

Township of Millburn
Minutes of the Zoning Board of Adjustment
May 2, 2022

A regular meeting of the Township of Millburn Zoning Board of Adjustment was held on **Monday, May 2, 2022** at 7:00 PM via Zoom webinar.

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

The following members were present for the meeting:

Jyoti Sharma
Joseph Steinberg
Steve Togher
Wolfgang Tsoutsouris
Chandru Harjani, Alternate #1
Ashley Avigdor, Alternate #2
Jessica Glatt, Vice Chairwoman
Craig Ploetner, Chairman

Also present:

Robert Simon, Board Attorney
Eric Fishman, Court Reporter
Eileen Davitt, Zoning Officer/Board Secretary

APPROVAL OF MINUTES

A motion to approve the minutes of March 21, 2022, was made by Joseph Steinberg, seconded by Wolfgang Tsoutsouris, and carried with a unanimous voice vote.

A motion to approve the minutes of April 4, 2022, was made by Wolfgang Tsoutsouris, seconded by Jessica Glatt, and carried with a unanimous voice vote.

MEMORIALIZATIONS

Cal#3859-22, Ilir Mujalovic, 23 Dorset Drive, Short Hills.

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

Jyoti Sharma – yes
Joseph Steinberg – yes
Steve Togher – yes

Wolfgang Tsoutsouris – yes
Chandru Harjani – yes
Jessica Glatt – yes
Craig Ploetner – yes

the following memorializing resolution was adopted:

**ILIR MUJALOVIC
BLOCK 5003, LOT 1**

**CAL. NO. 3859-22
MAY 2, 2022**

Mister Chairman, I move the adoption of the following resolution memorializing the denial of variance relief requested by the Applicant, Ilir Mujalovic (hereinafter the “Applicant”), in Calendar No. 3859-22 to construct an in-ground pool with a surrounding fence, on property located at 23 Dorset Lane, Short Hills, New Jersey, and designated as Lot 1, Block 5003, 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 April 4, 2022 as to Calendar No. 3859-22 to permit the installation of an in-ground pool with a surrounding fence, on property located at 23 Dorset Lane, Short Hills, New Jersey, and designated as Lot 1, Block 5003, 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 April 4, 2022 hearing, the application and service of notice were found to be in order. The Applicant appeared with Larry Butyaski, A.I.A., the Applicant’s Landscape Architect, who each provided sworn testimony in support of the application. Neighboring property owners also provided sworn testimony as to 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 install an in-ground pool and to construct a surrounding fence, a portion of which is proposed to be located within the front yard of the subject property per the Township Ordinance (the “Ordinance”)>
3. The subject property is a corner lot, and contains a conforming principal structure. The Applicant contends that due to the property being a corner lot, the size of its backyard available for an accessory structure without the need for variance relief is only approximately 1,183 square feet on a lot containing approximately 24,036 square feet.
4. The Applicant acknowledged that when he purchased the subject property he did not consider building a pool.

5. The proposed construction will result in an accessory structure front yard setback (corner lot) from a street line of 13 feet to the proposed patio, 18 feet to the proposed pool, and 76 feet to the proposed barbeque structure, where 80 feet from the street line is the required minimum setback for an accessory structure (corner lot); a maximum accessory coverage of 9.8%, where only an accessory coverage of 7% is permitted; and front yard fence on a corner lot, where fences are not permitted in a front yard. Therefore, variance relief is required.

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

A. Photographs or depictions of the subject property, prepared by the Applicant, introduced into evidence as Exhibit A-1, on April 4, 2022;

B. Aerial Photograph of the neighborhood in which the subject property is located, dated on or about 2018 (depicting other properties with pools), introduced into evidence as Exhibit A-2, on April 4, 2022;

C. A photograph of a property located in Summit depicting a black aluminum fence, dated approximately 10 years prior to the date of submission, introduced into evidence as Exhibit A-3, on April 4, 2022;

D. Aerial photograph of corner lots, with pools (undated), introduced into evidence as Exhibit A-4, on April 4, 2022.

7. Lawrence Butynski, CLA, of Cross River Design, Inc., the Applicant's Landscape Architect, testified that the possible locations for the proposed pool on the subject property are limited, as the subject property is a corner lot, the topography or grade of same "drops" to Arden Place, and the pool will not "fit" in the rear yard. He testified that the proposal will be accompanied by screening via an extension of an existing evergreen hedge seven feet tall, three feet on center, containing approximately 61 emerald green arborvitae. Mr. Butynski also stated that it is not possible to comply with the Ordinance requirements for the proposed fence because the Ordinance does not permit fences in a front yard, and the property constitutes a corner lot, with two front yards. Referencing Exhibit A-4, Mr. Butynski stated that any effect on the neighborhood by the Applicant's proposal will be "negligible".

8. Ross Mondshine, 9 Arden Place, stated that Emerald Green Arborvitae are not deer resistant; a pool 13 feet to 15 feet from Arden Place is inappropriate; the proposal will ruin the streetscape, and that the subject property borders his front yard.

9. Eugene Xu, 15 Arden Place, objected to the proposed fence being located in the front yard for visual and safety reasons; and it will have a negative visual impact on his property.

10. Robert Exelbert, 29 Dorset Lane, objected to the Applicant's proposal due to the inevitable, adverse visual, noise and lighting impacts to his property and the neighborhood; that the pool will be located too close to the street to be compatible with the locations of other pools

in the neighborhood that are located in backyards and away from public roadways; and inadequate landscape buffering proposed to effectively mitigate against the aforementioned, adverse impacts anticipated from the proposed application.

11. Linda Lindsley, 22 Dorset Lane, objected to the Applicant's proposal as she believes that the Application will result in adverse stormwater drainage impacts to her property.

12. 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[.]

13. N.J.S.A. 40:55D-70c(2) allows the Board to grant variance relief in circumstances where a deviation from the Zoning Ordinances would advance the purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. (the "MLUL"), and the benefits of the deviation would substantially outweigh any detriment.

14. 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").

15. The Board finds that the Applicant has not satisfied the statutory criteria as required by N.J.S.A. 40:55D-70c(1) for the requested variance relief to permit the installation of the proposed in-ground pool and surrounding fence in the front yard, or for the excessive lot coverage. No proofs were provided by the Applicant that the subject corner lot property is different in size or shape from other corner lot properties in the neighborhood or the R-5 zone. The minimum lot size in the R-5 zone is 14,500 square feet, and the subject corner lot property contains over 24,000 square feet. No extraordinary topographic conditions were presented to the Board that distinguish the property from other properties in the neighborhood or in the R-5 zone. The Applicant failed to identify other properties in the R-5 zone that received similar variance relief in connection with the installation of a pool, or how the Applicant could have reasonably expected to receive variance relief to the extent requested so to place a pool within 18 feet of Dorset Lane. This condition would be an eyesore to the neighbors and out of character to the neighborhood, as expressed by the neighbors providing the above sworn testimony in opposition to the application, thus not meeting the first prong of the negative criteria for C1 variance relief. No testimony was provided by the Applicant in support of the second prong of the negative criteria for C1 variance relief.

16. The subject property has already undergone extensive development with the principal and accessory structures, including, among other things, a driveway and a patio/porch area, and the addition of the proposed pool and its related amenities will contribute to the accessory coverage deviation for which variance relief is required.

17. Similarly, the Applicant has failed to satisfy the criteria for variance relief under N.J.S.A. 40:55D-70c(2). The Applicant failed to demonstrate that the application constitutes a better zoning alternative for the property. The application will only benefit the Applicant and his family, as opposed to the surrounding neighborhood. The Applicant failed to provide any professional planning testimony in support of C2 relief, including how the application advances the purposes of the MLUL or how the benefits of the deviation would substantially outweigh any detriment. To the contrary, the aforementioned comments from the neighboring property owners appropriately articulated the reasons why the Applicant failed to meet his burden of proof as to the positive or negative criteria for C2 variance relief, including but not limited to the proposed fence and pool adversely impacting the streetscape along Arden Place. The Board finds that the variances triggered by the proposed accessory lot coverage, pool and fence would not advance the purposes of the MLUL, do not provide a better zoning opportunity for the property, nor would any potential benefits of the application substantially outweigh its detriments. Although there appear to be other pools present in the subject neighborhood, the Applicant was unable to confirm whether any of them were located on corner lots or had obtained variance relief from this Board, or otherwise contain deviations from the Ordinance.

18. The development proposed by the application is excessive given the subject property's oversized lot area; does not further the purposes of providing sufficient space for residential use or a desirable visual environment; and any benefits of the proposed landscaping fail to substantially outweigh the application's detriments imposed by vastly exceeding the bulk requirements contained in the Township Zoning Ordinance, and as otherwise set forth above. The positive and negative criteria for variance relief have therefore not been met by the Applicant pursuant to N.J.S.A. 40:55D-70c. For the reasons stated above, the Board concludes that the variance relief requested relating to the proposed construction cannot be accomplished without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan and Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED on this 2nd day of May, 2022, that the variance relief requested by the Applicant to permit an accessory structure front yard setback (corner lot) from a street line of 13 feet to the proposed patio, 18 feet to the proposed pool, and 76 feet to the proposed barbeque structure, where 80 feet from the street line is the required minimum setback for an accessory structure (corner lot); a maximum accessory coverage of 9.8%, where an accessory coverage of 7% is permitted; and front yard fence on a corner lot, where fences are not permitted in a front yard, denied by this Board at its meeting of April 4, 2022, is memorialized pursuant to the provisions of N.J.S.A. 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 2nd day of May, 2022.

Cal#3860-22, Xingbo Xu/Yina Lu, 20 Great Hills Terrace, Short Hills

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

- Jyoti Sharma – yes
- Steve Togher – yes
- Wolfgang Tsoutsouris – yes
- Chandru Harjani – yes
- Ashley Avigdor – yes
- Jessica Glatt – yes
- Craig Ploetner – yes

the following memorializing resolution was adopted:

**XINGBO XU & YINA LU
BLOCK 4102, LOT 2**

**CAL. NO. 3860-22
MAY 2, 2022**

Mister Chairman, I move the adoption of the following resolution memorializing the granting of a modification of a previous condition of a memorializing resolution requested by the Applicants, Xingbo Xu and Yina Lu (hereinafter the “Applicants”), in Calendar No. 3860-22 to permit the extension of an existing retaining wall and alternative tree plantings, on property located at 20 Great Hills Terrace, Short Hills, New Jersey, and designated as Lot 2, Block 4102, on the 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 April 4, 2022 as to Calendar No. 3860-22 to permit the extension of an existing retaining wall and alternative tree plantings, on property located at 20 Great Hills Terrace, Short Hills, New Jersey, and designated as Lot 2, Block 4102, 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. At the April 4, 2022 hearing, the application and service of notice were found to be in order. The Applicants appeared without counsel and provided sworn testimony in support of the application. There was no public opposition to the application.

2. The Applicants are the owners of the subject property, which contains a single family residence, located in the Township's R-4 Zone District (the "R-4 Zone"). On or about May 15, 2017, the Applicants' predecessor in title obtained variance relief from the Board in connection with Cal. No. 3540-17 to permit the construction of a detached garage and additions to the dwelling located at the subject property.

3. The Applicants seek to modify Condition 3 of Approval of Cal. No. 3540-17 ("Condition #3"), which states:

Prior to the issuance of a Certificate of Occupancy, the Applicant shall install columnar evergreens at a height of 20 feet above the root ball at the time of planting, for a distance of 45 feet along the westerly property line, commencing at the point where the Applicant's dwelling has a 6 foot side yard setback to a point even with the rearmost point of the rear façade of the dwelling.

4. The application seeks to amend Condition #3 in connection with its intent to widen an existing retaining wall by 2 – 3 feet and lengthen it by 5 feet, to create a newly-elevated portion of the subject property to match the ground level of the Applicants' neighbor's property, to install 12 trees in the newly-elevated area, and to plant an additional 14 trees outside of the newly-elevated area.

5. The Applicants testified that the proposed widening of the existing retaining wall is intended to support the proposed plantings. The Applicants stated that they would plant 12 trees in the newly-elevated area, and an additional 14 trees outside of the newly-elevated area, all of which will be planted 14 feet above the root ball. The Applicants stated that they are seeking this modification because adherence to the previous condition of approval would block landscaping equipment from accessing the property, while the proposed plantings are more likely to survive and thrive than the originally-required 20 foot plantings. The retaining wall is being increased in width to support some of the proposed tree plantings. The Applicants also stated that the application was made in consultation with Township Forester, Tom Doty. The Applicants stated they only sought to change the height of the proposed plantings to match the proposed elevated area to their neighbor's yard, and that adequate screening will still be maintained. The retaining wall height is not being changed. The Applicants concluded by confirming that all previous conditions of approval of Cal. No. 3540-17 as set forth in its memorializing resolution would remain.

6. John Cleary, II, 16 Great Hills Terrace, Short Hills, testified that he is the Applicants' neighbor most impacted by the application and is supportive of the application.

7. The Board finds the application to be reasonable, sensible and practical given the circumstances set forth above, and concludes that it is appropriate to grant the modification of

Condition #3 as requested by the Applicants to permit the proposed construction. The need for such relief is related to existing conditions affecting the property, dwelling and other site improvements as set forth above and contained in the application materials and originally contained in Cal. No. 3540-17, and for the reasons set forth above. The Board finds that these deviations from the original Condition #3 are de minimis and can be accomplished without affecting any of the reasoning supporting the granting of Cal. No. 3540-17, without undermining the intent and purpose of the Township Zoning Ordinances, and without causing any detriment to surrounding properties. The Board further notes that the neighbor most impacted by the proposed modification to Condition #3 is in support of same.

NOW, THEREFORE, BE IT RESOLVED on this 2nd day of May, 2022, that the relief requested by the Applicants to Calendar No. 3860-22 to permit the modification of Condition #3 in connection with the extension of an existing retaining wall and the planting of additional trees, on property located at 20 Great Hills Terrace, Short Hills, granted by this Board at its meeting of April 4, 2022, is memorialized pursuant to the provisions of N.J.S.A. 40:55D-10(g), 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 required to comply with all previous conditions of approval in Cal. No. 3540-17 excluding Condition #3, but only to the extent Condition #3 is modified by the within approval.
3. The Applicants shall be bound to comply with the representations made before this Board by the Applicants 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.
4. 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 2nd day of May, 2022.

APPLICATIONS

CAL#3852-22, A. VATS/N. KRISHAN, 10 STEWART ROAD, SHORT HILLS

Samantha Alfonso, Attorney for the applicant, stated her appearance. She indicated that they started their testimony at the Board's 4/4/22 meeting. However, they were carried until tonight's agenda in order to review some discrepancies in calculations. She stated that they have spoken to the Zoning Officer and have revised their calculations accordingly.

Richard Nusser, P. E., P. P., appeared and remains sworn. The applicants are seeking relief to permit a pool/patio to be installed in their side yard area. Due to the configuration of the lot and the placement of the dwelling on the lot, the rear yard area of the lot is extremely small and there is no opportunity to install anything in that area. The applicant is seeking relief from section 609.1a which permits accessory structures in the rear yard only. The applicant is proposing to install the pool/patio in their side yard, which functions as their rear yard due to the placement of their dwelling on the lot. The applicant is also seeking relief from section 609.1c which allows total accessory coverage of 20% of the rear yard area. The applicant proposes coverage of 59.2%. Finally, the applicant is seeking relief to allow the pool equipment to be 24 feet off the property line where 36 feet is required.

Entered as A-1: revised coverage calculations (4/29/22)

Overall, Board members felt the lot configuration and dwelling placement resulted in a hardship. They felt the proposed location of the pool/patio would not have a negative impact on adjoining properties.

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

Jyoti Sharma – yes
Joseph Steinberg – yes
Steve Togher – yes
Wolfgang Tsoutsouris – yes
Chandru Harjani – yes
Jessica Glatt – yes
Craig Ploetner – yes

Cal#3852-21, A. Vats/N. Krishan, 10 Stewart Road, Short Hills, was **APPROVED**.

CAL#3856-22, W. CHOU/W. CHEN, 58 PINE STREET, MILLBURN

Douglas Miller, Architect, and Richard Keller, P. E., P. P., appeared and were sworn. The applicants would like to construct an addition to their dwelling. Proposal is in violation of:

606.2e1e1a – Side yard setback
606.2e1e1c – Additional side yard setback
606.2e1f – Combined side yard setback
606.2e2a – Building coverage
606.2e2b – Lot coverage
606.2e2d – Floor area ratio

Douglas Miller's credentials were presented and accepted by the Board. He gave a brief description of the applicants' proposal. He spoke to sheet A-1 of the submitted plans and indicated that the 6,513 SF lot is undersized for the R-5 zone, which has a minimum lot area requirement of 14,500 SF. The applicants are proposing a 2nd floor addition over an existing 1st floor as well as a 2-story addition to the rear of the dwelling. There are several pre-existing non-conforming conditions on the property including, front yard setback, side yard setback, additional side yard setback, combined side yard setback and lot coverage. The applicants are proposing very modestly sized additions to accommodate the needs of their growing family.

Entered as A-1: photoboard P-1 dated 3/20/22

Mr. Miller stated that the applicants propose to continue the non-conforming side yard setback of 5 feet for approximately 12 feet. Combined side yard setback relief is required to permit 29.05% where 35% is required by ordinance. Building coverage relief is required to permit 19.8% where 18% is permitted by ordinance. Lot coverage relief is required to allow 45.39% where 35% is permitted by ordinance. Finally, floor area ratio relief is required to allow 33.76% where 30% is permitted by ordinance.

Richard Keller, P. E., P. P., appeared and was sworn. His credentials were presented and accepted by the Board. Mr. Keller referred to exhibit A-1 and briefly described the surrounding properties. There are no lots in the immediate area that meet the R-5 lot area requirement of 14,500 SF.

Entered as A-2: aerial photo dated 3/21/21

Mr. Keller stated that the applicants' proposal will allow for a usable kitchen, a 2nd bathroom and master closet on the second floor. There are no new bedrooms being added. Mr. Keller indicated that the proposal will allow the applicants to bring the house to an updated standard. He spoke to the floor area ratio variance request and indicated that the site can adequately handle a floor area ratio greater than that allowed in the zone. He stated that the proposed roof line serves to break down the mass of the dwelling. This is a 455 SF increase to floor area ratio over 2 floors. The addition will not be perceived from the street. The undersized nature of the lot creates a hardship and results in the need for variance relief. There will be no substantial detriment to the neighboring properties.

Mr. Keller stated that the proposal has minimal impact on the adjacent properties. He indicated that the rear addition aligns with many of the dwellings along Pine Street. In addition,

there is a driveway between the proposed addition and the neighbor's dwelling to the right of the property.

Overall, Board members were in favor of the proposal. They felt the design was tasteful and modest.

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

Jyoti Sharma – yes
Joseph Steinberg – yes
Steve Togher – yes
Wolfgang Tsoutsouris – yes
Chandru Harjani – yes
Jessica Glatt – yes
Craig Ploetner – yes

Cal#3856-22, W. Chou/W. Chen, 58 Pine Street, “d” variance relief for floor area ratio was **APPROVED**.

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

Jyoti Sharma – yes
Joseph Steinberg – yes
Steve Togher – yes
Wolfgang Tsoutsouris – yes
Chandru Harjani – y es
Jessica Glatt – yes
Craig Ploetner – yes

Cal#3856-22, W. Chou/W. Chen, 58 Pine Street, “c” variance relief was **APPROVED**.

CAL#3861-22, DENNIS HICKEY, 93 SLOPE DRIVE, SHORT HILLS

*Ashley Avigdor recused and left the meeting.

Anthony Prieto, Attorney for the applicant, stated his appearance. The applicant would like to install a patio on his property. Proposal is in violation of:

609.5 – Accessory structure front setback on a corner lot
606.2e3a – Accessory structure side yard setback

Anthony Gallerano, P. E., P. P., appeared and was sworn. His credentials were presented and accepted by the Board. He spoke to sheet 1 of the submitted plans. He stated that this lot is

slightly undersized for the R-3 zone. The applicant would like to expand the existing patio area on the property in order to allow for a more functional outdoor entertaining space. The proposed patio requires variance relief in order to allow for a setback less than the required 80 feet from the front lot line. In addition, the patio expansion requires variance relief to allow for a setback of 6.4 feet at the closest point to the side property line. In addition, a pergola is proposed which will be 8.3 feet off the side property line.

Overall, Board members felt they could support the application. They felt it was a good use of a small area and would not have a negative impact on the adjoining properties.

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

Jyoti Sharma – yes
Joseph Steinberg – yes
Steve Togher – yes
Wolfgang Tsoutsouris – yes
Chandru Harjani – yes
Jessica Glatt – yes
Craig Ploetner – yes

Cal#3861-22, Dennis Hickey, 93 Slope Drive, was **APPROVED**.

*Ashley Avigdor returned to the meeting.

CAL#3863-22, DAVID WILLIAMS, 86 CEDAR STREET, MILLBURN

John James, Architect, and David Williams appeared and were sworn. The applicant would like to construct an addition to his dwelling. Proposal is in violation of:

606.2e1e2b – Side yard setback
606.2e2c – Building height

John James' credentials were presented and accepted by the Board. He gave a brief description of the applicant's proposal and the relief being requested. The applicant is proposing to construct an owner's bedroom and bathroom over an existing single story portion of the house. The 10,000 SF property is in the R-5 zone which has a minimum lot area requirement of 14,500 SF. The lot also has a deficient lot width of 50 feet where 75 feet is the requirement. The proposed addition is a minimal addition and maintains the existing character of the dwelling. The property is in the Wyoming Historic District and received HPC approval on 2/3/22. The proposed improvements are in character with the neighborhood and will cause no detriment to the public good.

Variance relief is required to permit a side yard setback of 11.04 feet on the left side where 12.83 feet is required and a side yard setback of 10.7 feet on the right side where 13.9 feet

is required. The applicant also seeks building height variance relief to permit a height of 33.75 feet for the small dormer, which will match the existing height of the dwelling.

Overall, Board members were in support of the application.

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

Jyoti Sharma – yes
Joseph Steinberg – yes
Steve Togher – yes
Wolfgang Tsoutsouris – yes
Chandru Harjani – yes
Jessica Glatt – yes
Craig Ploetner – yes

Cal#3863-22, David Williams, 86 Cedar Street, was **APPROVED**.

CAL#3864-22, ADUSUMILI/KOTHURI, 2 NORTH BROOK DRIVE, SHORT HILLS

Tarun Kothuri appeared and was sworn. He would like to install a fence on his property. Proposal is in violation of:

609.6a – Front yard fence height on a corner lot

Mr. Kothuri stated that he proposes to install a 6 foot white vinyl fence along the South Orange Avenue front lot line of his corner property. He is also proposing to plant evergreens along the inside of the fence. He feels that the fence will afford him and his family some privacy as well as provide a measure of safety due to the traffic and noise. The fence will tie into an existing fence on his neighbor's property. He indicated that there are several 6 foot fences in this area of South Orange Area.

Karthik Paladugu, 7 Lawrence Drive and Sai Nara, 30 Kilmer Drive, appeared and were sworn. They voiced support of Mr. Kothuri's proposal and felt it would allow him better use of this area of his property.

Jessica Glatt indicated that she could support the application. She felt that there were security issues as well as noise issues that warranted the need for variance relief. Chandru Harjani agreed and felt the safety of the applicant's family outweighed any detriment. Steve Togher and Craig Ploetner felt the bright white vinyl would stick out. Jyoti Sharma agreed.

The applicant agreed to a 6 foot wooden style board on board fence rather than the white vinyl.

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

Jyoti Sharma – yes
Joseph Steinberg – no
Steve Togher – yes
Wolfgang Tsoutsouris – no
Chandru Harjani – yes
Jessica Glatt – yes
Craig Ploetner – yes

Cal#3864-22, Adusumili/Kothuri, 2 North Brook Drive, was **APPROVED** with the condition that the applicant revise his plan to reflect the installation of a 6 foot wooden style board on board fence.

BUSINESS

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

ADJOURNMENT

A motion to adjourn was made by Wolfgang Tsoutsouris, seconded by Jessica Glatt, and carried with a unanimous voice vote. (9:25 PM)

Eileen Davitt
Board Secretary

Motion: ST
Second: JG
Date Adopted: 5/16/22