

**BOROUGH OF NEW PROVIDENCE**  
**BOARD OF ADJUSTMENT – REORGANIZATION MEETING**  
**MEETING MINUTES – MONDAY JANUARY 8, 2018 – 8:00 p.m.**

A. CALL TO ORDER BY SECRETARY

The meeting was called to order at 8:00 p.m.

B. PUBLIC NOTICE BY SECRETARY

This a public 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.

C. ROLL CALL BY SECRETARY

Present: Malathi Ananthkrishnan, Jeff Grob, Michael Karr, Ed Morgan, Mitch Ping, William Nadelberg, Bill Sorochen, Philip J. Morin, III, Esq., Board Attorney, and Margaret Koontz, Secretary.

Absent: Hans Ammitzboll and Peter DeSarno.

Also Present: McKinley Mertz, Borough Planner; Michael O’Krepky, Borough Engineer; and, Keith Lynch, Director of Planning and Development.

D. PRESENTATION OF CREDENTIALS OF APPOINTED & RE-APPOINTED BOARD MEMBERS

The Borough Council appointed and/or reappointed the following at its annual meeting held in Council Chambers on January 4, 2018:

- Ed Morgan was reappointed as a Regular Member for a 4-year term expiring on December 31, 2021,
- William Nadelberg was re-appointed as a Regular Member for a 4-year term expiring on December 31, 2021, and
- William Sorochen was re-appointed as 2<sup>nd</sup> Alternate for a 2-year term expiring on December 31, 2019.

The current status of other members is as follows:

- Jeff Grob, Regular Member, whose term expires on December 31, 2018
- Michael Karr, Regular Member, whose term expires on December 31, 2018
- Peter DeSarno, Regular Member, whose term expires on December 31, 2019

- Hans Ammitzball, Regular Member, whose term expires on December 31, 2020
- Mitch Ping, Regular Member, whose term expires on December 31, 2020, and
- Malathi Ananthakrishnan, 1<sup>st</sup> Alternate, whose term expires on December 31, 2018.

## E. NOMINATIONS AND ELECTIONS

### 1. Election of Chairperson

The Secretary asked for nominations for Chairman. Michael Karr nominated William Nadelberg for Chairman and Mitch Ping seconded the nomination. Jeff Grob moved to close the nominations. Mr. Karr seconded same. The Board Secretary cast one unanimous vote for William Nadelberg as Chairman.

### 2. Election of Vice Chairperson

The Chairman asked for nominations Vice Chairman. Mr. Ping nominated Mr. Grob for Vice Chairman and Mr. Karr seconded same. Mr. Karr moved to close the nominations and Mr. Ping seconded the motion. The Chairman cast one unanimous vote for Mr. Grob as Vice Chairman.

### 3. Selection of Board Attorney

The Chairman asked for nominations for Attorney to the Board. Mr. Ping nominated Phil Morin as Board Attorney and Mr. Grob seconded the nomination. Mr. Grob moved to close the nominations. Mr. Ping seconded same. The Chairman cast one unanimous vote for Mr. Morin as Board Attorney.

### 4. Election of Secretary to the Board

The Chairman asked for nominations for Secretary to the Board. Mr. Grob nominated Margaret Koontz as Secretary and Mr. Karr seconded same. Mr. Ping moved that nominations be closed. Ed Morgan seconded the motion. One unanimous vote was cast for Ms. Koontz as Secretary to the Board of Adjustment.

## F. Review of Calendar Resolution for 2018 & January 2019

The Board reviewed the Calendar Resolution and found it acceptable. The Board will have only one meeting in September as noted on the calendar. Mr. Grob moved to approve the resolution for the calendar of meetings and Mr. Morgan seconded the motion. All voted in favor.

## G. Review of Board of Adjustment By-Laws and Resolution

The Board reviewed the By-Laws and Resolution. Mr. Grob moved to approve the

resolution adopting the By-Laws and Mr. Ping seconded same. All voted in favor.

#### H. Review of Resolution for Attorney Services

The Board reviewed the resolution for attorney services and found it acceptable. Mr. Grob moved to approve the resolution and Mr. Ping seconded the motion. All voted in favor.

#### I. RESOLUTIONS FROM PUBLIC HEARINGS:

Janice Barstow Reitter Application #2017-36  
35 Ashwood Road, Block 91, Lot 3, R-1 Zone, New Providence, NJ 07974  
Chapter 310, Article IV, Section 310-10, Schedule II for permission to construct an addition. The proposed rear-yard setback to the addition is 40.85 feet whereas 58.2 feet is the minimum required.

**Mr. Grob moved this and Mr. Sorochen seconded same. Members voting in favor: Mr. Grob, Mr. Karr, Mr. Morgan, Mr. Sorochen and Mr. Nadelberg.**

Richard Angel Application #2017-37  
75 Acorn Drive, Block 254, Lot 22, R-1 Zone, New Providence, NJ 07974  
Chapter 310, Article IV, Section 310-10, Schedule II for permission to construct an addition. The proposed rear-yard setback to the addition is 46.2 feet whereas 50.29 feet is the minimum required.

**Mr. Karr moved this and Mr. Grob seconded same. Members voting in favor: Mr. Grob, Mr. Karr, Mr. Morgan, Ms. Ananthakrishnan and Mr. Nadelberg.**

Michael and Kathleen Ondrejko Application #2016-31  
58 Whitman Drive, Block 171, Lot 48, R-2 Zone, New Providence, NJ 07974  
Chapter 310, Article IV, Section 310-10, Schedule II and Article V, Section 310-20(2) for permission to construct an addition and front porch. Request for extension of time.

**Mr. Grob moved this and Mr. Morgan seconded same. Members voting in favor: Mr. Grob, Mr. Karr, Mr. Morgan, Ms. Ananthakrishnan and Mr. Nadelberg.**

#### J. PUBLIC HEARINGS SCHEDULED FOR JANUARY 8, 2018

John F. McGowan Application #2017-38  
64 Clinton Avenue, Block 62, lot 11, R-2 Zone, New Providence, NJ 07974  
Chapter 310, Article IV, Section 310-10, Schedule II for permission to construct an addition. The proposed side-yard setbacks to the addition are 2.65 feet with a combined total of 10.63 feet whereas 8 feet with a combined total of 16.5 feet is the minimum required. The existing front-yard setback is 39.83 feet. The existing side-yard setbacks are 2.65 feet with a combined total of 10.63 feet. The existing driveway is 4 feet from the side property line. The existing shed is 3 feet from the side property line.

John and Marta McGowan were sworn in and Ms. McGowan testified that they would like to add a 9' by 9' one-story addition to the left side at the rear of the house for a

hallway and bathroom. The existing setback on the left side of the house is 2.65' and the addition will extend the non-conformance by 9.' The addition will be a continuation of the house on the left side and will not encroach further into the setback

The applicants responded to questions from the Board. Their neighbors have an addition that extends back 15' to 16.' Their addition will not extend beyond the neighbor's house. They bought the house in 2011 and were not the owners when previous variances were requested.

**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 and the hearing was closed.

Discussion: Mr. Karr visited the site and the neighbor has a small window but the addition doesn't affect anyone. Ms. Ananthakrishnan added that a first-floor bathroom is always good. Mr. Ping moved to approve the application. Ms. Ananthakrishnan seconded the motion. A resolution will be passed at the next meeting. Members voting in favor: Mr. Grob, Mr. Karr, Mr. Morgan, Mr. Ping, Ms. Ananthakrishnan, Mr. Sorothen and Mr. Nadelberg. Those opposed: None.

Mario Parisi (MAJ Realty Inc.) Application #2017-27  
20 Marion Avenue, Block 237, Lot 6.01, R-3 Zone, New Providence, NJ 07974  
Chapter 310, Article IV, Section 310-10, Schedule II and Article V, Section 310-20(2) for permission to construct a new two-family home. The proposed lot area is 8,967 square feet whereas 10,000 square feet is the minimum required. The proposed rear-yard setback to the house is 30.17 feet and 25 feet to the deck whereas 40 feet is the minimum required. The proposed front-yard setback is 20 feet whereas 30 feet is the minimum required. The proposed side-yard setback on the right is 15.78 feet whereas 18 feet is the minimum required. The proposed driveway curb cut is 22 feet whereas 16 feet is the maximum allowed.

John Vitale, attorney for the applicant with offices in Livingston and Mendham, clarified that MAJ Realty Inc. is the applicant not Mario Parisi and the application needs to be corrected to reflect this. Mr. Parisi is a principal in MAJ Realty. The applicant proposes to raze the existing house and build a two-family house. Each unit will have a finished basement, one-car garage and three bedrooms

Wayne Ingram of Engineering & Land Planning Assoc., Inc. in High Bridge was sworn in and presented his credentials as a licensed professional engineer and planner. The Board accepted him as a licensed professional engineer and planner. The following exhibits were marked:

Exhibit A-1 – Color aerial photograph of the site, and  
Exhibit A-2 – Street view photograph of the site.

Mr. Ingram described the 8,967 SF trapezoidal-shaped lot. The property is currently occupied by a single-family dwelling that is in poor condition. The driveway is located right along Lot 20. The shape of the lot is determined by the drainage easement at the western side of the property. The minimum lot area for a duplex is 10,000 SF triggering a variance for the lot area. There are fences along three sides of the property some of which are on adjacent properties. As shown on Exhibit A-1, the lot is heavily wooded. The applicant doesn't plan to remove any trees other than those that would be on the construction site. Mr. Grob asked about a grading plan and tree protection of individual trees as well as groups of trees. Mr. Ingram responded that the trees are not marked on the survey. Many of the trees are in the back at the rear of the property. The large tree in the front is 30' away and will not be impacted and will remain.

The proposed duplex will have a 20' front-yard setback and a 30.16' rear-yard setback. The proposed house could have been wider but the applicant thought it was better to have a longer, narrower house to minimize the impact on the neighboring property to the east and the easement to the west. The existing front-yard setback is less than 1' from the property line and 12' from the curb so the proposed 20' front-yard setback is better. The proposed front-yard setback is in keeping with the character of the neighborhood: The setback for the house next door is probably 10.' To push the proposed house back farther would be out of character with the neighborhood.

The existing driveway to the east is on the property line and will be eliminated. The applicant considered having two driveways rather than a shared driveway but thought it would be safer for pedestrians and more appealing from the street to have one driveway. The site will have parking for four vehicles with one parking space in each of the two garages and two off-street spaces in the driveway.

Mr. Grob asked about the location of the drywell as this could impact the trees. The drywell will be located in the right rear of the property. The applicant had no objection to adding a second drywell. Mr. Ingram will look at placing them out of the root zone of the trees when he modifies the plans. An analysis of the soil prior to installation of the drainage system as required in the Borough Engineer's review letter dated December 8, 2017, will be done. The driveway slopes to the street so water will run to the street. Water from the house will be directed to the side rear of the property and the existing drainage pattern will be maintained.

Mr. Ingram did not have the mean roof height but can provide this to the Board at a later time. The maximum mean height is 30' and the proposed building is under 30.' Exterior lighting will consist of a door light and a downward facing light on the driveway as well as a light in the back. Each unit will have a 50 SF deck off the back of the dwelling.

Mr. Ingram believes the front yard setback is vastly improved over the existing setback. The duplex is narrower so there is more room on the side of the house even though this results in less back yard. The house on the lot behind the property behind the fence is a duplex. The applicant has no objections to planting additional landscaping to fill the gaps in the existing plantings.

Mr. Karr asked if the applicant could build a conforming single-family house on the property. Ms. Mertz noted that the minimum lot area for a single-family dwelling is 8,000 SF not 10,000 SF as required for a duplex. Mr. Ingram responded that the house is

across from a multi-family complex and there are other duplexes on the street. The applicant thought a duplex was a better fit in the neighborhood. In addition, it isn't economically feasible to build a single-family dwelling. The duplex will not have a negative impact on anyone and is an aesthetic improvement over the existing house which is in poor condition and isn't structurally sound. The duplex presents no detriments.

Mr. Ingram responded to questions from the Board and the Borough's professionals. The house is currently occupied but the tenants are under eviction. Mr. O'Krepky asked about other duplexes on the same side of the street. Mr. Ingram responded that the two adjacent houses are single-family houses but there is a duplex behind the property and across the street. There are also duplexes at the other end of the street by the delicatessen. The applicant is the owner of the multi-family development across the street. The 20' setback allows for the driveway in front of the duplex.

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

Erin Wade, 28 Marion Avenue, noted that the 150-year old house has been ignored and is in disrepair and asked why the Board is considering this application when the lot is too small. Mr. Ingram responded that the applicant is before the Board to seek variances for the lot area and front- and rear-yard setbacks. Ms. Wade also asked about the old maple tree in the back as there is no way it won't be disturbed during construction. Mr. Ingram can't say how the tree will be saved without a survey of the trees but it's not to the applicant's benefit to remove it because of the expense. Mr. Grob stated that the mature tree canopy is a significant characteristic of the neighborhood: The applicant has said the right things but he needs assurance that the applicant will maintain the tree canopy. Ms. Wade also asked why the applicant is building more units when he hasn't sold the ones in the multi-family development across the street.

Mario Parisi, principal of MAJ Realty Inc., was sworn in and testified that the trees are an asset to the property and he will do everything to protect them. Mr. Ingram added that they will shift the house and drywell to save the trees. The tree in front is out of the way. Mr. Ingram testified that even if the applicant built a conforming single-family dwelling the trees within the construction box will have to be removed to build the house: It could be a conforming single-family house and the same number of trees would have to be removed.

The Board had additional questions for the applicant. The existing house is a single-family dwelling. The tree survey will be included with the construction/permit plans. The applicant has no objection to providing the tree survey for professional review. Mr. Morin asked about the type of variance sought. The applicant is seeking a flexible C(2) benefits versus detriment variance. Mr. Ingram stated that the applicant can't argue a hardship for the front-yard setback. A variance is required for the rear-yard setback which will result in more of a side yard for the neighbors. The mean height of the building is approximately 27.' The air conditioning condensers are not on the plan but will probably be located at the rear left side for the left unit and the rear right side for the right unit so that it is away from the neighbor to the right. The applicant has no objection to putting the condensers in the rear.

Mr. Ingram summarized the application. He has proved the positive and negative

criteria. The application is not a detriment to the Master Plan or zoning ordinances. It doesn't adversely impact the general good or welfare of the town.

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

Romma Wade, 28 Marion Avenue, was sworn in and commented that the applicant's building across the street has been a mess with trash that he picks up every day. He's a builder and knows about getting a project done but construction work across the street starts at 7:00 a.m. and goes to 8:00 p.m. and the construction has been going on too long. He doesn't have a problem with the applicant building a house but he's concerned about the water that collects in the rear. He built a retention pond in the back of his lot to contain the water and to keep it off the neighbor's property because he couldn't direct it to the street. The gutters fell off the house three years ago and they're still lying on the ground. He'd hate to see the 300 year-old maple in the back come down. There's too much building in town and the construction across the street has gone on for too long. He'd prefer to see the existing house renovated. Mr. Grob asked if he objects to the size of the house or the number of units. Mr. Ingram responded that he objects to the variances being requested.

Erin Wade, 28 Marion Avenue, was sworn in and asked why the house has to come down and why the applicant can't fix the existing house. The house fits there. The proposed duplex is too much with the Riverbend "nonsense" across the street especially when the units at Riverbend haven't been sold. The duplex is too much and there's no reason for it. She doesn't support granting the variances requested and she doesn't want a giant house to be built.

The hearing was closed.

Discussion: Mr. Grob appreciates the Wade's comments. The Board needs to consider the unique character of a property when evaluating applications because the unique character of a property is what makes New Providence what it is. The Board, however, has to weigh this against an applicant's right to make changes to the property. He is leaning toward approving the application but appreciates the neighbor's concerns. Mr. Karr believes this is a self-imposed hardship and the application doesn't meet the positive or negative criteria on hardship in his view. To demolish the existing house and rebuild on the lot is just poor zoning. Ms. Ananthakrishnan agreed with Mr. Karr and doesn't see the reason to go from a single-family to a two-family house. She would like to see a plan showing the trees and a survey of the one- and two-family houses in the neighborhood. Mr. Morgan asked if the existing building has any historical significance. Mr. Grob responded that the Historical Society maintains a list of houses but it is just a list and provides no protection for the structures. Mr. Lynch is disappointed that the applicant didn't bring the architect to testify. There's no guarantee that what is shown on the architectural plans is what will be built.

The Board offered the applicant the opportunity to carry the hearing to provide the additional information the Board would like and to allow for testimony from the architect. The hearing was carried to February 26, 2018. No further notice is required or will be given. At that hearing the Board would like the applicant to provide the following:

- Tree survey including the size and location of all trees

- Photographs of the neighborhood
- Survey of the single- and two-family houses on both sides of Marion Avenue and on Dunlap Street
- Testimony from the architect, and
- Location of the air conditioning condensers and drywells and top soil stock pile.

#### K. REVIEW OF PUBLIC HEARINGS SCHEDULED FOR JANUARY 22, 2018

No public hearings are scheduled for January 22, 2018

#### L. COMMUNICATION ITEMS

The Secretary asked the Board to think about any issues it would like to include in the Board's Annual Report to the Planning Board.

#### M. MISCELLANEOUS BUSINESS

No miscellaneous business.

#### N. MINUTES FROM 12/18/17

The minutes from December 18, 2017, were approved as submitted.

#### O. ADJOURNMENT

The meeting was adjourned at 9:17 p.m.