

**BOROUGH OF NEW PROVIDENCE
BOARD OF ADJUSTMENT
MEETING MINUTES – MONDAY, NOVEMBER 5, 2018 – 8:00 p.m.**

Present: Mr. Ammitzboll, Mr. Grob, Mr. Karr, Mr. Morgan, Mr. Nadelberg, Mr. Ping, Mr. Sorochen, Phil Morin, Board Attorney, and Margaret Koontz, Secretary.

Absent: Ms. Ananthakrishnan and Mr. DeSarno.

A. CALL TO ORDER

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

B. RESOLUTIONS

Anthony Scari (McDonald's Franchise Owner) Application #2017-18
1771 Springfield Avenue, Block 11, Lot 1, C-2 Zone, New Providence, NJ 07974
Preliminary and final site plan and variances to expand the monument sign at McDonald's.

Mr. Morgan moved this and Mr. Ammitzboll seconded same. Members voting in favor: Mr. Ammitzboll, Mr. Grob, Mr. Karr, Mr. Morgan and Mr. Ping.

C. PUBLIC HEARINGS SCHEDULED FOR NOVEMBER 5, 2018

Bonnie Goodwin Sargeant and Matthew David Sargeant Application #2018-28
97 Pleasantview Avenue, Block144, Lot 18 R-2 Zone, New Providence, NJ 07974
Chapter 310, Article V, Section 310-32(B) for permission to erect a fence. The proposed fence in the front yard along Fifth Street is 6 feet high whereas 30 inches is the maximum height allowed.

Bonnie and Matthew Sargeant were sworn in. Their house is on a corner lot and they would like to have a fence along the side of their yard that fronts Fifth Street and along the driveway. The portion of the fence along Fifth Street would start at the doorway on the side of the house and run back to driveway and would be 6' high. The section of fence along the driveway and across a portion of the back yard would be 4' high. The fence will have a gate at the driveway and in the front next to the stairway.

The applicants responded to questions from the Board. The fence will taper down from 6' to 4' and the portion along Fifth Street will be installed behind a row of existing shrubbery. A set of 11 photographs of the house and property were marked as Exhibit A-1, A-J. The fence will be installed 15' from the curb on Fifth Street and will wrap around to abut the house before the oak trees shown on the photographs in Exhibit A-1. It will be a wooden board-on-board fence and will match the existing fence on the northern side of the property.

Mr. Grob expressed concern that the fence will interfere with the sight line when backing out of the driveway. Mr. Ammitzboll added that he is particularly concerned about the applicants' not being able to see runners and cyclists on the sidewalk. Mr. Sargeant noted that there are already shrubs along the street and the fence will be located inside the shrubs. The driveway is more than two cars wide and if they back out slowly, the fence shouldn't create a problem with visibility. Mr. Karr asked if the Sargeants had considered a lower fence so that it doesn't look like a fortress. Mrs. Sargeant responded that they wouldn't be opposed to a 5' fence, but they would like some privacy in the yard plus the shrubs are already 5.5' tall. The Board discussed the distance of the fence from Fifth Street and believe the fence, as marked on the application, is about 12' not 15' from the curb as testified. Mr. Ammitzboll noted that because the fence is close to the driveway, half of the car will be out on the sidewalk which is a concern and asked about pulling the fence in away from the driveway or angling the section of fence at the end of the driveway where the 6' and 4' sections meet to improve visibility and safety for pedestrians. The Sargeants were comfortable with angling the fence at the corner of the driveway and installing the fence 15' from the curb. They also agreed to maintain the shrubs along Fifth Street and replace them if required.

The Board had no further questions for the applicants. 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: The Board was comfortable with the fence as long as it is angled at 45° at the end of the driveway where the 4' and 6' fence comes together and is installed 15' from the curb. The Board would also like to see maintenance of the shrubs as a condition of approval. Mr. Karr would prefer a 5' fence but the Board convinced him that 6' is okay because the shrubs will grow so that the fence won't look like a stockade.

Mr. Karr moved to approve the application with the three conditions discussed: 1) the fence will be angled at 45° at the end of the driveway where the 6' and 4' sections meet, 2) the fence will be located 15' from the curb, and 3) the applicants will maintain the shrubs and replace them if required. The fence will be wooden board-on-board as testified. Mr. Ping seconded the motion. A resolution will be passed at the next meeting. Members voting in favor: Mr. Ammitzboll, Mr. Grob, Mr. Karr, Mr. Morgan, Mr. Ping, Mr. Sorothen and Mr. Nadelberg. Those opposed: None.

Benjamin and Laura Condon
118 Woodland Road, Block 230, Lot 9, R-2 Zone, New Providence, NJ 07974
Application #2018-29
Chapter 310, Article IV, Section 310-10, Schedule II for permission to construct a deck.
The proposed rear-yard setback to the deck is 28.3 feet whereas 40 feet is the minimum allowed. The existing front yard is 36.1 feet.

Benjamin and Laura Condon and Douglas Asral, Asral Architects, were sworn in. Mr. Asral presented his credentials and was accepted as a licensed professional architect.

The Condons knew they wanted to construct an addition so they could grown into the house when they moved in last winter and are enlarging the existing enclosed porch and adding a second-floor addition which are conforming. They would also like to increase their outdoor living space by adding a deck in the area where the landing and stairs are located; however, because the lot is pie shaped, the deck encroaches into the rear-yard setback. A six-page document with photographs of the area where the deck will be constructed taken from back of the lot, the fence closest to the neighbor's property, the deck area looking down from the second floor and the deck area taken from the ground level looking toward the neighbor was marked as Exhibit A-1.

Mr. Condon confirmed that the addition is conforming and the variance is only needed for the deck. The deck will face the living/dining room area of the neighbor on Greenwood Road. The neighbor's home is 12' from the property line and 40' from the Condon's house. The deck, which will be accessed from the family room, is 3' above grade with four risers to get up to it. The stairs to the deck will be up against the back of the house. There will be two lights on the side of the house and another one by the stairs: All will be attached to the house and will be shielded. The area under the deck will have a seal barrier with crushed rock and will be used to store chairs and sports equipment. The area under the deck will be screened with lattice. The spacing on the deck is 1/8." The Condons plan to plant privacy shrubs for the neighbor. Mr. Ammitzball noted that the deck is canted at the rear to increase the setback and while the deck is 28.3" from the rear property line, it is still 40' from the neighbor's house.

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

Jiung Lu, 108 Greenwood Road, thinks the deck is too close to his house asked if the Board can allow less than a 40' setback. Mr. Nadelberg explained that purpose of the hearing is to consider whether it should grant a variance from the required 40' setback. Mr. Morin added that if the Board approves the variance for the deck, Mr. Lu can appeal the Board's decision to the Superior Court within 45 days of the publication of the decision.

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

Jiung Lu, 108 Greenwood Road, was sworn in and would like the deck to be smaller so that it would be farther from his house and opposes the application. Mr. Nadelberg asked if tempering the deck 2' would be better. Mr. Lu responded that the 40' setback should be maintained. Mr. Karr pointed out that if the Board denies the application, the applicant would be able to put in a larger patio without Board approval and it could be much closer to his house than the deck. Mr. Ammitzball added that the activity on the deck would be the same as on a patio. Mr. Ping also added that the deck has seasonal use. Mr. Lu said he would be comfortable if the deck were moved back 10.' Mr. Nadelberg stated that the deck would not be usable if moved back 10.' Mr. Ammitzball noted that the deck is lower than the shrubbery the applicants plan to install. Mr. Grob stated that the neighbor's property is higher so, if approved, the type of shrubbery to be installed needs to be considered. The Board asked Mr. Grob about appropriate shrubs. Mr. Grob stated that white pines are appropriate because they would provide quick screening. Mrs. Condon asked if they grow forever because she would like to keep them a safe height. Mr. Grob responded that the height of the shrubs can be maintained

and the Condons don't have to let them grow "forever." The Board discussed the location of the shrubs and agreed they should be planted from the back corner of the house back along the property line to provide screening from Mr. Lu's property. Mr. Condon noted that they planned to plan along the entire rear property line.

The Condons were comfortable with the Board's maintaining jurisdiction over the shrubs for two years and the number of shrubs/trees to be planted: Four 6' white pines on 6' centers.

The hearing was closed.

Discussion: Mr. Grob heard the neighbor's concern. Just as the Condons have the right to enjoy their back yard so too does Mr. Lu have the right to enjoy his yard. The deck is low and reasonably sized and with robust landscaping the deck probably works for all parties. Mr. Ammitzboll stated that a deck 3' off the ground is really the same as a raised patio and with the landscape screening, it's a win/win for the applicant and neighbor. Mr. Karr agreed stating that the deck is in a perfect place.

Mr. Ammitzboll moved to approve the application with the conditions that 1) the applicants will install four 6' white pines on 6' centers with other landscaping to be planted at the applicant's discretion, 2) the Board will maintain jurisdiction over the landscaping for two years, and 3) the lighting and lattice will be installed as testified. Grob seconded the motion. A resolution will be passed at the next meeting. Members voting in favor: Mr. Ammitzboll, Mr. Grob, Mr. Karr, Mr. Morgan, Mr. Ping, Mr. Sorochen and Mr. Nadelberg. Those opposed: None.

D. REVIEW OF PUBLIC HEARINGS SCHEDULED FOR NOVEMBER 19, 2018

Carried from October 15, 2018

Craig and Melissa Print Application #2018-27
45 Jane Road, Block 61, Lot 4, 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. The proposed front-yard setback to the addition along Stanley Road is 20 feet whereas 40 feet is the minimum required. The proposed rear-yard setback to the addition is 37.66 feet whereas 44.10 feet is the minimum required. The proposed side-yard setback to the addition is 11.22 feet whereas 16.44 feet is the minimum required. The proposed curb cut is 20 feet whereas 16 feet is the maximum allowed.

David Lust and Elizabeth Duchesne-Lust Application #2018-30
14 Eighth Street, Block 146, Lot 18, R-2 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule II for permission to construct a portico. The proposed front-yard setback to the portico is 26.3 feet whereas 40 feet is the minimum permitted.

F. COMMUNICATION ITEMS

No communication items.

G. MISCELLANEOUS BUSINESS

No miscellaneous business.

H. MINUTES FROM 10/15/2018

The minutes from October 15, 2018, were approved as submitted.

I. ADJOURNMENT

The meeting was adjourned at 9:08 p.m.