

Township of Millburn
Minutes of the Zoning Board of Adjustment
June 7, 2021

A regular meeting of the Township of Millburn Zoning Board of Adjustment was held on **Monday, June 7, 2021** 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:

Craig Ploetner
Jyoti Sharma
Joy Siegel
Steve Togher
Wolfgang Tsoutsouris
Chandru Harjani
Jessica Glatt, Vice Chairwoman
Joseph Steinberg, Chairman

Also present:

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

MEMORIALIZATIONS

Cal#3779-21, Erica & James Moffitt, 19 Bailey Road, Millburn

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

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

the following memorializing resolution was adopted:

Mister Chairman, I move the adoption of the following resolution memorializing the granting of variance relief requested by the Applicants, Erica and James Moffit (hereinafter the “Applicants”), in Calendar No. 3779-21 to permit the construction of a deck and an addition to the rear of the residence on property located at 19 Bailey Road, Millburn, New Jersey, known and designated as Lot 10, Block 211, on the tax map of the Township of Millburn.

RESOLUTION

WHEREAS the Millburn Township Zoning Board of Adjustment (hereinafter the “Board”) held public hearings according to law on April 19, 2021, and May 3, 2021, as to Calendar No. 3779-21 to permit the construction of a deck and an addition to the rear of the residence on property located at 19 Bailey Road, Millburn, New Jersey, known and designated as Lot 10, Block 211, 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 both the April 19, 2021 hearing and the May 3, 2021 hearing, the application and service of notice were found to be in order. The Applicants appeared without counsel, and together with Ying Li, the Applicants’ Architect, provided sworn testimony in support of the application. No members of the public testified in opposition to the application.

2. The Applicants are the owners of the subject property, which is located in the R-6 zone district. The Applicants propose to demolish an existing 400 square foot patio located in the rear yard, construct an addition to the rear of the residence on the subject property to accommodate a new kitchen on the first floor and a master suite on the second floor, and to construct a deck measuring 10 feet by 24 feet in the rear yard of the subject property that will connect to the proposed addition.

3. The subject property contains a single family residence with a detached two-car garage. Beyond its condition as an undersized lot for the R-6 zone district, the subject property also contains three (3) additional nonconforming conditions pertaining to the Township Ordinance for the R-6 zone: (a) a minimum lot width of 60 feet is required and the subject property has an existing lot width of 50 feet; (b) a minimum front yard setback of 40 feet is required and the subject property has an existing front yard setback of 24.6 feet; and (c) a maximum accessory use coverage of 20% of rear yard area is required and the subject property has an existing accessory use coverage of 39% of the rear yard area.

4. The proposed application would result in a lot coverage area of 48% where 45% is the maximum lot coverage permitted; a side yard accessory structure setback of 9.2 feet where 12 feet is the required minimum side yard accessory structure setback; and a Residential Floor

Area Ratio (“FAR”) of 39% where 36% is the maximum allowable FAR. Therefore, variance relief is required.

5. In a floor area ratio variance application pursuant to N.J.S.A. 40:55D-70(d)(4), an applicant must demonstrate that the proposed site will accommodate any problems associated with the proposed floor area larger than that permitted by the zoning ordinance to establish special reasons. Randolph Town Center v. Tp. of Randolph, 324 N.J. Super. 412 (App. Div. 1999).

6. No improvements to the current residence have been constructed since it was first built in 1926. The home’s small kitchen, poor circulation, lack of an additional bathroom, and lack of access to the rear of the property is out of character with homes in the surrounding neighborhood located in the R-6 zone. Removing the existing patio will eliminate an existing non-conforming condition for maximum rear yard accessory coverage on the property.

7. The Applicants’ Architect, Ying Li, was qualified before the Board as an expert. Ms. Li testified that the proposed construction was necessary to make the residence more functional, and that the detached two-car garage and driveway to the rear of the property, both features common in the R-6 zone, triggered the need for the aforementioned rear yard variance relief. Ms. Li informed the Board that it is impossible to construct any improvements on the subject property that affect its FAR calculation without requiring FAR variance relief for the R-6 zone, and that additions constructed to neighboring homes appear to comprise more square feet than what is being proposed in the application. According to Ms. Li, one story and two story additions were common in the neighborhood and the proposed additions and construction were designed to be consistent with the overall character of the neighborhood and the R-6 zone.

8. The Board finds that the Applicants have satisfied the statutory criteria as required by N.J.S.A. 40:55D-70(c)(1) for the requested variances as to both lot coverage and accessory structure side yard setback, and concludes that it is appropriate to grant this variance relief requested by the Applicants to permit the proposed construction. The need for lot coverage and accessory structure side yard setback variance relief is related to several already-existing conditions affecting the property, dwelling and other site improvements. The Board finds these conditions to be exceptional circumstances affecting the property and the structures thereon, which result in practical difficulties and undue hardship to the Applicants. Although the proposed construction requires variance relief as set forth above, the deviation from the requirements are modest in light of the inability to relocate the proposed construction elsewhere on the property without requiring the same or additional variance relief, or without undermining the intent and purpose of the Township Zoning Ordinance. The proposed construction will only result in a 2.8 foot deviation from the accessory side yard setback requirement, and will only result in a 3% deviation from the maximum allowable lot coverage. The Board concludes that the proposed development preserves the character of the subject neighborhood, and that any negative impact from the proposed improvements is negligible and not a substantial detriment. Therefore, for 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 zone plan and zoning ordinance.

9. The Board further finds that the Applicants have satisfied the statutory criteria as required by N.J.S.A. 40:55D-70(d)(4) for FAR variance relief, and concludes that it is appropriate to grant this variance relief requested by the Applicants to permit the proposed construction. No construction or renovations that affect the subject property's FAR calculation can be performed without requiring FAR variance relief. Therefore, any addition, regardless of how modest, minimal, or necessary, would require FAR variance relief from this condition. The Board is satisfied that the proposed construction is modest in size, similar to other additions in the subject neighborhood, and will bring this 95 year old residence up to modern standards. The proposed construction will serve this residence for modern living by providing a modern kitchen and a master suite on the second floor as well as providing better access to the rear of the property, keeping in-line with the characteristics of other residences in the subject neighborhood. Although the proposed construction requires FAR variance relief as set forth above, the deviation from the requirements is modest in light of the inability to perform any construction on the property without requiring the same or additional variance relief, or without undermining the intent and purpose of the Township Zoning Ordinance. The proposed construction will only result in a 3% deviation from the FAR requirement and will not negatively impact neighboring properties. The subject property will accommodate any perceived problems associated with the proposed FAR larger than that permitted by the Zoning Ordinance of the Township, so to establish special reasons. The Board further concludes, for the reasons set forth above, that the granting of floor area ratio variance relief to permit the proposed addition can be made without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED on this 7th day of June, 2021 that the variance relief requested by the Applicants pursuant to N.J.S.A. 40:55D-70(c) and N.J.S.A. 40:55D-70(d)(4), to construct an addition to the rear of the residence on the subject property to accommodate a new kitchen on the first floor and a master suite on the second floor, and to construct a deck in the rear yard of the subject property, resulting in a lot coverage of 48% where 45% is the maximum permitted, an accessory side yard structure setback of 9.2 feet where 12 feet is the required minimum, and a FAR of 33% where 30% is the maximum permitted, approved by this Board at its meeting of May 3, 2021, for the property at 19 Bailey Road, Millburn, New Jersey, 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 bound to comply with the application submissions and the representations made before this Board by the Applicants 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.

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 7th day of June, 2021.

Cal#3787-21, Samantha & Mark Meiler, 49 Pine Street, Millburn

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

- Craig Ploetner – yes
- Jyoti Sharma – yes
- Joy Siegel – yes
- Steve Togher – yes
- Wolfgang Tsoutsouris – yes
- Jessica Glatt – yes
- Joseph Steinberg – yes

the following memorializing resolution was adopted:

**SAMANTHA & MARK MEILER
BLOCK 208, LOT 7**

**CAL. NO. 3787-21
JUNE 7, 2021**

Mister Chairman, I move the adoption of the following resolution memorializing the approval of variance relief requested by the Applicants, Samantha and Mark Meiler (hereinafter the “Applicants”), in Calendar No. 3787-21 to construct an addition to the first and second floors of the residence on the property located at 49 Pine Street, Millburn, New Jersey, known and designated as Lot 7, Block 208 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 May 3, 2021, in Calendar No. 3787-21 filed by the Applicants, requesting permission to construct an addition to the first and second floors of

the residence on the property located at 49 Pine Street, Millburn, New Jersey, known and designated as Lot 7, Block 208 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 May 3, 2021 hearing, the application and service of notice were found to be in order. The Applicants appeared without counsel and together with Cindy J. Boerner Lay, the Applicants' Architect, 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 residential property, which is located in the R-5 zone district. The Applicants propose to construct a first floor addition of a family room, breakfast area, kitchen, and stoop, a second floor addition of a master bedroom suite constructed over the proposed first floor addition, and a basement addition of a partial crawlspace and a partial unfinished basement.

3. The subject property contains a single family residence with a detached garage. The property contains nine (9) other existing nonconformities pertaining to the Township Ordinances for the R-5 zone: (a) a minimum lot area of 14,500 square feet is required and the subject property has an existing lot area of 10,089 square feet; and (b) a minimum lot width of 75 feet is required and the subject property has an existing lot width of 50 feet; (c) a minimum front yard setback of 40 feet is required and the subject property has an existing front yard setback of 36 feet; (d) a minimum side yard setback of 12 feet for a building up to 18 feet in height is required and the subject property has an existing side yard setback of 8.3 feet for a building up to 18 feet in height; (e) a minimum side yard setback of 15.63 feet for a building over 18 feet but under 32 feet in height is required and the subject property has an existing side yard setback of 14 feet for a building over 18 feet but under 32 feet in height; (f) a minimum side yard setback of 16 feet for a building 32 feet or more in height is required and the subject property has an existing side yard setback of 8.81 feet for a building 32 feet or more in height; (g) a minimum side yard combination setback of 17.5 feet is required and the subject property has an existing side yard combination setback of 17.11 feet; (h) a minimum side yard garage setback of 3 feet is required and the subject property has an existing side yard garage setback of 2.6 feet; and (i) a maximum impervious front yard area of 30% is required and the subject property has an existing front yard impervious coverage of 34.15%.

4. The proposed application would result in a 10.77 foot side yard setback where 12 feet is required; a combined side yard setback of 33.86% where 35% is required; a side yard setback of 13.1 feet where 15.63 feet is required for a building exceeding 18 feet in height; and a lot coverage of 35.7% where 35% is the maximum lot coverage allowed. Therefore, variance relief is required.

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

A. Five (5) Photographs depicting views of the neighboring properties from the subject property, taken on April 29, 2021, which were admitted into evidence as A-1 on May 3, 2021;

6. The Applicants testified that the proposed construction would mostly occur in the rear of the subject property. Additionally, the Applicants stated that they reached out to their immediate neighbors to discuss the application and there were no objections or concerns expressed.

7. The Applicants' Architect, Cindy J. Boerner Lay, was qualified before the Board as an expert. Ms. Lay informed the Board that the family room will be built on top of the existing structure and that the front of the home will look essentially the same as its current appearance. According to Ms. Lay, most of the proposed additions will be constructed over an existing deck, and will not intrude on the neighbors' privacy. Ms. Lay also stated that the Applicants will maintain the existing fence along the side yard of the subject property, and the existing driveway also creates a buffer to enhance the neighbors' privacy. Ms. Lay informed the Board that due to the subject property being an undersized lot due to its width, it is very difficult to comply with the side yard setback requirements, and that the proposed construction could not be done in compliance with the Township Zoning Ordinance or without requiring further variance relief than what is requested in the application.

8. 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 proposed first floor addition of a family room, breakfast area, kitchen, and stoop, second floor addition of a master bedroom suite constructed over the proposed first floor addition, and a basement addition of a partial crawlspace and a partial unfinished basement. The need for variance relief is related to several already-existing conditions affecting the property, dwelling and other site improvements. Specifically, the subject property's undersized lot area and lot width creates a significant hardship and substantially impairs the reasonable development of this property. The Board finds these conditions to be exceptional circumstances affecting the property and the structures thereon, which result in practical difficulties and undue hardship to the Applicants. Although the proposed construction requires variance relief as set forth above, the deviation from the requirements are modest in light of the inability to relocate the proposed construction anywhere else on the property without requiring the same or additional variance relief. The application will decrease the already-existing side yard setback nonconformance by 2.47 feet for a building up to 18 feet in height resulting in a nonconformance of only 1.23 feet, will only result in an increase in nonconformance of .9 feet of the existing side yard setback for a building over 18 feet in height, will only result in a 1.14% decrease in combined side yard setback from the required minimum, and will only result in a .7% increase in lot coverage above the required maximum.

9. The Board concludes that the proposed development preserves the character of the subject neighborhood, and that any negative impact from this proposed use is negligible and not a substantial detriment. Therefore, for the reasons stated above, the Board concludes that the granting of the variance relief requested herein can be done without substantial detriment to the

public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED on this 7th day of June, 2021 that the variance relief requested by the Applicants to construct a proposed addition to the residence on the subject property, resulting in a 10.77 foot side yard setback where 12 feet is required; a combined side yard setback of 33.86% where 35% is required; a side yard setback of 13.1 feet where 15.63 feet is required for a building exceeding 18 feet in height; and a lot coverage of 35.7% where 35% is the maximum lot coverage allowed, approved by the Board at its meeting of May 3, 2021, is hereby 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 bound to comply with the application materials and related representations made before this Board by the Applicants 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.

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 7th day of June, 2021.

Cal#3795-21, Edward & Danielle Shannon, 9 Kilmer Drive, Short Hills

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

- Craig Ploetner – yes
- Jyoti Sharma – yes
- Joy Siegel – yes
- Steve Togher – yes
- Wolfgang Tsoutsouris – yes

Jessica Glatt – yes
Joseph Steinberg – yes

the following memorializing resolution was adopted:

**EDWARD & DANIELLE SHANNON
BLOCK 4201, LOT 3**

**CAL. NO. 3795-21
JUNE 7, 2021**

Mister Chairman, I move the adoption of the following resolution memorializing the granting of variance relief requested by the Applicants, Edward and Danielle Shannon (hereinafter the “Applicants”), in Calendar No. 3795-21 to permit the construction of a second floor addition to the residence on property located at 9 Kilmer Drive, Short Hills, New Jersey, known and designated as Lot 3, Block 4201, 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 May 3, 2021, as to Calendar No. 3795-21 to permit the construction of a second floor addition to the residence on property located at 9 Kilmer Drive, Short Hills, New Jersey, known and designated as Lot 3, Block 4201, 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 May 3, 2021 hearing, the application and service of notice were found to be in order. The Applicants appeared without counsel, and together with William Figdor, the Applicants’ Architect, provided sworn testimony in support of the application. Julius Haas, 11 Kilmer Drive, Short Hills, New Jersey, provided sworn testimony in opposition to the application.
2. The Applicants are the owners of the subject property, which is located in the R-5 zone district. The Applicants propose to construct a second floor addition over an existing first floor area, adding 457.5 square feet of area to the second floor.
3. The subject property contains a single family residence with an attached one car garage. The property contains six (6) nonconforming conditions pertaining to the Township Ordinance for the R-5 zone: (a) a minimum lot area of 14,500 square feet is required and the subject property has an existing lot area of 8,186.5 square feet; (b) a minimum lot width of 75 feet is required and the subject property has an existing lot width of 70 feet; (c) a minimum lot depth of 125 feet is required and the subject property has an existing lot depth of 116 feet; (d) a minimum side yard setback of 12 feet for a building up to 18 feet in height is required and the subject property has an existing side yard setback of 5.55 feet for a building up to 18 feet in height; (e) a minimum side yard setback of 13.25 feet for a building over 18 feet but under 32 feet in height is required and the subject property has an existing side yard setback of 5.55 feet

for a building over 18 feet but under 32 feet in height; and (f) a minimum combined side yard setback of 35% is required and the subject property has an existing combined side yard setback of 27.2%. The proposed application would result in a combined side yard setback of 30.7% where the required minimum side yard combined setback is 35%. Therefore, variance relief is required.

4. The Applicants desire to construct the proposed second floor addition to provide additional living space for their family. The residence on the subject property is smaller than many of the residences on the surrounding properties in the subject neighborhood.

5. The Applicants' Architect, William Figdor, clarified that the variance requested was due to the location of the existing garage within the side yard setback, causing a need for combined side yard setback relief. No construction is being performed on the existing garage in connection with the application. Mr. Figdor stated that the proposed addition maintains the architectural style of the existing residence, and is in character with the subject neighborhood. Julius Haas, 11 Kilmer Drive, Short Hills, New Jersey, was sworn in and expressed concerns about the application's side yard setback of 5.5 feet, that the garage was not used for parking cars, that cars were parked in the Applicants' driveway, and that the cars parked in the Applicants' driveway encroached on Mr. Haas's property. Mr. Haas also expressed concern that the application would increase impervious area and roof area, which would increase stormwater runoff and cause drainage issues on his property. Mr. Haas requested that an existing underground drainage pipe be relocated onto the side of the Applicants' driveway and expressed concerns that the Applicants may perform construction on a retaining wall that encroached on Mr. Haas's property. Mr. Haas requested that any proposed construction would not further encroach onto or damage his property.

6. The Board clarified with the Applicants that the application did not propose any increase in overall building coverage or impervious coverage. The application similarly did not include any proposal to perform construction on the retaining wall mentioned by Mr. Haas, but if any construction were proposed in the future, the Applicants would first be required to follow all applicable municipal regulations.

7. The Board finds that the Applicants have satisfied the statutory criteria as required by N.J.S.A. 40:55D-70(c)(1) for a combined side yard setback variance, and concludes that it is appropriate to grant this variance relief requested by the Applicants to permit the proposed construction of a second floor addition. The need for combined side yard setback variance relief is related to several already-existing conditions affecting the property, dwelling and other site improvements. Specifically, the subject property's undersized lot area and lot width create a significant hardship and substantially impair the reasonable development of this property. The Board finds these conditions to be exceptional circumstances affecting the property and the structures thereon, which result in practical difficulties and undue hardship to the Applicants. Although the proposed construction requires variance relief as set forth above, the deviation from the requirements are modest in light of the inability to relocate the proposed construction elsewhere on the property without requiring the same or additional variance relief, or without undermining the intent and purpose of the Township Zoning Ordinance. The proposed

construction will only result in a 4.3% deviation from the minimum combined side yard requirement, and will not increase the already existing nonconforming condition. In fact, the application will bring the property closer to compliance with the combined side yard setback requirement, as the existing combined side yard setback is 27.2%, and the proposed addition would result in a combined side yard setback of 30.7%. The Board concludes that the proposed development preserves the character of the subject neighborhood, and that any negative impact from this proposed use is negligible and not a substantial detriment. Therefore, for the reasons stated above, the Board concludes that the granting of the variance relief requested relating to the proposed construction of a second floor addition can be done without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED on this 7th day of June, 2021 that the variance relief requested by the Applicants pursuant to N.J.S.A. 40:55D-70(c)(1), to construct an addition to the second floor of the residence on the subject property, resulting in a combined side yard setback of 30.7% where 35% is the required minimum, approved by this Board at its meeting of May 3, 2021, for the property at 9 Kilmer Drive, Short Hills, New Jersey, 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 bound to comply with the plans submitted in support of the application, and the representations made before this Board by the Applicants at the public hearing, and as set forth in the Board's findings of fact contained in this resolution. The Board has relied upon same in adopting its findings of fact and granting the approvals set forth herein. Such plans and representations are hereby made conditions of the within approval.

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 7th day of June, 2021.

APPLICATIONS

CAL#3784-21, LISA & ROBERT DELACRUZ, 17 WOODLAND ROAD, SHORT HILLS

The matter was carried to August 16, 2021.

CAL#3790-21, BRIAN LAU, 80 CYPRESS STREET, MILLBURN

*Joseph Steinberg recused and left the meeting.

John James, Architect, and Debra and Brian Lau, appeared and were sworn. John James' credentials were presented and accepted by the Board. The applicants would like to construct an addition to their dwelling. Proposal is in violation of:

606.2e1d – Front yard setback

606.2e2d – Floor area ratio

John James gave a brief description of the applicants' proposal. The applicants would like to widen their existing attached garage and add a new master bedroom suite on the 2nd floor. The existing house has a non-conforming front yard setback and side yard setback. The property is a corner lot in the R-6 zone district.

Entered as A-1: Location map

The property has a narrow 60 foot lot width where the front yard setback of 40 feet must be maintained on both street fronts. This makes any addition impossible without the need for variance relief.

The existing garage is non-functional due to its narrow width. It is impossible to open the car doors in the garage. The additional space in the garage will provide for a more functional garage space. The width of the garage will increase from 10 feet to 13 feet. Although the proposal requires variance relief for floor area ratio and front yard setback, the dwelling remains compliant with regard to building coverage and lot coverage. The lot can adequately accommodate a floor area ratio in excess of the ordinance allowance. The house, after the addition, would be consistent with the character of the neighborhood.

Overall, Board members were in favor of the proposal. Several members indicated that there is significant redevelopment taking place in that neighborhood and this is a needed improvement. The applicant has done a thoughtful and considerate job with this proposal. This is an undersized and challenging lot and the Board felt the applicant did a good job presenting a proposal that was in-keeping with the neighborhood characteristics.

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

Craig Ploetner – yes
Jyoti Sharma – yes
Joy Siegel – yes
Steve Togher – yes
Wolfgang Tsoutsouris – yes
Chandru Harjani – yes
Jessica Glatt – yes

Cal#3790-21, Brian Lau, 80 Cypress Street, “d” variance relief for floor area ratio was **APPROVED**.

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

Craig Ploetner – yes
Jyoti Sharma – yes
Joy Siegel – yes
Steve Togher – yes
Wolfgang Tsoutsouris – yes
Chandru Harjani – yes
Jessica Glatt – yes

Cal#3790-21, Brian Lau, 80 Cypress Street, “c” variance relief for front yard setback was **APPROVED**.

*Joseph Steinberg returned to the meeting.

CAL#3791-21, CORI & JASON WILF, 30 MONTVIEW AVENUE, SHORT HILLS

*Jessica Glatt recused and left the meeting.

Cori & Jason Wilf, John James, Architect, Richard Keller, P. E., P. P., and Brian Hirsch, Landscape Architect, appeared and were sworn. The applicants propose to construct an addition and add a pool and pool house. Proposal is in violation of:

606.2e2a – Building coverage
606.2e1d – Front yard setback
606.2e1f – Combined side yard setback

Cori Wilf stated that she and her husband purchased the house in 2014 and now have 3 children and their needs have grown tremendously over the years. She stated that they have worked with their professionals to present a proposal that provides functional living space while still maintaining the integrity of the zoning ordinance as best as possible.

Richard Keller's credentials were presented and accepted by the Board. He gave a brief description of the proposal. The property is located in the R-3 zone which has a minimum lot size requirement of 29,000 SF. The property is oversized for the zone at 39,593 SF. Mr. Keller indicated that the applicants are proposing to construct a pool/pool house as well as minor additions to the house in order to increase the functionality. The applicants required variance relief from the average front yard setback of 80.4 feet. The house, after construction, would have a setback of 73.11 feet. However, only a portion of the 1-story garage violates this front yard setback.

Entered as A-1: aerial photo

John James' credentials were presented and accepted by the Board. He spoke to the architectural elements of the applicants' proposal.

Entered as A-2: 4 photos of existing conditions

Mr. James indicated that the dwelling was originally built as a spec house and there are some elements of the dwelling that do not work well for these homeowners. They are proposing to expand the dining room and living room 5 feet. There is also a modest kitchen bump out of approximate 3 feet proposed. The proposed additions are only affecting the footprint on the first floor. The floor area ratio is still well under the allowable. The applicant is not trying to bulk up the house. They would just like to make some functional changes. The proposed pool house is set far back into the rear of the property and the pool is proposed to be located directly behind the house.

Steve Togher asked what would happen to the 3 large trees at the far end of the pool. Brian Conway, applicants' landscape architect, appeared and was sworn. He indicated that the trees in question are River Birch trees that were planted in the late 90's. They are short-lived trees and in poor condition. Mr. Conway stated that he looked into transplanting them but it was not a viable option.

Richard Keller stated that the applicant will be providing a tree replacement plan upon this Board's approval. A grading permit will be applied for which will speak to the proposed tree plan and will require Township Forester approval.

Steve Togher asked if the front yard setback variance is the only variance that applies to the garage. Richard Keller stated that the additional garage space also requires combined side yard setback variance relief. He added that the need for combined side yard setback variance relief is caused by the existing back right corner of the dwelling.

Steve Togher felt there was some hardship and he can appreciate the positioning of the pool house. He indicated that he has not heard testimony that would persuade him to approve the variance request for front yard setback variance relief.

Craig Ploetner indicated that he was generally in favor of the proposal with the exception of the front yard setback relief being requested.

Wolfgang Tsoutsouris felt the front yard setback relief being requested would not be visually noticeable and did not think the additions proposed would be perceptible.

A motion to approve the applicants' request for front yard setback relief was made by Wolfgang Tsoutsouris and failed for lack of a second.

Rich Keller indicated that he will speak with the Township Forester about the trees, and the applicants' professionals on the front yard setback issue.

The matter was carried to June 21, 2021.

*Jessica Glatt returned to the meeting.

CAL#3801-21, SANJEEV VINAYAK, 2 RIPPLING BROOK DRIVE, SHORT HILLS

Sanjeev Vinayak appeared and was sworn in. The applicant would like to install a small patio on his property. Proposal is in violation of:

609.5a – Accessory structure on a corner lot shall be no closer than 80 feet to the front lot line

Mr. Vinayak stated that the property is a corner lot located at the intersection of Rippling Brook Drive and White Oak Ridge Road. He would like to build a small patio in his backyard. The patio would be a quarter circle with a 21 foot radius.

Entered as Exhibit A-1: Photo of site

In response to a Board question, Mr. Vinayak stated that the patio would be constructed with concrete pavers.

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

Craig Ploetner – yes
Jyoti Sharma – yes
Joy Siegel – yes
Steve Togher – yes
Wolfgang Tsoutsouris – yes
Jessica Glatt – yes
Joseph Steinberg – yes

Cal#3801-21, Sanjeev Vinayak, 2 Rippling Brook Drive, was **APPROVED**.

CAL#3767-21, BOCCONE SOUTH, 519 MILLBURN AVENUE, SHORT HILLS

William Soukas, Attorney for the applicant, stated his appearance. The applicant, Boccone South LLC, has operated an Italian restaurant at the site for about a year. The applicant is seeking conditional use approval, parking and loading space variance relief.

The property is located in the B-3 zone district, which permits restaurants, conditionally, provided they are at least 125 feet from a single family lot line in a residential district, do not have a drive-thru, and are located on a primary or secondary roadway. The applicant does not meet the 125 foot requirement. In addition a parking variance for 16 spaces, based on occupancy of 48 seats, is being sought as well as a variance from the requirement to provide a loading space. There is no parking or a loading space on site. The applicant is seeking relief to allow it to continue its business as an up-scale Italian restaurant on the site.

Mr. Soukas stated that the site's use as a restaurant has been consistent with the historical use of the property, which for decades has been that of a restaurant. The applicant does not intend to perform any demolition or construction.

Mr. Soukas clarified that the applicant is not seeking approval as a pre-existing non-conforming use. They are raising that issue to show that this property has not received a conditional use permit in the past, although the zoning ordinance requires that type of approval. Mr. Soukas indicated that the applicant has undertaken a number of steps in order to be a good neighbor to the adjacent residential properties. These include keeping the area behind the building clean and orderly, keeping the rear door closed, and providing additional measures to prevent any odors from negatively affecting nearby residents.

Richard Keller appeared and was sworn. His credentials were presented and accepted by the Board. He stated that he prepared the site plan and survey for the applicant's site.

Entered as Exhibit A-1: Building permit; 3-sheet package

Mr. Keller referenced the building permit packet which was obtained from the Township Building Department files. It shows a building, electrical and plumbing approval granted. However, the permit package was not routed to the Zoning office.

Entered as A-2: addendum floor plan

Mr. Keller stated that the building submission shows 21 spaces required for the use when it was Tillies. There are 48 seats in the Boccone establishment, which results in the requirement for 16 spaces, less than were required for Tillies.

Joseph Steinberg opened the meeting for questions from the public.

Mary McNett questioned why there was no resolution on file for the former Tillies establishment. Mr. Keller indicated that he is not sure why there was no resolution or

requirement for the applicant to appear before the Board at that time. He stated that it appears as though the matter was not routed through zoning at that time the applicant submitted for the necessary building permits.

John Barree, P. P., appeared and was sworn. His credentials were presented and accepted by the Board.

Entered as Exhibit A-3: Photo board of 6 photos

Mr. Barree presented photographs of the property and surrounding areas. He stated that he visited the property, met with the Zoning Official about the matter, obtained background information and history of the property. In addition, he reviewed the Township Zoning Ordinance and Master Plan as well as the application in order to get a complete picture of the situation. According to his analysis, he believes the applicant/business owner has taken the steps they can to mitigate conditions that may be disruptive to the surrounding properties and is willing to make sure the restaurant remains a good neighbor. These steps included improving ventilation, not storing refuse in the rear area and keeping the rear door closed to avoid disturbing residents.

The property is located in the B-3 zone which contains small scale activities that service the needs of the residents of the surrounding area. This is a small restaurant which does not meet the 125 foot conditional use setback requirement. The lot is only 100 feet deep so there is no ability to meet the 125 foot requirement. This use will continue to be appropriate despite not meeting the conditional use requirement.

The site served as a restaurant for decades without being detrimental to the public good. Limited parking spaces ensures that the restaurant operates within the spaces that are available. There would be no detriment to immediate neighbors that are occupied with daytime uses along the north side of Millburn Avenue.

The bulk standards in the zoning ordinance were in place since the structure was built nearly 80 years ago, when the current zoning was not yet in place. Mr. Barree claims that it is a more efficient use of space in the township because it is the re-use of existing structures, and furthers the goals of the Master Plan.

The matter was carried to August 16, 2021.

BUSINESS

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

ADJOURNMENT

A motion to adjourn was made by Craig Ploetner, seconded by Wolfgang Tsoutsouris, and carried with a unanimous voice vote. (10:50 PM)

Eileen Davitt
Board Secretary

Motion: CP
Second: ST
Date Adopted: 8/16/21