

**BOROUGH OF NEW PROVIDENCE
BOARD OF ADJUSTMENT
MEETING MINUTES – MONDAY FEBRUARY 6, 2012 – 8:00 p.m.**

Present: Mr. Nadelberg, Mr. Grob, Mr. Hoefling, Mr. Karr, Mr. Van Schoick, Ms. Polesak, Mr. Pennisi, Mr. Wycko, Philip J. Morin, III, Esq., Board Attorney, and Margaret Koontz, Secretary.

Absent: Mr. Ping

A. CALL TO ORDER

Chairman Nadelberg called the meeting to order at 8:06 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 HEARING

Raymond A. McCrann
#2011-30

Application

29 Lavina Court, Block 120, Lot 7, R-2 Zone, New Providence, NJ
Chapter 310, Article IV, Section 310-10, Schedule II and Section 310-11E for permission to construct an addition. The proposed front yard setback to the addition is 27 feet whereas 40 feet is the minimum required. There is no garage whereas a one car garage is required. The existing side yard setback is 9.64 feet whereas 12 feet is the minimum required. The existing shed is 1.30 feet from the rear property line.

Raymond McCrann and his son-in-law, Brad Smith, were sworn in. Mr. Smith testified that the house was built in the late 1920s and Mr. McCrann has lived there for 40 years during which time the zoning laws changed. The front of the house has a 30-foot setback rather than the required 40 feet. Mr. McCrann proposes to build a 12-foot wide side addition to extend the family room across the front of the house.

Mr. McCrann answered questions from the Board. There was no garage when he purchased the house and no garage is proposed. The McCranns own the lots shown on the survey as 22 and 23. The side addition would not prohibit the construction of a garage. There is an 8-foot by 10-foot shed at the back of the property. The McCranns replaced the old shed, which was smaller, but had to move it forward from the property line to be in conformance with the zoning ordinances.

Mr. McCrann does not know why the two lots were not co-joined into one. He receives a tax bill for both lots under lot 7. The Board discussed joining the lots as a condition of approval which would guarantee that a garage could be added if the lot were sold. Mr. Morin stated that combining the lots could be a merger by operational law and the tax assessor can merge the lots. Mr. McCrann has no issues with merging the lots. Mr.

Morin stated that a condition of approval could be that a copy of the resolution be provided to the tax assessor for consolidation of the tax lots into one tax lot and the assignation of a new number.

The addition will go straight across the front of the house. The McCranns will re-side the front of the house if they can't match the materials for the addition to the existing house. No additional air conditioning compressors are required.

The Board had no further questions for the witnesses. The audience had no questions for the witnesses.

No one else appeared to testify for this application and there were no comments from the audience.

Discussion: The Board discussed joining the lots as a condition of approval. Mr. Pennisi moved this for approval with the condition that the two lots be merged. Mr. Grob seconded same. A Resolution will be passed at the next meeting. Those in favor: Mr. Grob, Mr. Karr, Mr. Pennisi, Ms. Polesak, Mr. Van Schoick, Mr. Wycko and Mr. Nadelberg. Those opposed: None.

William and Nancy Ann Alagna Application #2011-31
146 Passaic Street, Block 44, Lot 9, R-2 Zone, New Providence, NJ
Chapter 310, Article IV, Section 310-10, Schedule II for permission to construct an addition. The proposed side yard setbacks are 8.08 feet with a combined total of 21.31 feet whereas 12 feet with a combined total of 30 feet is the minimum required. The existing front yard setback to the porch is 18 feet and 23.15 feet to the house whereas 40 feet is the minimum required. The existing driveway is only 1 foot from the property line whereas 6 feet is the minimum required. A stream encroachment permit or waiver of a stream encroachment permit is required from the DEP.

William Alagna was sworn in. Mr. Alagna testified that he has lived in the house since 1996. He proposes to construct an addition that would connect the existing house to the detached garage. He has 11-year old twins that have taken over the house and there is only a crawl space in the basement that could typically be used as a play area. The addition would be a room for the children for play dates and homework.

Thomas Hofmann, architect for the applicant, testified that the rear of the property is in a flood plain where the base elevation is 210 feet. The addition would match the same height of the crawl space on the interiors which is at 212 feet. This is above the flood plain. Water floods the other side of the street, but the Alagnas have never had water in their house. The garage will remain as is. The Alagnas propose to fill in the 16 feet between the house and the garage expanding the kitchen and extending the back of the house across to the garage. There will be a covered porch over the front of the addition. There is currently asphalt where the addition will be. The addition is less than 300 feet to comply with DEP.

Four photographs of the house were marked as exhibits. Exhibit A-2 shows the Alagna's house (with blue shutters) on the right side of the photo and the neighbor's house to the left. Exhibit A-3 is a straight-on photo of the Alagna's house with the garage. Exhibit A-4 shows the garage and the neighboring house to the right. Exhibit A-5 shows the garage with a complete view of the house to the right.

Mr. Alagna responded to questions from the Board. The house was redone in 1996 when the Alagnas moved in. The porch was added before they moved in. The driveway will be widened to 18 feet at the garage so that the cars can be parked side-by-side since the Alagnas will lose the parking space between the house and the addition. The flare in the driveway will take up about three feet of the Alagna's lawn and walkway and will not be on the neighbor's side. The materials for the addition will match the existing house. They may add stone wainscoting under the windows to tie the two structures together. The roof pitch of the garage will change from front to back to match the addition but it is still below 14 feet. The plans and front elevation were marked as Exhibit A-1. The door on the covered porch will become the primary entrance to the house. There will be a walkway in front of the addition that Mr. Alagna may tie to the walkway to the existing front entrance. This walkway will not be used for parking. The applicant is comfortable with the condition that the front porch never be enclosed. There are no windows in the garage and none are proposed because no one can see them from the side. No air conditioning or heating units will be added.

The Board had no further questions for the witnesses. The audience had no questions for the witnesses.

No one else appeared to testify for this application and there were no comments from the audience.

Discussion: There was no further discussion of the application by the Board. Ms. Polesak moved the application for approval. Mr. Pennisi seconded same. A Resolution will be passed at the next meeting. Those in favor: Mr. Grob, Mr. Karr, Mr. Pennisi, Ms. Polesak, Mr. Wycko, Mr. Van Schoick and Mr. Nadelberg, Those opposed: None.

Ashok Kumar Application #2011-32
200 Hickson Drive, Block 241, Lot 46, R-2 Zone, New Providence, NJ
Chapter 310, Article IV, Section 310-10, Schedule II for permission to install a generator. The proposed front yard setback along Beech Street to the generator is 25 feet whereas 40 feet is the minimum required.

Ashok Kumar and Saurabh Kumar, Mr. Kumar's son, were sworn in. The Kumars would like to install a natural gas generator. The installer told the Kumars that the best location for the generator so that it is close to the gas line is 25 feet from the front yard setback. This location also distances the generator from the neighbors. For the generator to be 40 feet back, it would have to be in the back yard which is closer to their neighbors.

The Board questioned the applicant. The generator would be located four to five feet from the house based on the requirements for the generator. The generator company told Mr. Saurabh Kumar that the generator should be run twice a year for a few hours. The Board asked if the generator should be exercised more often. Mr. Wycko stated that this testing protocol is okay for a natural gas generator. Mr. Karr pointed out the spec sheets calls for exercising the generator once a week for 12 minutes. Mr. Saurabh Kumar responded that he will exercise the generator as directed. The generator company will service the generator once or twice a year. The noise level of the generator is similar to an idling car engine. The generator, which will be located behind existing bushes and trees, is beige and sits on a concrete pad. The generator will not have an extra covering.

The Board had no further questions for the witnesses. The audience had no questions for the witnesses.

No one else appeared to testify for this application and there were no comments from the audience.

Discussion: The Board discussed the discrepancies in the testing protocol between the applicant's testimony and the spec sheets for the generator. The Board also discussed establishing a set of standards for generators for noise levels and when they can be tested so that conditions for such would not have to be included in future resolutions. Mr. Wycko said that the state is fairly tolerant of noise levels but there are sound levels. Mr. Pennisi proposed that permitted testing times be included as a condition. The Board also discussed ways to mitigate noise from generators. Mr. Grob does a lot of work on sound attenuation on roadways and stated that landscaping is not as effective as architectural elements in reducing sound. The Board discussed maintaining the landscaping around the applicant's generator.

Mr. Pennisi moved for approval with two conditions: Testing of the generator must be done in accordance with the Borough's ordinance regarding time frames for landscaping work and landscaping around the generator must be maintained. Mr. Grob seconded same. A Resolution will be passed at the next meeting. Those in favor: Mr. Grob, Mr. Karr, Mr. Pennisi, Ms. Polesak, Mr. Wycko, Mr. Van Schoick and Mr. Nadelberg, Those opposed: None.

David and Christine Briganti
5 Morehouse Place, Block 114, Lot 9, R-1, New Providence, NJ
Chapter 310, Article IV, Section 310-10, Schedule II & III and Article V Section 310-20 D2 for permission to construct an addition. The proposed front yard setback to the covered porch along Morehouse Place is 17.33 feet and the set back along Laurel Drive is 15.67 feet whereas 40 feet is the minimum allowed. The proposed rear yard setback to the addition is 36.46 feet whereas 40 feet is the minimum required. The proposed floor area ratio is .377 whereas .260 is the maximum permitted. The proposed side yard setback to the deck is 10.58 feet whereas 12 feet is the minimum required.

Application #2011-33

David Briganti was sworn in and provided an overview of the application. The Brigantis have lived in the house for six years. They now have an 18-month old child and would like to expand the house to accommodate their growing family so they can stay in the neighborhood as well as update the house which was built in the 1920s. The existing cinder block garage would be removed and a two-car garage would be added to the front of the house along with a covered front porch. A family room would be added to the back of the house and master bedroom and bathroom added on the second floor. The proposed site plan, zoning criteria and pictures of the existing structure and surrounding houses was marked as Exhibit A-1.

James J. Ramentol, architect for the applicant and principal of GRA Architects, was sworn in and presented his credentials. The Board accepted the witness as a licensed architect. Mr. Ramentol reviewed the application. The property is a corner lot so it has two front-yard setbacks and is a non-conforming property with front-yard encroachments both existing and proposed. The proposed front porch is an encroachment but projects

into the front yard about the same as the neighbors' front porches. Abolishing the garage will give the Brigantis more back yard. The garage will be added to the left side of the house and will attach to an existing family room that will become the dining room. The majority of the construction is to the left and rear of the property. Mr. Ramentol reviewed the proposed setbacks for which the applicant is seeking relief.

The Floor Area Ratio (FAR) calculation of .377 includes the new garage. Mr. Ramentol described the proposed first-floor layout as shown on Sheet A-2 of Exhibit A-1 with the new covered porch, family room, cantilevered breakfast room and small deck stepping to the patio. The property slopes so the deck would allow more use of the back yard. There is a secondary entrance through the new garage. Sheet A-3 shows the second floor which would be accessed using the existing stairs. The existing attic stairs would be closed and moved to adjust the bedroom size. The height of the attic will be changed. The attic, while habitable space, will be used strictly for storage. A laundry and linen closet will be added as well as the master bedroom (fourth bedroom) and bath above the proposed garage.

Mr. Ramentol described the front elevation shown on Sheet A-4. The traditional character of the house will be maintained but upgraded to today's standards with new finishes of stone and the covered porch for shade and privacy. Photo 2 shows the two-car garage that will be removed. Photo 3 shows the left side of the house. Photos 4-6 give an overview of the property. Photos 7-11 show where the majority of the addition will be placed. There is an easement along the left side of the property: There will be no encroachment on the easement. Mr. Ramentol reviewed the other images that show the setbacks of other homes down the street in relation to the Briganti's house. The applicant will work the driveway around the large street trees within the right of way. The driveway will widen toward the front of the garage. The intent of the design of the house is provide some undulation and to step the property down on the right side of the house. Sheet A-4.1 shows the rear elevation with the fireplace and roof angles to accommodate the addition.

The site of the existing garage will be back filled and graded. There will be a window in the back of the garage since it is below grade and steps down three or four steps. The garage is approximately five to six feet below finished floor of the main house. Additional basement will be added.

The Board questioned the applicant about how the home will fit into the neighborhood in terms of size and style. Mr. Ramentol said the home can't be categorized to a particular style. The neighborhood is diverse in terms of the number of stories and styles and there have been a number of significant additions in the surrounding three to four blocks with at least two of comparable size to the proposed addition. The lot is a corner lot and is wider than other properties down the street as shown in the photos which were taken to show styles as well as size. These lots are narrower with similar depths but don't have the same capacity for expansion. The Briganti's property lends itself to a walkout basement because of the grade. Mr. Ramentol believes the property is large enough to accommodate the addition and while the architectural style is not similar to the neighborhood the intent is to maintain the roof lines, dress up the trim and bring the house to a traditional design in keeping with what's on the marketplace today. Mr. Briganti added that the house is one of the smaller ones in the neighborhood. Most of the neighbors have added 20' by 25' additions to the back but because his lot is on the corner, his addition would be more visible.

The Board agreed that the plans are an improvement, but there is an issue with the zoning. The Board expressed concern about the visual impact of the addition, its mass and inconsistency with the neighborhood: The Board stated that the addition is like putting another house on the lot and the visual impact from Laurel Drive is significant. Mr. Ramentol stated that he attempted to provide a stepped approach since there is some undulation on the property and the addition will open up the back yard. Mr. Ramentol believes the addition is a better use of the property than what is there now. The neighbors across the street on Laurel Drive will view a back yard rather than a garage which would be better than the view they have now. Mr. Ramentol does not have the FAR increases for other homes in the neighborhood. The Board asked if the applicant looked for a larger house in the area. The Brigantis have looked since they had their child but there isn't much turnover in New Providence and they really want to stay in the neighborhood because of the location: The proximity of their house to the schools and train station is important.

The Board asked if the Brigantis have a Plan B. Mr. Ramentol described some changes that could be made to reduce FAR and the mass such as shrinking the family room, eliminating the cantilever of the breakfast room and reducing the master bedroom. The Board suggested that setting back the roof line of the addition over the garage would reduce the mass. The Board noted that the FAR is a 45% increase over the maximum permitted FAR. A 20% increase over the FAR standard is cause for Board concern. The Board does not remember granting approval for an increase this big. Mr. Ramentol pointed out that the applicant is not getting credit for removing the garage and that the garage is now included in the FAR calculation. Attaching the garage adds 5% of FAR.

The Board believes it is a very nice house but that the lot can't support the mass and suggested that the applicant look at different ways to reduce the visual impact and mass while trying to achieve a balance with the applicant's needs. The Board discussed altering the style to fit in the neighborhood, changing roof lines and moving some of the addition to the back. Mr. Briganti said that their goal is to have the addition fit in the neighborhood. He doesn't want the addition to overwhelm the neighborhood but would like to have more than the 1,400 square feet of living space that he has now.

There were no further questions from the Board. There were no questions from the audience.

No one else appeared to testify for this application and there were no comments from the audience.

Chairman Nadelberg offered the Brigantis the option of voting on the application tonight or carrying the hearing so they could re-appear before the Board with modifications. The applicant opted to carry the hearing. Further notice is not required and will not be given. The hearing will be carried to March 19, 2012. The Board suggested that the applicant look at other additions with FAR variances for comparison purposes. The Board also suggested that additional photos and an aerial view of neighborhood would be useful. The applicant produced a photo of a house that was used as a model for the addition. This photo was marked as Exhibit A-2 for the next hearing.

F. REVIEW OF PUBLIC HEARING FOR SCHEDULED FOR FEBRUARY 13, 2012

Joseph M. Hopler, Jr. and Elizabeth A. Ferrara Application #2012-01
50 Clinton Avenue, Block 62, Lot 14, R-2 Zone, New Providence, NJ
Chapter 310, Article IV, Section 310-10, Schedule II and III for permission to construct an addition and detached garage. The front yard setback along Clinton Avenue to the 2nd Floor addition is 39.8 feet and the set back to the addition along Stanley Road is 20.3 feet whereas 40 feet is the minimum. The proposed floor area ratio is .36 whereas .260 is the maximum permitted. The proposed driveway is 18 feet wide whereas 16 feet is the maximum permitted. The proposed patio is on the property line along Stanley Road whereas 6 feet is the minimum required. The proposed height on the accessory structure is 16 feet whereas 14 feet is the maximum height allowed. The existing front yard setback to the front porch is 37.2 feet. The existing side yard setback to the house is 4.9 feet. There is a 6-foot fence along Stanley Road.

Joseph and Marie Paino Application #2012-03
25 Clement Road, Block 21, Lot 9, R-2 Zone, New Providence, NJ
Chapter 310, Article IV, Section 310-10, Schedule II for permission to enclose a deck. The rear yard setback to the enclosed deck is 36 feet whereas 40 feet is the minimum required.

Ganzie, LLC Application #2012-04
43 Floral Avenues, Block 222, Lot 16, C-1 Zone, New Providence, NJ
Under N.J.S.A. 40:55D-12 for permission to construct a two-story addition to the rear of the existing building and to add a commercial business on the first floor, maintaining the existing residential apartment on the second floor, add a second residential apartment on the second floor and construct a full basement under the addition that will be utilized as "basement space" and not as a separate occupancy space for a separate tenant on the premises.

F. COMMUNICATION ITEMS

No communications items.

G. MISCELLANEOUS

No miscellaneous business

H. EXECUTIVE SESSION

No Executive Session

I MINUTES FROM 1/4/12

The minutes from 1/4/12 as submitted were approved.

J. ADJOURNMENT

The meeting was adjourned at 10:10 p.m.