

Township of Millburn
Minutes of the Zoning Board of Adjustment
March 4, 2019

A regular meeting of the Township of Millburn Zoning Board of Adjustment was held on **Monday, March 4, 2019** 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 McNett
Jyoti Sharma
Joy Siegel
Steve Togher
Wolfgang Tsoutsouris
Jessica Glatt, Vice Chairwoman
Joseph Steinberg, Chairman

Also present:

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

APPROVAL OF MINUTES

A motion to approve the minutes of January 7, 2019 was made by Mary McNett, seconded by Jessica Glatt, and carried with a unanimous voice vote.

A motion to approve the minutes of February 4, 2019 was made by Joy Siegel, seconded by Jyoti Sharma, and carried with a unanimous voice vote.

MEMORIALIZATIONS

Cal#3662-18, David & Mara Silber, 20 Randall Drive, Millburn

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

Mary McNett – yes
Jyoti Sharma – yes
Joy Siegel – yes
Wolfgang Tsoutsouris – yes

Jessica Glatt
Joseph Steinberg – yes

the following memorializing resolution was adopted:

**DAVID AND MARA SILBER
BLOCK 3703, LOT 6**

**CAL. NO. 3662-18
MARCH 4, 2019**

Mister Chairman, I move the adoption of the following resolution memorializing the granting of variance relief requested by the Applicants, David and Mara Silber, in Calendar No. 3662-18 to permit the construction of an open air pavilion with fireplace and enclosed storage, a new retaining wall and the modification of an existing patio on property located at 20 Randall Drive, Short Hills, New Jersey, known and designated as Lot 6, Block 3703 on the tax map of the Township of Millburn.

RESOLUTION

WHEREAS the Millburn Township Zoning Board of Adjustment (hereinafter the “Board”) has held a public hearing according to law on February 4, 2019 in Calendar No. 3662-18 filed by David and Mara Silber (hereinafter the “Applicants”) to permit the construction of an open air pavilion with fireplace and enclosed storage, a new retaining wall and the modification of an existing patio on property located at 20 Randall Drive, Short Hills, New Jersey, known and designated as Lot 6, Block 3703 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. Frances J. Costenbader, Esq. appeared on behalf of Robert and Barbara McGinn of 325 Hartshorn Drive, Short Hills.
2. The Applicants are the owners of the subject property, which is located in the R-4 zone district. The Applicants propose to construct a new open air pavilion which would include a fireplace and enclosed storage area, a new retaining wall and to modify the existing patio. The Township Zoning Ordinance requirements for the R-4 zone permit a maximum 35% lot coverage. The Applicants’ proposed improvements would result in 35.87% lot coverage. Therefore, variance relief is required. Initially, the Applicants sought variance relief to permit 20.8% accessory rear yard coverage, but the accessory rear yard coverage variance request was withdrawn during the hearing.
3. The Board received and considered the following documents submitted with the application:
 - A . Plans prepared by Land Solutions Engineering, LLC, consisting of three sheets, Sheets 1 through 3, dated November 8, 2018.

B. A plan prepared by RDH Design Group consisting of one sheet, A-1, dated December 4, 2018.

C. A revised and updated Application Attachment F Zoning Calculation Form, which was admitted into evidence as A-1.

D. A photo board with six photographs prepared by Casey & Keller, which was admitted into evidence as A-2.

E. A plan prepared by RDH Design Group consisting of one sheet entitled "Rendering Reference," dated January 31, 2019, which was admitted into evidence as A-3.

F. A plan prepared by RDH Design Group consisting of one sheet entitled "Planting Plan," dated January 31, 2019, which was admitted into evidence as A-4.

G. A multi-page exhibit prepared by RDH Design Group consisting of the Rendering Reference Plan and Planting Plan as well as twelve photographic renderings of the property, which was admitted into evidence as A-5.

4. Applicant David Silber, Antoine Hajjar, PE, Richard Keller, PP and Robert Hessels, Landscape Architect, testified in support of the application.

5. The Applicants wish to construct an open air pavilion with a fireplace and enclosed storage, which would serve as an outdoor entertainment area in conjunction with their existing rear yard amenities which include an in-ground pool and patio areas. The proposed improvements would also include modifications to the existing retaining walls and patio areas on the property, as well as the construction of a new retaining wall on the northwest side of the rear yard.

6. The property is an oversized lot with a 28,746 square foot lot area, 166.18 foot lot width and 161.48 foot lot depth. However, the shape of the property is irregular and it is constrained by areas of steep slope at the front of the property facing Randall Road and at the rear of the property along the northeast property line. The topography of the lot is irregular with various grade changes which result in a series of small retaining walls on the property.

7. The existing dwelling is a two-story home with a two-car side facing garage. Because of the placement of the dwelling and the topography of the lot, the side-facing garage is located at the basement level of the home, which is accessible from a driveway on the west side of the lot. Due to the steepness of the front yard, the property also has a circular driveway in the front yard which provides access to the front entry of the dwelling. As a result, the paved driveway surfaces on the property account for 2,425 square feet of the existing lot coverage, which is 9,992 square feet, or 34.8%. Any improvement greater than 69 square feet would require variance relief from the lot coverage requirement. The Applicants propose the construction of a 234 square foot open air pavilion with a fireplace and enclosed storage in the

rear yard. In conjunction with the construction of the proposed open air pavilion, the Applicants propose to modify the existing pool, pool patio configuration, outdoor patio areas closer to the dwelling to reduce the extent of the variance relief required for lot coverage. The reconfigured patio areas, particularly the paved areas around the pool, serve two purposes: the paved surfaces are a safer alternative for persons using the pool than wet or muddy grass, and the paved surfaces provide a firm surface for lounge chairs on both sides of the pool, so that sunbathers can track the sun as it moves across the rear yard of the property. The proposed modifications also include the elimination of a small retaining wall near the patio which creates a tripping hazard. During the course of the hearing, the Applicants agreed to reduce the paved patio areas even further to eliminate the need for variance relief for accessory rear yard coverage. This additional reduction in paved patio would also result in a slight reduction in the requested variance for lot coverage to 35.87%.

8. The installation of the proposed retaining wall along the northwest side of the property would create a level grassy area which would serve as a play area for the Applicants' children. The new retaining wall would not have any negative impact on drainage, which would be directed towards the front of the property and the street. The leveling of this area does require the removal of trees, which would be replaced as required by the Township Ordinances. Although the removal of the trees would reduce the density of the foliage depicted in photograph six on Exhibit A-2 in evidence, the Applicants propose to replace those trees with 19 Green Giant arborvitae to be planted along the northwesterly property line. In addition, the existing fence on the northwest property line remains unaffected by the proposed landscaping plan. The Applicants' landscape architect, Robert Hessels, testified that Green Giant arborvitae was chosen because they are deer resistant and grow 12 to 18 inches in height per year. At the time of planting, the arborvitae would be eight to ten feet in height, and grow to a height of between 20 and 25 feet at maturity. He also testified that the five feet of space between the fence and the proposed retaining wall would provide sufficient space for the arborvitae to grow without impacting on the fence or retaining wall. The proposed landscaping plan includes eight Norway spruce, which would wrap around the easterly corner of the property where the open air pavilion is proposed. The Norway spruce would also be eight to ten feet in height at the time of planting. Their growth pattern is also approximately 12 to 18 inches per year, and Norway spruce grows to a mature height of sixty to eighty feet. Because the neighboring property to the east is at a lower elevation than the subject property, the combination of the relative elevation of the two properties combined with the Norway spruce will serve to shield the open air pavilion from that neighbor's view. The home with the proposed rear yard improvements will remain consistent 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) and concludes that it is appropriate to grant the variance relief requested by the Applicants to permit the proposed open air pavilion with fireplace and enclosed storage, retaining wall and patio modifications. Although the property is an oversized lot, the steep slopes, topography of the lot and placement of the dwelling and other lawfully existing improvements on the property, including a substantial amount of paved driveway, are 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. Existing and

proposed perimeter landscaping and fencing will buffer the neighbors' view of the rear yard improvements. The proposed improvements will be concealed from view of the street by the deep setback, the existing dwelling, fencing and landscaping. 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 proposed open air Pavillion with fireplace and enclosed storage, retaining wall and patio modifications 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 4th day of March, 2019 that the variance relief requested by the Applicants to construct an open air Pavillion with fireplace and enclosed storage, retaining wall and patio modifications resulting in 35.87% lot coverage, granted by this Board at its meeting of February 4, 2019 is memorialized pursuant to the provisions of NJSA 40:55D-10(g), subject to the following conditions:

1. The Applicant shall revise the plans prepared by Land Solutions Engineering, LLC to reflect the proposed reduction in paved patio areas to provide a conforming 20% accessory rear yard coverage and 35.87% lot coverage. Construction shall be in accordance with the testimony of the witnesses at the hearing and the plans prepared by Land Solutions Engineering, LLC, consisting of three sheets, Sheets 1 through 3, dated November 8, 2018 and revised in accordance with this condition.

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 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 4th day of March, 2019.

Cal#3663-18, Abhayad Kamat/Shilpa Vaswani, 37 Tennyson Drive, Short Hills

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

- Mary McNett – yes
- Jyoti Sharma – yes
- Joy Siegel – yes
- Wolfgang Tsoutsouris – yes
- Jessica Glatt – yes
- Joseph Steinberg – yes

the following memorializing resolution was adopted:

**ABHAYAD KAMAT AND SHILPA VASWANI
BLOCK 5201, LOT 32**

**CAL. NO. 3663-18
MARCH 4, 2019**

Mister Chairman, I move the adoption of the following resolution memorializing the granting of variance relief requested by the Applicants, Abhayad Kamat and Shilpa Vaswani, in Calendar No. 3663-18 for permission to construct an addition on the dwelling on property located at 37 Tennyson Drive, Short Hills, New Jersey, known and designated as Lot 32, Block 5201 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 February 4, 2019 in Calendar No. 3663-18 filed by Abhayad Kamat and Shilpa Vaswani (hereinafter referred to as the “Applicants”) for permission to construct an addition on the dwelling on property located at 37 Tennyson Drive, Short Hills, New Jersey, known and designated as Lot 32, Block 5201 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. No objectors or interested parties appeared or testified at the hearing.
2. The property is located in the R-4 zone, which is subject to the following zoning requirements: maximum 14% building coverage and minimum 35% combined side yard setback. The home with the proposed addition would result in a 14.5% building coverage and 33.0% combined side yard setback. Therefore, the Applicants require variance relief.

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

A. Plans prepared by Mendham Design Architects, consisting of five sheets, Sheets A-1 through A-5, dated December 5, 2018.

B. A survey of the property prepared by David A. Stires Associates, LLC, dated June 20, 2014.

5. Applicant Shilpa Vaswani and Daniel Encin, Licensed Architect, testified in support of the application.

6. The Applicants purchased the subject property approximately five years ago. They have two children and Ms. Vaswani's elderly parents live with them. They wish to construct an addition that would provide additional living space, including a first floor in-law suite with a bedroom and full bathroom to accommodate her parents. They applied for and obtained variance relief in 2016 for a larger addition. Shortly after the variance was granted, Ms. Vaswani's mother became ill and their efforts were focused on her health issues. As a result, the Applicants never applied for a building permit, and the variance expired in accordance with the terms of the Township Ordinance. Although the addition proposed by this application remains a two-story addition at the rear of the home, the addition is smaller than the one which the Board approved in 2016 in order to achieve a cost savings.

7. The proposed addition would be located at the rear of the dwelling where it would not be visible from the street. The addition is two-story, except for a one-story component behind the existing sunroom. The proposed addition would provide a kitchen and family room on the first floor with a master bedroom suite and new laundry room on the second floor. The one-story component behind the sunroom would contain a first floor in-law suite containing a bedroom and full bathroom. The Applicants no longer wish to expand the width of the existing garage, or construct the bump-out at the rear of the home, improvements which were included in the Board's prior approval.

8. The subject property is a conforming lot in the R-4 zone. The home currently has a pre-existing nonconforming combined side yard setback of 33%, or 37.9 feet. At the location of the proposed addition, the combined side yard would measure 34%, or 39.3 feet. The proposed combined side yard setback requires variance relief but it would be greater than the pre-existing nonconforming 33% combined side yard setback which remains unchanged after the construction of the addition. The home with the proposed addition would result in a building coverage of 14.5%, or 2,902 square feet, which is 101 square feet greater than the 14% building coverage permitted in the R-4 zone. However, the proposed addition will not be visible from the street as it would be concealed from view by the existing dwelling. Moreover, the proposed addition would provide conforming side yard setbacks of 171 feet and 20.8 feet, so the proposed addition would be no closer to the adjoining neighbors than the existing dwelling.

9. The Board is satisfied that variance relief may be granted to permit the proposed addition to the dwelling. The 33% combined side yard setback is a pre-existing nonconforming condition that will remain unchanged, while the combined side yard setback measured at the location of the addition will be 34%, which is closer to a conforming combined side yard setback. While it might be possible to increase the depth of the addition in order to provide a conforming 35% combined side yard setback when measured at the location of the addition, such a redesign would result in a greater building coverage deviation than the proposed design, which is a modest 101 square feet greater than the building coverage permitted in the R-4 zone. Moreover, the pre-existing nonconforming 33% combined side yard setback would still be maintained. The Board is satisfied that the variances for combined side yard setback and building coverage are the result of the shape and configuration of the dwelling, the placement of the home on the property with a rear-facing attached garage, which limits the alternatives for the construction of an addition. The Board is satisfied that these conditions are exceptional circumstances that result in undue hardship and practical difficulties to the Applicants. The Board is also satisfied that the proposed addition will not result in any substantial negative impact on the nearest neighbors or the neighborhood. The addition will be located at the rear of the existing dwelling, which will conceal its view from the street. The home with the proposed addition will provide conforming side yard setbacks so it will be no closer to the adjacent neighbors than the existing dwelling. 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 4th day of March, 2019 that variance relief to permit the construction of an addition resulting in a 14.5% building coverage and 34.0% combined side yard setback, granted by this Board on February 4, 2019, be and it 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 Mendham Design Architects, consisting of five sheets, Sheets A-1 through A-5, dated December 5, 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. Prior to the issuance of a Certificate of Occupancy, 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 4th day of March, 2019.

Cal#3668-19, Investors Bank, 101 JFK Parkway, Short Hills

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

- Mary McNett – yes
- Jyoti Sharma – yes
- Joy Siegel – yes
- Wolfgang Tsoutsouris – yes
- Jessica Glatt – yes
- Joseph Steinberg – yes

the following memorializing resolution was adopted:

**INVESTORS BANK
BLOCK 5302, LOT 3**

**CAL. NO. 3668-19
MARCH 4, 2019**

Mister Chairman, I move the adoption of the following Resolution memorializing the granting of variance relief requested by the Applicant, Investors Bank in Calendar Number 3668-19 for permission to erect a wall graphic on property located at 101 JFK Parkway, Short Hills, New Jersey, known and designated as Lot 3, Block 5302 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 Calendar number 3668-19 filed by Investors Bank (hereinafter referred to as the "Applicant") for permission to erect a building wall sign on property located at 101 JFK Parkway, Millburn, New Jersey, known and designated as Lot 3, Block 5302 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. Clara T. Harelik, Esq. represented the Applicant. No objectors or interested parties appeared or testified at the hearing.

2. The Applicant is Investors Bank. The owner of the property, 101/103 JFK Parkway Realty, consented to the application. The subject property is located in the OR-1 Zone District. The Applicant proposes to erect and maintain a wall sign on the southeast elevation of the building located on the subject property. The Township Zoning Ordinance permits a maximum two foot lettering height for wall signs and wall signs are prohibited above the second story. The Applicant proposes a wall sign with a four and one-half foot lettering height, which would be mounted above the sixth story. Therefore, variance relief is required.

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

A. A survey prepared by Control Point Associates, dated December 5, 2006.

B. A one sheet plan, Sheet T-14, entitled "S. & E. Elevations – West Bldg" plan prepared by The Grad Partnership, dated January 9, 1981 and revised through April 20, 1981.

C. A Sign Proposal Exhibit consisting of six sheets, prepared by NW Sign Industries, cover page dated December 6, 2018, Sheet 2 of 6 dated September 4, 2018 and revised through December 6, 2018 and Sheets 3 through 6 undated.

D. A Lease Amendment between the Applicant and property owner, dated September 17, 2018, which was admitted into evidence as A-1.

4. Grace Paulo, Investors Bank's Property Manager and Facilities Department Design Coordinator for Corporate Services and sign expert, Dennis O'Hara, Sr. Vice President of NW Sign Industries, testified in support of the application.

5. Investors Bank has been a tenant in this six-story building since 2004. Although Investors Bank is one of six tenants in the building, Investors Bank leases and occupies the majority of the building which serves as the Applicant's corporate headquarters. Until recently, the Applicant's lease did not permit the installation of a wall sign on the building so the only sign identifying Investors Bank as a tenant at the property was a monument sign listing the six tenant names. In September 2018, the property owner and the Applicant entered into a Lease Amendment which provided the Applicant with the exclusive right to install a wall sign on the building. When the Lease Amendment was drafted, the attorneys used the term "east" elevation in reference to the permitted wall sign, while it should have more accurately referred to the permitted sign on the "southeast" elevation, consistent with the site plan layout of the property. However, the property owner has reviewed and approved the Sign Proposal Exhibit prepared by

NW Sign Industries, which depicts the proposed sign on the southeast elevation facing JFK Parkway, and consented to the filing of the Applicant's application for variance relief in connection with the proposed wall sign.

6. The Applicant's sign expert, Dennis O'Hara, testified that the Applicant has been a customer of his firm for more than 30 years. Previously, the Applicant was known as Investors Savings Bank. The Applicant is in the process of replacing its prior corporate name and logo as depicted on the proposed plans. This change will impact over 85 locations, including the Applicant's corporate headquarters at this location. The proposed sign would include a two-color green weave and the name "investors Bank", which would be consistent with the new corporate branding being implemented at the Applicant's various locations. Because this property serves as the Applicant's corporate headquarters, the proposed wall sign is an important aspect of their corporate branding. More importantly, the proposed wall sign would provide greater visibility of the structure and corporate identification of the property as the Applicant's corporate headquarters. The Township ordinance would permit a wall sign with a maximum 2 foot lettering height, and a location no higher than above the second story. The Applicant cannot erect the sign at a conforming second story location because a conforming sign would not serve to adequately identify the building for passing motorists along JFK Parkway as a result of the deep 340.5 foot setback from the street, as well as the obstructed view from JFK Parkway due to the tree line and existing parking deck on the property. The proposed location above the sixth floor windows would provide the greatest visibility to passing motorists on JFK Parkway. As for the lettering height of the proposed wall sign, the Applicant proposes a maximum four and one-half foot lettering height. The proposed new wall sign would be constructed of face lit/backlit channel letters, mounted one and one-half inches off the face of the building. During the day, the lettering would appear black, and at night, the lettering would glow white due to low-voltage LED lighting on a timer. The two-color green weave, part of the new logo for the Applicant, would also be on the lighting timer. The proposed wall sign with a four and one-half foot high lettering height erected above the sixth floor windows would allow for adequate visibility and site identification of the building from JFK Parkway, while a sign with smaller letters or at a lower elevation on the façade would not be visible from the street. In addition, the overall area of the proposed new wall sign would be 148 square feet, less than 1% of the 16,000 square foot wall area to which the sign would be attached. As a result, the proposed wall sign will not appear excessively large in relation to the total façade of the building facing JFK Parkway. The proposed sign area would also be compatible with other signs in the JFK Parkway area, including signs identifying the locations of Dun & Bradstreet, and the Hilton Hotel.

7. The Board concludes that variance relief may be granted to permit the erection of the proposed wall sign as depicted on the plans submitted with the application. The Board concludes that the need for variance relief for the proposed wall sign is the result of exceptional circumstances uniquely affecting this property and the existing structures on the property. The Board is satisfied that the proposed new wall sign cannot be mounted at a second story height permitted by ordinance because it would be hidden from view of passing motorists on JFK Parkway by distance, existing trees and other landscaping as well as the parking deck on the property. The Board is satisfied that the proposed four and one-half foot sign lettering height and its placement above the sixth floor windows allows for adequate site identification and

visibility given the deep setback of the building, the concealing trees and parking deck, as well as the speed and volume of traffic on this busy roadway. In addition, the proposed new wall sign will still represent less than 1% of the signable area of this façade of the building. Thus, the overall size, scale and appearance of the proposed new wall sign will not be disproportionate in relation to the building façade. The Board also finds that the proposed new wall sign will remain in keeping with the size and scale of other wall signs existing in the JFK Parkway area. For these reasons, the Board concludes that the granting of variance relief to permit the proposed wall sign 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 4th day of March, 2019 that variance relief to permit the Applicant to erect and maintain a wall sign with four and one-half foot lettering above the sixth story windows on property located at 101 JFK Parkway, Short Hills, granted by this Board on February 4, 2019, 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 NW Sign Industries, consisting of six sheets, Cover page dated December 6, 2018, Sheet 2 of 6 dated September 4, 2018 and revised through December 6, 2018 and Sheets 3 through 6 undated. Specifically, the wall sign shall have a maximum four and one-half foot maximum lettering height and be located above the sixth story row of windows on the façade facing JFK Parkway.

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

4. The Applicant shall remove all debris from the subject premises immediately upon completion of construction and shall maintain the site in reasonable order during construction.

5. The Applicant shall comply with all other rules, regulations and requirements affecting development in the Township, County and State.

CLERK CERTIFICATION

I, Eileen Davitt, Secretary of the Zoning Board of Adjustment of the Township of Millburn, County of Essex, State of New Jersey, hereby certify that the foregoing is a true and exact copy of a Resolution adopted at the meeting of the Zoning Board of Adjustment of the Township of Millburn held on the 4th day of March, 2019.

APPLICATIONS

CAL#3671-19, ADAM & MIRI FORSTER, 2 OVAL ROAD, MILLBURN

Adam & Miri Forster appeared and were sworn. They would like to construct a small addition to their dwelling. Proposal is in violation of:

606.2e1d – Front yard setback

Mr. Forster indicated that this proposal received Board approval in 2012. The applicants were unable to proceed with the proposal within the 1-year variance time frame due to some unforeseen personal circumstances. They are now ready to proceed with a similar but smaller proposal, requiring the same front yard setback variance relief.

Roy Sauberman, 3 Oval Road, appeared and was sworn. He stated that the applicants' proposal will enhance the neighborhood aesthetics.

Overall, Board members were in favor of the proposal.

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

Mary McNett – yes
Jyoti Sharma – yes
Joy Siegel – yes
Steve Togher – yes
Wolfgang Tsoutsouris – yes
Jessica Glatt – yes
Joseph Steinberg – yes

Cal#3671-10, Adam & Miri Forster, 2 Oval Road, was **APPROVED**.

CAL#3667-19, 306 WHITE OAK RIDGE ROAD, LLC, 306 WHITE OAK RIDGE ROAD, SHORT HILLS

Michael Posada, Attorney for the applicant, stated his appearance. The applicant would like to renovate their dwelling. Proposal is in violation of:

609.9 – More than 1 principal structure on a lot
606.2g – Driveway setback
606.2e1e2b – Side yard setback
606.2e1g – Rear yard unoccupied

Christine Miseo, Architect, appeared and was sworn. Her credentials were presented and accepted by the Board. She stated that she worked with the applicant's engineer and they have adjusted the roof lines and a building height variance is no longer required.

Entered as A-1: revised sheet SP-1 dated 3/4/19

Chairman Steinberg questioned whether more than 50% of the existing dwelling is being removed. Ms. Miseo said she believes that approximately 50% is being removed.

Ms. Miseo gave a brief description of the proposal. She stated that the applicant proposes to renovate the existing structure by removing and replacing the 2nd floor, adding a porch and portico. A portion of the currently existing driveway will be removed and replaced with grass. The existing garage will remain.

Richard Keller, P. E., P. P., appeared and was sworn. His credentials were presented and accepted by the Board. He stated that the property is located in the R-4 zone district. He gave a brief description of the applicant's proposal.

Entered as A-2: aerial photoboard

Entered as A-3: colorized version title/topographic survey

Mr. Keller spoke to the existing and proposed driveway and indicated that a 2 foot driveway setback is being sought in the front and a 4 foot driveway setback in the rear yard area. It was noted that the applicant's notice specifically requested a 4 foot driveway setback and thus the notice is deficient. After discussing the matter with the applicant, Mr. Keller indicated that the driveway would be shifted such that it will be no closer than 4 feet at any point.

Mr. Keller spoke to the aerial photoboard and indicated that the lot is oversized for the R-4 zone. It is a 54,954 SF lot where the minimum lot size in the R-4 zone is 20,000 SF. The lot currently exists with 2 principal structures. The size and scale of the dwelling is in keeping with the character of the established dwellings in the area.

Several Board members expressed concern with some of the calculations and asked for clarification as to the existing FAR and proposed FAR. Board members indicated that the architectural plans made it difficult to determine where the 2nd floor was being expanded.

Ms. Miseo gave corrected calculations and it was indicated by the Board attorney that if variance relief is granted, a revised sheet SP-1 will be required to be submitted to the Board secretary indicating the correct square footage calculations.

Michael Posada summarized indicating that the proposed construction is in keeping with the surrounding properties and will not have a substantial negative impact on the streetscape.

Overall, the Board was in favor of the proposal.

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

Mary McNett – yes
Jyoti Sharma – yes
Joy Siegel – no
Steve Togher – yes
Wolfgang Tsoutsouris – yes
Jessica Glatt – yes
Joseph Steinberg – yes

Cal#3667-19, 306 White Oak Ridge LLC, 306 White Oak Ridge Road, was **APPROVED** with the condition that revised plans be submitted reflecting the accurate zoning calculations.

CAL#3666-19, DANIEL & ANDREA CANNON, 29 BAILEY ROAD, MILLBURN

Daniel & Andrea Cannon, and Ying Li, Architect, appeared and were sworn. The applicants would like to construct an addition to the dwelling. Proposal is in violation of:

609.1f2 – Generator setback
606.2e1e1b – Addt'l setback
606.2e2d – FAR
606.2e2b – Lot coverage
606.2e1g – Rear yard unoccupied
609.1c – Maximum accessory coverage

Ying Li's credentials were presented and accepted by the Board. She gave a brief description of the applicants' proposal.

Entered as A-1: photo of subject property
Entered as A-2: photo of subject property
Entered as A-3: photo of adjacent property

Ms. Li spoke to the variances being requested. She indicated that the generator is proposed to be set back 8 feet from the side property line where 12 feet is required. Side yard setback variance relief is being sought in order to change the current roof line and accommodate a more functional 2nd floor area. Building coverage variance relief is required to permit 23.7% where the ordinance allows 23%. Lot coverage variance relief is required to allow coverage of 47% where the ordinance allows 45%. Rear yard unoccupied variance relief is required in order to permit 24% where 25% is required. Maximum accessory coverage variance relief is required in order to permit 22.5% where the ordinance allows 20%. Finally, FAR variance relief is required to permit 40% where the ordinance allows 36%.

Ms. Li stated that the large, existing 2-car garage contributes significantly toward the FAR, building coverage, lot coverage, accessory coverage and rear yard unoccupied variances required.

Steve Togher asked if the path from the driveway to the newly proposed patio could be eliminated. Ms. Li stated that the 45 SF path could be eliminated and would eliminate the need for rear yard unoccupied variance relief. It will reduce the lot coverage variance relief slightly from 47% to 46.7%.

The matter was briefly adjourned in order for the architect and applicants to discuss potential modifications.

CAL#3670-19, ALAN & KAREN LIEBERMAN, 1 PILGRIM ROAD, SHORT HILLS

Alan Lieberman appeared and was sworn. The applicant would like to modify his patio area. Proposal is in violation of:

- 609.5 – Accessory structure front setback on a corner lot
- 609.1c – Accessory coverage
- 609.2e3a – Accessory structure setback

Mr. Lieberman stated that the patio stones need to be replaced and they are proposing to reconfigure the patio.

Overall, Board members felt the proposal could be granted without substantial detriment to the adjoining properties.

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

- Mary McNett – yes
- Jyoti Sharma – yes
- Joy Siegel – yes
- Steve Togher – yes
- Wolfgang Tsoutsouris – yes
- Jessica Glatt – yes
- Joseph Steinberg – yes

Cal#3670-19, Alan & Karen Lieberman, 1 Pilgrim Road, was **APPROVED**.

CAL#3674-19, SCOTT SAPERSTEIN/JULIE LORBER, 5 DOREST LANE, SHORT HILLS

Beata Szacillo, Attorney for the applicant, appeared and was sworn. Her credentials were presented and accepted by the Board. The applicants would like to construct a small addition to their dwelling. Proposal is in violation of:

606.2e1e2b – Side yard setback

Ms. Szacillo gave a brief description of the applicants' proposal. The proposal is to expand the front porch thereby requiring side yard setback variance relief. The ordinance requires a 15 foot setback and the proposal will result in a 10.5 foot setback. The existing property is a pie-shaped lot with a pre-existing non-conforming side yard setback. The applicants feel the porch will enhance the curb appeal of their house and will add architectural balance.

Scott Saperstein appeared and was sworn. Upon questioning by the Board Chairman, he indicated that he would be agreeable to planting an additional evergreen in the side yard area.

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

Mary McNett – yes
Jyoti Sharma – yes
Joy Siegel – yes
Steve Togher – yes
Wolfgang Tsoutsouris – yes
Jessica Glatt – yes
Joseph Steinberg – yes

Cal#3674-19, Scott Saperstein/Julie Lorber, 5 Dorset Lane, was **APPROVED** with the condition that an additional evergreen be planted between the porch and the neighbor's driveway.

**CAL#3666-19, DANIEL & ANDREA CANNON, 29 BAILEY ROAD, MILLBURN--
continued**

Ying Li stated that they removed some hardscaping that currently exists on the site. They have agreed to remove the path from the driveway to the proposed patio. They are also proposing the elimination of a portion of the walkway from the porch to the right side of the dwelling. Overall, they are proposing to eliminate an additional 2% thereby bringing the lot coverage into conformance. Ms. Li stated that the proposed 2-story addition has been designed to be as minimal as possible and cannot be reduced in size without compromising the functionality.

Chairman Steinberg felt it was important to note that the lot width is undersized at 50 feet for the R-6 zone which has a minimum lot width of 60 feet.

Board members were pleased with the reduction in the lot coverage.

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

Mary McNett – yes
Jyoti Sharma – yes
Joy Siegel – yes
Steve Togher – yes
Wolfgang Tsoutsouris – yes
Jessica Glatt – yes
Joseph Steinberg – yes

Cal#3666-19, Daniel & Andrea Cannon, 29 Bailey Road, “d” variance relief for FAR was **APPROVED**.

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

Mary McNett – yes
Jyoti Sharma – yes
Joy Siegel – yes
Steve Togher – yes
Wolfgang Tsoutsouris – yes
Jessica Glatt – yes
Joseph Steinberg – yes

Cal#3666-19, Daniel & Andrea Cannon, 29 Bailey Road, “c” variance relief was **APPROVED** with the condition that revised plans be submitted to the Board secretary reflecting the reduction in lot coverage.

BUSINESS

Chairman Steinberg spoke briefly about the Board’s annual report, copies of which were distributed to Board members. He stated that there will be minor modifications made to the report and it will be discussed and at the March 18 meeting.

Mary McNett asked if a column could be added for those applications where the number of variances granted was reduced from the originally requested.

Eileen Davitt, Board Secretary, indicated that she would try to add that to the report.

ADJOURNMENT

A motion to adjourn was made by Mary McNett, seconded by Steve Togher, and carried with a unanimous voice vote. (9:50 PM)

Eileen Davitt
Board Secretary

Motion: WT
Second: JSi
Date Adopted: 3/18/19