

**BOROUGH OF NEW PROVIDENCE
BOARD OF ADJUSTMENT
MEETING MINUTES – MONDAY, October 15, 2012 – 8:00 p.m.**

Present: Mr. Nadelberg, Mr. Grob, Mr. Hoefling, Mr. Karr, Mr. Ping, Ms. Polesak, Mr. Van Schoick, Mr. Wycko, Mr. Craig Bossong, Board Attorney, and Margaret Koontz, Secretary.

Absent: Mr. Pennisi

Also present: Mr. Keith Lynch, Director of Planning Development, Ms. Sanyogita Chavan, substitute Borough Planner, and Mr. William Robertson, substitute Board Attorney.

A. CALL TO ORDER

Chairman Nadelberg called the meeting to order at 8:00 p.m.

B. ROLL CALL

C. PUBLIC NOTICE

Chairman Nadelberg stated that this is a meeting of the Board of Adjustment of the Borough of New Providence, County of Union, and State of New Jersey. Adequate notice of this meeting was given in accordance with P.L. 1975, Chapter 231, in that a notice was made in conformance with Section 13 of the Act. He also stated the protocol for the meeting.

D. PUBLIC HEARINGS

Mary Sheridan Application #2012-20
44 The Fellsway, Block 272, Lot 4, R-2 Zone, new Providence, NJ
Chapter 310, Article IV, Section 310-10, Schedule II for permission to construct an addition. The proposed property does not have a garage whereas a one car garage is required. The existing side yard set back is 9.87 feet whereas 12 feet is the minimum required.

Mary Sheridan was sworn in and testified that she has a 14' by 14' enclosed sun porch at the back of house that has a separate heating system. She would like to expand it to 18' by 18' and open it up to the kitchen and make it a family room. The existing kitchen is small. She received a denial letter because she does not have a garage. She has a car port. Ms. Sheridan would like to keep the car port rather than construct a garage because the garage would have to be narrow. If it were wider, it would be too close to the neighbor.

Mrs. Sheridan responded to questions from the Board. Expanding the sun porch does not preclude constructing a garage at a future date. The sun porch has its own heater but the heating and air conditioning units will be combined. The new air conditioning unit will be in the same place.

The Board had no further questions for the witnesses. The hearing was opened to

questions from the public.

There were no questions from the public.

No one else appeared to testify for this application. The hearing was opened to comments from the audience.

There were no comments from the public.

The hearing was closed.

Discussion: The only reason the applicant is before the Board is because of the existing side-yard setback and there is no garage. The Board had no issue with granting the variance to replace the sun porch with a family room because it does not preclude the construction of a garage at a future date.

Mr. Ping moved to approve the application. Mr. Karr seconded the motion. A Resolution will be passed at the next meeting. Those in favor: Mr. Grob, Mr. Karr, Mr. Ping, Ms. Polesak, Mr. Van Schoick, Mr. Wycko and Mr. Nadelberg. Those opposed: None.

Jeremiah and Bonnie Nezlick
23 Thomas Street, Block 152, Lot 23, R-2 Zone, New Providence, NJ
Application #2012-19
Chapter 310, Article IV, Section 310-10, Schedule II & III, for permission to construct an addition. The proposed front yard setback to the 2nd floor addition is 33.33 feet and 36.33 feet to the garage addition whereas 40 is the minimum required. The proposed rear yard setback to the addition is 33.25 feet and 30 feet to the rear stoop whereas 40 feet is the minimum required. The proposed side yard setbacks to the addition are 4.6 feet with a combined total of 13.16 feet whereas 12 feet with a combined total of 30 feet is the minimum required. The proposed floor area ratio is .348 whereas .275 is the maximum permitted. The existing front yard setback to the house is 31.41 feet and 29 feet to the existing front stoop.

Mr. Bossong recused himself from hearing the application because of a conflict of interest. Mr. William Robertson, substitute Board attorney, heard the application.

Jeremiah and Bonnie Nezlick and their architect, Nicholas Ferrara, were sworn in. For the record, Mr. Ferrara noted several discrepancies between the professional planner's report and the plans. The proposed front yard setback to the second floor is 33.39 feet not 31.41 feet as noted in the planner's report. The proposed minimum rear yard setback to the building is 33.25 feet to the building not 30.0 feet as reflected on the planner's report.

Mr. and Mrs. Nezlick are adopting a child and would like to remove the existing garage and replace it with an attached garage and construct a second-floor addition. Pulling the garage forward improves the rear-yard setback and reduces the impervious coverage which should help with the water in the backyard. Photographs of the Nezlick's property, neighboring homes and a copy of the structural engineering inspection report were marked as Exhibit A-1. Mr. Nezlick described the photographs as follows:

- Photograph 1 – The Nezlick's driveway and existing garage showing the

- evergreens they added along the driveway for screening.
- Photograph 2 – Rear yard of the Nezlick's property showing two trees they planted to provide screening. They plan to replace these with shrubs/trees that would provide better screening.
 - Photograph 3 – House to the right of the Nezlick's house that was expanded before they moved in ten years ago. The Nezlick's addition will be larger.
 - Photograph 4 – View of the Nezlick's house from Wilbur Street showing the adjacent property to the left. The Nezlick's propose to plant a tree on the front lawn.
 - Photograph 5 – View of a neighbor's house at 10 Thomas Street. Mr. Nezlick believes that their addition will be comparable although their lot may be smaller.
 - Photograph 6 – View of the Nezlick's house from Thomas Street.
 - Photograph 7 – View of the house across the street at 23 Thomas Street where the lot is double the size of the Nezlick's house so the addition is larger.
 - Photograph 8 – View of the house at 12 Wilbur Street which is the first house on Wilbur Street from the Nezlick's house. Mr. Nezlick believes this expansion is on a smaller lot than theirs.

Mr. Nezlick referenced the structural engineering inspection report (Exhibit A-1) and testified that they plan to make structural repairs and correct the problem that has caused water damage to the back wall in the basement.

Mr. Nezlick responded to questions from the Board. It would be difficult to achieve what the Nezlicks want without asking for the variances. There is a privacy fence in the back yard and along the side yard so there is little visual impact from the addition. The house to the left (photograph 4, Exhibit A-1) only has one window facing the Nezlicks so the addition has little impact on the neighbors. The Nezlicks will plant shrubs/trees to provide more screening if necessary. The addition will face the garage on the neighbor to the right of the Nezlicks. There is a Japanese maple along that property, but there isn't a lot of space to plant anything more. Seven variances were required for the addition at 10 Thomas Street, but the addition was built prior to FAR requirements. Mr. Nezlick is not sure if the addition at 24 Thomas Street required variances. The Nezlicks are one of the last residents in the neighborhood to enlarge their home.

The Board had no further questions for the witnesses. The hearing was opened to questions from the public.

Julia Petses, 16 Bradford Street, asked if the Nezlicks are doing anything about the drainage. She lives behind the Nezlicks to the left. Removing the garage increases the impervious coverage which should help with the drainage and also increases the rear-yard setback to 33.25' from 24'. There are two dry wells in the back yard and the house has French drains. The house will have new leaders and gutters that will tie into the drainage. There is a catch basin in front of the house and the Nezlicks would like to drain to this if possible.

Mr. Lynch confirmed that the Nezlicks can connect to the storm drain in front. It is not necessary to make this a condition of the resolution because it will be covered in the grading permit. The Board believes that removing the garage and re-doing the driveway provides a good opportunity to connect to the storm sewer. Mr. Nezlick confirmed that there will be a basement under the addition. The basement wall is structurally sound,

but it will be fixed with the addition.

No one else appeared to testify for this application. The hearing was opened to comments from the audience.

There were no comments from the public.

The hearing was closed.

Discussion: Mr. Hoefling noted that the area is challenged when it storms and the applicant has an ideal opportunity to fix the drainage and tie into the storm sewer when the garage is removed and the driveway is re-done. Tying the drainage into the storm sewer will benefit the neighbors and everyone wins in this situation. The Nezlicks are the last in the neighborhood to modernize. Mr. Karr stated that a 27% increase over the permitted FAR stretches the limits, but in this case, the addition fits and he is in favor.

Mr. Wycko moved to approve the application. Mr. Van Schoick seconded the motion. A Resolution will be passed at the next meeting. Those in favor: Mr. Grob, Mr. Karr, Mr. Ping, Ms. Polesak, Mr. Van Schoick, Mr. Wycko and Mr. Nadelberg. Those opposed: None.

Sean and Sandra Slattery Application #2012-21
56 Crescent Drive, Block 74, Lot 15, R-2 Zone, New Providence, NJ
Chapter 310, Article IV, Section 310-10, Schedule II for permission to construct an addition. The proposed combined side yard setback to the addition is 22.6 feet whereas 30 feet is the minimum required. The existing setback to the shed is 3 feet from the rear yard and 4 feet to the side yard. The existing set back to the driveway is 1 foot.

Sean Slattery was sworn in. Mr. Slattery would like to convert the existing mudroom and dining room into an attached garage and add a one-story rear addition with a basement to regain the living space lost to the garage. The applicant requires a variance for the combined side-yard setback because of the rear addition. There are existing non-conformances for the shed and driveway.

The Board questioned the applicant. The Slatterys will remove the blacktop driveway in the back up to the front of the house and replace it with soil and grass. The existing macadam in front of the house will not change. The existing air conditioning units will be sufficient and there will be no outdoor lighting. The property will be more in conformance with the zoning ordinance with the addition of the garage. There is no room for the garage on the other side of the house so the only other option would be to locate it off the back of the house; however, this would be functionally difficult. Mr. Slattery would like to store lawn and sports equipment in the garage.

The Board had no further questions for the witnesses. The hearing was opened to questions from the public.

There were no questions from the public.

No one else appeared to testify for this application. The hearing was opened to comments from the audience.

There were no comments from the public.

The hearing was closed.

Discussion: Mr. Karr stated that it is a good plan and the alteration is architecturally good. It is a win-win situation and increases the applicant's quality of life. While the applicant may not opt to park his car in the garage, the next owner can do so. Mr. Van Schoick noted that the addition in the back has no impact on the neighbors, and the garage puts the property more into conformance with the zoning requirements.

Mr. Ping moved to approve the application. Ms. Polesak seconded the motion. A Resolution will be passed at the next meeting. Those in favor: Mr. Grob, Mr. Karr, Mr. Ping, Ms. Polesak, Mr. Van Schoick, Mr. Wycko and Mr. Nadelberg. Those opposed: None.

Scott and Beth Herman Application #2012-22
32 Darby Court, Block 335, Lot 22, R-1 Zone, New Providence,
Chapter 310, Article IV, Section 310-10, Schedule II for permission to construct a portico. The proposed front yard setback to the portico is 37.9 feet whereas 40 feet is the minimum required.

Scott Herman was sworn in. The Hermans have lived in their house for 18 years and would like to add a portico. The existing stoop is too small to accommodate visitors safely and they would like to make it wider. To make the portico wider means that it also has to be deeper resulting in a variance for the front-yard setback. The house sits on a cul-de-sac, and the applicant believes the portico would increase its curb appeal.

The Board asked about the existing stoop and enclosing the proposed portico. The existing stoop is 8' by 4'. The proposed portico is 12.5' by 5'. The applicant has no plans to enclose it. The portico will have a single pendant light fixture. A photograph of a portico with a light fixture at 80 Candlewood Drive was marked as Exhibit A-1. The portico and light are similar to what the Hermans propose. The proposed portico has no impact on the neighbors' sight line. The existing stoop needs to be replaced anyway.

The Board had no further questions for the witnesses. The hearing was opened to questions from the public.

There were no questions from the public.

No one else appeared to testify for this application. The hearing was opened to comments from the audience.

There were no comments from the public.

The hearing was closed.

Discussion: Ms. Polesak believes the portico is for the good since it improves the safety of visitors.

Mr. Van Schoick moved to approve the application with the condition that the porch not be enclosed. Mr. Ping seconded the motion. A Resolution will be passed at the next

meeting. Those in favor: Mr. Grob, Mr. Karr, Mr. Ping, Ms. Polesak, Mr. Van Schoick, Mr. Wycko and Mr. Nadelberg. Those opposed: None.

H. COMMUNICATION ITEMS

The Board noted that nothing has happened with the landscaping at Alcatel-Lucent and another planting season has passed without any remedial action at the site. Jeff Janota is still working on this.

The Board asked about the Redwood-ERC property at Mountain Avenue and South Street. The grass hasn't been cut. Mr. Lynch reported that existing building will be demolished in January.

I. MISCELLANEOUS

Several Board members have a conflict with the meeting scheduled for November 14th. The Board agreed to reschedule the meeting to Monday, November 19, 2012. The secretary will publicly notice the change in meeting date.

J. MINUTES FROM 10/1/12

The minutes of October 1, 2012, were approved as submitted.

K. ADJOURNMENT

The meeting was adjourned at 8:45 p.m.