

**BOROUGH OF NEW PROVIDENCE
BOARD OF ADJUSTMENT
MEETING MINUTES – MONDAY, MARCH 7, 2016 – 8:00 p.m.**

Present: Mr. Ammitzboll, Mr. DeSarno, Mr. Grob, Ms. Jaynes, Mr. Karr, Mr. Morgan, Mr. Phil Morin, Board Attorney, and Margaret Koontz, Secretary

Absent: Mr. Nadelberg and Mr. Ping

Also present: Keith Lynch, Director of Planning and Development

A. CALL TO ORDER

Vice Chairman Grob called the meeting to order at 8:03 p.m. This meeting was held in the Council Conference Room.

B. PUBLIC NOTICE

Vice Chairman Grob 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.

C. PUBLIC HEARING SCHEDULED FOR MARCH 7, 2016

Erminio LaRosa Application #2016-03
12 Primrose Drive, Block 131, Lot 6, R-2 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule II and III for permission to construct an addition and proposed future garage. The proposed rear yard to the addition is 26.67 feet to the addition and 21.67 feet to the future garage whereas 40 feet is the minimum required. The proposed side yard setback to the second floor addition is 8 feet whereas 16.8 feet is the minimum required. The proposed building coverage with the future garage is 1,722 square feet whereas 1,658 square feet is the maximum allowed. The property currently does not have a garage whereas a one car garage is required. In accordance with a previously approved variance the existing deck is 16' from the rear property line. The property has an existing shed that is 1.2 feet from the rear property line and 2.3 feet from the side property line.

Erminio LaRosa and Thomas Hofmann, his architect, were sworn in. Mr. LaRosa received variances last summer to build an addition to provide more room for his three children and in-laws who come to watch the children. During construction, safety issues with the roof on the right side of the house became apparent and the roof was raised without Mr. LaRosa's realizing that raising it would trigger a variance. In January 2016 the plumbing, electrical and framing inspections were halted. Mr. Hofmann stated that at the previous hearing, he testified that the right side of the house would not be altered; however, the roof was not in good shape so he changed the rafters which changed the look of the house. The interior of the house has not been changed. In addition, when framing the house, Mr. Hofmann realized the second front door which is only 20' away from the main front door made the house look like a two-family house. The combined

side-yard setback which was originally 4' over what is permitted is now 8' over because of the higher roof on the right side of the house.

The following exhibits were marked:

Exhibit A-1: Revised front elevation and floor plan dated February 1, 2015

Exhibit A-2: A photograph of the house showing the framing for the addition on the left side of the house.

Exhibit A-3: A photograph showing the house as constructed with the raised roof on the right side of the house.

Exhibit A-4: A photograph showing the house as constructed and the house to the right.

Mr. Hofmann and Mr. La Rosa responded to questions from the Board. The roof on the right was shallow and rotten everywhere that it was tied in. Reconstructing it would not guarantee that it wouldn't leak again because of the pitch. A ridge vent wouldn't have worked because the roof was very shallow. Mr. LaRosa added that he and his family are still living in the house and the raised roof has made a big difference in the temperature on that floor. He is maintaining the 7' ceiling.

The Board asked why the applicant built beyond what was approved in the resolution. Mr. Hofmann responded that he didn't know that raising the roof would create a variance condition. Mr. LaRosa added that he had no intention of raising the roof until he found out that it was rotten. Mr. Hofmann did a quick roof plan before the roof was raised. The Board expressed concern that the work was done without consulting the Building Department when it's obvious that changing the roof created an issue with the side-yard setback. Mr. Karr stated that he was concerned about the size of the house at the previous hearing but agreed to the addition: He's not sure he would have voted in favor of an application for the addition as built because it's too massive for the street. Mr. Ammitzboll added that the prior application proposed a broken roof line and the applicant testified that a full second floor addition was not proposed so as to reduce the visual impact. Mr. Ammitzboll asked why the applicant didn't fix the roof rather than create a new problem. Mr. Hofmann answered that it made sense to put on a new roof and to make it the same pitch as the roof for the addition. Mr. Ammitzboll noted that the raised roof and pitch changed the visual impact even though it didn't change the interior space. Mr. Hofmann responded that the additional space above the windows is not usable space: The old roof is underneath the raised roof.

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

Ed Morgan, 18 Primrose Drive, reviewed the setbacks as presented on the application stating that the combined side-yard setback with the garage in the previous application was over what is permitted and the setback now exceeds what is permitted even more. Mr. Morgan asked about the setback to the proposed future garage. The setback to the garage is 20.25.'

No further witnesses appeared to testify and the hearing was opened to comments from the public.

Bernardo Estupinan, 25 Primrose Drive, was sworn in. He lives three houses to the right on the opposite side of the street. The changes to the plans are an aesthetic

improvement over what was originally proposed. The neighborhood has changed and each addition on the street and block has improved the neighborhood. Many homeowners have expanded their houses so they can stay in the neighborhood. The Board should consider this in its discussion. The neighborhood is a blend of styles and from the neighbors' perspective this is a positive change and is a good fit in the neighborhood.

Daniel Luke Iorio, 15 Primrose Drive, was sworn in and stated that he lives directly across the street. The new plans are aesthetically better and are consistent with the street. He's glad the design changed because it's a better design. His house is taller than the LaRosa's house; however, the LaRosa's side of the street is higher so the roofs on both sides of the street are in line.

A photograph of the Iorio's house was marked as Exhibit A-6. The Board had several questions for Mr. Iorio. His roof was approved at 32' and his garage is about 8' from the garage to the property line. There's a master bathroom over the garage but the roof is lower than the rest of the house.

Donna Ditzel, 63 Hickson Drive, was sworn in. Ms. Ditzel has lived in her house which is directly behind the LaRosa's house for 15 years. Her backyard used to be nice and shady and private. The LaRosas have removed all the trees in the back so now she looks at a large rectangular house. The house is too big and too high and will be even bigger with the future proposed garage. The windows and sliding glass doors in the back of the house are not proportional. The house will decrease the value of her property.

Dawn Iorio, 15 Primrose, was sworn in. She lives across the street and believes it's a beautiful house that fits in the neighborhood and will increase her property value. Five houses within a ten house range in the neighborhood have been renovated. The house looks wide because the property is a wide shallow lot.

Mr. Karr commented that the LaRosa's house on the right side is now almost 30' high and 8' from the property line and asked Ms. Iorio to comment on how she would feel if she lived next door. Ms. Iorio responded that her house is close to the neighbor's house and she has no problem being close. She does not believe the windows on the first floor on the right side of the LaRosa's house closest to the neighbor have changed.

Anita Murphy, 25 Hickson Drive, was sworn in. Ms. Murphy lives on the corner of Hickson Drive and Primrose Drive. The original design was awkward. Changing the rooflines makes the design more pleasing than the original plan. The rooflines don't make the house look any bigger. The LaRosa's house will increase property values.

Ed Morgan, 18 Primrose Drive was sworn in and lives to the right of the LaRosas. Mr. Morgan had four exhibits that were marked as follows:

Exhibit R-1: A copy of the 200' property owners list from Mr. Morgan's Board of Adjustment application

Exhibit R-2: A copy of the survey of Mr. Morgan's property showing his addition

Exhibit R-3: A copy of the front elevation of Mr. Morgan's house showing the width of the main portion of the front façade and the total width of Mr. Morgan's house with the addition which is set back from the house, and

Exhibit R-4: A copy of the Building Envelope Area and Building Façade Area for Mr. Morgan's property.

The LaRosas are seeking relief for a side-yard setback for work that wasn't approved. His property is most impacted and he is concerned about the scale of the house as built. He believes the Board needs to reconsider the whole application as it is materially different from the application approved last summer. Referring to Exhibit R-1, Mr. Morgan stated that the photos presented by the applicant do not show the whole view of the neighborhood and the proximity of the LaRosa's house to his property line. The side-yard setback at the corner of his house is 18.4' as shown on Exhibit R-2. He added a 6' x 14' single-story addition to the left side of house in 2003 which he believes is modest. His house was originally about 34' wide and is now 39.5' wide with the addition (Exhibit R-3) while the LaRosa's house will be 54' wide when the proposed future garage is constructed. The property slopes down to his house so water naturally flows onto his property but Mr. LaRosa has taken measures to mitigate water from flowing onto his property. Mr. Morgan asked if the Board would allow the applicant to build the house if it were turned on the lot as the footprint would then run from the front yard to the rear yard.

Mr. Morgan believes there have been errors in management of the project that have changed the ball game. However, he wants to be a good neighbor and offered the following solutions for the Board to consider: 1) Grant a variance for not building the garage because the property can't support a garage with the expanded addition, and 2) require the applicant to erect a fence or plant shrubs on the right side of the property to mitigate the 30' "wall" that faces his property as a condition of approval.

Bernardo Estupinan, 25 Primrose Drive, objects to the garage requirement in the zoning ordinance and supports Mr. Morgan's suggestion to grant a variance to eliminate the garage. The property doesn't have space for a garage and it could be a burden. Planting to provide a buffer between the properties is also a good suggestion.

Mr. Morin stated that the Board can't change the zoning requirements that require a one-car garage but can grant a variance on a case-by-case basis. There is no reason why the Board can't consider modifying the previous resolution that required a garage to be constructed prior to sale of the property.

Joe Eberle, 46 Pleasantview Avenue, who lives on the corner of Pleasantview and Hickson and can see part of the house, was sworn in. His house has the same footprint as the LaRosa's house. Speaking as a realtor, Mr. Eberle stated that the speed at which three houses on Pleasantview either sold or are under contract indicates it is a desirable neighborhood that people want to live in. Homeowners are investing in their houses rather than moving.

Discussion: The Board expressed displeasure that the applicant and architect have put it in the difficult position of having to figure out a compromise for work that has already been done. Although the architecture looks good, Mr. Karr wouldn't have approved an application for an addition with an 8' side-yard setback and a height of almost 30'. If he lived next door he wouldn't want to look out to at a 30' wall. A substantial buffer would be required for him to approve the application. The original application which was 4' over the combined side-yard setback is now 8' over. The garage is too much now with the larger addition. Mr. Ammitzboll agreed stating that he is very conflicted and unhappy that the work was done when it required a variance but the house is nice looking. The

comments from the neighbors including those that support the change and those that are concerned about the mass have to be considered. He also agreed that the property can't support the proposed future garage. Mr. DeSarno also expressed disappointment that the construction went forward without regard for the zoning requirements. The neighbors generally believe that the house is consistent with the neighborhood and is aesthetically pleasing; however, the setback issue remains. Mr. DeSarno believes that Mr. Morgan has offered some viable compromises. Ms. Jaynes stated that it's sad to be at this point. It's hard for the Board to look at something that's already been done: Professionals are supposed to ensure that things are done correctly. Requiring the applicant to undo what has been done is hard because of the money invested and puts the Board in the difficult position of finding a compromise. There has to be some delineation of the properties. Mr. Grob agreed with Ms. Jaynes that the project was not handled professionally. He agreed with changing the pitch of the roof because of the rot in the existing roof but it was made in a vacuum. Exhibit A-4, however, says a lot as it shows that the roof lines between Mr. LaRosa's house and Mr. Morgan's house line up. The additional space created is not habitable and the elimination of the second door is a plus. The new elevation is acceptable and Mr. Morgan's suggestions are viable and can work. Mr. Lynch added that the same courtesy to install landscaping as a buffer needs to be offered to the neighbor to the rear.

Mr. Morin stated that approval of the application can include a condition for landscaping between Mr. LaRosa's lot and Mr. Morgan's and Ms. Ditzel's lots. The applicant can be required to meet with the neighbors to discuss the landscaping buffer for the rear and side yards but authority over the landscaping plan has to be vested in a municipal official so there can be redress on appeal if a neighbor objects. If the applicant and neighbors can't agree, the municipal official would make the final decision. Mr. Morin advised the Board that it can carry the hearing so that the applicant and neighbors can meet with Mr. Lynch as the mediator regarding the landscaping plan. This portion of the application can be left open.

The applicant stated that he would do whatever is necessary but living in the house has been a tremendous hardship for him and his family. The delay in construction has also been a hardship for the contractor. Mr. Morin advised the applicant that he might want to carry the hearing rather than chance having the Board vote immediately since the work was done in complete disregard of the previous resolution and an immediate vote might not be in his favor.

The hearing will be carried to March 21, 2016. No further notice is required or will be given.

Rajiv and Sonali Setia
13 Brookside Drive, Block 132, Lot 8, R-2 Zone, New Providence, NJ 07974
Application #2016-07
Chapter 310, Article IV, Section 310-10, Schedules II and III for permission to construct an addition. The proposed side-yard setback to the addition is 10.2 feet with a combined total of 24.6 feet whereas 13.2 feet with a combined total of 24.84 feet is the minimum required. The proposed building coverage is 2,871 square feet whereas 2,290 square feet is the maximum allowed.

Rajiv and Sonali Setia and their architect, Malathi Ananthkrishan, were sworn in and Ms. Ananthkrishan was accepted as a licensed professional architect. The Setia's

house is an old split level. They have two children and both have elderly parents that visit every year for an extended period of time. They need more room but love the town and don't want to move. They would like to have a full bathroom on the main level and a wider garage because the existing one is too narrow so they have to park in the driveway.

Ms. Ananthakrishan designed the house to meet the applicants' three needs: A great room on the ground level, a larger kitchen and a wider garage. With the new zoning ordinance, the house and addition are 2,638 SF (17% of lot coverage) which exceeds the permitted building coverage of 2,295 SF or 15% of lot coverage. Ms. Ananthakrishan modified the plans to eliminate the side-yard variance and the applicants are only seeking a variance for building coverage. The existing family room is at the rear of the house and is not easily accessible so the Setias propose to add a kitchen to the rear of the house to connect the kitchen and family room. The following exhibits were marked:

Exhibit A-1: Photograph of a family room as an example of the larger family room proposed, and

Exhibit A-2: Photograph of the back yard and rear of the existing house.

The Setias propose to combine two small bedrooms on the second floor to create a master bedroom and bath and move one of the bedrooms to the first floor. The front of the house will also be changed. The gable on the front is designed to reduce the impact of the height of the right side of the house. The average height on the right side of the house is 26'-10" and 22'-6" from the grade. The left side of the house is 17' high.

The applicants responded to questions from the Board. An additional air conditioner condenser will be needed and will be located at the rear of the house behind the garage. The Setias are thinking about a generator which would also be located at the rear of the garage.

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

There were no questions from the public.

No further witnesses appeared to testify and the hearing was opened to comments from the public.

There were no comments from the public.

Ms. Ananthakrishan summarized the application. The application updates a 1960s split level to look quite different while doing so in the least imposing way with the least number of variances. Ms. Ananthakrishan presented a photograph of a house she designed in another town which was marked as Exhibit A-3. Mrs. Setia added that the lot is very deep so the addition will not have a negative impact on the neighbors and will maintain the character of the neighborhood. The hearing was closed.

Discussion: Ms. Jaynes stated that the addition will add value to the town and meets the needs of the Setia's extended family. Mr. Ammitzboll concurred and very much likes the rear elevation. The increase in the building coverage is 13.5% over what is

permitted which is a reasonable request. The Board agreed that addition is an improvement over the 1960s split level and is very attractive. The Board applauded the architect for altering the plans to decrease the side yard and eliminate the variance.

Mr. Ammitzboll moved to approve the application. Ms. Jaynes seconded the motion. . A resolution will be passed at the next meeting. Members voting in favor: Mr. Ammitzboll, Mr. DeSarno, Ms. Jaynes, Mr. Karr, Mr. Morgan and Mr. Grob. Those opposed: None.

D. REVIEW OF PUBLIC HEARINGS SCHEDULED FOR MARCH 21, 2016

Christopher and Nicole Bisaccia Application #2016-04
7 Pine Court, Block 113, Lot 5, R-1 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule III for permission to construct an addition. The proposed building coverage is 4,170 square feet whereas 3,960 square feet is the maximum allowed.

Donna Bucco Application #2016-05
78 Woodcrest Drive, Block 251, Lot 2, R-2 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedules II and III for permission to construct a deck. The proposed rear-yard setback to the deck is 40 feet whereas 45.5 feet is the minimum required. The proposed building coverage is 2,637 square feet whereas 2,305 square feet is the maximum allowed.

New York SMSA Limited Partnership d/b/a Verizon Wireless Application #2016-01
121 Chanlon Road, Block 221, Lot 6, TBI-2, New Providence, NJ 07974
Conditional use and site plan approval to install a wireless communications facility on the roof of 121 Chanlon Road. Height variance to allow the antenna enclosures to extend to 63' and the equipment shelter to 65' above grade, where 50' is permitted and a variance to allow a zone setback of 130' to the C-1 Special Commercial Zone where a 150' zone setback is required, together with any additional variances, waivers or other relief required by the Board after its review of the application.

E. COMMUNICATION ITEMS

No communication items.

F. MISCELLANEOUS BUSINESS

No miscellaneous business

G. MINUTES FROM 2/22/16

The minutes from February 22, 2016, were approved as submitted.

J. ADJOURNMENT

The meeting was adjourned at 10:00 p.m.