

Township of Millburn
Minutes of the Zoning Board of Adjustment
March 19, 2018

A regular meeting of the Township of Millburn Zoning Board of Adjustment was held on **Monday, March 19, 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

APPROVAL OF MINUTES

A motion to approve the minutes of February 5, 2018 was made by Michael Birnberg, seconded by Ellen Hirsch and carried with a unanimous voice vote.

APPLICATIONS

CAL#3604-18, GENIUS GEMS, LLC, 215-219 MILLBURN AVENUE, MILLBURN

Anthony Cerciello, Attorney for the applicant, stated his appearance. The applicant proposes to establish a STEM-based learning/playing studio. Proposal is in violation of:

606.6b – Not a permitted use
607.1 – Loading space requirement
607.2 – Parking requirement

The applicant is also seeking site plan approval.

Joshua Uhl, Architect for the applicant, appeared and was sworn. His credentials were presented and accepted by the Board. He gave a brief description of the proposed floor plans.

Entered as A-1: sheet A-2 of submitted plans

Mr. Uhl briefly described the 4800 SF ground floor space. There is a shared basement that is used for storage only and is accessible only from the outside. There is no access to the basement area from the ground floor space. The proposed space is a large, open space with play areas along the south and west walls. There is a party room for birthday parties and other special events. On the east side of the building there is a room for small learning projects.

Mr. Uhl stated that he reviewed the memorandum from the Township Fire Marshal and the applicant will agree to comply with all recommendations made.

Jennifer Romanoff, sole member of Genius Gems, appeared and was sworn. She stated that she has many years of teaching experience and is hoping to put her experience to work in this venture. She stated that this is a wonderful town with a strong educational system. This is an ideal town to benefit from an operation such as this. This space is ideal and there will only be cosmetic changes made.

She stated that she will be on-site every day overseeing the entire operation, interacting with the customers, and coaching the staff. The studio is a STEM-based (Science, Technology, Engineering, Mathematics) play space. The classes are hands-on and age-appropriate. There are approximately 8-10 students per class and only 1 class at a time with no overlap. The classes last about 45 minutes. There is also a small retail component to the operation where customers can purchase the items that are utilized in the classes. There is an on-line registration but walk-ins will be accommodated, as well. The proposed hours of operation are M-F from 9 AM – 6 PM and 9 AM – 9 PM on weekends. Ms. Romanoff stated in addition to herself there will be approximately 4 employees during the week and 6-7 employees on the weekend. The parking lot spaces are on a first come/first served basis and are shared with the 2nd floor offices. There are 3-4 spaces that have been allotted to this business for drop-off/pick-up.

Richard Keller, P. E., P. P., appeared and was sworn. His credentials were presented and accepted by the Board. He gave a brief description of the variances being requested. The property is a 27,329 SF lot located at the corner of Millburn Avenue and Wyoming Avenue and is located in the B-2 highway business district.

Entered as A-2: aerial photo of subject area (nearmap.com)

There are no changes to the building planned. It is a beautiful space that is very appropriate for the proposed use. There are 41 spaces on site where 43 spaces are required for all the uses on site.

Mr. Keller stated that a waiver from the submission of an EIS is being sought. This is a fully-developed site where no expansion is proposed. The property is located in the B-2 zone which permits retail sales, offices and financial institutions, beauty and barber shops, health and fitness facilities, laundry and tailoring services, photo studios and shoe repair shops. The purpose of the B-2 zone is to provide for the continuation of established business as well as promote investment in new commercial activity to serve community needs. This proposed use fits the purpose of the B-2 as defined in the ordinance. The application also advances the Master Plan in that it promotes public health, safety and general welfare; promotes the well-being of persons; and provides a space for recreational and commercial use which would otherwise be absent within the Township.

Caroline Amorosa, 86 Stewart Road, asked if there are any additional precautions being taken in consideration of the safety of the young demographic that will be utilizing the space. Mr. Keller stated that there is fencing that will prevent anyone from going up to the train tracks. It becomes the responsibility of the parents to ensure that their child is dropped off and picked up in a safe manner.

Emily Neider, 29 Marion Avenue, appeared and was sworn. She stated that she feels this is a wonderful use for the Township. The retail element has changed drastically and she is excited to see storefronts changing to uses that will better serve the town.

Russell Reich, 132 Greenwood Drive, appeared and was sworn. He stated that he lives with his family in the South Mountain area. This is an ideal proposal for Millburn. He feels Genius Gems will be a great asset to the community and the downtown.

Cecile Tarlie, 357 Old Short Hills Road, appeared and was sworn. She stated that she has 3 young children that have attended some of the events that Ms. Romanoff has conducted. She is excited to see a space being devoted to this environment and believes Millburn/Short Hills will benefit greatly.

Sharon Altman, 504 Long Hill Drive, appeared and was sworn. She stated that she has 2 young boys who are intrigued by STEM-centered activities. This proposed use is a great addition to the community.

Chairman Joseph Steinberg felt the testimony from the Planner was on the money. He stated that he would be in favor of this application with several conditions. One has already been agreed to by the applicant and that was conformance to the Fire Marshal's recommendations. Mr. Steinberg also stated that the inlet that was referred to in the Township Engineer's report must be fixed as a condition of approval.

The Board discussed the issue of overlap time between classes. Some members felt there should be a 30-minute overlap time for the walk-in areas. Others felt the owner would self-monitor the situation and did not feel this condition of approval was warranted.

Upon a motion to approve the parking variance with the condition that there be a 30-minute overlap time between classes made by Jyoti Sharma, seconded by Joy Siegel, and with a roll-call vote as follows:

Mary McNett – no
Craig Ploetner – no
Jyoti Sharma – yes
Joy Siegel – yes
Steve Togher – no
Jessica Glatt – no
Joseph Steinberg – yes

Said motion failed.

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

Mary McNett – yes
Craig Ploetner – yes
Jyoti Sharma – no
Joy Siegel – no
Steve Togher – yes
Jessica Glatt – yes
Joseph Steinberg – no

Cal#3604-18, Genius Gems, LLC, 215-219, parking variance with no conditions was **APPROVED**.

Upon a motion made by Steve Togher, seconded by Jyoti Sharma, 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#3604-18, Genius Gems, LLC, 215-219 Millburn Avenue, loading variance was **APPROVED**.

Upon a motion made by Steve Togher, 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

Cal#3604-18, Genius Gems, LLC, 215-219 Millburn Avenue, “d” use variance and site plan was **APPROVED**.

CAL#3610-18, VIJAY MEHTA, 171 HIGHLAND AVENUE, SHORT HILLS

Richard Keller, P. E., appeared and was sworn. He stated that he has been given limited power of attorney to speak on behalf of the applicant. The power of attorney was reviewed and accepted by Gail Fraser, Board Attorney. Mr. Keller’s credentials were presented and accepted by the Board.

The applicant would like to re-grade a portion of the rear yard area of the property. Proposal is in violation of:

608.5 – Steep slope disturbance

Mr. Keller stated that the property is a 48,000 SF lot in the R-3 zone district. This is a large lot that is currently being developed.

Entered as A-1: revised sheet 1 of submitted plans 3/19/18
Entered as A-2: slope diagram

Mr. Keller explained that the Township steep slope ordinance allows only 1000 SF of steep slope disturbance. This 1000 SF applies regardless of the size of the lot in question. The proposed area of steep slope disturbance represents only 10.4% of the lot area. There will still be 3,691 SF of steep slopes remaining on the site. Mr. Keller stated that from looking at aerial topography for the area, he believes that, over the years, soil was moved throughout the block to accommodate development by creating level building pads between Stewart Road and Highland Avenue. The result was that this property was left with areas of concentrated, man made steep slopes.

Entered as A-3: DEP wetlands permit

Mr. Keller stated that flattening a portion of the yard will slow the storm water runoff. The property will remain below the neighboring properties and this proposal will not alter the existing drainage nor adversely impact neighboring properties.

Entered as A-4: photoboard #1 of subject area

Mary McNett expressed concerns with the in-ground pool shown on the submitted plans. She stated that she sat on the HPC when the applicant was proposing the new dwelling and she does not believe the plans presented, at that time, contained an in-ground pool.

Chairman Steinberg stated that this Board is only charged with addressing the applicant's request for steep slope disturbance. The pool is not located within the steep slope area and is not part of the application. If the applicant chooses to install a pool, it will be up to the applicant to present the plan to the HPC.

Jennifer Amorosa, 86 Stewart Road, appeared and was sworn. She stated that she has water drainage problems on her property currently. She has water problems from the various projects that have been going on in the area. She feels any tampering with the grades will adversely affect her property and she is not in favor of this proposal.

Steve Togher stated he could support the application. He feels the applicant is disturbing a relatively small area of slope in order to better utilize his rear yard area.

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

Mary McNett – no
Craig Ploetner – no
Jyoti Sharma – no
Joy Siegel – no
Steve Togher – yes
Jessica Glatt – no
Joseph Steinberg – yes

Cal#3610-18, Vijay Mehta, 171 Highland Avenue, was **DENIED**.

CAL#3612-18, LIZ KENNEDY/MARK BROWNE, 58 CRESCENT PLACE, SHORT HILLS

Timothy Klesse, Architect, and Elizabeth Kennedy Browne, appeared and were sworn. The applicant would like to construct an addition and add AC units. Proposal is in violation of:

606.2e1d – Front yard setback
609.1d – AC location

Tim Klesse's credentials were presented and accepted by the Board. He gave a brief description of the proposal. The property is in the R-5 zone at the corner of Crescent Place and Great Oak Drive.

Entered as A-1: photo board

Mr. Klesse stated that the proposal is to expand the 1-story screened porch by 8 feet on the Great Oak Drive side of the property and to add a 2nd story above it. In addition, the AC units are being relocated to the nook at the corner of the dwelling on Great Oak Drive. They are approximately 48 feet off the Great Oak Drive front property line. In addition, they will be well-screened and not visible from the road. The proposed construction requires front yard setback variance relief to permit a setback of 34.14 feet where 40 feet is required. Mr. Klesse stated that this site is very well-screened from Great Oak Drive.

Overall, Board members felt the proposal was an attractive addition.

Upon a motion made by Joy Siegel, 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

Cal#3612-18, Liz Kennedy/Mark Browne, 58 Crescent Place, was **APPROVED** with the following conditions: 1) the AC units must be screened with four foot high fence and the memorializing resolution recorded in the office of the Essex County Register with proof of the filing submitted to the Board Secretary.

CAL#3607-18, ROBERT & TINA BARTON, 60 MEADOWBROOK ROAD, SHORT HILLS

Robert Barton appeared and was sworn. The applicants would like to expand their driveway. Proposal is in violation of:

607.3e – Front yard coverage; Front yard parking area

Mr. Barton stated that they need more driveway area in order to accommodate their cars. They would like to expand the driveway 3 feet to the left and 2 feet to the right for a total of 173 square feet. The current driveway is a paver driveway and the expansion will be pavers as well. The proposed expansion will allow them to park 2 cars in the driveway.

Tina Barton appeared and was sworn. She stated that they initially sought to expand the driveway 5 feet to the left but their neighbor asked that they reduce it

Akash Gupta, 62 Meadowbrook Road, appeared and was sworn. He stated that he requested that the applicant reduce the paved area on the left side of the property. He does not want them stepping out of the car onto his property.

After discussion with the neighbor, the applicant revised the plan asking for a 3 foot expansion on the left side and a 3 foot expansion on the right side.

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

Mary McNett – yes
Craig Ploetner – no
Jyoti Sharma – yes
Joy Siegel – no
Steve Togher – no
Jessica Glatt – yes
Joseph Steinberg – yes

Cal#3607-18, Robert & Tina Barton, 60 Meadowbrook Road, was **APPROVED**.

BUSINESS

Michael Birnberg, Alt. #1, stated that he would be resigning his position on the Zoning Board, effective March 20, 2018. He thanked the Chairman and Board members for giving him the opportunity to serve with them.

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 Michael Birnberg, and carried with a unanimous voice vote. (10:35 PM)

Eileen Davitt
Board Secretary

Motion: McNett
Second: Siegel
Date Adopted: 4/2/18