

**BOROUGH OF NEW PROVIDENCE
BOARD OF ADJUSTMENT
MEETING MINUTES – MONDAY, AUGUST 6, 2018 – 8:00 p.m.**

Present: Mr. Ammitzboll, Mr. Karr, Mr. Morgan, Mr. Nadelberg, Mr. Ping, Mr. Sorochen, Ms. Yolanta Maziarz, Board Attorney, and Margaret Koontz, Secretary.

Absent: Ms. Ananthakrishnan, Mr. DeSarno and Mr. Grob

Also present: McKinley Mertz, Borough Planner, and Keith Lynch, Director of Planning and Development

A. CALL TO ORDER

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

B. RESOLUTIONS

Jeffrey and Barbara Morse Application #2018-21
53 Laurel Drive, Block 102, Lot 32, R-1 Zone, New Providence, NJ 07974
Chapter 310- Article IV, Section 310-19 I for permission to install a generator. The side-yard setback to the generator is 1.5 feet whereas 6 feet is the minimum required. The existing right side yard to the house is 5 feet. The existing front yard to the house is 22.33 feet.

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

C. PUBLIC HEARINGS SCHEDULED FOR AUGUST 20, 2018

Ryan and Kara Chabot Application #2018-20
19 Birch Place, Block 72, Lot 22, R-2 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedules II & III and Article V, Section 310-19 I for permission to construct a new home. The proposed lot area is 8,060 square feet whereas 15,000 square feet is the minimum required. The lot width at the setback is 62 feet whereas the minimum required is 110 feet. The proposed side-yard setback on the right side of the new house is 10.8 feet and 7.8 feet on the left side whereas 18.6 feet on the right side and 12.6 feet on the left side is the minimum required. The proposed building coverage is 1,659 square feet whereas 1,556 square feet is the maximum permitted. The driveway is 1.5 feet from the property line whereas 6 feet is the minimum required.

Mr. Ammitzboll lives next door to the applicants and recused himself from the hearing.

Ryan and Kara Chabot were sworn in. The Chabots moved to New Providence with their two children last September and like New Providence and the good school system. They knew they were going to make changes to the house when they bought it to get play space for the children and another bedroom but weren't sure exactly how they planned to make these changes. After being in the house for a year, they realized they would have to touch the entire house to get the play space and bedroom. This plus the

appeal of adding a basement led to their decision to raze the house and build a new one which requires five variances for the minimum lot size and lot width at the setback, both of which are existing non-conformances, side-yard setback, building coverage and setback for the driveway and expansion of the driveway so they can park two cars. Mr. Chabot testified that the variance requests fall within the categories of a c(1) variance for hardship because of the undersized lot and a flexible c(2) variance as the deviations from the zoning ordinance further the purpose of the land use law and the benefits outweigh the detriments. There are similar houses in the neighborhood, and the proposed house benefits the land use law.

Mr. Chabot addressed the comments in the Planner's review letter dated July 25, 2018. The bump-out for the fireplace on the left side of the house, shown on the architectural plans but not the site plan, is 9' high, 4.5' wide and extends 2' into the side-yard setback. The side-yard setback is actually 5.8' rather than 7.8' and 12.6' is required. Mr. Lynch asked if the applicants could move the fireplace into the house to reduce the variance request. Mr. Chabot responded that they could do this if necessary. They spoke to the neighbor and he has no objection to the bump-out. The neighbor's house is only 34" to the property line so the proposed setback is in keeping with existing setbacks in the neighborhood. The fireplace faces the neighbor's dining room which has two low windows, and there is a 6' fence between the houses so only the top of the fireplace will be visible to the neighbor. The room for the fireplace is 14.9' wide and runs the length of the house. Bringing the fireplace inside would reduce the width of the room by 2' to 12.9.' Mrs. Chabot is concerned about the traffic flow if the fireplace is located inside the house. They could put it in the back but this would eliminate access to the patio.

The following exhibits were marked:

- Exhibit A-1 - Photograph of the left side of the house showing the neighbor's house to the left.
- Exhibit A-2 – Photograph of a similar house the builder is constructing in Bernardsville.
- Exhibit A-3 – Ten photographs of similar houses in the neighborhood as follows:
 - 15 Crescent Drive
 - 14 Birch Place
 - 3 Birch Place
 - 21 Vista Lane
 - 14 Crescent Drive
 - 62 Crescent Drive
 - 70 Crescent Drive
 - 48 Edgewood Avenue
 - 15 Walker Drive, and
 - 42 Walker Drive
- Exhibit A-4 – Three photographs of driveways in the neighborhood:
 - 67 Crescent Drive
 - 62 Crescent Drive
 - 21 Vista Lane

The proposed impervious coverage, not including the gravel areas along the driveway and the gravel walk along the side of the house, is 34%. The gravel areas will be removed. The Board asked about water on the property. The Chabots have consulted

with Bill Hollows of Murphy & Hollows Associates and Mr. Hollows is working on the drainage. They propose to raise the grade in front and lower it in the back. A dry well will be located where the existing shed is.

The two trees in front will remain. The Chabots removed a few of the trees that were in bad condition last year, and Mr. Chabot believes the rest of the trees on the property are healthy although he needs to take a branch down on one of them. The applicants would like to add landscaping in the future.

There are nine houses on Birch Place two of which – 3 and 14 Birch Place - are similar in size to the house proposed. The house at 3 Birch Place is close to Crescent Drive while 14 Birch Place is diagonally across the street from the Chabots.

The Board asked about the peak roof height. The peak height will be under 30' even with the re-grading. The grade is level to the street now and the increase in the grade is not significant. If the grade is raised 1', the height of the proposed house will be similar to the house across the street (14 Birch Place).

The house shown in Exhibit A-2 is in Bernardsville and is similar to what the Chabots propose except it has a detached garage whereas they propose an attached garage. Referencing Exhibit A-3, Mr. Chabot noted other houses in the neighborhood similar in scope and size to what they propose.

The house will most likely have vinyl siding with a gray asphalt roof and will look much like the house in Exhibit A-2. The air conditioning condenser will be located in the back right of the house by the rear exit for the garage so as to have minimal impact on the neighbors. The house will have two small wall sconces by the front door, two on the back deck and a safety flood light by the garage.

The Chabots have no plans for a fence now but plan to talk to the neighbors about a uniform fence in the future. The new fence at the rear of the property is on their property but belongs to the neighbor behind them. All three of the fences on the property belong to the neighbors. Eventually they would like to install a wooden stockade fence around the property to keep the children in the yard.

Referencing Exhibit A-4, Mr. Chabot testified that the purpose of the wider driveway near the garage is so they can park two cars. The driveway will probably have Belgian block on both sides. The gravel walkway along the house will be removed as will the gravel along the existing driveway where there will be grass or landscaping.

Mr. Lynch noted that there is a 3" discrepancy in the width of the house as shown on the first floor plan (43'-9") and the width of the house calculated based on the lot width minus the two side-yard setbacks (43'-5"). The modular construction works against the applicants as the walls are 14" as opposed to 4." Mrs. Chabot testified that the left side of the house will be modular but they will build the garage and the bedroom and laundry room above the garage. Mrs. Chabot said they can pull the side of the garage in 3" if required.

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

Hans Ammitzball, 15 Birch Place, stated that he lives next door and asked about the grading. The back yard is flat and drops off. The applicants only plan to even out the yard. The dry well will be located there.

Mr. Karr asked Mr. Ammitzball for his opinion about the 2' bump out for the fireplace. Mr. Ammitzball stated that it's very difficult to modernize in this area because of the undersized lots, but the living standards/needs have changed since the houses were built after WWII. He is a fan of starter stock and wants homeowners to buy a house and renovate it rather than have a developer come in, renovate or rebuild and flip the house. The area where the fireplace will be located faces the dining room of the house next door where there is already a 6' fence. The 2' required for the fireplace is *de minimus*.

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

Hans Ammitzball, 15 Birch Place, was sworn in and stated that there are eight or nine houses on Birch Place. He hasn't seen many renovations on Birch Place until recently: Other streets in the neighborhood have seen more additions/renovations. The lots on Birch Place are really undersized so the side-yard setbacks for any renovations don't work. The recently renovated houses create a crowded look, but he hasn't heard complaints from the neighbors. Homeowners can't modernize their homes without creating alleys between the houses and they can't be avoided because of the lot sizes. He has done cosmetic work on his home but he can't do anything more without applying for a variance. The Board needs to be sensitive to how the neighborhood is going to look going forward and not focus on what the area looked like when it was developed after the war. The air conditioning condenser will be tucked in behind the garage so the noise will go to the back yard. Six neighbors have talked about a collective solution to the drainage on the properties. Three of the houses on Birch have been fully renovated or razed and rebuilt to today's standards. Mr. Ammitzball is supportive of the application and improving the housing stock.

There were no additional comments from the Board and the hearing was closed.

Discussion: Mr. Karr would prefer to see the fireplace located inside to get a flat exterior wall because the bump out makes the side yard tight. Mr. Nadelberg commented that while this is possible, it would reduce the interior living space given the size of today's furniture. Mr. Ping agreed with Mr. Karr that the bump out for the fireplace creates an alleyway, but it's better for their living space than moving it to the interior. He thinks it's a great application and is pleased that the applicant is keeping the two trees. It fits with what the neighborhood is becoming. After hearing the comments from Messrs. Nadelberg and Ping, Mr. Karr said he was more comfortable with the bump out for the fireplace.

Mr. Ping moved to approve the application and Mr. Karr seconded the motion. A resolution will be passed at the next meeting. Members voting in favor: Mr. Karr, Mr. Morgan, Mr. Ping, Mr. Sorothen and Mr. Nadelberg. Those opposed: None.

Edwin Moy
107 Pitney Avenue, Block 111, Lot 21, R-1 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule III for permission to construct a deck.

Application #2018-19

The proposed building coverage is 2,839 square feet whereas 2,547 square feet is the maximum allowed.

This hearing was carried from July 16, 2018, as Mr. Moy failed to notice the property owner at 120 Pine Way. Because there was no testimony regarding the application at the July 16th hearing, Mr. Ammitzboll was able to hear the application even though he was not present at the July 16th meeting.

Mr. Moy, previously sworn in on July 16, 2018, informed the Board that he noticed the property owner at 120 Pine Way by certified mail. He currently has a 16' by 12' deck which exceeds the allowable building coverage by 157 SF. He would like to expand the existing deck beyond what is shown on his survey. The property owners were noticed of the increased building coverage for the proposed expansion of the deck. Mr. Moy proposes to extend the existing deck on the side (where the steps are shown on the survey) by 5.'

Mr. Moy responded to questions from the Board. The deck will not be enclosed. Mr. Moy was originally going to leave the existing deck as is but now understands that there is a time limit to apply for the permits so he will expand the deck now. There are three lights on the wall behind the deck (garage wall). The decking will have spacing so water will drain rather than sheet.

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.

The hearing was closed.

Discussion: Mr. Ammitzboll noted that eliminating decks from the building coverage calculation is one of the recommendations forwarded to the Planning Board for consideration. He had no issue with the expansion of the deck. The Board concurred.

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

11 Clinton Avenue LLC
11 Clinton Avenue, Block 63, Lot 45, R-2 Zone, New Providence, NJ 07974
Application #2018-18
Chapter 310, Article IV, Section 310-10, Schedule II and Article V, Section 310-2-(2) for permission to construct a new house. The proposed front-yard setback is 30 feet to the house whereas 40 feet is the minimum permitted. The proposed rear-yard setback to the house is 37.3 feet whereas 40 feet is the minimum permitted. The driveway curb cut is 20 feet wide whereas 16 feet is the maximum permitted.

Mr. Ammitzboll was not present for the hearing on July 16, 2018, and recused himself.

Nic Cocuzza, previously sworn in on July 16th, and August Santore, his attorney, reappeared before the Board with revised plans based on the Board's comments at the July 16th hearing. Mr. Santore acknowledged that only five Board members can vote on the application and three are needed for approval.

Mr. Cocuzza described the revised plans. He originally planned to wrap the porch around the Springfield Avenue side of the house but this would require another variance. He had the architect add windows and a slider door on the first floor and transom windows in the bedroom on the second floor. The bedroom has windows in the front and the back so standard windows along the Springfield Avenue elevation wouldn't allow for furniture. The architect also added two transom windows on the garage side of the house to break up the façade one of which is located in a closet. Mr. Cocuzza adjusted the survey to show that the house has been shifted to the north to preserve the sycamore tree: The house will be 15' to 20' away from the tree. He is not happy with the roof line – the height of the house in the revised plans is only 24'-2" – which is much too low. He proposes to raise the gables so the peak would be 30' to 31' which is a little above the chimney and within what is permitted by the zoning ordinance. The roof line will be more like the house shown on Exhibits A-1 and A-2.

Mr. Lynch commented that the roof as proposed is too low and questioned why the architect reduced the pitch. He also asked about the additional variance for the wrap-around porch. The front-yard setback should have been calculated to the front porch since the porch is more than 25 SF. The architect calculated the front-yard setback of 30' to the building envelope for the house not the porch. The porch is more than 5' so the front-yard setback is less than 25' and has always required a variance. Mr. Lynch noted that the house has been moved 5' to the north so the porch complies for the front-yard setback on Springfield Avenue.

Mr. Ping commented that the right elevation (Springfield Avenue) has a slider door out to a patio and noted that some of the Board members at the last hearing were very enthusiastic about a wrap-around porch. Mr. Cocuzza is okay with adding the porch but believes it would require another variance. Mr. Ping thinks a wrap-around porch would be more aesthetically pleasing. Mr. Cocuzza will go back to the architect to add the wrap-around porch. Mr. Santore noted that the original site plan/survey didn't include the porch in the calculation for the front-yard setback. Because of this, the front-yard setback has always been 25' not 30' as shown on the site plan/survey. Mr. Santore added that the house could be moved back (to the east) on the property for the porch to increase the front-yard setback. The Board asked if the house could be smaller to eliminate the variance for the rear-yard setback. Mr. Santore responded that the house has already been shrunk widthwise to the bare minimum. Mr. Karr would prefer that the applicant maintain a 30' front-yard setback and shrink the back yard to accommodate the porch so the two front-yard and rear-yard setbacks would all be 30'. Mr. Nadelberg asked about reducing the size of the front porch fronting Clinton Avenue to increase the front-yard setback. Mr. Santore responded that a 4' porch would be very tight.

Mr. Cocuzza responded to additional questions from the Board. There is no vegetation at the rear of the property. Mr. Cocuzza proposes a fence or planting for screening. There will be two garage doors rather than one as depicted on the rendering in Exhibit A-2 and they will be white with raised panels. The house will have gray or white siding. The existing house, which has a basement, will be demolished. No trees will be removed and ten 15' Norway spruces will be planted along Springfield Avenue. Mr.

Lynch noted that the spruces have to be planted 6' from the sidewalk and it's unlikely that ten will fit as shown on the site plan/survey because the sight line has to be maintained. Mr. Cocuzza thinks the transom windows on the second floor will look silly with the addition of the wrap-around porch. Mr. Lynch responded that if they are eliminated, the Springfield Avenue elevation will be back to not having windows. Mr. Nadelberg added that raising the roof and eliminating the transom windows will leave a large flat wall.

Mr. Nadelberg offered the applicant the opportunity to carry the hearing to revise the plans to add the wrap-around porch and show the raised roofline. The applicant agreed and the hearing was carried to August 20, 2018. No further notice is required or will be given. Only four members of the Board will be eligible to vote as Mr. Nadelberg will not be at the August 20th meeting. The Board Secretary will contact Messrs. DeSarno and Grob to see if they are willing to listen to tonight's hearing so they can vote.

D. REVIEW OF PUBLIC HEARINGS SCHEDULED FOR AUGUST 20, 2018

Frank Mazza Application #2018-22
70 Fairview Avenue, Block 194, Lot 2, R-2 Zone, New Providence, NJ 07974
Chapter 310, Article V, Section 310-19 I and 310-20(2) for permission to expand a driveway. The proposed driveway expansion is 1 foot from the property line whereas 6 feet is the minimum required. The proposed driveway is 17.5 feet whereas 16 feet is the maximum permitted.

Yimin Sun Application #2018-24
151 Pearl Street, Block 193, Lot 5, R-2 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule II for permission to construct a deck. The proposed building coverage is 3,242 square feet whereas 2,895 square feet is the maximum permitted.

Paul Lomba Application #2018-25
66 Fourth Street, Block 163, Lot 29, R-3 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule II for permission to construct an addition. The proposed front-yard setback is 24 feet whereas 40 feet is the minimum permitted. The proposed rear-yard setback is 22 feet whereas 40 feet is the minimum permitted.

E. COMMUNICATION ITEMS

No communication items.

F. MISCELLANEOUS

No miscellaneous business.

G. MINUTES FROM 7/16/2018

The minutes of July 16, 2018, were approved as submitted.

H. ADJOURNMENT

The meeting was adjourned at 9:15 p.m.