

Township of Millburn
Minutes of the Zoning Board of Adjustment
January 9, 2023

A regular meeting of the Township of Millburn Zoning Board of Adjustment was held on **Monday, January 9, 2023** at 7:00 PM at Millburn Town Hall.

Board Attorney, Robert Simon, administered the oath of office to Ashley Avigdor, Chandru Harjani, Gary Rosen, and Regina Truitt.

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

The following members were present for the meeting:

Ashley Avigdor
Jessica Glatt
Chandru Harjani
Amy Lawrence
Craig Ploetner
Gary Rosen
Regina Truitt
Wolfgang Tsoutsouris

Also present:

Robert Simon, 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 Craig Ploetner for Chairman was made by Jessica Glatt, seconded by Wolfgang Tsoutsouris, and carried with a roll-call vote as follows:

Ashley Avigdor – yes
Chandru Harjani – yes
Amy Lawrence – yes
Wolfgang Tsoutsouris – yes
Gary Rosen – yes
Regina Truitt – yes
Jessica Glatt – yes

The meeting was turned over to Chairman Craig Ploetner who made a motion to nominate Jessica Glatt for Vice Chairwoman. A second was made by Chandru Harjani and carried with a roll-call vote as follows:

Ashley Avigdor – yes
Chandru Harjani – yes
Amy Lawrence – yes
Wolfgang Tsoutsouris – yes
Gary Rosen – yes
Regina Truitt – yes
Craig Ploetner – yes

A motion to appoint Robert Simon as Board Attorney was made by Jessica Glatt, seconded by Amy Lawrence, and carried with a roll-call vote as follows:

Ashley Avigdor – yes
Chandru Harjani – yes
Amy Lawrence – yes
Wolfgang Tsoutsouris – yes
Gary Rosen – yes
Jessica Glatt – yes
Craig Ploetner – yes

A motion to appoint Eileen Davitt as Board Secretary was made by Jessica Glatt, seconded by Ashley Avigdor, and carried with a roll-call vote as follows:

Ashley Avigdor – yes
Chandru Harjani – yes
Amy Lawrence – yes
Wolfgang Tsoutsouris – yes
Gary Rosen – yes
Jessica Glatt – yes
Craig Ploetner – yes

ANNUAL NOTICE

Upon a motion made by Gary Rosen, seconded by Jessica Glatt, and with a unanimous roll-call vote, the 2023/24 annual notice was adopted.

APPROVAL OF MINUTES

A motion to approve the minutes of December 5, 2022 was made by Ashley Avigdor, seconded by Chandru Harjani, and carried with a unanimous voice vote.

A motion to approve the minutes of December 19, 2022 was made by Amy Lawrence, seconded by Wolfgang Tsoutsouris, and carried with a unanimous voice vote.

MEMORIALIZATIONS

Cal#3895-22, Alan & Amy Fung, 25 Oswego Lane, Short Hills

Upon a motion made by Jessica Glatt, a second by Amy Lawrence, and with a roll-call vote as follows:

- Amy Lawrence – yes
- Wolfgang Tsoutsouris – yes
- Jessica Glatt – yes
- Craig Ploetner – yes

the following memorializing resolution was adopted:

**ALAN & AMY FUNG
BLOCK 4904, LOT 5**

**CAL. NO. 3895-22
JANUARY 9, 2023**

Mister Chairman, I move the adoption of the following resolution memorializing the granting of variance relief requested by the Applicants, Alan and Amy Fung (hereinafter the “Applicants”), in Calendar No. 3895-22 to permit the construction of a one-story side yard addition to the garage of the existing dwelling, along with the addition of a pool, all on property located at 25 Oswego Lane, Short Hills, New Jersey, and designated as Lot 5, Block 4904, on the Official Tax Map of the Township of Millburn.

RESOLUTION

WHEREAS the Millburn Township Zoning Board of Adjustment (hereinafter the “Board”) held a public hearing according to law on December 5, 2022 as to Calendar No. 3895-22 to permit the construction of a one-story side yard addition to the garage of the existing dwelling, along with the addition of a pool, all on property located at 25 Oswego Lane, Short Hills, New Jersey, and designated as Lot 5, Block 4904, on the Official 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. At the December 5, 2022 hearing, the application and service of notice were found to be in order. The Applicants appeared without counsel and, together with their Architect, Tim Klesse, provided sworn testimony in support of the application.

2. The Applicants are the owners of the subject property, which is a corner lot and contains a single family residence, located in the Township's R-4 Zone District (the "R-4 Zone"). The Applicants propose to construct a one-story side yard addition to the garage of the existing dwelling, along with the addition of a swimming pool. The application's proposed construction intends to make the existing residence more functional by creating a third (3rd) garage bay while adding a swimming pool.

3. The subject property is a corner lot per the Township Zoning Ordinance. The proposed construction would result in a front yard setback of 36.46 feet (40.86 feet existing), where a minimum side yard setback of 40 feet is required; an access side yard setback of three (3) feet and seven (7) feet (none existing), when an minimum access side yard setback of 12 feet is required; a building coverage of 16.6% (3,301 square feet) (14.8% or 2,931 square feet existing), when a maximum building coverage of 14% (2,780 square feet) is permitted; and a mechanical equipment setback of 10 feet (none existing), when the minimum mechanical equipment setback of 36 feet is permitted in the R-4 Zone. Therefore, variance relief is warranted.

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

a. An aerial photograph of the existing dwelling on the subject property taken from Google Earth on or about August of 2020, introduced into evidence as Exhibit A 1 on December 5, 2022; and

b. A photograph of the existing two (2) car garage taken in or about September 2021, introduced into evidence as Exhibit A-2 on December 5, 2022.

5. At the December 5, 2022 hearing, Amy Fung, one of the Applicants, testified that the application is for the addition of a third (3rd) garage bay to the existing two (2) car garage, and a mud room, along with the addition of a swimming pool. Ms. Fung testified that the Applicants are seeking to get an additional vehicle out of the driveway and into a garage space.

6. Thereafter, Tim Klesse, the Applicants' Architect, testified that the subject property is a corner lot, creating two (2) front yards, which requires a 40 foot setback along both frontages. Referencing Exhibit A-1, Mr. Klesse testified that 50% of the lot area is in the front yards of the existing dwelling, however, a large front yard area will minimize the impact of the addition on the neighborhood and streetscape.

7. Referencing Exhibit A-2, Mr. Klesse testified that the existing garage is setback 21 feet deep, and the addition will add an additional 12 feet in width.

8. Caroline Coco Obayda, 415 Long Hill Drive, testified that, as a neighboring property owner, she felt the Applicants' request was reasonable.

9. N.J.S.A. 40:55D-70c(1) states:

Where: (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 [C.40:55D-62 et seq.] of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship[.]

10. N.J.S.A. 40:55D-70 further states “[n]o variance or other relief may be granted under the terms of this section, including a variance or other relief involving an inherently beneficial use, without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance” (the so-called “negative criteria”).

11. The Board finds that the Applicants have satisfied the statutory criteria of N.J.S.A. 40:55D-70c(1) and concludes that it is appropriate to grant the bulk variance relief requested by the Applicants to permit the proposed construction. The need for such variance relief is related to existing conditions affecting the property, dwelling and other site improvements as set forth above and contained in the application materials. Specifically, the subject property’s irregular shape and the location of the home on the lot are hardships specific to the subject property. The Board finds these conditions to be extraordinary and exceptional conditions affecting the property and the structures thereon, which result in practical difficulties and undue hardship to the Applicants.

12. The Board finds that the Applicants have satisfied the statutory criteria as required by N.J.S.A. 40:55D-70(c)(1) and concludes that it is appropriate to grant the variance relief requested by the Applicants to permit the construction of the proposed garage expansion and pool. The need for variance relief is related to several existing conditions affecting the property, including that the subject property is a corner lot with two (2) front yards (and therefore a minimal rear yard area), the location of the dwelling on the subject property, along with other site improvements. Specifically, the unique layout of the subject property creates a significant hardship and substantially impairs the reasonable development of this property. The Board finds these conditions to be extraordinary and exceptional conditions affecting the subject property and the structures thereon, which result in practical difficulties and undue hardship to the Applicants.

13. Although the proposed construction requires variance relief to permit a front yard setback of 36.46 feet, where existing side yard setback is 40.86 feet and a minimum front yard setback of 40 feet is required; an access side yard setback of three (3) feet and seven (7) feet, when the minimum access side yard setback of 12 feet is required; a building coverage of 16.6%, where the existing building coverage is 14.8% and the maximum permitted building coverage is 14%; and a mechanical equipment setback of 10 feet, when a minimum mechanical equipment setback of 36 feet is permitted, the deviations from the aforementioned requirements are relatively modest. The Board finds that the proposed deviations are modest and can be

accomplished without undermining the intent and purpose of the Township Zoning Ordinance or the Master Plan, and can be accommodated by the subject property.

14. The Board concludes that the proposed construction is tasteful and modest, preserves the character of the subject residence and surrounding neighborhood given that the impact of the proposed garage expansion and pool addition will be lessened due to the expansive front yards of the subject property will not be intrusive thereon, and that any negative impact from the proposed improvements is negligible and not a substantial detriment. Therefore, for all the reasons stated above, the Board concludes that the granting of the variance relief requested relating to the proposed construction can be done without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan and Township Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED on this 9th day of January, 2023 that the variance relief requested by the Applicants to construct a third (3rd) garage bay to the existing two (2) car garage and a pool on property located at 25 Oswego Lane, Short Hills, New Jersey, granted by this Board at its meeting of December 5, 2022, is memorialized pursuant to the provisions of N.J.S.A. 40:55D-10g, subject to the following conditions:

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

2. The Applicants shall be bound to comply with the representations made before this Board by the Applicants and at the public hearing, including 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. 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 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 9th day of January, 2023.

Cal#3901-22, F. Zhang/Y. Qiu, 54 Hartshorn Drive, Short Hills

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

Amy Lawrence – yes
Wolfgang Tsoutsouris – yes
Jessica Glatt – yes
Craig Ploetner – yes

the following memorializing resolution was adopted:

**YUNGCHANG QIU
BLOCK 2801, LOT 54**

**CAL. NO. 3901-22
JANUARY 9, 2023**

Mister Chairman, I move the adoption of the following resolution memorializing the granting of variance relief requested by the Applicant, Yungchang Qui (hereinafter the “Applicant”), in Calendar No. 3901-22 to permit the construction of a one-story addition to the rear of the dwelling on property located at 54 Hartshorn Drive, Short Hills, New Jersey, and designated as Lot 54, Block 2801, on the Official Tax Map of the Township of Millburn.

RESOLUTION

WHEREAS the Millburn Township Zoning Board of Adjustment (hereinafter the “Board”) held a public hearing according to law on December 5, 2022 as to Calendar No. 3901-22 to permit the construction of a one-story addition to the rear of the dwelling on property located at 54 Hartshorn Drive, Short Hills, New Jersey, and designated as Lot 54, Block 2801, on the Official 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. At the December 5, 2022 hearing, the application and service of notice were found to be in order. The Applicant appeared without counsel and, together with Applicant’s project designer, Brian Adams, provided sworn testimony in support of the application.
2. The Applicant is the owner of the subject property, which contains a single family residence, located in the Township’s R-4 Zone District (the “R-4 Zone”). The Applicant proposes to construct a one-story addition to the rear of the dwelling. The application’s proposed construction intends to make the existing residence more functional while creating a first floor sunroom.
3. The subject property is irregularly-shaped - not square nor rectangular – as the property width tapers toward the rear. The proposed construction would result in a side yard

setback of 13 feet (15 feet existing), where a minimum side yard setback of 15 feet is required, and a combined side yard setback of 27.5%, where a minimum combined side yard setback of 35% is permitted. Therefore, variance relief is warranted.

4. At the December 5, 2022 hearing, Brian Adams, the Applicant's Project Designer (not a licensed professional), testified that the subject property is irregularly shaped, as the width tapers in the rear and the dimensions are not parallel, making an odd orientation of the property lines. He testified that the Applicant seeks to add a sunroom on the rear of the house, which will be connected to the kitchen, as there is a child in the dwelling that is allergic to mosquitos. It was Mr. Adam's contention that the new addition would not create much of a change to the dwelling, and it will not have any impact on light, air and open space.

5. N.J.S.A. 40:55D-70c(1) states:
Where: (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 [C.40:55D-62 et seq.] of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship[.]

6. N.J.S.A. 40:55D-70 further states "[n]o variance or other relief may be granted under the terms of this section, including a variance or other relief involving an inherently beneficial use, without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance" (the so-called "negative criteria").

7. The Board finds that the Applicant has satisfied the statutory criteria of N.J.S.A. 40:55D-70c(1) and concludes that it is appropriate to grant the bulk variance relief requested by the Applicant to permit the proposed construction. The need for such variance relief is related to existing conditions affecting the property, dwelling and other site improvements as set forth above and contained in the application materials. Specifically, the subject property's irregular shape and the location of the home on the lot are hardships specific to the subject property. The Board finds these conditions to be extraordinary and exceptional conditions affecting the property and the structures thereon, which result in practical difficulties and undue hardship to the Applicant.

8. Although the proposed construction requires variance relief to permit a side yard setback of 13 feet, where existing side yard setback is 15 feet and a minimum side yard setback of 15 feet is permitted, and a combined side yard setback of 27.5%, when a minimum combined side yard setback is 35% is permitted, the deviations from the aforementioned requirements are relatively modest. The Board finds that the proposed deviations are modest and can be

accomplished without undermining the intent and purpose of the Township Zoning Ordinance or the Master Plan, and can be accommodated by the subject property.

9. The Board concludes that the proposed construction is tasteful and modest, preserves the character of the subject residence, and that any negative impact from the proposed improvements is negligible and not a substantial detriment. Therefore, for all the reasons stated above, the Board concludes that the granting of the variance relief requested relating to the proposed construction can be done without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan and Township Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED on this 9th day of January, 2023 that the variance relief requested by the Applicant to construct a one-story rear addition to the existing dwelling resulting in a side yard setback of 13 feet, where a minimum permitted side yard setback in the R-4 Zone is 15 feet, and a combined side yard setback of 27.5%, where a minimum combined side yard setback of 35% is permitted in the R-4 Zone, on property located at 54 Hartshorn Drive, Short Hills, New Jersey, granted by this Board at its meeting of December 5, 2022, is memorialized pursuant to the provisions of N.J.S.A. 40:55D-10g, subject to the following conditions:

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

2. The Applicant shall be bound to comply with the representations made before this Board by the Applicant and at the public hearing, including 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. 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 9th day of January, 2023.

Cal#3904-22, Jared & Agnieszka Burke, 28 Great Hills Road, Short Hills

Upon a motion made by Jessica Glatt, a second by Amy Lawrence, and with a roll-call vote as follows:

Amy Lawrence – yes
Wolfgang Tsoutsouris – yes
Jessica Glatt – yes
Craig Ploetner – yes

the following memorializing resolution was adopted:

**AGNIESHKA BURKE
BLOCK 4101, LOT 42**

**CAL. NO. 3904-22
JANUARY 9, 2023**

Mister Chairman, I move the adoption of the following resolution memorializing the granting of variance relief requested by the Applicant, Agnieszka Burke (hereinafter the “Applicant”), in Calendar No. 3904-22 to permit the construction of a second floor addition over the family room of the existing dwelling on property located at 28 Great Hills Road, Short Hills, New Jersey, and designated as Lot 42, Block 4101, on the Official Tax Map of the Township of Millburn.

RESOLUTION

WHEREAS the Millburn Township Zoning Board of Adjustment (hereinafter the “Board”) held a public hearing according to law on December 5, 2022 as to Calendar No. 3904-22 to permit the construction of a second floor addition over the family room of the existing dwelling on property located at 28 Great Hills Road, Short Hills, New Jersey, and designated as Lot 42, Block 4101, on the Official 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. At the December 5, 2022 hearing, the application and service of notice were found to be in order. The Applicant appeared without counsel and, together with the Applicant’s Architect, Daniel Dubinett, provided sworn testimony in support of the application.
2. The Applicant is the owner of the subject property, which contains a single family residence, located in the Township’s R-4 Zone District (the “R-4 Zone”). The Applicant proposes to construct a second floor addition over the family room of the existing dwelling. The application’s proposed construction intends to make the existing residence more functional while creating a master bedroom suite on the second floor.

3. The subject property is undersized and contains an existing non-conforming side yard setback, which, in addition to the proposed addition, will result in a second story side yard setback of 12.3 feet, where the minimum permitted second story setback of 22 feet is required in the R-4 Zone. Therefore, variance relief is required.

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

a. A photo array containing three (3) slides of architectural drawings (with notes), introduced into evidence as Exhibit A-1, on December 5, 2022.

5. At the December 5, 2022 hearing, Daniel Dubinett, the Applicant's Architect, testified that the dwelling on the subject property was built in the 1920's, and has existing non-conformities, inter alia, being undersized, making it difficult to add onto the existing dwelling without creating additional non-conformities. Mr. Dubinett testified that there will not be any work to the first floor of the existing dwelling or any change in the dwelling's footprint, as the addition will add a master bedroom suite to the second floor over the family room.

6. It was Mr. Dubinett's contention that the undersized nature of the lot and the location of the existing dwelling thereon creates an undue hardship, and that the addition will not have any impact on light, air and open space, as the nearest neighboring dwelling is 31.5 feet away from the proposed addition.

7. Mr. Dubinett testified further that the Applicant's proposal will balance out the architecture of the existing dwelling and that no trees will be removed as part of the application.

8. Finally, Mr. Dubinett testified that the Applicant's proposal to build a balcony over the existing deck contemporaneous with the second floor addition does not require any variance relief.

9. N.J.S.A. 40:55D-70c(1) states:
Where: (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 [C.40:55D-62 et seq.] of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship[.]

10. N.J.S.A. 40:55D-70 further states "[n]o variance or other relief may be granted under the terms of this section, including a variance or other relief involving an inherently beneficial use, without a showing that such variance or other relief can be granted without

substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance” (the so-called “negative criteria”).

11. The Board finds that the Applicant has satisfied the statutory criteria of N.J.S.A. 40:55D-70c(1) and concludes that it is appropriate to grant the bulk variance relief requested by the Applicant to permit the proposed construction. The need for such variance relief is related to existing conditions affecting the property, dwelling and other site improvements as set forth above and contained in the application materials. Specifically, the subject property’s undersized lot area and the location of the home on the lot are hardships specific to the subject property. The Board finds these conditions to be extraordinary and exceptional conditions affecting the property and the structures thereon, which result in practical difficulties and undue hardship to the Applicant.

12. Although the proposed construction requires variance relief to permit a second story side yard setback of 12.3 feet, where existing side yard setback is 10.3 feet and a minimum second story side yard setback of 22 feet is required, the deviation from the aforementioned requirements are relatively modest. The Board finds that the proposed deviations are modest and can be accomplished without undermining the intent and purpose of the Township Zoning Ordinance or the Master Plan, and can be accommodated by the subject property.

13. The Board concludes that the proposed construction is tasteful and modest, preserves the character of the subject residence, and that any negative impact from the proposed improvements is negligible and not a substantial detriment. Therefore, for all the reasons stated above, the Board concludes that the granting of the variance relief requested relating to the proposed construction can be done without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan and Township Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED on this 9th day of January, 2023 that the variance relief requested by the Applicant to construct a second floor addition to the existing dwelling resulting in a second story side yard setback of 12.3 feet, where a minimum permitted second story side yard setback is 22 feet in the R-4 Zone, on property located at 28 Great Hills Road, Short Hills, New Jersey, granted by this Board at its meeting of December 5, 2022, is memorialized pursuant to the provisions of N.J.S.A. 40:55D-10g, subject to the following conditions:

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

2. The Applicant shall be bound to comply with the representations made before this Board by the Applicant and at the public hearing, including 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. 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 9th day of January, 2023.

APPLICATIONS

CAL#3889-22, CORNELIUS/DONGMEI GUTH, 9 BAILEY ROAD, MILLBURN

The matter was carried to March 6, 2023.

CAL#3902-22, C. SKAY/J. LUKASIEWICZ, 7 IVY TERRACE, MILLBURN

Timothy Klesse, Architect, and Joseph Lukasiewicz, appeared and were sworn. The applicant would like to construct an addition to his dwelling. Proposal is in violation of:

606.2e1d – Front yard setback

Mr. Klesse’s credentials were presented and accepted by the Board. He gave a brief description of the applicant’s proposal. The applicant would like to construct an addition over the attached garage space in order to create a home office space. The property is a corner lot in the R-6 zone at the intersection of Ivy Terrace and Greenwood Drive.

Front yard setback variance relief is required for the proposal. The dwelling is currently non-conforming to the required 40 foot front yard setback. The new construction will have a front yard setback of 35.75 feet.

Entered as A-1: BOA-3 plan
Entered as A-2: BOA-4 plan

The impact to the surrounding properties is minimized because the addition is set back off the streetscape of the garage face. There is no substantial detriment to the public good and the addition is in size and scale with the neighborhood.

There were no Board or public questions on the matter.

There were no public comments on the application.

Overall, the Board felt the dormer was a needed addition and supported the application.

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

Ashley Avigdor – yes
Chandru Harjani – yes
Amy Lawrence – yes
Wolfgang Tsoutsouris – yes
Gary Rosen – yes
Jessica Glatt – yes
Craig Ploetner – yes

Cal#3902-22, C. Skay/J. Lusiasiewicz, 7 Ivy Terrace, was **APPROVED**.

CAL#3900-22, M. COMEROS/P. MANESS, 670 RIDGEWOOD ROAD, MILLBURN

Peter Maness appeared and was sworn. He would like to construct an addition to his dwelling. Proposal is in violation of:

606.2e1d – Front yard setback

Entered as A-1: 4 photos of the existing site

The applicant is proposing to construct a deck off the side of the dwelling. The property is a triangular lot that abuts the railroad. There are currently no windows on this side of the house and this deck addition would improve the outdoor enjoyment of their property. The new construction will not be visible to neighbors. The deck will also be completely hidden from street view because of existing evergreen trees next to the house.

Mr. Maness stated that the shape of the lot causes a hardship and makes any construction to the house non-conforming to the zoning requirements.

There were no public questions.

Overall, Board members felt the irregular lot shape presented a hardship. The proposal would have no impact on adjoining properties.

Upon a motion made by Amy Lawrence, a second by Chandru Harjani, and with a roll-call vote as follows:

Ashley Avigdor – yes
Chandru Harjani – yes
Amy Lawrence – yes
Gary Rosen – yes
Wolfgang Tsoutsouris – yes
Jessica Glatt – yes
Craig Ploetner – yes

Cal#3900-22, M. Comeros/P. Maness, 670 Ridgewood Road, was **APPROVED**.

CAL#3903-22, GUOFENG QI/YAMING PAN, 2 WITTKOP PLACE, MILLBURN

Timothy Klesse, Architect, appeared and was sworn. His credentials were presented and accepted by the Board. The applicant would like to construct an addition to the dwelling. Proposal is in violation of:

606.2e1e1a – Side yard setback
606.2e1e1b – Addt'l side yard setback
606.2e1d – Front yard setback
606.2e2c – Building height

Mr. Klesse stated that after the application and plans were distributed to the Board, the applicant revised their plans, eliminating the need for floor area ratio and decreasing several of the other variances being requested.

Entered as A-1: revised BOA-11 through BOA-17
Entered as A-2: 1/3/23 cover letter with attachments

The applicant proposes to remove the existing detached garage and construct an addition to the dwelling to accommodate a basement level 2-car detached garage, 1st floor kitchen/eating area and a 2nd floor primary suite.

Mr. Klesse spoke to the variances being requested. Side yard setback variance relief up to 18 feet in height is being requested to allow a setback of 7 feet where 8 feet is required. Additional side yard setback variance relief is required to permit a setback of 7 feet where 12 feet is required. Front yard setback is being requested to allow a setback of 13.1 feet where 40 feet is required. Building height variance relief is being requested to allow a building height of 33 feet where 32 feet is permitted. The need for height variance relief comes about due to the newly proposed addition. Due to the slope of the lot, the grades get lower, thereby creating a lower average grade. The current ridge height is being maintained. The original plans required floor area ratio variance relief but the applicant has decreased the size of the addition in order to eliminate that variance.

Xiaolu Zhou, 6 Wittkop Place, appeared and was sworn. He is concerned with the proposed construction and feels it will block the view of the park from his rear yard deck. He

feels this will have a negative impact on his property value and his privacy. He does not support this application.

Members were pleased that the floor area ratio was eliminated. However, there were some concerns with the massing and the aesthetics of the addition as well as the proximity of the addition to the front lot line.

The applicant requested an opportunity to revise the plans based on Board/resident concerns.

The matter was carried to February 6, 2023.

BUSINESS

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

ADJOURNMENT

A motion to adjourn was made by Chandru Harjani, seconded by Ashley Avigdor, and carried with a unanimous voice vote. (8:50 PM)

Eileen Davitt
Board Secretary

Motion: WT
Second: JG
Date Adopted: 1/23/23