or variance until after they moved to the property and received a notice of violation. The patio was constructed with a 12.6 foot setback from the right-of-way of Coniston Road and a 46 foot setback from Hobart Avenue. Although the patio has a 12.6 foot setback from the right-of-way of Coniston Road, it appears to be a deeper setback because the patio is located 25.1 feet from the paved surface of Coniston Road.

6. The patio abuts a covered open porch at the walk-out basement level of the home. Due to the topography of the property, placement of the dwelling, and the corner lot status of this property with three front yards, there is no conforming location where the Applicants could construct a patio accessible from the basement level. Since purchasing the property, the Applicants and their three children have used the existing patio to enjoy their backyard. The basement level also includes the Applicants' guest room. The Applicants' parents reside out of the country and they would enjoy use of the patio during their extended visits to the Applicants. The Applicants are seeking variance relief so they may continue to maintain the patio in its current location. Once the Applicants learned of the deficient accessory structure corner lot front yard setback, the Applicants planted a row of arborvitae along Coniston Road to buffer the view of the patio from the street in order to mitigate any negative impact on the streetscape. The spacing between the arborvitae is intended to ensure that there is a sufficient distance between each evergreen to ensure their survival as they grow larger. Despite the nonconforming 46 foot accessory structure corner lot front yard setback from Hobart Avenue, the patio is not visible from Hobart Avenue because of distance and topography.

7. The Board concludes that variance relief requested by the Applicants may be granted to permit the patio to remain in its current location in the front yard of Hobart Avenue and Coniston Road. The Board is satisfied that the need for variance relief is the result of the corner lot status of the property with three front yards, the topography of the lot and the placement of the existing dwelling. The Board finds these conditions are exceptional circumstances that result in undue hardship and practical difficulties to the Applicants. The Board is satisfied that the corner lot status of the property, its topography and the placement of the dwelling on the lot preclude the construction of a patio in a conforming location. The patio is not visible from Hobart Avenue. Moreover, the Applicants have installed an evergreen buffer to screen the view of the patio from Coniston Road. The Board is satisfied that the patio with the landscaped buffer installed by the Applicants will not result in any negative impact on the nearest neighbors or the streetscape. The Board is also satisfied that the home with the patio remains in keeping with the other homes in the neighborhood. Therefore, the Board also concludes that variance relief can be granted without substantial detriment to the zone plan, zoning ordinance or the public good.

**NOW, THEREFORE, BE IT RESOLVED** on this 5th day of March, 2018 that variance relief granted by this Board on February 5, 2018 to permit the Applicants to maintain a patio with a 12.6 foot accessory structure corner lot front setback from Coniston Road and a 46



foot accessory structure corner lot front yard setback from Hobart Avenue, be and it hereby is memorialized pursuant to the provisions of N.J.S.A. 40:55D-10(g) subject to the following conditions:

1. The approved patio is depicted on the plan prepared by Klesse Architects consisting of one sheet, BOA-1, dated November 24, 2017.
2. The Applicants shall apply for a building permit within 365 days from the date of this decision.
3. 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 hearings, if any, 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.
4. Prior to the issuance of a Certificate of Occupancy/Approval, 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.
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 5th day of March, 2018.

-----

**Cal#3605-18, Sarah Moaba, 29 Mountainview Road, Millburn**

Upon a motion made by Jyoti Sharma, seconded by Ellen Hirsch, and with a roll-call vote as follows:

- Michael Birnberg – yes
- Ellen Hirsch – yes
- Jyoti Sharma – yes
- Joy Siegel – yes
- Jessica Glatt – yes
- Joseph Steinberg – yes

the following resolution was approved:

Mister Chairman, I move the adoption of the following resolution memorializing the granting of variance relief requested by the Applicant, Sarah Moaba, in Calendar No. 3605-18 for permission to construct a second story addition to the dwelling on property at 29 Mountainview Road, Millburn, New Jersey, known and designated as Lot 15, Block 604 on the tax map of the Township of Millburn.

**RESOLUTION**

**WHEREAS** the Millburn Township Zoning Board of Adjustment (hereinafter the “Board”) has held a public hearing according to law on February 5, 2018 in Calendar No. 3605-18 filed by Sarah Moaba (hereinafter the “Applicant”) for permission to construct a second story addition to the dwelling on property located at 29 Mountainview Road, Millburn, New Jersey, known and designated as Lot 15, Block 604 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 application and service of notice were found to be in order. The Applicant appeared without counsel. No objectors or interested parties appeared or testified at the hearing.

2. The Applicant is the owner of the subject property, which is located in the R-6 zone. The R-6 zone district requires a minimum 40 foot front yard setback. The proposed second story addition would result in a 29.3 foot front yard setback. Therefore, variance relief is required.

3. The Board received and considered the following documents submitted in support of the application:

- A. Plans prepared by Gary Rosard, Architect, consisting of two sheets, A-01 and A-02, dated December 18, 2017.
- B. A survey of the property prepared by Parker Engineering & Surveying P.C., dated December 12, 2017, marked up by the Applicant’s architect to depict the proposed second story addition.
- C. An exhibit entitled “Exhibit A,” prepared by Gary Rosard, Architect, consisting of an aerial map, survey and photograph of the dwelling, which was admitted into evidence as A-1.

4. Applicant Sarah Moaba, and Gary Rosard, Licensed Architect, testified in support of the application.

5. The R-6 zone requires a minimum 6,000 square foot lot area, minimum 60 foot lot width and minimum 90 foot lot depth. The subject property has an oversized 9,385 square foot

lot area and oversized lot width of 150 feet. However, the lot depth of the property is a pre-existing nonconforming 61.87 feet. Moreover, the property is located at a curve in the roadway at the intersection of Mountainview Road and Walnut Avenue. In addition to the pre-existing nonconforming lot depth, the dwelling has a pre-existing nonconforming front yard setback of 24.93 feet from Mountainview Road at the point closest to Mountainview Road.

6. The Applicant wishes to construct a second story addition to provide a master bathroom and walk-in closet. The proposed addition would be constructed over an existing one-story portion of the dwelling, which has a 29.3 foot setback from Mountainview Road. The proposed addition would extend the existing 29.3 foot setback to the second floor. The home with the proposed addition would maintain a front yard setback similar to other homes in the neighborhood, which range from 27.5 feet to 31 feet. The proposed second story addition might have an impact on the northerly neighbor's view of Mountainview Road, but the proposed addition would be approximately 20 feet from the northerly property line of the Applicant's neighbor on Walnut Avenue, so the proposed addition would not impact on the northerly neighbor's light and air.

7. The Board finds that the need for variance relief is the result of the shallow lot depth of this irregularly shaped property and the placement of the existing dwelling with its pre-existing nonconforming front yard setback. The Board finds these conditions are exceptional circumstances that result in undue hardship and practical difficulties to the Applicant. Although the lot area of the subject property is oversized, the lot depth is approximately two-thirds of the minimum lot depth required in the zone district. Moreover, the property is located at a curve in the roadway of Mountainview Road and the placement of the existing dwelling on the lot results in a pre-existing nonconforming 24.94 foot front yard setback. Although the proposed second story addition over the existing one-story component of the dwelling requires variance relief to permit a 29.3 foot front yard setback, the proposed addition will provide a front yard setback that is greater than the front yard setback of the existing dwelling at the point closest to Mountainview Road. Moreover, the Board notes that many of the homes in the neighborhood have been improved with similar second story additions over one-story components of the dwellings. As a result, the Applicant's home with the proposed addition will remain in keeping with other homes in the neighborhood. 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 5th day of March, 2018 that variance relief to permit the construction of a second story addition to the dwelling that would result in a 29.3 foot front yard setback, granted by this Board on February 5, 2018 be and 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 plans prepared by Gary Rosard, Architect, consisting of two sheets, A-01 and A-02, dated December 18, 2017 and the testimony at the hearing.

2. The Applicant shall apply for a building permit within 365 days from the date of publication of this decision.

3. The Applicant shall be bound to comply with the representations made before this Board by the Applicant's professionals and other witnesses 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.

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

5. The Applicant 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 5th day of March, 2018.

-----

**APPLICATIONS**

**CAL#3603-18, TARA BRADLEY, 30 HILLSIDE AVENUE, SHORT HILLS**

Thomas Singer, Architect, Tara Bradley, applicant, and her husband, Phillippe Greenberg, appeared and were sworn. The applicants would like to construct an addition to the dwelling. Proposal is in violation of:

- 606.2e1d – Front yard setback
- 606.2e1e2b – Side yard setback
- 606.2e1f – Combined side yard setback
- 609.1b – Accessory structures shall be in rear yard only
- 609.1c – Maximum accessory use coverage

Thomas Singer's credentials were presented and accepted by the Board.

Entered as A-1: aerial photo/panoramic views dated 3/4/18

Thomas Singer gave a brief description of the applicants' proposal. The construction will allow for the addition of a master bedroom, additional garage space, and family room. The applicant also proposes to renovate the existing patio.

Thomas Singer spoke to the variances required for the proposed construction. A variance is required to permit a combined side yard setback of 30.4% where 35% is required by ordinance. Front yard setback variance relief is required to allow a front setback of 44.95 feet where the average established is 46.4 feet. Side yard setback variance relief is required in order

to allow a setback of 17.66 feet where 22 feet is required by ordinance. Maximum accessory use coverage variance relief is required to permit coverage of 22.3% where 20% is the maximum permitted by ordinance. Finally, variance relief is required to permit an accessory structure not in the rear yard area.

Thomas Singer feels variance relief can be granted without substantial detriment to the zone plan and the streetscape. The proposed construction will be in size and scale to the neighboring properties and will not have negative impacts on the adjacent properties.

Several Board members felt the patio could be reduced in size in order to eliminate the variance required for maximum accessory use coverage. This is an oversized lot in the R-3 zone.

Thomas Singer indicated that the applicants are agreeable to reducing the size of the patio in order to eliminate the need for accessory coverage variance relief.

Todd Millman, 24 Hillside Avenue, asked if the applicant could submit a landscape plan in order to buffer the view of the accessory structure from his property. Tara Bradley stated that there will be landscaping but they have not presented a plan at this time.

Todd Millman, 24 Hillside Avenue, appeared and was sworn. He stated that he would like the proposed construction buffered from view from his property.

Ms. Bradley and Mr. Greenberg indicated that there is only 4 feet of space between the existing pool and the property line. There is not enough room to plant in that area.

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

Mary McNett – yes  
Craig Ploetner – yes  
Jyoti Sharma – yes  
Joy Siegel – yes  
Steve Togher – yes  
Jessica Glatt – yes  
Joseph Steinberg – yes

Cal#3603-18, Tara Bradley, 30 Hillside Avenue, was **APPROVED** with the condition that the applicant shall submit revised plans showing compliant accessory coverage prior to the issuance of a building permit.

**CAL#3606-18, NEIL & KIVA BARR, 20 WOODCREST AVENUE, SHORT HILLS**

Danial Dubinett, Architect, Neil & Kiva Barr, appeared and were sworn. The applicants would like to construct a covered porch and patio. Proposal is in violation of:

606.2e2b – Lot coverage  
606.2e1g – Rear yard unoccupied

Daniel Dubinett's credentials were presented and accepted by the Board. He gave a brief description of the proposed construction and the variance relief being requested. Variance relief is required to allow lot coverage of 39.3% where 35% is permitted by ordinance. Rear yard unoccupied variance relief is required in order to permit a rear yard unoccupied of 23.3% where 25% is required.

Mr. Dubinett indicated that this is a relatively new house that the homeowners purchased from the builder. The house was built to the required front yard setbacks resulting in the house being further back on the lot. In addition, the house was constructed with a winding circular driveway.

Entered as A-1: photos of existing conditions

Overall, Board members indicated that they could support the application.

Upon a motion made by Jyoti Sharma, seconded by Joy Siegel, and with a roll-call vote as follows:

Mary McNett – yes  
Craig Ploetner – yes  
Jyoti Sharma – yes  
Joy Siegel – yes  
Steve Togher – yes  
Jessica Glatt – yes  
Joseph Steinberg – yes

Cal#3606-18, Neil & Kiva Barr, 20 Woodcrest Avenue, was **APPROVED**.

**CAL#3595-18, NJ ENERGY CORP., 132 MILLBURN AVENUE, MILLBURN**

Stephen Geffner, Attorney for the applicant, stated his appearance. He indicated that the previously existing Exxon gas station was destroyed by fire in 2009. The applicant is seeking use and bulk variance relief and associated design waivers to construct a 7-11 convenience store and Exxon gas station on the site. Mr. Geffner stated that it has become commonplace to see a gas station with an associated convenience store on the same site. Proposal is in violation of:

606.8b – Not a permitted use  
606.8d1e – Front yard setback  
606.8d2a – Building coverage  
606.8d2c – Lot coverage  
609.10 – Signage  
512.1 – Lighting

- 607.1 – Loading space requirement
- 607.2 – Parking requirement
- 609.9 – More than 1 use on lot

The Board first discussed the applicant's checklist waiver from the requirement of an EIS submission.

A motion to waive the requirement of an EIS submission for completeness purposes only was made by Mary McNett, seconded by Jyoti Sharma, and carried with a voice vote of Mary McNett, Craig Ploetner, Jyoti Sharma, Joy Siegel, Jessica Glatt and Joseph Steinberg in favor and Steve Togher opposed.

David Hals, P. E., P. P., L. S., appeared and was sworn. His credentials were presented and accepted by the Board. He gave a brief description of the existing and proposed conditions of the site.

Entered as A-1: colorized rendering of sheet 4 of submitted plans

The property is an irregularly shaped 16,042 SF lot in the OR-2 zone, at the intersection of Vauxhall Road and Millburn Avenue. Mr. Hals stated that the site is bordered on the north by a commercial mini mall and on the east by the Rahway River. Topographically, the property rises toward the middle of the site and then falls in elevation toward Millburn Avenue. There are 2 driveways on Vauxhall Road and 2 on Millburn Avenue. The site is almost completely paved. There is an associated riparian buffer on the property, as well.

Mr. Hals stated that the site had been an auto service station since 1930 and received Zoning Board approval in 1970 to construct a new building. In 1996, the Zoning Board granted variance relief for permission to construct a canopy at the then existing Exxon gasoline station. The service building on site was destroyed by a fire in 2009. The proposed site will not have a service area on site.

Entered as A-2: colorized rendering of sheet 2 of submitted plans

The existing pump islands and canopy are proposed to be removed. The underground storage tanks will remain. The proposal is to construct a new 2473 SF building and 1 continuous island with 3 pump stations and a canopy. The building will be elevated to be outside the flood hazard area. In addition, 2 existing driveways are proposed to be closed off. The existing driveway at the north-east corner of the property will remain as is. The existing southerly driveway will be modified slightly. Traffic will be able to access the site from Millburn Avenue or Vauxhall Road.

Mr. Hals spoke to the report submitted by the Township Engineer, Martha Callahan. Under the conditions noted on Ms. Callahan's site plan comments, Mr. Hals indicated that #2, regarding the elevation of the building, cannot be met. However, the architect will provide testimony on that issue. In response to Ms. Callahan's comment #6 regarding the deficient 18

foot length of the parking spaces, Mr. Hals stated that they will increase the length to be a conforming 19 feet. In response to comment #3 regarding the key map, Mr. Hals indicated that the key map is accurate but he will clarify it to reflect the 200 foot property line. In response to comment #8 regarding the NJDEP riparian buffer of 50 feet, he stated that he will speak to the exemption the proposed development is entitled to. In response to comment #9 regarding site triangles, Mr. Hals stated that the site triangles will be delineated on the plans. In response to comment #13 regarding a potential generator, Mr. Hals stated that there is no plan to install a generator on site. If it becomes needed, a temporary generator will be brought to the site. In response to Ms. Callahan's comment #15 regarding the handicap accessible parking space, Mr. Hals stated that a ramp is not needed since there is depressed curb in that area.

Mr. Hals spoke to Ms. Callahan's lighting comments and stated that in response to Ms. Callahan's comment #2 regarding the foot candles, the foot candle can be lowered slightly to 30 foot candles. He indicated that the high foot candles are required under the canopy where the lights have to be brighter to allow for safe operations. The Township ordinance with regard to foot candles is more specific to parking lots and not canopies.

The Chairman asked for questions from the public with regard to Mr. Hal's testimony.

Judy Rosenthal, 12 Marion Avenue, Short Hills, asked if crime statistics were presented by the applicant to the Millburn Police Department. Mr. Hal's stated that only the application and plans were submitted for Police Department review.

Bonnie Wofsky, 21 Reeve Circle, asked how many ground signs are proposed. Mr. Hals stated that there is one pole sign proposed that will advertise both uses. Ms. Wofsky asked if the proposed 7-11 building will obstruct the view of cars pulling onto Millburn Avenue. Mr. Hals stated that the building will not cause an obstruction of view.

Alexander Moaba, 17 Reeve Circle, asked what the cause of the 2009 fire was. Mr. Hals stated that the fire originated in the mechanic's repair area. He added that there is no repair area associated with this plan.

In response to several residents' comments about professional reports, Board Attorney, Gail Fraser, explained that the applicant does not submit their plans to the Township Professionals. The applicant submits the plans to the Board Secretary who, in turn, forwards the application and plans to the Township Forester, Township Engineer, Township Police Department and Township Fire Department and requests their review and report.

The Board requested that the Township Engineer be in attendance at the next meeting on this matter. The Board also felt that an independent traffic consultant should be retained to review the traffic findings submitted by the applicant.

Chairman Joseph Steinberg requested that new drawings be submitted reflecting the changes that Mr. Hals testified would be made. Mr. Hals indicated that he would submit revised



drawings 15 days prior to the next meeting. Mr. Steinberg also requested that the applicant's attorney submit a list of professionals and the order in which they will be providing testimony.

The matter was carried to May 7, 2018.

**BUSINESS**

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 Steve Togher, and carried with a unanimous voice vote. (11:05 PM)

Eileen Davitt  
Board Secretary

Motion: Ploetner  
Second: Hirsch  
Date Adopted: 4/2/18