

Township of Millburn  
Minutes of the Zoning Board of Adjustment  
June 25, 2018

A regular meeting of the Township of Millburn Zoning Board of Adjustment was held on **Monday, June 25, 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:

Mary Esquivel  
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  
Martha Callahan, Township Engineer  
Eileen Davitt, Zoning Officer/Board Secretary

**APPROVAL OF MINUTES**

A motion to approve the minutes of May 21, 2018 was made by Mary McNett, seconded by Joy Siegel, and carried with a unanimous voice vote.

**MEMORIALIZATIONS**

**Cal#3613-18, Debra & Tony Wolk, 52 Winthrop Road, Short Hills**

Upon a motion made by Craig Ploetner, 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

the following memorializing resolution was adopted:

**DEBRA AND ANTHONY WOLK  
BLOCK 4305, LOT 13**

**CAL. NO. 3613-18  
JUNE 25, 2018**

Mister Chairman, I move the adoption of the following resolution memorializing the granting of variance relief requested by the Applicants, Debra and Anthony Wolk, in Calendar No. 3613-18 to permit the construction of an addition to the dwelling, an in-ground pool and patio on property located at 52 Winthrop Road, Short Hills, New Jersey, known and designated as Lot 13, Block 4305 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 April 2, 2018 and May 21, 2018 in Calendar No. 3613-18 filed by Debra and Anthony Wolk (hereinafter the “Applicants”) to permit the construction of an addition, in-ground pool and patio on property located at 52 Winthrop Road, Short Hills, New Jersey, known and designated as Lot 13, Block 4305 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 Applicants appeared without counsel. No objectors or interested parties appeared or testified at the hearing.
2. The Applicants are the owners of the subject property, which is located in the R-4 zone district. The Applicants propose to construct an addition to the dwelling, in-ground pool and patio. The Township Zoning Ordinance requirements for the R-4 zone permit a maximum 35% lot coverage, 14% building coverage, and 20% accessory coverage. The Applicants’ proposed addition, pool and patio will result in a 38.7% lot coverage, 14.6% building coverage and 20.9% accessory coverage. Therefore, variance relief is required.
3. At the time of the initial hearing, the Applicants requested variance relief to permit an average front yard setback of 66.83 feet and 23.4% rear yard unoccupied. In response to concerns expressed by various Board members during the initial hearing regarding the extent of the deviations proposed, prior to the second hearing on the application the Applicants revised their plans to eliminate the need for average front yard setback and rear yard unoccupied variance relief. The revised plans also reduced the extent of the deviation from the allowable lot coverage, building coverage and accessory coverage.

4. The Board received and considered the following documents submitted with the application:

A. Plans prepared by Klesse Architects consisting of five sheets, BOA-1 dated January 10, 2018, BOA-3 through BOA-8 dated January 8, 2018.

B. Landscape plans prepared by Tapestry Landscape Architecture, consisting of three sheets dated January 1, 2018.

C. A survey of the property prepared by GC Stewart, dated May 26, 2005 and a copy of the Stewart survey marked up by the Applicants' architect to depict the originally proposed addition, pool and patio shown on the Klesse plans dated January 2018.

D. Revised plans prepared by Klesse Architects consisting of four sheets, BOA-11 through BOA-14, dated May 2, 2018.

E. A colored version of the original Tapestry Landscape Plan with rendering of the dwelling, which was admitted into evidence as A-1.

F. Renderings of the proposed pool, which were admitted into evidence as A-2 and A-3.

G. A colored rendering of the front façade of the dwelling, which was admitted into evidence as A-4.

5. The Applicants, Debra and Anthony Wolk, and Timothy Klesse, Licensed Architect, testified in support of the application. The Board also heard testimony from Eileen Davitt, Township Zoning Officer.

6. The Applicants have resided in Millburn for twenty years and moved to this property in Short Hills with their three children in 2005. Their children are now between twelve and seventeen years of age and they wish to create additional living space on the first floor of the dwelling, as well as an in-ground pool and patio in the rear yard for their family's use and enjoyment.

7. The property is an oversized lot with a 21,999 square foot lot area, 108 lot width and 200 foot lot depth. The existing front yard setback of the dwelling is 72 feet, which meets the 68.84 foot average front yard setback within 500 feet of the property. Although the deep front yard setback and building placement reduce the rear yard, the existing rear yard unoccupied is a conforming 32%. Moreover, existing lot coverage, building coverage and accessory coverage are all conforming conditions.

8. Initially, the Applicants proposed a 480 square foot one-story addition to the front of the dwelling, as well as an in-ground pool and spa with upper and lower patios to

accommodate the topography of the lot. Various Board members expressed concerns regarding the extent of the deviations from lot coverage, accessory coverage and rear yard unoccupied, given the oversized lot area and dimensions of the subject property. In response to those concerns, the Applicants revised their plans by removing 640 square feet of proposed lot coverage in the rear yard and lowering the elevation of the pool by five feet. The Applicants also eliminated 46 square feet of proposed building coverage in the front yard and increased the side and rear yard setbacks. As a result of the proposed revisions, the Applicants have eliminated the need for front yard setback and rear yard unoccupied variance relief. The proposed revisions also reduce the extent of variance relief for lot coverage, building coverage and accessory coverage. The lot coverage in excess of the allowable 35% is 3.7%, or 810 square feet. However, a substantial amount of existing paved driveway contributes to the lot coverage on this property. The proposed addition at the front of the dwelling would add an additional 434 square feet of building coverage, resulting in 14.6% building coverage, but the proposed addition will serve to provide symmetry to the front façade of the dwelling. As for the proposed accessory coverage of 20.9%, accessory coverage is calculated based on the rear yard area and the placement of the dwelling with a deep front yard setback limits the rear yard area of this property. The home with the addition, pool and patio improvements will continue to satisfy the permissible floor area ratio. The pool and patio improvements will be located at the rear of the property where they will not have any impact on the streetscape. The home with the addition and improvements will continue to be in keeping with the other homes in the neighborhood.

9. The Board finds that the Applicants have satisfied the statutory criteria as required by N.J.S.A. 40:55D-70(c) with respect to the proposed addition, in-ground pool and patio and concludes that it is appropriate to grant the variance relief requested by the Applicants to permit the proposed improvements. Although the property is an oversized lot, the placement of the dwelling with a deep front yard setback, as well as the lawfully existing improvements on the property which include a substantial amount of paved driveway, results in conditions which the Board finds to be exceptional circumstances affecting the property and the structures thereon, resulting in practical difficulties and undue hardship to the Applicants. The proposed pool and patio will be concealed from view of the street by the dwelling. Existing and proposed perimeter landscaping and fencing will buffer the neighbors' view of the rear yard improvements. The proposed addition to the front of the dwelling will be an aesthetic enhancement of the front façade of the dwelling, benefiting the Applicants and the streetscape. Therefore, the Board concludes that the proposed improvements will not result in any negative impact on the streetscape or the adjoining residential properties. The Board concludes that the granting of the variance relief requested to permit the construction of the addition, in-ground pool and patio 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 25th day of June, 2018 that the variance relief requested by the Applicants to construct an addition to the dwelling, in-ground pool and patio resulting in 38.7% lot coverage, 14.6% building coverage and 20.9% accessory coverage, granted by this Board at its meeting of May 21, 2018 is memorialized pursuant to the provisions of NJSA 40:55D-10(g), subject to the following conditions:

1. Construction shall be in accordance with the testimony of the witnesses at the hearing and the revised plans prepared by Klesse Architects consisting of four sheets, BOA-11 through BOA-14, dated May 2, 2018

2. The Applicants shall apply for a building permit within 365 days from the date of publication 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, 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 25th day of June, 2018.

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**Cal#3614-18, Madhav & Rama Rangavajjula, 40 Haran Circle, Short Hills**

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

- Ellen Hirsch – yes
- Mary McNett – yes
- Craig Ploetner – yes
- Joy Siegel – yes
- Steve Togher – yes
- Jessica Glatt – 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, Madhav and Ramakrishna Rangavajjula, in Calendar No. 3614-18 for permission to construct a second-story addition to the dwelling on property located at 40 Haran Circle, Millburn, New Jersey, known and designated as Lot 21, Block 507 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 April 2, 2018 and May 21, 2018 in Calendar No. 3614-18 filed by Madhav and Ramakrishna Rangavajjula (hereinafter referred to as the “Applicants”) for permission to construct a second-story addition to the dwelling on property located at 40 Haran Circle, Millburn, New Jersey, known and designated as Lot 21, Block 507 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. Sarab Jeet Singh of 47 Southern Slope Drive, Millburn, NJ appeared and testified as an interested party.

2. The property is located in the R-6 zone, which is subject to the following zoning requirements: maximum 36% floor area ratio, maximum 23% building coverage, minimum 40 foot front yard setback, minimum 35% combined side yard setback and minimum 20% rear yard setback. The home with the proposed addition would result in a 49.4% floor area ratio, 29.9% building coverage, 23 foot front yard setback, 28.0% combined side yard setback and 10.1% rear yard setback. Therefore, the Applicants require variance relief. The floor area ratio variance requires relief pursuant to N.J.S.A. 40:55D-70d(4). In a floor area ratio variance application pursuant to N.J.S.A. 40:55D-70d(4), an applicant must demonstrate that the proposed site will accommodate the problems associated with the proposed floor area larger than that permitted by the zoning ordinance to establish special reasons. Randolph Town Center v. Tp. of Randolph, 324 N.J. Super. 412 (App. Div. 1999).

3. At the time of the initial hearing, the Applicants’ request included a need for variance relief to permit a 17.2% rear yard unoccupied. In response to concerns expressed by various Board members about the scale and massing of the home with the proposed addition, the Applicants revised their plans to eliminate rear yard unoccupied variance relief. The revised plans also reduced the extent of the deviation from the allowable floor area ratio, building coverage, combined side yard setback and rear yard setback.

4. The Board received and considered the following in support of the application:

A. Plans prepared by Klesse Architects, consisting of five sheets, BOA-1 through BOA-5, dated November 13, 2017.

B. A survey of the property prepared by Control Layouts, Inc., dated December 12, 2012 and a copy of the Control Layouts survey marked up by the Applicants' architect to depict the addition on the Klesse architectural plans dated November 13, 2017.

C. A tax map exhibit with a Google image of the neighborhood, which was admitted into evidence as A-1.

D. Plans prepared by Klesse Architects, consisting of five sheets, BOA-11 through BOA-15, dated April 6, 2018.

E. A survey of the property prepared by Control Layouts, Inc., dated December 12, 2012 and a copy of the Control Layouts survey marked up by the Applicants' architect to depict the addition on the Klesse architectural plans dated April 2018.

5. Applicant Ramakrishna Rangavajjula and Timothy Klesse, Licensed Architect, testified in support of the application.

6. The Applicants reside at the property with their two children. The home is a 1955 split level dwelling. The prior owners lived at the property for 35 years without updating the home, which is now in need of modernization. In conjunction with interior renovations, the Applicants wish to construct two additions to the dwelling. One addition would be at the front of the home to fill-in a void between the left and right portions of the front façade of the dwelling and to create a sheltered portico entry into a foyer, rather than direct entry into the living room. The second addition would be situated at the rear of the existing dwelling. It would permit a reconfiguration of the first floor living spaces to meet the needs of a modern family, as well as provide additional bedroom space on the upper floor. The proposed additions include raising the center ridgeline of the roof because the ceiling heights in the upper floor are very low. An existing rear porch and steps that protrude into the rear yard would be replaced by a patio on grade with steps that run parallel to the rear façade of the home.

7. The property is oversized with a lot area of 6,550 square feet and an 84 foot lot width, whereas the R-6 zone requires a minimum 6,000 square foot lot area and 60 foot lot width. The property is an irregular wedge-shaped lot on a curve in the roadway of Haran Circle and the placement of the existing dwelling is not parallel to the street. In addition, there are several pre-existing nonconforming conditions affecting the property and existing structures, including a 45.3% floor area ratio, 28.5% building coverage, 18.7 foot front yard setback, 22% combined side yard setback, 8.7% rear yard setback and 18% rear yard unoccupied. All of the variances requested relate to the pre-existing nonconforming conditions affecting the property and existing structures.

8. At the initial hearing, various Board members expressed the opinion that the home already has a floor area ratio that is one-third greater than permitted in the zone and the massing of the home after the proposed additions would be out of character with the other homes in this cul-de-sac neighborhood. As a result of the Board's concerns, the Applicants revised the proposed plans to maintain the architectural style of the home, while recessing the front gable to lower the height of the proposed addition so the home remains in keeping with the neighborhood. The proposed first floor improvements in the revised plans are unchanged. As a result, the Applicants still require a front yard setback variance for the portico to permit a 23 foot front yard setback. The proposed gable dormer on the second floor would maintain a 31.25 foot front yard setback, which is deeper than the 18.7 foot front yard setback of the existing dwelling, but still requires front yard setback variance relief. The proposed additions result in a building coverage that is only 88 square feet greater than the pre-existing nonconforming building coverage. Although the proposed floor area ratio is 49.4%, this floor area ratio is only a 271 square feet increase over the pre-existing nonconforming floor area ratio, the majority of which will be located at the rear of the dwelling where it is concealed from view from the street by the existing dwelling. Moreover, while the existing garage contributes 400 square feet to the floor area ratio calculation, the garage will be used for parking vehicles, not as living space for the Applicants. Similarly, the proposed variances for combined side yard setback, rear yard setback and building coverage have been reduced in the revised plans. The home with the proposed addition, as modified by the Applicants' revised plans will maintain the architecture of the existing dwelling and continue to be in keeping with the neighborhood.

9. The Board is satisfied that variance relief may be granted to permit the proposed addition to the dwelling. The proposed floor area ratio is 49.4%. Although the floor area ratio variance is significant, the existing dwelling already maintains a pre-existing nonconforming 45.3% floor area ratio and the increase is only 271 square feet over the existing floor area ratio. Notwithstanding this deviation from the permitted floor area ratio, the Board finds that the property can accommodate the excess floor area ratio because the lot gives an appearance of being even wider than its 84 foot lot width and the majority of the addition will be at the rear of the home where it will not impact on the streetscape. The Board is also satisfied that the remaining variances for front yard setback, combined side yard setback, rear yard setback and building coverage are appropriate and satisfy the criteria for the granting of variance relief. The need for variance relief is the result of the irregular shape of the property, and the placement and orientation of the existing dwelling, which results in the pre-existing nonconforming front yard setback, combined side yard setback, rear yard setback and building coverage. The Board is satisfied that these conditions are exceptional circumstances that result in undue hardship and practical difficulties to the Applicants. The Applicants cannot expand the existing dwelling on the property without the need for variance relief. The dwelling with the proposed addition will not result in any negative impact on the neighborhood or the adjacent residential neighbors based upon the placement of the dwelling on the property. The home with the proposed addition will continue to be in keeping with the neighborhood and the streetscape. 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 25th day of June, 2018 that variance relief to permit a second story addition with 49.4% floor area ratio, 29.9% building coverage, 23 foot front yard setback, 28.0% combined side yard setback and 10.1% rear yard setback, granted by this Board on May 21, 2018 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. Construction shall be in accordance with the testimony at the hearing and the plans prepared by Klesse Architects, consisting of five sheets, BOA-11 through BOA-15, dated April 6, 2018.
2. The Applicants shall apply for a building permit within 365 days from the date of publication of this decision.
3. 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.
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 25th day of June, 2018.

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**Cal#3620-18, Anuja Vejalla, 15 Short Hills Avenue, Short Hills**

Upon a motion made by Jyoti Sharma, 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

the following memorializing resolution was adopted:

**ANUJA VEJALLA t/a  
AGTELSE CONSULTING, LLC  
BLOCK1708, LOT 4**

**CAL. NO. 3620-18  
JUNE 25, 2018**

Mr. Chairman, I move the adoption of the following Resolution granting an EIS checklist waiver, use and bulk variance relief, and minor site plan approval to the Applicant, Anuja Vejalla, in Calendar Number 3620-18 to permit a tutoring and learning center use in an existing building located at 15 Short Hills Avenue, Short Hills, New Jersey; known and designated as Lot 4, Block1708 on the Tax Map of the Township of Millburn; and

### **RESOLUTION**

**WHEREAS**, the Millburn Township Zoning Board of Adjustment (hereinafter referred to as the "Board") has held a public hearing according to law on May 21, 2018 in Calendar No. 3620-18, filed by Anuja Vejalla t/a Agtelse Consulting, LLC (hereinafter referred to as the "Applicant") for permission to use the existing building at 15 Short Hills Avenue, Short Hills, New Jersey for a tutoring and learning center; 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. Lawrence Freundlich, Esq. represented the Applicant. No objectors or interested parties appeared or testified at the hearing.

2. The subject property is located in the B-3 Neighborhood Business Zone District. The proposed tutoring and learning center is not an expressly permitted use in the B-3 zone district. Therefore, the Applicant requires use variance relief pursuant to N.J.S.A. 40:55D-70d(1) to permit the proposed tutoring and learning center. In addition, the Township Ordinance requires one loading space and based on the parking requirement for retail use, 8 parking spaces are required. The existing property has no loading space and seven parking spaces. As a result, variance relief is also required pursuant to N.J.S.A. 40:55D-70c to permit the Applicant to maintain the existing parking and no loading space.

3. The Applicant also requested a waiver from the checklist requirement for the submission of an Environmental Impact Statement. The site is fully developed and the Applicant proposes no exterior structural changes to the building or property. Therefore, the Board concluded the request was reasonable and appropriate and granted the checklist waiver of the EIS requirement.

4. The Board received and considered the following documents in connection with this application:

a. A one sheet Use Variance and Minor Site Plan prepared by Casey & Keller, dated February 17, 2017.

b. The following reports from Township Departments and professionals: Township Forester dated May 2, 2018; Millburn Police Traffic Bureau dated April 30, 2018; and Township Engineer, dated May 1, 2018.

5. Anuja Vejalla, Applicant and Sole Member of Agtelse Consulting, LLC, and Richard Keller, P.E./P.P., testified in support of the application.

6. The Board adopts the following testimony given at the hearing as its findings of fact. The Applicant wishes to operate a tutoring and learning center for high school students, which would focus on PSAT & SAT preparation, as well as math and English tutoring services. Anuja Vejalla has a Master's Degree and MBA from Yale University. She has been teaching for many years. Although she has been offering test preparation to her students tutoring at the public library or at their homes, her students have regularly asked when she would open a physical location for her tutoring and test preparation services, as a separate facility for such services is now in vogue. The subject property provides the ideal location because it is in close proximity to Millburn High School and the nearest intersection is served by a crossing guard during after school hours. The Applicant proposes to be open seven days per week, closing at 10:00 p.m. each day. The hours at the end of each day would be used for staff preparation of the materials for the tutoring and learning services needed for the following day. The tutoring would primarily be one-on-one sessions, or very small groups. The tutoring and test preparation sessions would generally last one to two hours. There are four rooms in the two-story building, with two rooms on the first floor and two rooms on the second floor. The staff would consist of Ms. Vejalla and two other instructors. During the week, there would be approximately seven students at a time, 1 or 2 to a room. On weekends, the number of students at one time might be slightly higher with 4 to 5 students to a room. Students from Millburn High School would be able to walk to the property for weekday afternoon sessions. As for evening and weekend sessions, the property has seven existing on-site parking spaces and Municipal Parking Lot #14 is nearby. Parents may drop off their children or park in Lot 14, if they wish to shop or patronize the other businesses in the neighborhood while their child is attending a tutoring or test preparation session. The Applicant's business does not generate large deliveries. Incidental office supplies would be delivered by UPS or Federal Express in the same manner as to other stores in the B-3 Neighborhood Business Zone District.

7. Richard Keller, P.E./P.P. testified that the subject property is a 5,448 square foot lot on Short Hills Avenue, which is fully developed with the existing building and an on-site parking lot with seven striped parking spaces. The most recent use of the property was as an interior design retail use. The property is particularly suitable for the proposed high school test preparation and tutoring center use because it is approximately 700 feet from Millburn High School and, in the afternoon, a traffic crossing guard serves the intersection of Millburn Avenue

and Short Hills Avenue, which is the only intersection between the high school and the subject property. The property is also in close proximity to several residential areas. It is located directly across the street from the residential development known as The Enclave, near existing residential apartments on Short Hills Avenue and within walking distance of the Glenwood residential neighborhood. The property is also adjacent to the entry driveway to Municipal Parking Lot #14, which serves the business uses in the Millburn Avenue/Short Hills Avenue business district. Because of the limited size of this fully developed lot, it would be impossible for the Applicant to accommodate an additional on-site parking space, or a loading space. However, there is sufficient parking in Municipal Parking Lot #14 to serve as additional parking for the proposed use, as well as the numerous other businesses in the neighborhood. Although the Applicant proposes business hours that would extend to 10:00 p.m., the later evening hours would primarily be used by the staff to prepare for the next day's students. In addition, the proposed use would be much quieter than many of the other uses in the B-3 Neighborhood Business zone district, which include restaurants that are also open quite late in the evenings. Moreover, the proposed use does not generate deliveries via large trucks, which would require an on-site loading space. The limited deliveries of supplies necessary for the proposed use would be by UPS and Federal Express delivery, which would occur the same way such deliveries are made to other businesses on Short Hills Avenue and Millburn Avenue.

8. The purpose of the B-3 Zone District is to permit small scale commercial activities serving the needs of residents of the surrounding area. The permitted uses in the B-3 zone district are limited to retail sales and services, offices and financial institutions, and apartments over stores. The proposed educational use is not permitted anywhere in the Township at present, although the Township Master Plan is presently undergoing a re-examination. Mr. Keller testified the proposed use promotes the public good and the general welfare by providing a high school tutoring and learning center in close proximity to the high school, whereas the nearest existing tutoring businesses are located in The Millburn Commons or on Route 22 in Springfield Township. The property is already developed with an existing building and an on-site parking lot, approved with seven striped parking spaces and without an on-site loading space, as the prior use did not require it. The Applicant's tutoring and learning center use does not require a loading space as no large deliveries will be made to the site.

9. The Board concludes that the proposed use satisfies the positive and negative criteria as required for the granting of use variance relief under the Municipal Land Use Law. The Board is satisfied that the property is particularly suitable for the proposed use, which advances N.J.S.A. 40:55D-2 (a) because it promotes the public good and general welfare by providing an educational use that serves the needs of the residents of the surrounding area and the local high school student population. The Applicant has an existing clientele in Millburn Township and presently conducts high school tutoring and test preparation services in the library and students' homes. The proposed site is located approximately 700 feet from the high school and a traffic crossing guard is available to serve the intersection between the high school and the proposed location in the afternoon. The existing building on the subject property has sufficient space to accommodate the Applicant's proposed use. The proposed site also provides seven on-site parking spaces. Because the proposed use is not a permitted use, there is no specific parking standard associated with a tutoring and learning center use. However, the most conservative

parking standard under the Township Ordinance for retail businesses would require a total of 8 parking spaces, one for each 200 square feet of building coverage, leaving the existing parking lot one parking space short of the requirement. While the lot area of this property is too small to permit one additional on-site parking space, the subject property is located adjacent to Municipal Parking Lot #14 which would provide sufficient parking to satisfy any additional parking needs for the proposed use, exceeding the seven on-site parking spaces. The Board is satisfied that the building will continue to maintain a desirable visual environment with no exterior changes other than signs, which will conform to the zoning ordinance requirements. Moreover, the proposed use also satisfies the negative criteria required by the Municipal Land Use Law. The Applicant is currently providing tutoring and test preparation services to Millburn High School students, although those services are not being provided in a specific location, but at a variety of other locations, including the public library and students' homes. Thus, the Board is satisfied that the proposed use will not result in any detriment to the public good and, in fact, will promote and advance the public good insofar as the proposed use will provide a facility for such services in a location within the business district that is convenient to the high school population the Applicant proposes to serve. Therefore, the Board further finds and concludes that the proposed use will not result in a substantial detriment to the public good or to the zone plan or zoning ordinance.

10. The Board is also satisfied that the seven on-site parking spaces, supplemented by the public parking available in Municipal Parking Lot #14, is more than sufficient to meet the needs of the Applicant justifying the grant of variance relief. The Board also finds and concludes that variance relief may be granted to permit the Applicant to maintain no on-site loading space. The site is fully developed with an existing building and a seven space parking lot. The lot area of the property is inadequate to allow for an additional parking space, or on-site loading space. The Board is satisfied that the seven on-site parking spaces and the absence of a loading space are pre-existing conditions which the Applicant proposes to maintain for the proposed use. The Board is satisfied that the proposed tutoring and learning center use is such that there will not be any truck deliveries requiring a dedicated loading space. Therefore, the Board finds and concludes that the granting of variance relief to permit the maintenance of the pre-existing seven striped on-site parking spaces and no on-site loading space will not result in a substantial detriment to the public good or substantially impair the intent and purpose of the zone plan and zoning ordinance.

11. The Board also finds that the applicant has satisfied the requirements for minor site plan approval.

**NOW, THEREFORE, BE IT RESOLVED**, on this 25th day of June, 2018, that the waiver of EIS checklist requirement, use and bulk variance relief and minor site plan approval requested by the Applicant to permit a tutoring and learning center use in the existing building located at 15 Short Hills Avenue, Short Hills approved by this Board on May 21, 2018 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 use approved is that of a tutoring and learning center as described in the testimony at the hearing, and depicted on the one sheet Use Variance and Minor Site Plan prepared by Casey & Keller, dated February 17, 2017.
2. The Applicant shall apply for a building permit within 365 days from the date of this decision.
3. 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.
4. The Applicant shall be bound to comply with the representations made before this Board by the Applicant, 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.
5. The Applicant shall comply with all other rules, regulations and requirements affecting development in the Township, County and State.

**CERTIFICATION**

I, Eileen Davitt, Secretary of the Board of Adjustment of the Township of Millburn, County of Essex, State of New Jersey, do hereby certify that the foregoing is a true and exact copy of a resolution adopted at the meeting of the Board of Adjustment of the Township of Millburn held on the 25th day of June, 2018.

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**Cal#3621-18, Jimmi Shah/Sarika Arora, 60 Hemlock Road, 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 memorializing resolution was adopted:

Mister Chairman, I move the adoption of the following resolution memorializing the granting of variance relief requested by the Applicants, Jimmi Shah and Sarika Arora, in Calendar No. 3621-18 for permission to construct additions to the dwelling located at 60 Hemlock Road, Short Hills, known and designated as Lot 7, Block 3508 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 May 21, 2018 in Calendar No. 3621-18 filed by Jimmi Shah and Sarika Arora (hereinafter referred to as the “Applicants”) for permission to construct additions to the existing single family home located at 60 Hemlock Road, Short Hills, New Jersey known and designated as Lot 7, Block 3508 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 Applicants appeared without counsel. No objectors or interested parties appeared or testified at the hearing.
2. The Applicants are the owners of the subject property which is located in the R-3 zone district. The R-3 zone requirements include the following: maximum 13% building coverage, minimum 40.0 foot front yard setback, minimum 20% rear yard setback and front facing garages are prohibited. The Applicants propose the construction of additions to the dwelling that would result in 13.78% building coverage, 35.72 foot front yard setback, 16.43% rear yard setback and garage doors front facing on Hemlock Road. Therefore, the Applicants require variance relief.
3. The Board received and considered the following in support of the application:
  - A. Plans prepared by AHM Architects, LLC, consisting of five sheets, A-1 through A-5 dated March 22, 2018.
  - B. A survey of the property prepared by Casey & Keller, dated August 24, 2017 and a copy of the Casey & Keller survey marked up by the Applicants’ architect to depict the proposed additions.
  - C. A two page photographic exhibit, which was admitted into evidence as A-1.
4. The Applicants, Jimmi Shah and Sarika Arora, and Steven Hockstein, Licensed Architect, testified in support of the application.

5. The Applicants reside at the property. The existing home is a 1950's slab on grade ranch home with a partial flat roof. Presently, the home has three bedrooms, an outdated kitchen, outdated bathrooms, no basement or attic storage space and an undersized garage, which cannot accommodate more than one vehicle. In addition, the property does not provide adequate off-street parking for visitors and guests. The Applicants wish to renovate and expand the home to modernize and improve their living space. The proposed additions would also serve to provide storage space, garage parking for two vehicles, off-street parking for visitors and guests, and eliminate the flat roof, while improving the aesthetic appearance of the home from the street.

6. The existing configuration and topography of the subject property is challenging because the lot is irregular in shape with a shallow 133.9 foot lot depth, slightly undersized 28,504 square foot lot area and is constrained by areas of steep slope. The placement of the existing ranch home with its attached garage has a pre-existing nonconforming garage front facing on Hemlock Road, as well as a pre-existing nonconforming 19.8% rear yard unoccupied. The Applicants would prefer to construct a side-facing garage on the left side of the dwelling, but cannot do so because of the steep slopes on the left side of the property. Therefore, the Applicants propose to construct a two-story addition on the left side of the home, which would allow for an expansion of the existing front-facing garage to accommodate two vehicles. The proposed addition would also provide a mudroom entry from the garage, as well as a staircase to a multipurpose room over the proposed garage and existing dwelling that would serve as a quiet space for Ms. Arora, who works from home, closet space for storage, as well as a guest room and bathroom for visitors. The existing garage has a 40.43 foot front yard setback. The expansion would place the proposed garage closer to the street with a 38.72 foot front yard setback, but the Applicants require variance relief to permit a 36.72 foot front yard setback due to the 2 foot cantilever of the proposed second floor over the garage. Both the two-story addition on the left side of the home and the second floor addition on the right side of the dwelling would have a pitched roof instead of a flat roof, while the roof over the middle portion of the home would remain unchanged. In addition to the garage addition, the Applicants propose to construct a new covered porch at the rear of the proposed garage addition, which is included in the calculation of building coverage because of the roof. The proposed addition would result in a building coverage that exceeds the allowable coverage by 77 square feet, while the proposed rear covered porch would exceed the required rear yard setback by 4.78 feet. The proposed addition would be constructed of materials in warm earth tone colors that would improve the appearance of the dwelling from the street. Moreover, the property is heavily screened from view from the neighboring properties.

7. The Board concludes that the variance relief requested by the Applicants may be granted. The Board is satisfied that the need for variance relief is the result of the irregular shape of the property, its shallow lot depth and undersized lot area, existence of steep slopes and the placement and orientation of the existing ranch dwelling with its attached front facing garage on the property. The Board is satisfied that these conditions are exceptional circumstances that result in undue hardship and practical difficulties to the Applicants. If this property had a conforming lot area, in all likelihood variance relief for building coverage would be reduced or eliminated. Similarly, if this lot were regular in shape with a uniform, conforming lot depth of



175 feet, no variance relief would be required from the front yard setback or rear yard setback. The Board is also satisfied that the Applicants cannot eliminate the front-facing garage due to the steep slopes on the property. The home with the proposed additions and rear covered porch will result in an aesthetic improvement to the property without any substantial impact on the neighboring properties or the neighborhood. The proposed additions will enhance the existing architecture and curb appeal of the dwelling in a manner that will serve to improve the streetscape of the property. Existing wooded areas serve to screen the neighbors' view of the property. The Board is satisfied the home with the additions will be in keeping with the other homes in the neighborhood. Therefore, the Board further 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 25th day of June, 2018 that variance relief to permit the construction of additions to the dwelling that would result in 13.78% building coverage, 35.72 foot front yard setback, 16.43% rear yard setback and garage doors front facing on Hemlock Road, granted by this Board on May 21, 2018 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 plans prepared by AHM Architects, LLC, consisting of five sheets, A-1 through A-5 dated March 22, 2018.
2. The Applicants shall apply for a building permit within 365 days from the date of publication of this decision.
3. 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.
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 25th day of June, 2018.

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**APPLICATIONS**

**CAL#3611-18, JENNIFER & STEVEN KAY, 91 FAIRFIELD DRIVE, SHORT HILLS – continued from June 4, 2018**

The Board received and reviewed the landscape plan, which was provided at the Board’s request prior to the resolution of approval.

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

the following resolution of approval was adopted:

**JENNIFER AND STEVEN KAY  
BLOCK 2603, LOT 5**

**CAL. NO. 3611-18  
JUNE 25, 2018**

**WHEREAS**, the Millburn Township Zoning Board of Adjustment (hereinafter the “Board”) has held a public hearing according to law on June 4, 2018 in Calendar No. 3611-18 filed by Jennifer and Steven Kay (hereinafter the “Applicants”) to permit the construction of an in-ground pool and spa, patio, shed and exterior deck staircase on property located at 91 Fairfield Drive, Short Hills, New Jersey, known and designated as Lot 5, Block 2603 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 Applicants appeared without counsel. No objectors or interested parties appeared or testified at the hearing.
2. The Applicants are the owners of the subject property, which is located in the R-4 zone district. The Township Zoning Ordinance requirements for the R-4 zone permit a maximum 35% lot coverage and maximum 20% accessory coverage. The Applicants’ proposed pool and spa, patio, shed and exterior deck staircase would result in a 37.51% lot coverage and 25.45% accessory coverage. Therefore, variance relief is required.
3. The Board received and considered the following documents submitted with the application:

A . A Conceptual Pool and Patio Plan C, prepared by Landscape Techniques Inc. dated September 22, 2017 and revised through January 25, 2018.

B. A survey of the property prepared by Gary F. Hauenstein, PLS, LLC, dated August 5, 2015.

C. A colorized Conceptual Rear yard Pool Plan and Patio, prepared by Landscape Techniques, Inc. dated September 22, 2017 and revised through April 13, 2018, which was admitted into evidence as A-1.

D. Casey & Keller photo board #1, which was admitted into evidence as A-2.

E. A Landscaping Plan prepared by Landscape Techniques, Inc. dated June 8, 2018.

F. A Key map of Photos of Existing Screening, prepared by Landscape Techniques, Inc. dated June 8, 2018, with seven companion photographs.

4. The Applicants, Jennifer and Steven Kay, Brian Koribanick of Landscape Techniques and Richard Keller, P.E./P.P., testified in support of the application.

5. The Applicants have resided in Millburn Township for eight years. They have always wanted an in-ground pool and purchased the subject property because the rear yard was relatively flat. At the time of their purchase, they understood that they could install an in-ground swimming pool on the property but they were not advised how small the pool would need to be in order to avoid variance relief. When they approached the Zoning Officer with their initial plan for the in-ground pool and spa and other back yard improvements, they received a letter of denial and learned for the first time that their proposed pool, spa and other improvements would have required four variances. Since receiving the letter of denial, the Applicants have revised their plans to eliminate two of the four variances required in the original design and reduced the extent of the variances required. Specifically, the Applicants eliminated a paved walkway around the north and west sides of the in-ground pool and they reduced the size of the spa. Recently, the Applicants further revised the plan as depicted in Exhibit A-1 to shift the location of the pool four feet farther away from the home to eliminate the possibility of children jumping off the rear deck, which is attached to the upper level living space, into the pool. However, the revised plans still require two variances, for lot coverage and accessory coverage.

6. Although the rear yard is relatively flat, there is an 8 to 10 foot grade change that results in a walk-out basement from the home to the back yard. The rear deck is accessible from the upper level living space inside the home, but there is no access between the rear deck and back yard. As a result, the only egress from the upper living spaces in the home is through the front door. The proposed exterior rear staircase would improve safety, as well as the functional utility of the deck by providing a rear access from the upper level living spaces to the ground level rear yard.

7. The proposed shed in the southwest corner of the property would house the in-ground pool equipment, concealing it from view. Placing the pool equipment inside the proposed shed would also reduce any noise associated with the pool equipment when operational. Although the Applicants could install the pool equipment in a different location on the property, another location would still contribute towards lot coverage as the installation of a concrete pad would be required.

8. The subject property has an undersized lot area of 18,474 square feet. The Applicants' engineer testified that if this property had a conforming lot area, the proposed pool and spa and other improvements would be fully conforming to all zone requirements for the R-4 zone district. The Applicants' expert testified that the proposed improvements would not have any substantial impact on the neighbors because the Applicants propose to supplement the existing landscaping between the Applicants' property and their neighbors so the Applicants and their adjacent neighbors would not have a view into each other's back yard.

9. The Board finds that the Applicants have satisfied the statutory criteria for the granting of variance relief to permit the construction of an in-ground pool and spa, patio, shed and exterior deck staircase. The Board is satisfied that the need for variance relief to permit the proposed improvements is due to the undersized lot area, the topography of the property and existing structures on the property, which the board finds to be exceptional circumstances resulting in practical difficulties and undue hardship to the Applicants. The subject property has an undersized lot area. If this property were a conforming lot, no variance relief would be required to permit the proposed improvements. In addition, while the existing dwelling has a walk-out basement, the upper level rear deck does not have any connection to the ground level. Thus, there is presently only one egress from the upper level living spaces, the front entrance of the home. The proposed exterior deck staircase will promote safe egress from the upper level living areas of the home to the rear yard and it will improve the utility of the rear deck. The Board notes that an in-ground pool is a permitted accessory use in a residential zone. The Board finds that the proposed pool and other accessory improvements are typical rear yard residential amenities. The proposed improvements will not be visible from the street as the improvements will be located behind the existing dwelling. The Applicants propose to buffer the view of their rear yard and the proposed improvements from the adjacent properties with existing and supplemental landscaping, which will serve as a privacy buffer for the Applicants and their neighbors. The Board concludes that the proposed improvements will not result in any negative impact on the streetscape and the adjoining residential properties. Therefore, the Board concludes that the granting of the variance relief to permit the proposed construction may 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 25th day of June, 2018 that the Board hereby grants the Applicants' request for variance relief to permit the construction of an in-ground pool and spa, patio, shed and exterior deck staircase resulting in a 37.51% lot coverage and a 25.45% accessory coverage, subject to the following conditions:

1. Construction shall be in accordance with the testimony at the hearing, the Conceptual Rear yard Pool Plan and Patio, prepared by Landscape Techniques, Inc. dated September 22, 2017 and revised through April 13, 2018.

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

3. Prior to the issuance of a Certificate of Occupancy/Approval, the Applicants shall install the landscaping depicted on the Landscaping Plan prepared by Landscape Techniques, Inc., dated June 8, 2018.

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 hearings, 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. 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.

6. 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 25th day of June, 2018.

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### **APPLICATIONS**

### **CAL#3630-18, VIVEK & SUDESHNA KAPOOR, 51 ELMWOOD PLACE, SHORT HILLS**

Sudeshna Kapoor appeared and was sworn. She would like to install a generator on her property. Proposal is in violation of:

609.1f – Generator setback

Ms. Kapoor stated that they would like to install a generator on the side of the dwelling. The ordinance requires a 12 foot setback and the generator will provide a 4 foot setback. She indicated that she cannot put the generator in the rear of the dwelling because the back of the house has many windows and the generator would not meet the 5 foot requirement from operable

windows. Ms. Kapoor also stated that the generator is proposed to be in the same vicinity as the existing AC condenser units on her property. In addition, there is a fence and landscaping that will screen the generator from her neighbor's view.

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

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

Cal#3630-18, Vivek & Sudeshna Kapoor, 51 Elmwood Place, was **APPROVED** with the condition that the existing evergreens in the subject area be maintained for as long as the generator remains.

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

Stephen Geffner, Attorney for the applicant, stated his appearance. The applicant, NJ Energy, is before the Board seeking use variance approval, site plan approval, and bulk variances in order to allow a fuel station and convenience store on the property located at 132 Millburn Avenue.

Chairman Steinberg spoke to the issue of an extension of time for a Board decision. Mr. Geffner indicated that he was agreeable to granting an extension through September 17, 2018 at this time.

Jay Delaney, Attorney, stated his appearance on behalf of objector, Alex Moaba, 17 Reeve Circle.

Rob Simon, Attorney, stated his appearance on behalf of Millburn Mall, 29-33 Vauxhall Road, Union, NJ.

Mr. Delaney indicated that the notice does not reflect 2 principal uses on the property and he feels the wording is confusing. As such, he feels the notice is defective. Mr. Simon was in agreement with Mr. Delaney. Mr. Geffner felt the notice was sufficient and proceeded with his application.

Entered as A-1: colored version of sheet 4 of 6, revised 4/12/18  
Entered as A-2: Sheet 2 of 6, revised 4/12/18  
Entered as A-3: A, B, C – existing lighting conditions

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 summary of the proposal. He stated that the property in question, 132 Millburn Avenue, is located at the southeast corner of Millburn Avenue and Vauxhall Road in the Township's OR-2 zone. The use of the property for a fuel station and a convenience store is not a specifically permitted use in the zone.

The property is an irregularly shaped 16,042 SF lot, bordered on the north by a commercial mini-mall and on the east by the Rahway River. The site is almost completely paved at the current time. There are 3 buried fuel tanks in the north east corner of the site which will be maintained. There will be new piping installed which will meet the current required standards. The site is currently accessed by 2 driveways on Millburn Avenue and 2 driveways on Vauxhall Road. The proposal calls for the removal of 1 driveway on Millburn Avenue and 1 on Vauxhall Road.

The proposed convenience store building has been located in such a way as to allow for the free-flow of traffic. There will be 8 parking spaces in front of the building and 3 spaces behind the canopy.

Jay Delaney had several questions for Mr. Hals. He questioned the amount of noise that late night fuel deliveries will have. Mr. Hals indicated that the noise level would be minimal. Mr. Delaney asked about deliveries to the site. Mr. Hals indicated that the largest truck that would come to the site would be a 50 foot trailer. The fuel trucks would take approximately 10-15 minutes to fill the tanks and the engines would idle during that time. The convenience store will have 1 tractor trailer delivery per week and daily box truck deliveries.

Chairman Steinberg opened the floor to questions from the public.

Judy Rosenthal, 12 Marion Avenue, questioned Mr. Hals on the proposed lighting. Mr. Hals stated that the proposed lights were LED, 3000 Kelvin lights.

Bonnie Wofsy, 21 Reeve Circle, asked if the removal of 2 of the existing driveways would result in a reduction in traffic safety on site. Mr. Hals stated that the removal of the 2 driveways closest to the intersection will provide a safer circulation on site.

Ashwin Mundra, 55 Locust Avenue, asked if an analysis was done on safety on site. Mr. Hals stated that the plans proposed utilize engineering design standards with regard to circulation and traffic safety. In addition, there are adequate sidewalks around the site.

Rob Simon had several questions for Mr. Hals. He questioned Mr. Hals' reference to the lot being irregularly shaped and asked if he had done any analysis of other corner lots in Millburn to make this comparison. Mr. Hals indicated that he did not analyze other corner lots in the Township. Mr. Simon asked Mr. Hals if he was aware that the property in question has numerous DEP violations that have not been corrected. Mr. Hals stated that information such as that is not relevant to his preparation of the site plan.

Mr. Simon referred to Millburn Township's General Code section 4-14.9 which speaks to rules and regulations with regard to gasoline stations. He specifically referenced subsection (t) which restricts gasoline stations within 200 feet of a residence from operating between the hours of 11 PM and 6 AM. Mr. Hals indicated that he was aware of that restriction and the proposed gasoline station will be closed between those hours. Mr. Simon referred to subsection (c) which limits the merchandise sold from the premises to "fuel and motor vehicle accessories and supplies reasonably connected with, or necessary for, the safe or lawful operation of motor vehicles unless from vending machines located indoors." He asked Mr. Hals if there are any vending machines proposed. Mr. Hals indicated that he was not aware of any proposed vending machines. Mr. Simon further asked if 7-11 sold motor vehicle accessories or supplies. Mr. Hals stated that he did not know. Mr. Simon next referenced subsection (q) which states that "no electric lights shall be installed or arranged on any poles which exceed sixteen (16') feet in height." He asked Mr. Hals the height of the proposed 7-11 sign. Mr. Hals stated that the freestanding sign is proposed to be 20 feet in height. Mr. Hals added that he does not believe the 7-11 sign violates the code since it is a freestanding sign. He believes the code pertains to lights installed on poles.

Mr. Simon asked Mr. Hals what was on this site previously. Mr. Hals indicated that it was a former gasoline and service station until fire destroyed the service area in 2009. Mr. Simon asked what use variance the applicant has applied for. Mr. Hals indicated that the use variance being sought is for a combined gasoline/convenience store. Mr. Simon asked if the applicant is seeking variance relief for more than 1 use on the site. Mr. Hals indicated that it is 1 combined use and the applicant did not seek variance relief for more than 1 principal use on site.

Mr. Simon asked if there is any reason that a smaller convenience store could not be built on this site. Mr. Hals indicated that he has designed smaller buildings (1500-1800 SF) but this is what the applicant has proposed. Mr. Simon questioned the lack of a loading space on site, as required by ordinance. Mr. Hals stated that on smaller sites, such as this, it is not uncommon not to have a loading space. Mr. Simon questioned Mr. Hals' reference to this site as a smaller site, as it is more than 6,000 SF over the minimum 10,000 SF lot area for the OR-2 zone. Mr. Hals stated that although the lot area is larger than the minimum required lot size, the corner lot status and shape of the lot creates the loss of some usable area.

Mr. Simon asked if Mr. Hals consulted with the applicant's traffic engineer prior to designing the site. Mr. Hals stated that he did not. Mr. Simon asked where the box trucks and vans making deliveries to the 7-11 where unload. Mr. Hals stated that the trucks will park along the side of the dumpster. Mr. Simon felt it was unrealistic to expect the drivers to park at the furthest spot from the store and carry their merchandise across the active 24 foot drive aisle. Mr. Simon asked why only 1 turning templates was prepared for the larger tractor trailers that will be utilizing the site. Mr. Hals stated that the template prepared shows the most restrictive movement.

Chairman Joseph Steinberg and Board Attorney, Gail Fraser, addressed the adequacy of notice. It was brought to their attention that a parking/loading space variance was not indicated



in the legal notice. The applicant was advised to consider a redesign of the building in order to meet the required parking. Otherwise, the matter will have to be re-noticed and the applicant will have to start the proceedings over. It was the Board Attorney's opinion that notice is deficient.

The matter was carried to September 17, 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 Steve Togher, seconded by Joy Siegel, and carried with a unanimous voice vote. (11:10 PM)

Eileen Davitt  
Board Secretary

Motion: CP  
Second: EH  
Date Adopted: 7/16/18