

Township of Millburn  
Minutes of the Zoning Board of Adjustment  
August 15, 2022

A regular meeting of the Township of Millburn Zoning Board of Adjustment was held on **Monday, August 15, 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:

Amy Lawrence  
Joseph Steinberg  
Steve Togher  
Wolfgang Tsoutsouris  
Chandru Harjani  
Jessica Glatt, Vice Chairwoman

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 July 18, 2022, was made by Wolfgang Tsoutsouris, seconded by Steve Togher and carried with a unanimous voice vote.

A motion to approve the minutes of August 1, 2022, was made by Steve Togher, seconded by Chandru Harjani and carried with a unanimous voice vote.

**MEMORIALIZATIONS**

**Cal#3862-22, T-Mobile Northeast, 150 JFK Parkway, Short Hills**

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

Amy Lawrence – yes  
Steve Togher – yes  
Wolfgang Tsoutsouris – yes  
Chandru Harjani – yes  
Jessica Glatt – yes

the following memorializing resolution was adopted:

**T-MOBILE NORTHEAST LLC  
BLOCK 5303, LOT 4**

**CAL. NO. 3862-22  
AUGUST 15, 2022**

Mister Chairman, I move the adoption of the following resolution memorializing the granting of variance relief requested by the Applicant, T-Mobile Northeast (hereinafter the “Applicant”), in Calendar No. 3862-22, appealing a denial of the Applicant’s building permit application to upgrade an existing wireless telecommunications facility, which would permit the removal of two (2) existing telecommunications antennas on top of an existing commercial building, and to replace same by installing six (6) new telecommunications antennas (for a total of nine (9) antennas) with associated equipment modifications, or, in the alternative, seek use variance relief to permit same, on property located at 150 John F. Kennedy Parkway, Short Hills, New Jersey, and designated as Lot 4, Block 5303, 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 July 18, 2022 as to Calendar No. 3862-22 to permit the upgrade of an existing wireless telecommunications antenna location, which would permit the removal of two (2) existing telecommunications antennas on top of an existing building, and to replace same by installing six (6) new telecommunications antennas (for a total of nine (9) antennas) with associated equipment modifications on the building, on property located at 150 John F. Kennedy Parkway, Short Hills, New Jersey, and designated as Lot 4, Block 5303, 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 July 18, 2022 hearing, the application and service of notice were found to be in order. The Applicant appeared with Frank Ferraro, Esq., the Applicant’s Attorney, Joshua Cottrell, P.E., the Applicant’s Professional Engineer, Francis Boschulte, P.E., the Applicant’s Radio Frequency Engineer, and Timothy Kronk, P.P., the Applicant’s Professional Planner, who each provided sworn testimony in support of the application. There was no public opposition to the application.

2. The Board received and considered the following additional document submitted in support of the application:

- a. A series of eight (8) photo simulation slides of the building, dated July 13, 2022, introduced into evidence as Exhibit A-1, on July 18, 2022.

3. Mr. Ferraro began the hearing by explaining to the Board that the Applicant is the owner of a certain wireless telecommunications facility and associated equipment located on a

leased portion of an existing commercial building on the subject property, with five (5) telecommunications antennas mounted on the roof of same; however, neither the Applicant nor the Board can locate any record of a previous approval to permit same. Mr. Ferrero advised the Board that the Applicant will proceed with its Application for use variance relief and, if granted, will forgo its request for an appeal of the Zoning Officer's denial of its building permit application.

4. Mr. Ferrero advised the Board that several other wireless telecommunications carriers collocate their equipment on the same commercial building, which is located in the Township's Office Research 3 Zone District (the "OR-3 Zone"). He testified that the Applicant proposes to upgrade the existing wireless telecommunications facility by removing two (2) existing antennas, and to replace same by installing six (6) new antennas.

5. Mr. Ferrero stated that the Applicant is seeking a d(1) use variance, as a wireless telecommunications antenna is not a permitted use in the Zone and constitutes a second principal use on the subject property; and a d(6) height variance, as the existing wireless communications antennas are currently 77 feet tall, which will be lowered to 70 feet if approved, where 60 feet is the height limit permitted in the OR-3 Zone.

6. Joshua Cottrell, the Applicant's Engineer, testified that the Applicant currently has five (5) wireless communications antennas on the roof of the subject property, all of which have a maximum height of 70 feet or greater above grade, along with two equipment cabinets, along with other wireless telecommunications antennas and associated equipment from other wireless telecommunications carriers. He testified further that the Applicant's wireless telecommunications facility on the subject property will operate in the same manner as the existing antennas currently operate; that structurally the building can accommodate the proposed modifications; there will be similar sound impacts, if any, as there are currently; the Applicant does not propose a generator on the subject property; and the square footage of the mechanical area will be the same as it currently exists, which will remain behind a mechanical screen.

7. Frances Boschulte, the Applicant's Radio Frequency Engineer, testified that the Applicant currently holds a Federal Communications Commission ("FCC") license to operate wireless telecommunications facilities, which operate at the higher 1900 mhz and 2100 mhz frequency bands, as well as 600 and 700 mhz, its lower frequency bands. Ms. Boschulte testified that she prepared, and is familiar with, the Radio Frequency reports submitted by the Applicant, all of which were based upon wireless telecommunication antennas located at 70 feet in height.

8. Ms. Boschulte testified that the purpose of the Application is to upgrade the existing wireless telecommunications facility to relieve a significant gap in service in T-Mobile's wireless network caused by insufficient coverage and capacity. She testified that the operation of the facility will enable the Applicant to provide reliable wireless service to certain residences and businesses in Short Hills, and to remedy the identified service gap and support the increase demand of service. Ms. Boschulte testified that after performing an independent radio frequency analysis, she concluded that the facility's upgrade, including a proposed antenna height of 70 feet, is essential to T-Mobile's network design for Millburn Township.

9. Ms. Boschulte further testified that the wireless telecommunications facility will operate at 13% of the maximum permissible exposure limit permitted under Federal Law, and 2.6% of same permitted under New Jersey State Law, thus creating a safe environment for the surrounding community.

10. Timothy Kronk, the Applicant's Planner, introduced into evidence as it ExhibA-1, a photo array of eight (8) photograph slides, taken on or about July 13, 2022, which show, through simulation, the existing and proposed conditions of the building and the proposed antennas and equipment on the subject property.

11. Mr. Kronk testified that in order to be granted a d(1) use variance, an applicant must show the need for the facility at that location, which can be based upon the carrier's lack of adequate radio signal coverage in a geographic area or a lack of capacity to serve its customers. He testified that a coverage need can manifest as a coverage deficiency or coverage gap within the existing network, which can be satisfied when the carrier, using propagation maps and expert testimony, establishes a need for an additional wireless telecommunications facility and can demonstrate that the proposed site is an ideal location so as to address the coverage problem and that no technically comparable alternative sites are available.

12. Mr. Kronk testified that the subject property is particularly well-suited for the proposed use by certain factors that support a grant of variance relief, including the following: (1) the Applicant already has a telecommunications facility on the building rooftop that can easily be upgraded to provide reliable service, rather than the construction of a new additional wireless telecommunications site in the area; (2) the subject property has already been determined to be a particularly suited site for the use by virtue of the current facility's existence; (3) the existence of a tall building on the subject property eliminates the need to build a new monopole in the area; and (4) the building has room on the building rooftop to accommodate the upgraded use.

13. Mr. Kronk testified that in addition to proving the positive criteria required to grant a use variance, an applicant for a use variance must also demonstrate the negative criteria, or, that the variance can be granted without substantial detriment to the public good and that it will not substantially impair the intent and the purpose of the zone plan and zoning ordinance. He testified that the Applicant is merely proposing to upgrade an existing rooftop wireless telecommunications facility. Mr. Kronk stated that the Board has already presumably determined that the site is appropriate for a wireless telecommunication use when it approved the original T Mobile facility. He testified further that since the additional antennas will be installed at a lower height, the proposed upgraded rooftop wireless facility, even if located closer to the rooftop border than the currently installed antennas, will remain visually innocuous and will not have a negative impact on the surrounding area.

14. Mr. Kronk testified that the proposed upgraded wireless telecommunications facility will continue to be bereft of discernable noise, vibration, smoke, dust, odor, heat, or glare, and will operate well within all applicable state and federal standards with respect to radio frequency emissions. Therefore, Mr. Kronk opined that the proposed wireless

telecommunications facility upgrade will not have a negative impact on the public good or the intent and purpose of the zone plan and zoning ordinance.

15. Mr. Kronk testified that the final step in the variance analysis with respect to telecommunications uses is to conduct the analysis set forth by the courts in *Sica v. Bd. Of Adjustment of Wall*, 127 N.J. 152, 159-60 (1992), which will determine whether, on balance, the variances can be granted. He testified that first, the public interest at stake should be determined. Specifically, Mr. Kronk testified that with respect to telecommunications facilities (1) an FCC license generally establishes that the use promotes the general welfare and, therefore, the public interest in reliable telecommunication services has been adjudicated to be substantial; (2) the Board must identify the severity of the harm, if any, which would be caused if the variance is granted; (3) what development conditions should be imposed on the Applicant; and (4) if the Board determines that there is a harm caused by the grant of the variance, the question becomes whether that harm can be mitigated by the imposition of said conditions so that on balance, the benefits of the use variance outweigh any detriment.

16. Mr. Kronk testified that the wireless telecommunications use already exists on the building rooftop and, as a result, the only possible impact is visual, which the Applicant submits is minimal, if any. He testified that since all the new antennas will be located at a lower elevation than the existing antennas they replace, the Applicant believes there is no discernible harm caused by this upgrade. Mr. Kronk testified, and the Applicant submitted, that the benefits of approving this upgrade are substantial as the public relies heavily on effective wireless telecommunications, and the detriments of the upgrade are virtually non-existent since there will be very limited visibility of the additional antennas.

17. N.J.S.A. 40:55D-70d(1) allows for departures from zoning regulations to permit a use or principal structure in a district restricted against such use or principle structure in certain circumstances involving “non-inherently beneficial uses” wherein an applicant must demonstrate: (1) that the proposed use promotes the general welfare because the property is particularly suitable for the proposed use; and (2) that the applicant can satisfy its enhanced burden of proof to demonstrate that the granting of the variance relief requested is not inconsistent with the intent and purpose of the municipality’s master plan and zoning ordinances. In considering the issue of particular suitability, (a) the applicant must prove that there is a gap in service or inadequate existing capacity; (b) the applicant must prove the signal strength level required to fill the gap in service or to remedy the inadequate existing capacity; (c) the applicant must prove that the placement of the antennas at the subject location and at the proposed height will improve mobile wireless communications; and (d) the applicant must prove whether the same result could be achieved by placing the antennas on some other existing structure, by erecting the facility in a more suitable location, and/or by placing the antennas at a lower height. *Sica v. Wall Township Board of Adjustment*, 127 N.J. 152 (1992).

18. In addition, while a “d” variance may be warranted by virtue of the applicant proving the positive criteria, the Board may not exercise its power to grant such a variance, however, unless the so-called “negative criteria” has been satisfied, see *Smart SMR v. Fair Lawn Board of Adjustment*, 152 N.J. 309 (1998), whereupon a “d” variance can only be granted if

granting same can be done without causing substantial detriment to the public good and substantial impairment of the intent and purpose of the zone plan and zoning ordinance. *Sica*, supra, 127 N.J. at 166.

19. The Smart Court, 152 N.J. at 332, incorporated the four step “balancing” test established in *Sica v. Wall Township Board of Adjustment*, 127 N.J. 152 (1992), so the applicant’s burden of proof with respect to satisfying the negative criteria for a mobile wireless communications facility is significantly less than with respect to a typical non-inherently beneficial commercial use. There is no “enhanced quality of proof” requirement. Instead, the Board must balance the positive and negative criteria and determine whether, on balance, “d” variances can be granted without causing substantial detriment to the public good and substantial impairment of the intent and purpose of the zone plan and zoning ordinance. *Sica*, 127 N.J. at 166. In undertaking this balancing the Board must follow the following four (4) steps:

a. First Step. First, identify the public interest at stake and make a finding on how compelling the public interest at issue actually is, which would include but not be limited to determining what type of wireless communications system is being proposed and identifying the proposed users and public benefits flowing from the proposed facility. The first step of the *Sica* balancing test requires the Board to explore how compelling the public interest in the proposed use is with the focus being on the actual public benefit flowing from the proposed use.

b. Second Step. Second, identify the detrimental effects that may ensue from the grant of the variance. Some issues may not be considered, however. For example, radiation emissions, if complying with state and federal law, cannot be considered detrimental to the public good. See, *Smart*, 152 N.J. at 336; *Cell South v. West Windsor Zoning Board of Adj.*, 172 N.J. 75, 87-88 (2002).

c. Third Step. Third, determine whether any legitimate detrimental effects can be reduced by imposing reasonable conditions on the use, such as but not limited to concealing the antennas in a “stealth tower” or otherwise making the tower and equipment building / cabinet more aesthetically acceptable. See, *Smart*, 152 N.J. at 335, recognizing that antennas can be concealed in “stealth towers” and located on existing structures to blend in with the existing structures.

d. Fourth Step. Fourth and last, balance the positive and negative criteria and determine whether, on balance, the “d” variance can be granted without causing substantial detriment to the public good and substantial impairment of the intent and purpose of the zone plan and zoning ordinance.

20. The Board finds that the Applicant has satisfied the statutory criteria as required by N.J.S.A. 40:55D-70d(1) for the requested use variance relief, and that it is appropriate to grant this variance relief to permit the upgrade of the existing wireless telecommunications facility with the removal of two (2) wireless antennas and the addition of six (6) wireless antennas (for a total of nine (9) antennas) with associated equipment modifications, all of which is also

considered a second principal use. The application's proposed use promotes the general welfare because the Applicant is a FCC license holder; the subject property is particularly suitable for the proposed use, as the existing building will not require any additional enlargement or modification; and the building is equipped to handle the additional telecommunications antennas and the placement of the Applicant's equipment cabinet, which will benefit Township residents, all without negatively impacting nearby residential or commercial uses. Additionally, the granting of the use variance relief requested is not inconsistent with the intent and purpose of the Township's Master Plan and Zoning Ordinance, as the Applicant's proposal would further multiple goals of the Township's Master Plan and its stated intent for the OR-3 Zone. The Board also finds that the Applicant has reconciled the application's proposed use with the Township's continued omission of the proposed use in the OR-3 Zone by demonstrating that the proposal is beneficial by improving the quality of wireless communications within the Township. Therefore, for the reasons stated above, the use variance relief requested can be granted without any substantial impairment to the Township Zoning Ordinance or Master Plan. The Board further finds that the height variance pursuant to N.J.S.A. 40:55D-70d(6) is subsumed into the grant of the use variance for the reasons set forth above.

**NOW, THEREFORE, BE IT RESOLVED** on this 15th day of August, 2022, that the variance relief requested by the Applicant pursuant to N.J.S.A. 40:55D-70d(1) and (6), to permit the upgrade of existing wireless telecommunications antennas and equipment, which use is not a permitted use, for the property located at 150 John F. Kennedy Parkway, 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 Applicant shall apply for a building permit within 365 days from the date of publication of this decision.
2. The Applicant's new wireless telecommunications antennas shall be painted beige, with a hue of white.
3. The Applicant shall be bound to comply with the representations made before this Board by the Applicant and its professional expert witnesses and at the public hearing, including as set forth in the Board's findings of fact contained in this resolution. The Board has relied upon such representations in adopting its findings of fact and granting the approvals set forth herein. Such representations are hereby made conditions of such approvals.
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 15th day of August, 2022.

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**Cal#3874-22, Alex & Indraja Kisel, 52 Walnut Avenue, Millburn**

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

Steve Togher – yes  
Chandru Harjani – yes  
Jessica Glatt – yes

the following memorializing resolution was adopted:

**INDRAJA & ALEX KISEL  
BLOCK 604, LOT 12**

**CAL. NO. 3874-22  
AUGUST 15, 2022**

Mister Chairman, I move the adoption of the following resolution memorializing the granting of variance relief requested by the Applicants, Indraja and Alex Kisel (hereinafter the “Applicants”), in Calendar No. 3874-22 to permit the enclosure of an existing front portico with the construction of an addition above same, along with a deck in the rear of the dwelling, on property located at 52 Walnut Avenue, Millburn, New Jersey, and designated as Lot 12, Block 604, and on the Official Tax Map of the Township of Millburn, State of New Jersey.

**RESOLUTION**

**WHEREAS** the Millburn Township Zoning Board of Adjustment (hereinafter the “Board”) held a public hearing according to law on July 18, 2022 as to Calendar No. 3874-22 to permit the enclosure of an existing front portico with the construction of an addition above same, along with a deck in the rear of the dwelling, on property located at 52 Walnut Avenue, Millburn, New Jersey, and designated as Lot 12, Block 604, 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 July 18, 2022 hearing, the application and service of notice were found to be in order. The Applicants appeared without counsel. Timothy Klesse, the Applicants’ Architect, provided sworn testimony in support of the application.

2. The Applicants are the owners of the subject property, which contains a single-family residential dwelling and a detached garage, located in the Township's R-6 Zone District (the "R-6 Zone"). The Applicant proposes to enclose an existing front portico with the construction of an addition above same, along with a deck in the rear of the dwelling, to make the appearance and functionality of the residence more contemporary and consistent with residences in the subject neighborhood.

3. The subject property contains existing nonconforming conditions, which, with the proposed development, will result in the following deviations from the restrictions imposed in the R-6 Zone: (a) a minimum combined side yard setback of 35% of the lot width (17.15 feet) is required, the subject property has an existing combined side yard setback of 29% (14.23 feet), and the Applicants propose a combined side yard setback of 32.8% (32.8 feet); (b) a maximum impervious lot coverage of 45% (3,328 square feet) is permitted, the subject property has an existing impervious lot coverage of approximately 45.2% (3,212 square feet), and the Applicants propose an impervious lot coverage of 46.8% (3,328 square feet); (c) a minimum accessory structure setback of 12 feet is required, the subject property has an existing accessory structure setback of 7.62 feet, and the Applicants proposed an accessory structure setback of eight (8) feet. Therefore, variance relief is required.

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

a. A series of five (5) photographs of the residence, introduced into evidence as Exhibit A-1, on July 18, 2022; and

b. A series of five (5) photographs, introduced into evidence as Exhibit O-1 on July 18, 2022, taken on July 16, 2022.

5. Timothy Klesse, the Applicants' Architect, testified that the subject property has an undersized lot width, and the proposed construction will result in a two-story addition to the subject residence.

6. Mr. Klesse testified that the purpose of the addition is to create a master bedroom suite over a covered, screened porch, with a deck in the rear. In addition to the proposed modifications of the existing home, the Applicants plan to install a retaining wall near one of the edges of the subject property to "level out" the rear yard.

7. Mr. Klesse testified further that the Applicants are seeking a "c" bulk variance as the narrowness of the lot and the placement of the existing dwelling creates a hardship for the Applicants. He notes that the proposed addition is primarily located in the rear of the home without any adverse impacts to the streetscape.

8. Elaine Weiland, 54 Walnut Avenue, Millburn, New Jersey, questioned Mr. Klesse regarding the proposed retaining wall, which is shown as four (4) feet in height, and located near the side-yard property line. Thereafter, Ms. Weiland was duly sworn according to law, and

commented that she feels the second story is too high, and the proposed development and its associated side yard deviations would eliminate her light and space.

9. Lenny Weiland, 54 Walnut Avenue, Millburn, New Jersey, duly sworn according to law, and, in concert with his wife, Elaine, introduced a series of five (5) photographs of the subject property, and their concern as to the proximity of said property to their own.

10. 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[.]

11. 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”).

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

13. The deviations from the applicable requirements for the R-6 Zone are relatively modest, especially given the hardships imposed by the subject property and lawfully existing structures thereon. The Board finds that the impact to surrounding properties is minimal and presents an opportunity to update the housing stock in the neighborhood in a tasteful and appropriate manner. The Board also finds the proposed construction can be accomplished without substantially undermining the intent or purpose of the Zone Plan or the Township Zoning Ordinance for the reasons set forth above.

14. The Board concludes that the proposed construction is modest, preserves the character of the subject residence, and that any negative impact from the proposed improvements is negligible and not a substantial detriment. The subject property can accommodate the

negligible impact of the application’s proposed construction and the associated, limited variance relief required. The positive and negative criteria for variance relief have therefore been met by the Applicants pursuant to 40:55D-70c(1). 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 Township Zoning Ordinance.

**NOW, THEREFORE, BE IT RESOLVED** on this 15th day of August, 2022 that the variance relief requested by the Applicants to construct a two-story rear addition, resulting in a combined side-yard setback of deviation of 2.2% (1.06 feet), a lot coverage deviation of 1.8% (131 square feet); an accessory structure setback deviation of four (4) feet; and a maximum accessory coverage deviation of 1.3%, all on property located at 52 Walnut Avenue, Millburn, New Jersey, granted by this Board at its meeting of July 18, 2022, is memorialized pursuant to the provisions of N.J.S.A. 40:55D-10g, subject to the following conditions:

1. The Applicants shall apply for a building permit within 365 days from the date of publication of this decision.
2. The Applicants shall be bound to comply with the representations made before this Board by the Applicants and their professional expert witness and at the public hearing, including as set forth in the Board’s findings of fact contained in this resolution. The Board has relied upon such representations in adopting its findings of fact and granting the approvals set forth herein. Such representations are hereby made conditions of such approvals.
3. The Applicants shall remove all debris from the subject premises immediately upon completion of construction and shall maintain the site in reasonable order during construction.
4. The Applicants shall comply with all other rules, regulations and requirements affecting development in the Township, County and State.

**CLERK CERTIFICATION**

I, Eileen Davitt, Secretary of the Zoning Board of Adjustment of the Township of Millburn, County of Essex, State of New Jersey, hereby certify that the foregoing is a true and exact copy of a Resolution adopted at the meeting of the Zoning Board of Adjustment of the Township of Millburn held on the 15th day of August, 2022.

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**Cal#3875-22, Stefan & Shelly Hermann, 55 Whitney Road, Short Hills**

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

Amy Lawrence – yes  
Steve Togher – yes  
Wolfgang Tsoutsouris – yes  
Chandru Harjani – yes  
Jessica Glatt – yes

the following memorializing resolution was adopted:

**SHELLY & STEFAN HERMANN  
BLOCK 1206, LOT 15**

**CAL. NO. 3875-22  
AUGUST 15, 2022**

Mister Chairman, I move the adoption of the following resolution memorializing the granting of variance relief requested by the Applicants, Shelly and Stefan Hermann (the “Applicants”), in Calendar No. 3875-22 to permit the construction of a partial second floor addition to an existing dwelling, on property located at 55 Whitney Road, Short Hills, New Jersey, and designated as Lot 15, Block 1206, on the Official Tax Map of the Township of Millburn.

**RESOLUTION**

**WHEREAS** the Millburn Township Zoning Board of Adjustment (the “Board”) held a public hearing according to law on July 18, 2022 as to Calendar No. 3875-22 to permit the construction of a partial second floor addition on an existing dwelling, on property located at 55 Whitney Road, Short Hills, New Jersey, and designated as Lot 15, Block 1206, 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 July 18, 2022 hearing, the application and service of notice were found to be in order. The Applicants appeared without counsel and, together with their licensed Architect, Danial Dubinett, 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 residential dwelling, located in the Township’s R-6 Zone District (the “R-6 Zone”). The Applicants propose to construct a second floor addition over an existing, single-story section of the dwelling.

3. The application contains two (2) conditions pursuant to the Township Zoning Ordinances that necessitate variance relief from the Board: (a) a minimum side-yard setback of eight (8) feet is permitted, where the subject property has an existing side-yard setback of 7.57 feet, and a proposed side yard setback of 7.60 feet; and (b) a minimum combined side-yard setback of 24.5 feet is permitted, and the subject property has an existing combined side-yard setback of 11.78 feet, and a proposed combined side-yard setback of 12.35 feet.

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

a. A revised elevation and floor plan, “marked up” from what was previously submitted to the Board, introduced into evidence as Exhibit A-1, on July 18, 2022; and

b. A series of six (6) photographs, introduced into evidence as Exhibit A-2, taken on July 18, 2022, and introduced that same day.

5. Danial Dubinett, the Applicants’ Architect, testified that it is the intention of the Applicants’ proposal to simply add a closet to the upper level of the home. Mr. Dubinett stated that the proposed construction is a relatively minor addition to a lovely and abundantly landscaped home with tall arborvitae that will continue to be maintained. He testified that the addition to the dwelling will fill in the roofline, making the dwelling look more connected and cohesive.

6. 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[.]

7. 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”).

8. The Board finds that the Applicants have satisfied the statutory criteria of N.J.S.A. 40:55D-70c(1) and concludes that it is appropriate to grant the bulk variance relief requested by the Applicants to permit the proposed construction. The need for such variance relief is related to existing conditions affecting the property, dwelling and other site improvements as set forth above and contained in the application materials. Specifically, the

placement of the existing dwelling on the subject property to be an extraordinary and exceptional condition affecting the property and the structures thereon, which result in practical difficulties and undue hardship to the Applicants.

9. Although the proposed construction requires variance relief to permit a side-yard setback of 7.60 feet (7.57 feet existing), where eight (8) feet is the minimum permitted side-yard setback, along with a combined side-yard setback of 12.35 feet (11.78 feet existing), where 24.5 feet is the minimum permitted combined side-yard setback, the deviations from the aforementioned requirements are pre-existing, have been reduced from the existing deviations, are relatively modest, and can be achieved without undermining the intent or purpose of the Township Zoning Ordinance or the Master Plan. The Board finds that the deviations from the R-6 Zone's requirements are de minimis and can be accomplished without undermining the intent and purpose of the Township Zoning Ordinances.

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

**NOW, THEREFORE, BE IT RESOLVED** on this 15th day of August, 2022, that the variance relief requested by the Applicants to permit the construction of a partial second floor addition to an existing single-family residential dwelling, resulting in a side-yard setback of 7.60 feet, where eight (8) feet is the minimum required side-yard setback, and a combined side-yard setback of 12.35 feet, where 24.5 feet is the minimum allowed combined side-yard setback on property located at 55 Whitney Road, Short Hills, granted by this Board at its meeting of July 18, 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 bound to comply with the representations made before this Board by the Applicants and the Applicants' Professional and at the public hearing, including as set forth in the Board's findings of fact contained in this resolution. The Board has relied upon such representations in adopting its findings of fact and granting the approvals set forth herein. Such representations are hereby made conditions of such approvals.

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

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

**CLERK CERTIFICATION**

I, Eileen Davitt, Secretary of the Zoning Board of Adjustment of the Township of Millburn, County of Essex, State of New Jersey, hereby certify that the foregoing is a true and exact copy of a Resolution adopted at the meeting of the Zoning Board of Adjustment of the Township of Millburn held on the 15th day of August, 2022.

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**Cal#3879-22, DISH Wireless LLC, 30 Bleeker Street, Millburn**

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

- Amy Lawrence – yes
- Steve Togher – yes
- Wolfgang Tsoutsouris – yes
- Chandru Harjani – yes
- Jessica Glatt – yes

the following memorializing resolution was adopted:

**DISH WIRELESS LLC  
BLOCK 1005, LOT 2**

**CAL. NO. 3879-22  
AUGUST 15, 2022**

Mister Chairman, I move the adoption of the following resolution memorializing the granting of variance relief requested by the Applicant, Dish Wireless, LLC (hereinafter the “Applicant”), in Calendar No. 3879-22, to permit the installation and colocation of wireless telecommunications antennas and associated equipment on property located at 30 Bleeker Street, Millburn, New Jersey, and designated as Lot 2, Block 1005, 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 July 18, 2022 as to Calendar No. 3879-22 to permit the installation and colocation of a telecommunications antenna on property located at 30 Bleeker Street, Millburn, New Jersey, and designated at Lot 2, Block 1005, 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 July 18, 2022 hearing, the application and service of notice were found to be in order. The Applicant appeared with Christopher J. Quinn, Esq., the Applicant's Attorney, and Ekata Shah, P.E., the Applicant's Professional Engineer, who provided sworn testimony in support of the application. There was no public opposition to the application.

2. Mr. Quinn began the hearing by explaining to the Board that the Applicant is a newly licensed FCC license holder and that there currently is a wireless communication facility located at the subject property. The Applicant seeks to be the third carrier on an existing 100 foot telecommunications monopole originally approved in 1995. Mr. Quinn stated that the Applicant is seeking "d" variance relief as (1) wireless communications antennas are not a permitted use in the Zone; (2) the wireless telecommunications antennas will constitute a second principal use on the subject property; and (3) the height of the existing monopole exceeds the permitted height in the Zone, along with a waiver of site plan as the monopole and equipment compound is already existing on the subject property.

3. Ms. Shah, the Applicant's Engineer, testified that the subject property currently contains an existing, 100 foot telecommunications monopole with two (2) wireless communications antenna mounted on same, along with the installation of a wireless telecommunications equipment cabinet in the existing ground level equipment compound. She testified further that the Applicant's wireless communications facility on the subject property will operate in the same manner as that existing; structurally, the tower was built to accommodate the proposed additional antenna; and the proposed equipment cabinet will be smaller than those already existing on the subject property.

4. Ms. Shah testified that there will not be any substantial change to the height or width of the existing structure. She testified that the Applicant, as a new licensee, does not have any service in the market area. Ms. Shah testified that service will be provided within approximately a one mile radius of the existing monopole, including service to Millburn, Springfield, and along the Route 78 corridor.

5. Ms. Shah testified that the tower was built to accommodate additional carriers; it is located a far distance from the closest residential dwellings; no lights or generators are proposed on the subject property; there already exists substantial landscaping on the site; and maintenance visits will occur approximately every four to six weeks.

6. Ms. Shah testified that the existing monopole has already been approved by the Township, as the site was determined to be particularly suited for such a proposed use, and that the Applicant's proposal will not have any negative impact or cause substantial detriment to the site or the surrounding neighborhood, as the monopole already exists, and a new monopole will not be required to support the Applicant's wireless network service.

7. Regarding the possibility of installing a new monopole, Ms. Shah testified that no other available site will provide the necessary coverage that the subject property will provide.

8. Ms. Shah testified that the Applicant is a federally licensed wireless telecommunications carrier and therefore, the Applicant's proposal promotes the general welfare. She testified further that to satisfy the remainder of the positive criteria, the Applicant must demonstrate the particular suitability of this site. She testified that the site is particularly suitable because (i) its location will resolve a service deficiency without the need for a new tower; (ii) the Applicant is proposing to collocate on an existing structure that already supports existing telecommunications antennas; (iii) the existing tower and subject property have previously been deemed appropriate for the use; and (iv) the existing tower was expressly contemplated and designed for the type of collocation and future occupancy proposed by the Applicant.

9. As for the negative criteria, Ms. Shah testified that the Applicant's proposal will not be a substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. She testified that the proposed site will not produce any noise, vibration, smoke, dust, odors, heat, or glare, and it will not require any municipal services such as water, sewer, police or fire, with infrequent maintenance to same. Ms. Shah testified that the proposal will not have any adverse impacts on adjoining properties, and, in fact, the proposed site will provide improved wireless communications service in the area, which will enhance safety by allowing people to report accidents and crimes, and provide an enhanced ability for people to communicate on both personal and business matters. She testified that, on balance, the public benefit far outweighs any potential detrimental effect of the Applicant's proposal.

10. N.J.S.A. 40:55D-70d(1) allows for departures from zoning regulations to permit a use or principal structure in a district restricted against such use or principle structure in certain circumstances involving "non-inherently beneficial uses" wherein an applicant must demonstrate: (1) that the proposed use promotes the general welfare because the property is particularly suitable for the proposed use; and (2) that the applicant can satisfy its enhanced burden of proof to demonstrate that the granting of the variance relief requested is not inconsistent with the intent and purpose of the municipality's master plan and zoning ordinances. In considering the issue of particular suitability, (a) the applicant must prove that there is a gap in service or inadequate existing capacity; (b) the applicant must prove the signal strength level required to fill the gap in service or to remedy the inadequate existing capacity; (c) the applicant must prove that the placement of the antennas at the subject location and at the proposed height will improve mobile wireless communications; and (d) the applicant must prove whether the same result could be achieved by placing the antennas on some other existing structure, by erecting the facility in a more suitable location, and/or by placing the antennas at a lower height. *Sica v. Wall Township Board of Adjustment*, 127 N.J. 152 (1992).

11. In addition, while a "d" variance may be warranted by virtue of the applicant proving the positive criteria, the Board may not exercise its power to grant such a variance, however, unless the so-called "negative criteria" has been satisfied, see *Smart SMR v. Fair Lawn Board of Adjustment*, 152 N.J. 309 (1998), whereupon a "d" variance can only be granted if

granting same can be done without causing substantial detriment to the public good and substantial impairment of the intent and purpose of the zone plan and zoning ordinance. *Sica*, supra, 127 N.J. at 166.

12. The Smart Court, 152 N.J. at 332, incorporated the four step “balancing” test established in *Sica v. Wall Township Board of Adjustment*, 127 N.J. 152 (1992), so the applicant’s burden of proof with respect to satisfying the negative criteria for a mobile wireless communications facility is significantly less than with respect to a typical non-inherently beneficial commercial use. There is no “enhanced quality of proof” requirement. Instead, the Board must balance the positive and negative criteria and determine whether, on balance, “d” variances can be granted without causing substantial detriment to the public good and substantial impairment of the intent and purpose of the zone plan and zoning ordinance. *Sica*, 127 N.J. at 166. In undertaking this balancing the Board must follow the following four (4) steps:

a. First Step. First, identify the public interest at stake and make a finding on how compelling the public interest at issue actually is, which would include but not be limited to determining what type of wireless communications system is being proposed and identifying the proposed users and public benefits flowing from the proposed facility. The first step of the *Sica* balancing test requires the Board to explore how compelling the public interest in the proposed use is with the focus being on the actual public benefit flowing from the proposed use.

b. Second Step. Second, identify the detrimental effects that may ensue from the grant of the variance. Some issues may not be considered, however. For example, radiation emissions, if complying with state and federal law, cannot be considered detrimental to the public good. See, *Smart*, 152 N.J. at 336; *Cell South v. West Windsor Zoning Board of Adj.*, 172 N.J. 75, 87-88 (2002).

c. Third Step. Third, determine whether any legitimate detrimental effects can be reduced by imposing reasonable conditions on the use, such as but not limited to concealing the antennas in a “stealth tower” or otherwise making the tower and equipment building / cabinet more aesthetically acceptable. See, *Smart*, 152 N.J. at 335, recognizing that antennas can be concealed in “stealth towers” and located on existing structures to blend in with the existing structures.

d. Fourth Step. Fourth and last, balance the positive and negative criteria and determine whether, on balance, the “d” variance can be granted without causing substantial detriment to the public good and substantial impairment of the intent and purpose of the zone plan and zoning ordinance.

13. The Board finds that the Applicant has satisfied the statutory criteria as required by N.J.S.A. 40:55D-70d(1) for the requested use variance relief, and that it is appropriate to grant this variance relief to permit the proposed installation of the Applicant’s wireless telecommunications antennas on the existing monopole located on the subject property and as a second principal use. The application’s proposed use promotes the general welfare because the

Applicant is a FCC license holder, and the subject property is particularly suitable for the proposed use, as the existing monopole and equipment cabinet area will not require any additional enlargement or modification, and the existing monopole is equipped to handle the additional telecommunications antenna and the placement of the Applicant's equipment cabinet will be located within the existing equipment compound, which will benefit Township residents, all without negatively impacting any nearby residential uses. Additionally, the granting of the use variance relief requested is not inconsistent with the intent and purpose of the Township's Master Plan and Zoning Ordinance, as the Applicant's proposal would further multiple goals of the Township's Master Plan and its stated intent for the CMO Zone. The Board also finds that the Applicant has reconciled the application's proposed use with the Township's continued omission of the proposed use in the CMO Zone by demonstrating that the proposal is beneficial by improving the quality of wireless communications within the Township. Therefore, for the reasons stated above, the use variance relief requested can be granted without any substantial impairment to the Township Zoning Ordinance or Master Plan. The Board further concludes that the height variance pursuant to N.J.S.A. 40:55D-70d(6) is subsumed into the use variance relief for the reasons stated above.

**NOW, THEREFORE, BE IT RESOLVED** on this 15th day of August, 2022, that the variance relief requested by the Applicant pursuant to N.J.S.A. 40:55D-70d(1) and (6), to permit the colocation of additional wireless telecommunications antenna on the subject property, which use is not a permitted use, for the property located at 30 Bleeker Street, 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 Applicant shall apply for a building permit within 365 days from the date of publication of this decision.
2. The Applicant shall be bound to comply with the representations made before this Board by the Applicant and its professional expert witness and at the public hearing, including as set forth in the Board's findings of fact contained in this resolution. The Board has relied upon such representations in adopting its findings of fact and granting the approvals set forth herein. Such representations are hereby made conditions of such approvals.
3. The Applicant shall remove all debris from the subject premises immediately upon completion of construction and shall maintain the site in reasonable order during construction.
4. The Applicant shall comply with all other rules, regulations and requirements affecting development in the Township, County and State.

**CLERK CERTIFICATION**

I, Eileen Davitt, Secretary of the Zoning Board of Adjustment of the Township of Millburn, County of Essex, State of New Jersey, hereby certify that the foregoing is a true and exact copy of a Resolution adopted at the meeting of the Zoning Board of Adjustment of the Township of Millburn held on the 15th day of August, 2022.

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**APPLICATIONS**

**CAL#3872-22, THOMAS & ANN MCCARTHY, 6 RIVER LANE, MILLBURN**

This matter was carried to October 3, 2022, via Zoom Webinar.

**CAL#3878-22, PAUL DELEONE, 19 BODWELL TERRACE, MILLBURN**

This matter was not heard due to insufficient notice. FAR was not noticed as a “d” variance and the side yard setback was not noticed. The applicant will re-notice for a future meeting.

**CAL#3880-22, IMRANA CHOUDHRY, 17 HADDONFIELD ROAD, SHORT HILLS**

Imrana Choudhry and Maria DeCosimo, architect, appeared and were sworn. The applicant would like to construct an addition. Proposal is in violation of:

- 606.2e1d – front yard setback
- 606.2e2a – building coverage

Ms. DeCosimo’s credentials were presented and accepted by the Board. The applicant is proposing to construct a new 1<sup>st</sup> floor addition on the left side of the house. The addition includes a new bedroom, bathroom and home office. They are also proposing to replace the 2<sup>nd</sup> floor dog house dormers with a shed dormer and construct a new roofed front entry platform.

Steve Togher asked what the new width of the dwelling on the left side will be. Ms. DeCosimo stated that it will be in 24’ in width.

Matthew Gatile, 29 Old Short Hills Road, appeared and was sworn. Mr. Gatile lives to the right of the subject property. He is concerned that the parking areas will be a detriment to the area’s aesthetic. He would like for the variance to be denied.

Steve Togher understands the hardships of the lot, but believes a 14’ addition is going to have a negative impact on the neighborhood. He feels the massing on the left side is unsightly. He also agreed with Mr. Gatile that the parking area may not be attractive. Wolfgang Tsoutsouris echoed Steve’s comments and believes the addition will have a huge impact on the street. He

feels it would be too large and out of character. Chandru Harjani agrees that the dwelling will be too large for the lot.

This matter was carried to October 3, 2022, via Zoom Webinar.

**CAL#3882-22, MARC & LAUREN FIRESTEIN, 2 JOANNA WAY, SHORT HILLS**

Marc and Lauren Firestein appeared and were sworn. They would like to install a fence. Proposal is in violation of:

609.6a – front yard fences are prohibited

The applicants would like to match the fence on the adjacent property to provide continuity. The fence proposed is in the front yard area of their corner lot property. The applicant is proposing a 6 foot board on board fence along the Parsonage Hill Road property line. The ordinance permits a 4 foot fence on a County Road and does not permit board on board.

Steve Togher feels Parsonage Hill Road is busy, but not as busy as South Orange Avenue. It is also a 2-way street. Wolfgang Tsoutsouris is overall in favor of the application. Several board members felt the proposal could be more aesthetically pleasing and did not favor the request for a board on board style fence.

Based on Board comments, the applicant withdrew their request for a board on board fence and agreed to a wrought iron fence along the Parsonage Hill Road property line.

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

Amy Lawrence – yes  
Joseph Steinberg – yes  
Steve Togher – yes  
Wolfgang Tsoutsouris – yes  
Chandru Harjani – yes  
Jessica Glatt – yes

Cal#3882-22, Marc & Lauren Firestein, 2 Joanna Way, Short Hills was **APPROVED** with the condition that the fence being installed be a wrought iron estate style fence.

**CAL#3884-22, WARD MYERS, 37 SLAYTON DRIVE, SHORT HILLS**

Ward Myers appeared and was sworn. He proposes to install a 14 foot x 14 foot patio on the side of his corner lot dwelling. Proposal is in violation of:

606.2e3a – accessory structure side yard setback

The patio would have a setback of 5 feet where 12 feet is required. The proposed patio will be on the applicant's side of a retaining wall and be buffered by proposed landscaping.

Wolfgang Tsoutsouris believes this proposal will have no negative impacts on the neighboring properties. Amy Lawrence has no issue with the location of the proposed patio. Jessica Glatt supports this application but would like to see screening continued along the front.

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

Amy Lawrence – yes  
Joseph Steinberg – yes  
Steve Togher – yes  
Wolfgang Tsoutsouris – yes  
Chandru Harjani – yes  
Jessica Glatt – yes

Cal#3884-22, Ward Myers, 37 Slayton Drive, Short Hills, was **APPROVED** with the condition that the new patio is appropriately screened with 5' high skip laurel shrubs.

**CAL#3886-22, THORSON, 18 BERKELEY ROAD, MILLBURN**

Grant & Karen Thorson and Dan Dubinett, architect, appeared and were sworn. Dan Dubinett's credentials were presented and approved by the Board. The applicant proposes to construct a small addition. Proposal is in violation of:

606.2e1e1a – Side yard setback

The proposal includes a 1-story addition over the existing kitchen area. This proposal requires a side yard setback variance to allow a setback of 6 feet where 8 feet is required.

Steve Togher is pleased with the application and appreciates the well-designed aesthetic of the addition. Jessica Glatt also supports this application, considering the existing non-conforming side yard setback and a narrow lot width. She feels the additional 2 feet requested for the setback is minor.

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

Amy Lawrence – yes  
Joseph Steinberg – yes  
Steve Togher – yes  
Wolfgang Tsoutsouris – yes  
Chandru Harjani – yes

Jessica Glatt – yes

Cal#3886-22, Thorson Residence, 18 Berkeley Road, Millburn, was **APPROVED**.

**BUSINESS**

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

**ADJOURNMENT**

A motion to adjourn was made by Wolfgang Tsoutsouris, seconded by Steve Togher, and carried with a unanimous voice vote. (9:55 PM)

Eileen Davitt  
Board Secretary

Motion: ST  
Second: WT  
Date Adopted: 9/19/22