

Township of Millburn
Minutes of the Zoning Board of Adjustment
January 7, 2019

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

Eileen Davitt opened the meeting by reading Section 5 of the Open Public Meetings Act.

Board Attorney, Gail Fraser, administered the oaths of office to Jessica Glatt, Jyoti Sharma and Wolfgang Tsoutsouris.

The following members were present for the meeting:

Jessica Glatt
Mary McNett
Craig Ploetner
Jyoti Sharma
Joy Siegel
Joseph Steinberg
Steve Togher
Wolfgang Tsoutsouris

Also present:

Gail Fraser, Board Attorney
Eric Fishman, Court Reporter
Eileen Davitt, Zoning Officer/Board Secretary

ORGANIZATION OF THE BOARD

Eileen Davitt asked for a nomination for Chairman of the Zoning Board.

A motion to nominate Joseph Steinberg for Chairman was made by Mary McNett, seconded by Jyoti Sharma, and carried 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
Wolfgang Tsoutsouris – yes

The meeting was turned over to Chairman Joseph Steinberg who asked for a nomination for Vice Chairman of the Zoning Board. A motion to nominate Jessica Glatt for Vice Chairwoman was made by Craig Ploetner, seconded by Jyoti Sharma, and carried with a roll-call vote as follows:

Mary McNett – yes
Craig Ploetner – yes
Jyoti Sharma – yes
Joy Siegel – yes
Steve Togher – yes
Joseph Steinberg – yes
Wolfgang Tsoutsouris – yes

A motion to appoint Gail Fraser as Board Attorney was made by Jessica Glatt, seconded by Mary McNett, and carried with the following roll-call vote:

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

A motion to appoint Eileen Davitt as Board Secretary was made by Steve Togher, seconded by Craig Ploetner, and carried with the following roll-call vote:

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

APPROVAL OF MINUTES

A motion to approve the minutes of December 17, 2018 was made by Craig Ploetner, seconded by Mary McNett, and carried with a unanimous voice vote.

MEMORIALIZATIONS

Cal#3655-18, Solis Development, 68 Southern Slope Drive, Millburn

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

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

the following memorializing resolution was adopted:

**SOLIS DEVELOPMENT GROUP
BLOCK 808, LOT 7**

**CALENDAR NO. 3655-18
JANUARY 7, 2019**

Mister Chairman, I move the adoption of the following resolution memorializing the denial of floor area ratio variance relief pursuant to N.J.S.A. 40:55D-70d(4) to the Applicant, Solis Development Group, in Calendar No. 3655-18 for the construction of an addition to the dwelling and a detached one-car garage on property located at 68 Southern Slope Drive, Millburn, New Jersey, known and designated as Lot 7, Block 808 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 November 19, 2018 in Calendar No. 3655-18 filed by Solis Development Group (hereinafter referred to as the Applicant) for floor area ratio variance relief pursuant to N.J.S.A. 40:55D-70d(4) to permit the construction of an addition to the dwelling and a one-car detached garage on property located at 68 Southern Slope Drive, Millburn, New Jersey, known and designated as Lot 7, Block 808 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. John J. Delaney, Esq. represented the Applicant. Lori Erhardt of 51 Southern Slope Drive, James Beneroff of 65 Southern Slope Drive, Sarah Leonard of 49 Southern Slope Drive, Laura Occhiuzzi of 50 Parkview Drive, Tracey Knewitz of 62 Southern Slope Drive, Jennifer Rosenblatt of 70 Southern Slope Drive, John Buckley of 57 Southern Slope Drive, Orna Greenberg of 925 Ridgewood Road, Mitchell Friedman of 66 Southern Slope Drive, Marilyn Berney of 420 Millburn Avenue, Srikant Cheruvu of 921 Ridgewood Road, and Marilyn Riesebeck of 91 Whittingham Terrace appeared and participated or testified as objectors or interested parties.

2. The Applicant is the owner of the subject premises located in the R-6 residence zone district. The R-6 zone permits a maximum 36% floor area ratio. The Applicant seeks

variance relief to permit the construction of an addition to the dwelling and a one-car detached garage resulting in a 38.5% floor area ratio. Therefore, the Applicant requires variance relief.

3. 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).

4. Christine L. Miseo, Licensed Architect and Michael J. Passolano, PP/AICP testified in support of the application. The Board also heard testimony from Eileen Davitt, the Township Zoning Officer. The following persons also testified: Lori Erhardt of 51 Southern Slope Drive, Tracey Knewitz of 62 Southern Slope Drive, Jennifer Rosenblatt of 70 Southern Slope Drive, John Buckley of 57 Southern Slope Drive, Mitchell Friedman of 66 Southern Slope Drive, and Marilyn Riesebeck of 91 Whittingham Terrace

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

A. Plans prepared by Miseo Assoc., P.A., consisting of five sheets, Sheet SP-1 and A-1-B, dated March 12, 2018 and revised through September 11, 2018, Sheets A-2, A-3 and A-4 dated July 31, 2017 and revised through August 14, 2018.

B. A photo exhibit consisting of three pages, prepared by Michael J. Pessolano, PP/AICP, which was admitted into evidence as A-1.

6. The subject property is an oversized lot in the R-6 zone with a 7,580 square foot lot area. The original dwelling on the property had a conforming 21.2% floor area ratio and a two-car garage. The Applicant obtained building permits to allow the construction of a detached two-car garage and additions to the dwelling, which included a two-story rear addition, a one-story addition on the right side of the home and a revision of the front portico entry. A stop work order was issued during construction because the home with the proposed additions was built approximately 250 to 300 square feet larger than shown on the approved plans. The front portico roof was also constructed deeper than depicted on the approved plans. In addition, the Applicant neglected to include the square footage of the proposed detached two-car garage in the calculation for floor area ratio as required by Township Ordinance. As a result, the additions constructed on the dwelling and the originally proposed 340 square foot detached two-car garage would have resulted in a 40.47% floor area ratio, requiring variance relief pursuant to N.J.S.A. 40:55D-70d(4). The one-story addition constructed at the rear corner of the home violated the minimum side yard setback requirement, requiring additional variance relief.

7. In order to mitigate the extent of the deviation from the allowable floor area ratio, the Applicant proposes to reduce the size of the one-story rear addition to the dwelling by 79 square feet and reduce the size of the proposed detached garage from a 340 square foot two-car

garage to a 12 foot by 20 foot, or 240 square foot, one-car garage. The Applicant also proposes to cut back the depth of the front portico roof to comply with the original plans.

8. The Applicant's planner's testimony confirmed that the subject property is one of the larger lots on the block. He opined the oversized lot area is significant as the larger dwelling on the property would not look squeezed onto the property due to its larger lot area. He testified that although the home with the additions is larger than it was previously, the home will be within the permissible building envelope but for the deviation from the allowable floor area ratio and the pre-existing nonconforming 6.83 foot side yard setback. He opined that the larger home would still fit within the neighborhood because the property has the necessary space to accommodate a five to six bedroom home. As a result, he further stated that the site can accommodate the impacts anticipated from the greater intensity of the larger floor area ratio. He also testified that the proposed one-car garage would be barely visible from the street. Mr. Pessolano testified that there are special reasons to support a variance because the property is suited for continued residential use as it has long been part of the fabric of the neighborhood. He stated that over time age impacts on buildings, which need to be refreshed, renovated or rebuilt in order to promote the goals of the Township's Master Plan which include to ensure the high quality residential character of the Township and to preserve the character of existing neighborhoods. He stated that the proposed dwelling with the modified additions and reduced size one-car detached garage satisfies the purposes set forth in N.J.S.A. 40:55D-2(a), (i) and (m). With respect to the negative criteria under the Municipal Land Use Law, the Applicant's planner testified that the property is deep enough to accommodate the additional floor area ratio from the detached garage without impact on the neighbors because it conforms to the Township Zoning Ordinance requirement for one enclosed parking space. He also opined that there would not be any substantial impact to the zone plan or the zoning ordinance because the renovated home with the additions would be a visual improvement to the property.

9. Various neighbors testified in opposition to the application. Neighbors questioned whether the height of the dwelling after the construction of the two-story addition conforms to the Township Zoning Ordinance, as the dwelling looks much taller and is visible from Taylor Park. In response to the concerns of the public, the Applicant's architect testified that the ridgeline of the roof remains unchanged and the third floor attic space includes closet space, habitable space and unfinished space. Jennifer Rosenblatt, of 70 Southern Slope Drive testified that the home prior to the construction of the additions did not have the third floor dormers shown in the photographs submitted in support of the application. She testified that the prior owner had a pull-down stairway to attic storage space from the second floor. She also testified that a one-car garage would be out of keeping with the size and scale of the dwelling with the additions and it would also be out of character with the neighborhood where a two-car garage is the norm. Tracey Knewitz of 62 Southern Slope Drive testified that all the lots on this street are 50 feet wide and the neighborhood consists of three to four bedroom homes. She stated that the subject property is an oversized lot which is 50 feet deeper than most of the lots on the block and questioned the need for a five to six bedroom home which is out of character with the other homes in the neighborhood. John Buckley of 57 Southern Slope Drive testified that the home with the additions and the detached one-car garage does not fit in this neighborhood and he advised the Board of his concerns regarding the length of time this construction has been

ongoing at this property. Lori Erhardt of 51 Southern Slope Drive has lived in the neighborhood since 1972 and she expressed a concern regarding the size of the dwelling in relation to the neighboring homes and its visibility from other locations in the neighborhood. Mitchell Friedman of 66 Southern Slope Drive has resided in his home since 1992. He advised the Board that he expressed concerns to the Township Building Department from the very beginning of the Applicant's construction project because of the size and depth of the home with the additions. He stated that the home with the new additions is much deeper than the other homes in the neighborhood and it blocks the sun to his property. He too confirmed that the original dwelling only had a pull down stair to attic space over a portion of the dwelling, without any attic dormers. Marilyn Riesebeck of 91 Whittingham Terrace testified that she has been a resident of the neighborhood since 1958 and the Applicant's home, with six bedrooms, four bathrooms and two half bathrooms is too large for the neighborhood and should be reduced to conform to the zone requirements.

10. The Board finds that the applicant has not satisfied the statutory criteria as required by N.J.S.A. 40:55D-70d(4) and concludes that it is not appropriate to grant the floor area ratio variance requested by the Applicant to permit the construction of the proposed one-car detached garage and home with the additions. The subject property is an oversized lot in the R-6 zone district with a lot area of 7,580 square feet. The oversized lot area already allows the Applicant to maintain a greater floor area ratio than a smaller property with a conforming 6,000 square foot lot area. In addition, the proposed reduction in the size of the garage to a one-car garage is contrary to the needs of a modern family and out of keeping in this neighborhood, where two-car garages are the standard. The Board finds and concludes that the home with the addition and detached garage proposed by the Applicant cannot accommodate the problems associated with the greater floor area ratio. In this case, the Applicant's renovated dwelling proposes five to six bedrooms and in a home as large as this one, the residents would expect to have a place to park their vehicles on site without jockeying cars in and out of the driveway or using street parking. The Board is also satisfied that the massing of the home is out of keeping with the other homes in the neighborhood, which is characterized by homes with three to four bedrooms. The Board finds and concludes that this deviation from the allowable floor area ratio is too great even given the oversized lot area of this property. The size and scale of the Applicant's dwelling is a jarring disturbance to the streetscape and the fabric of the neighborhood. The structure with the additions is too massive in appearance and out of keeping with the scale and character of the surrounding homes.

11. The Board also finds and concludes that the Applicant has not met its burden of proving the proposed improvements satisfy the negative criteria under N.J.S.A. 40:55D-70d. The Board rejects the Applicant's planner's opinion testimony that the proposed home with the additions and a detached one-car garage would fit within the fabric of the neighborhood and that the property has the necessary space for a five to six bedroom home. The Board finds that a one-car garage is completely inadequate to address the parking needs of a five to six bedroom home, particularly in a neighborhood characterized by three and four bedroom homes with two-car garages. Therefore, the Board is persuaded that granting approval to allow the construction of the proposed detached one-car garage and additions to the dwelling resulting in a 38.5% floor

area ratio would result in a substantial detriment to the public good and a substantial impairment of the intent and purpose of the established zone plan and zoning ordinance of the Township.

NOW, THEREFORE, BE IT RESOLVED on this 7th day of January, 2019 that the denial of variance relief pursuant to N.J.S.A. 40:55D-70d(4) requested by the Applicant in connection with property located at 68 Southern Slope Drive, Millburn, approved by this Board at its meeting of November 19, 2018 be and it hereby is memorialized pursuant to the provisions of NJSA 40:55D-10(g).

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 7th day of January, 2019.

Cal#3657-18, Harry & Talia Gross, 121 Highland Avenue, Short Hills

Upon a motion made by Craig Ploetner, a second by Steve Togher, 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:

**HARRY AND TALIA GROSS
BLOCK 2201, LOT 8**

**CALENDAR NO. 3657-18
JANUARY 7, 2019**

Mister Chairman, I move the adoption of the following resolution memorializing the granting of variance relief requested by the Applicants, Harry and Talia Gross, in Calendar No. 3657-18 for permission to construct a fence in the front yard of property located at 121 Highland Avenue, Short Hills, known and designated as Lot 8, Block 2201 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 December 17, 2018 in Calendar No. 3657-18 filed by Harry and Talia Gross (hereinafter referred to as the “Applicants”) for

permission to construct a fence in the front yard of property located at 121 Highland Avenue, Short Hills, New Jersey known and designated as Lot 8, Block 2201 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. Robert D. Hessels, Licensed Landscape Architect appeared on behalf of the Applicants under a Limited Power of Attorney. 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 maximum fence height in the R-3 zone is six feet and fences are prohibited in the front yard. The Applicants propose to construct a six foot high fence with seven foot high stone pillars in the front yard. Therefore, the Applicants require variance relief.

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

A. Plans prepared by RDH Design Group consisting of three sheets dated March 20, 2018 and revised through June 13, 2018.

B. A survey of the property prepared by Casey & Keller, Inc. dated June 2, 1987.

4. Robert D. Hessels, Licensed Landscape Architect, testified in support of the application.

5. The subject property fronts on three streets, Highland Avenue, Western Drive and Stewart Road. The existing dwelling on the property was built in 1914 and there is an existing wood stockade fence in the Stewart Road, Western Drive and Highland Avenue front yards which then extends into the Highland Avenue front yard to the dwelling which serves to enclose the area of the property containing an in-ground pool and pool house. The existing fence is dilapidated and collapsing. The Applicants propose to replace the existing fence with a new fence along the front yards of Stewart Road, Western Drive and Highland Avenue. The proposed fence is a six foot high wrought iron fence with incremental seven foot high stone veneer pillars with bluestone caps placed at intervals as designated on the plans submitted with the application. The proposed replacement fence would continue to serve the safety purpose of securing the area of the property containing the in-ground pool, but the materials of the proposed replacement fence would be more in keeping with the architectural period of the existing dwelling on the property and more open in appearance than the existing stockade fence. In conjunction with the construction of the proposed replacement fence, the landscaping would be refreshed by clearing out the unkempt overgrowth and installing a new boxwood hedge in front of the fence on Western Drive and Highland Avenue to provide a vegetative buffer.

6. The subject property is a Contributing Historic District Resource within the Short Hills Park Historic District. The Millburn Historic Preservation Commission (“HPC”) previously reviewed the Applicants’ proposed replacement fence plans and authorized the issuance of a Certificate of Appropriateness.

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 to permit the construction of the replacement fence in the front yard of the property is the result of the location of the property, which fronts on three streets, Stewart Road, Western Drive and Highland Avenue and the location of the existing in-ground swimming pool and pool house. The Board is satisfied that these conditions are exceptional circumstances that result in undue hardship and practical difficulties to the Applicants. The property with the proposed replacement fence will promote safety by serving as a barrier between the street and the pool on the Applicants’ property. The Board is satisfied that the construction of the replacement fence will be an aesthetic enhancement to the streetscape as it will eliminate the existing dilapidated wood fence, which is an advanced state of disrepair. The Board finds that the proposed decorative wrought iron estate fence with its stone pillars placed at intervals as designated on the submitted plans will be more in keeping with the architecture of the dwelling on the property. The Board is satisfied that the property with the replacement fence will remain in keeping with the architecture of the Short Hills Park Historic District. 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 7th day of January, 2019 that variance relief to permit the construction of a six foot high wrought iron fence with thirty-two seven foot high stone pillars in the Stewart Road, Western Drive and Highland Avenue front yards of the property, granted by this Board on December 17, 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 RDH Design Group consisting of three sheets dated March 20, 2018 and revised through June 13, 2018.

2. The Applicants shall apply for a building permit within 365 days from the date of publication of this resolution, or this variance approval shall expire unless one or more of the provisions of Section 422 of the Township Land Development Ordinance shall provide otherwise.

3. The Applicants shall be bound to comply with the representations made before this Board by 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 January 7th day of January, 2019.

Cal#3661-18, Mack-Cali Short Hills, 150 JFK Parkway, Short Hills

Upon a motion made by Jyoti Sharma, a second by Jessica Glatt, 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:

**MACK-CALI SHORT HILLS LLC
BLOCK 5303, LOT 4**

**CALENDAR NO. 3661-18
JANUARY 7, 2019**

Mister Chairman, I move the adoption of the following Resolution memorializing the granting of variance relief requested by the Applicant, Mack-Cali Short Hills LLC in Calendar Number 3661-18 for permission to erect ground graphic signs on property located at 150 JFK Parkway, Short Hills, New Jersey, known and designated as Lot 4, Block 5303 on the tax map of the Township of Millburn.

RESOLUTION

WHEREAS, the Millburn Zoning Board of Adjustment (hereinafter referred to as the "Board") has held a public hearing according to law on December 17, 2018 in Calendar No. 3661-18 filed by Mack-Cali Short Hills LLC (hereinafter referred to as the "Applicant") for permission to erect ground graphic signs on property located at 150 JFK Parkway, Millburn, New Jersey, known and designated as Lot 4, Block 5303 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. Glenn Kienz, Esq. represented the Applicant. 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 OR-3 Zone District. The Applicant proposes to erect and maintain various ground graphic signs on the property. Section 609.10 of the Township Zoning Ordinance permits a maximum 20 square foot total ground graphic area of a sign, a maximum 5 foot ground graphic height and a maximum 8 foot ground graphic height measured from grade at the street. The Applicant proposes two sign types, S1 and S2. S1 proposes 36 square feet of total ground graphic area, a height of 12 feet and a height of 12.5 feet measured from grade at the street. Sign type S2 proposes a 6.5 foot height. Therefore, variance relief is required to permit the proposed S1 and S2 signs.

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

- A. Plans prepared by Paulus, Sokolowski, and Sartor, LLC, consisting of four sheets, C-001, C-100, C-101 and C-501, dated October 12, 2018;
- B. A Mack-Cali 150 JFK Parkway Exterior Signage Program Design Intent Exhibit dated September 24, 2018 prepared by Leverage;
- C. An As-Built Survey of the property located at 150 JFK Parkway, prepared by Paulus, Sokolowski, and Sartor, LLC, dated May 9, 2018;
- D. A colorized version of Paulus, Sokolowski, and Sartor Sheet C-100, which was admitted into evidence as A-1;
- E. A colorized version of Paulus, Sokolowski, and Sartor Sheet C-101, which was admitted into evidence as A-2.

4. Joseph Fleming, PE/PP, testified in support of the application.

5. The subject property is part of a larger tract that is being transformed into a mixed use development which will include hotel, residential and office uses. Because there are multiple uses and multiple points of entry and exit from the site, the Applicant proposes a new signage program to provide improved identification and direction to motorists and pedestrians to and within the large corporate office component of the tract.

6. Although there is already one monument sign at the western boundary of the tract, the Applicant proposes the installation of a second monument sign, the S1 sign type on the plans submitted with the application. This second monument S1 sign would be installed at the

principal entrance driveway to the corporate office building property to identify the street address as well as the individual tenants located at the property. The proposed S1 sign would be twelve feet high with three foot wide stacked panels, for a total sign area of 36 square feet. Given the property's location on a major arterial roadway, JFK Parkway, the proposed twelve foot sign height would provide quicker identification of the building and tenants to motorists at a greater distance from the property than a smaller sign at a lower height. Although the actual height of the proposed S1 sign is twelve feet to the sign's foundation, when measured from the grade of the street, the proposed height of the S1 sign would be 12.5 feet. The proposed S1 sign would be fabricated of painted aluminum with the graphics cut into the aluminum to present a simple contemporary look. The proposed S1 sign would utilize internal LED illumination, which would be lit 24 hours a day. However, the internal LED illumination would not shed any light beyond the façade of the sign. In addition, the internal LED illumination would be controlled by a dimmer switch which would allow the Applicant to reduce the intensity of the internal illumination, if necessary.

7. The Applicant also proposes the installation of eight wayfinding signs within the corporate building lot that would serve as vehicular directional signs to identify visitor parking, staff parking, service and exits, depicted on the plans submitted with the application as S2 vehicular directional signs. The Applicant proposes the S2 signs would be 6.5 feet in height in order to provide greater visibility because the directional message on a sign with a lower height could easily be blocked by larger motor vehicles, such as SUVs, which are prevalent today. Consistent with the design of the proposed S1 sign type, the proposed S2 signs would be constructed of painted aluminum panels. These eight vehicular directional signs would not be illuminated but would contain surface mounted white reflective messages and directional arrows below the perforated "150" logo representative of the building's address. The proposed S2 signs would be placed at various locations as depicted on the plans submitted with the application.

8. The Applicant's professional planner, Joseph Fleming, opined that the proposed S1 and S2 signs satisfy the positive and negative criteria set forth in the Municipal Land Use Law for the granting of variance relief pursuant to N.J.S.A. 40:55D-70.c(2). Mr. Fleming testified that the granting of variance relief would advance the purposes of zoning set forth in N.J.S.A. 40:55D-2a, g and i. The proposed S1 and S2 signs advance public safety and the general welfare pursuant to N.J.S.A. 40:55D-2a by providing early identification of the property as well as additional directional information which serve to eliminate confusion by motorists traveling on JFK Parkway, which is a major arterial roadway. Because the subject property is part of a larger tract being transformed into a mixed use destination with hotel, residential and office use, the proposed signs would advance the zoning purpose of providing sufficient space for a variety of uses to meet the needs of citizens pursuant to N.J.S.A. 40:55D-2g. In addition, the proposed signs are part of a comprehensive sign program designed with a simple contemporary look that is attractive, compatible with the character of the site and in scale with the surroundings, which advances the desirable visual environment set forth in N.J.S.A. 40:55D-2i. Mr. Fleming testified that the proposed signs would not result in a substantial detriment to the public good, or the zone plan and zoning ordinance. He testified that the design of signs has advanced dramatically over the years since the zoning ordinance was adopted. The proposed signs reinforce prior municipal action which zoned the property for mixed use development and

the signs are a measured response which provides a better zoning alternative for this mixed use property than smaller signs which would be less visible to motorists.

9. During the course of the hearing, various Board members questioned the Applicant's proposed usage and placement of six fixed-panel banner signs with the text "150 JFK Parkway", on six lampposts along the JFK Parkway frontage of the property. Although the lampposts were part of the illumination package previously approved by the Millburn Township Planning Board, that Planning Board approval did not include approval of the proposed banner signs. Although the Applicant's witness testified that the banner signs were intended to create a "sense of place", Board members found the banner signs to be unnecessary sign clutter, given the Applicant's request for a second twelve foot high, 36 square foot monument sign on the property and the Applicant agreed to revise their sign program to eliminate the proposed six banner signs from the lampposts along the JFK Parkway frontage of the property.

10. The Board concludes that variance relief may be granted to permit the installation of the proposed S1 monument sign and the proposed S2 vehicular directional signs as depicted on the plans submitted with the application. The Board acknowledges that JFK Parkway continues to be a heavily traveled, high speed roadway. The Board finds and concludes that the height, sign area and placement of the proposed S1 ground graphic monument sign at the entrance to the corporate office building portion of the tract will provide greater visibility to passing motorists in sufficient time to allow for safe traffic maneuvers in order to gain access to the property, which will promote and enhance public safety and the general welfare in a comprehensive manner that provides a desirable visual environment. With respect to the proposed S2 vehicular directional signs that will be located internally on the site, the Board is satisfied that the proposed 6.5 foot height will also serve to provide adequate site identification and directional guidance to visitors to the corporate building on this large tract in a manner that more effectively directs them to their intended destination than a sign of lesser height. The Board is also satisfied that the benefits of granting variance relief to permit the proposed S1 and S2 signs outweighs the detriments associated with the greater sign heights and sign area.

11. The Board also finds and concludes that the granting of variance relief to permit the proposed S1 and S2 ground graphic signs will not result in a significant detriment to the public good, nor will the proposed signs substantially impair the intent and purpose of the zone plan and the zoning ordinance. Importantly, because the property is located on a busy street with multiple entrances and exits to the site, the proposed ground graphics will provide enhanced visibility of the corporate building and tenant identification on this mixed use tract from a greater distance than a smaller and lower conforming sign. The Board is satisfied that the overall size, scale and appearance of the proposed new ground graphic signs will be in keeping with the surroundings on this mixed use tract and reinforce the previous municipal approvals associated with the property. For these reasons, the Board concludes that the granting of variance relief to permit the proposed ground graphic S1 and S2 signs will not result in a significant detriment to the public good, nor will it substantially impair the intent and purpose of the zone plan and zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED on this 7th day of January, 2019 that variance relief pursuant to N.J.S.A. 40:55D-70c(2) to permit the installation of a second ground graphic monument sign depicted on the plans as sign type S1, consisting of 36 square feet of total ground graphic area, a height of 12 feet and a height of 12.5 feet measured from grade at the street and eight vehicular directional signs depicted on the plans as sign type S2 with a 6.5 foot height, requested by the Applicant for property located at 150 JFK Parkway, granted by this Board at its meeting on December 17, 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. Prior to the issuance of a building permit, the Applicant shall submit revised plans eliminating the six fixed-panel banner signs on the lampposts along the JFK Parkway frontage of the property from the exterior signage program. The approved ground graphic sign types S1 and S2 shall be erected in accordance with the testimony at the hearing and the plans submitted in support of the application consisting of plans prepared by Paulus, Sokolowski, and Sartor, LLC, consisting of four sheets, C-001, C-100, C-101 and C-501, dated October 12, 2018 and the Mack-Cali 150 JFK Parkway Exterior Signage Program Design Intent Exhibit dated September 24, 2018 prepared by Leverage, revised in accordance with this condition. The Applicants shall apply for a building permit within 365 days from the date of publication of this resolution, or this variance approval shall expire unless one or more of the provisions of Section 422 of the Millburn Township Development Regulations and Zoning Ordinance shall provide otherwise.

2. The Applicant shall be bound to comply with the representations made before this Board by the Applicant's 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.

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 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 7th day of January, 2019.

APPLICATIONS

CAL#3664-18, SARA & JASON SINGER, 177 HIGHLAND AVENUE, SHORT HILLS

*Jessica Glatt and Jyoti Sharma recused and left the meeting.

Sara & Jason Singer, and Richard Keller, P.E., P.P., appeared and were sworn. The applicants would like to construct an attached garage to their dwelling. Proposal is in violation of:

606.2e3d – Garages facing and opening onto a public street are prohibited

Sara and Jason Singer briefly described the proposal. They stated that they have gone to great lengths to design an addition that will be in keeping with the existing character of the house. The matter has been heard before the HPC and has received their approval.

Richard Keller's credentials were presented and accepted by the Board. He gave a brief description of the applicants' proposal. The property is located in R-3 zone district at the corner of Stewart Road and Highland Avenue. It is also a designated site in the Short Hills Historic District. The house is a prominent property at a 45 degree angle that faces the intersection of the streets. It is currently under construction with conforming renovations that are part of the overall project. The current garage is undersized and the applicants propose the construction of a 2-car attached garage which will mirror and face the existing attached garage. The new garage faces the Highland Avenue front yard, thereby requiring variance relief. Richard Keller stated that the variance requested can be granted under c1 and c2 variance relief. Variance relief can be granted under c(1) due to the hardship of the location of the lawfully existing dwelling on the site. Additionally, the proposal meets the c(2) criteria in that it advances the purposes of land use law, it is an aesthetic improvement and there is no substantial detriment to the public good or the intent and purpose of the Master Plan. The application was reviewed and approved by the HPC and the existing house and wall block the garage from street view.

Mr. Keller summarized and stated that the application meets the positive and negative criteria and respectfully requested a favorable vote from the Board.

Several members were concerned with the additional driveway access. Although the driveways do not require variance relief, they requested that the applicant consider the removal of one of the access drives.

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

Mary McNett – yes
Craig Ploetner – yes
Joy Siegel – yes
Steve Togher – yes

Wolfgang Tsoutsouris – yes
Joseph Steinberg – yes

Cal#3664-18, Sara & Jason Singer, 177 Highland Avenue, was **APPROVED**.

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. (7:45 PM)

Eileen Davitt
Board Secretary

Motion: JG
Second: MM
Date Adopted: 3/4/19