

**BOROUGH OF NEW PROVIDENCE
BOARD OF ADJUSTMENT
MEETING MINUTES – MONDAY, MAY 20, 2019 – 8:00 p.m.**

Present: Ms. Ananthakrishnan, Mr. Grob, Mr. Morgan, Mr. Ping, Mr. Sorochen and Mr. Nadelberg. Also present, Phil Morin, Board Attorney, and Margaret Koontz, Secretary.

Absent: Mr. Ammitzball, Mr. Galluccio and Mr. Kogan

This meeting was held in the Council Conference Room.

A. CALL TO ORDER

Chairman Nadelberg called the meeting to order at 8:01 p.m.

B. RESOLUTIONS

Behrooz Rahai Application #2019-04
50 Gallinson Drive, Block 293, Lot 17, 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 47.5 feet whereas 52.5 feet is the minimum required. The existing driveway is on the property line.

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

Yee Leng Low and Penny Wai Wan Wong Application #2019-06
24 Colonial Way, Block 206, Lot 34, 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 setback to the addition is 11.1 feet whereas 12 feet is the minimum required.

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

Michael O'Connor Application #2019-07
959 Springfield Avenue, Block 113, Lot 35, 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 setback to the addition is 9.8 feet whereas 12 feet is the minimum required. The existing pool walk way is 1.5 feet from the property line and the setback to the water is 6 feet.

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

C. PUBLIC HEARINGS SCHEDULED FOR MAY 20, 2019

Pacman Homes LLC

Application #2019-08

15 Woodland Road, Block 276, Lot 13, R-2 Zone, New Providence, NJ 07974

Chapter 310, Article IV, Section 310-10, Schedule II for permission to construct a patio. The proposed front-yard setback is 16 feet along Verona Road to the patio whereas 40 is the minimum required. The existing side yard is 8.9 feet. The existing front-yard setback along Verona Road is 39.3 feet and the front-yard setback along Woodland Road is 31.7 feet.

Anju Idnani and Ralph Finelli, her architect, were sworn in. Mr. Finelli, whose office is in Sargeantsville, NJ, presented his credentials and was accepted as a licensed professional architect. Ms. Idnani purchased the house in November 2018. She is the owner of the house and Pacman Homes LLC, the applicant, is her company. The inside of the house was old with small bedrooms so she gutted the house, raised the ceiling and created an open floor plan with a new kitchen and bathrooms. She also finished the basement with a half bathroom. The house is on a corner lot and has no back yard. The following exhibits were marked:

- Exhibit A-1 – Photograph of the back of the house and the back yard
- Exhibit A-2 – Photograph taken from the corner of the property showing the house and the adjacent house to the north on Verona Road
- Exhibit A-3 – Photograph of the house taken from the walkway on Verona Road, and
- Exhibit A-4 – Color rendering of the survey.

Mr. Finelli described the exhibits. The back yard as shown on Exhibit A-1 is 8.9' from the property line and is parallel to Woodland Road. The door on Verona Road, shown on Exhibit A-2, goes out to a side stoop where there is a walkway that wraps around to the real front door which is adjacent to the existing garage on Woodland Road. The house was gutted and opened up inside. The application seeks variance relief for a patio on the Verona Road side of the house to provide some outdoor living space because the property doesn't have a back yard: The space on the far left of the house on Woodland Road is also limited for use as outdoor living space. There's quite a bit of green space out to Verona Road for the proposed 16' x 16' patio of pre-cast pavers. The patio doesn't comply with the front-yard setback. Mr. Finelli made an effort not to create a roof, canopy or walls to get outdoor living space. There's no other place on the property to create outdoor living space.

The Board asked about fencing. The applicant proposes to put a compliant 30" high fence and landscaping from the corner of the property to the walkway. The following exhibits were marked:

- Exhibit A-5 – Aerial Google Earth photograph of the property and surrounding houses. A white rectangular box has been added to show the location of the proposed patio, and
- Exhibit A-6 – List of proposed plantings.

The proposed fence would be adjacent to the property line which is next to the

neighbor's garage. It's not really a privacy fence and would have landscaping 24" to 5' tall. It's not a 6' stockade fence. The grade drops between the house and the street and the yard will have to be graded up to the west. No lighting is proposed on the patio other than wall-mounted fixtures adjacent to the side door. The patio is detached from the house because of the existing foundation plantings and the five risers up to the house. The foundation plantings provide a back edge for the patio.

Mr. Grob commented that there's no good spot for a patio on the property. Ms. Idnani responded that the property lacks a back yard and she is proposing the patio to make it a more beautiful property. Ms. Ananthakrishnan asked if Ms. Idnani plans to flip the house. Ms. Idnani is going to flip it. Ms. Idnani is not aware of any drainage problems on the property: She finished the basement and there's no evidence of water.

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

Damian Schwartz, 37 Verona Road, asked when the address for the property was changed from Verona Road to Woodland Road and added that the door on Woodland Road was not the real front door as testified by the architect. Ms. Idnani applied to change the address after she bought the house.

Darlene Schwartz, 37 Verona Road, also stated that the door on Woodland Road wasn't always the front door. Mr. Finelli responded that the door on Verona Road opened to the living room and the door on Woodland opened to a mudroom between the garage and kitchen. That area is fully conditioned space and hasn't been used as a breezeway as indicated by Ms. Schwartz for many years.

John Cronin, 20 Woodland Road, asked how a street address gets changed. Mr. Morin responded that the process for changing a is not the purview of the Board and is not relevant to the Board.

Mi Young Jin, 32 Verona Road, asked Ms. Idnani if she is the realtor on the sale sign. Ms. Idnani is the realtor for the property.

Ryan Jin, 32 Verona Road, asked if Ms. Idnani has stayed overnight in the house and about the tall weeds. Ms. Idnani has not stayed overnight in the house as it has been under construction and is not livable now, but she is there every day. Ms. Idnani acknowledged that the weeds got high during the construction, but they have been cut down and she will make sure the weeds are controlled.

Kathy Gelormini, 36 Woodland Road, noted that the previous owner had a vegetable garden next to the garage and asked if there is room for the patio there and what would keep the next owner from putting a swing set in the yard along Verona Road. Mr. Finelli responded that the area next to the garage is not an attractive spot for the patio and doesn't work functionally as the homeowners would have to go through the garage to get to it. In addition a variance would be required to put it there because the setback is only 15.' The patio as proposed on Verona Road has a better traffic flow as the kitchen flows into the corner family room on Verona Road.

Darlene Schwartz, 37 Verona Road, lives across the street and with the patio as proposed, she'll be looking into the back yard watching people cooking and sunbathing.

All the other houses face Verona Road. She asked what will keep the new owner from having a pool or swing set and stated that the application will change the dimension of the block. In addition, the address was always Verona Road so it's the front of the house. Mr. Finelli responded that the applicant is not changing the dimension of the block. The other houses on Verona Road have driveways in front on Verona Road, but the driveway for this house has always been on Woodland Road. He did not want to argue the issue of the real front of the house based on the street address. The bottom line is that the property has no back yard which is a hardship and the yard along Verona Road is the only space to have outdoor living space. There's nothing to prevent a swing set in the yard on Verona Road or using it as lawn with or without the patio.

Mi Young Jin, 32 Verona Road, asked why the applicant renovated the house instead of rebuilding. Mr. Finelli responded that it's a non-conforming lot and it's not better or worse to renovate versus rebuild.

Ryan Jin, 32 Verona Road, asked if the fence and landscaping will impede the view from his driveway. He has a three-year old and this could impede a view of the child. Mr. Finelli responded that the height of the proposed fence is compliant with the Borough's ordinance.

Kathy Gelormini, 36 Woodland Road, asked about the fence and the height of the landscaping. The fence will be located adjacent to the right-of-way and the landscaping will be planted on the yard side of the fence. It will go from the corner of the property along the property line and is outside of the sight triangle.

John Cronin, 20 Woodland Road, stated that everything (outdoor living space) is in the back on Verona Road and asked how the applicant can justify changing the character of the neighborhood. Mr. Finelli disagreed that the patio along Verona Road will change the character of the neighborhood. The property has a lot of walkways. The applicant stayed away from constructing any walls, canopies or roofs for the outdoor living space.

Richa Gupta, 27 Verona Road, commented that all of the front yards on Verona Road face each other and nobody agrees with the house fronting Woodland Road rather than Verona Road. Ms. Gupta asked what happens if the next owner wants to flip the front back to Verona Road. Mr. Finelli had no comment.

The Board had additional questions about the location of the fence. The fence will be on the property side of the right-of-way which is approximately 8' or 9' feet from the curb. The planting will be inside the property. Mr. Grob commented that the plantings are pretty close to the street if they're higher than 36." The plants proposed as noted on Exhibit A-6 are 5-6' Nellie Stevens hollies, 30-30" Hydrangea Quercifolia and 18-24" Sargent Junipers, but the applicant was open to suggestions from the Board. Mr. Grob noted that Sargent Junipers are the only ones that would stay 36" in height and added that the applicant is planting to create an outdoor space but believes this is devastating for homeowners on the block. The shrubs on the block now create boundaries between properties. Mr. Finelli responded that the landscaping is proposed to soften the fence and there is a similar fence on Woodland Road. The proposed fence will be parallel to the street.

Damian Schwartz, 37 Verona Road, asked how the applicant will deal with the fence since the property is higher than the neighbors. Mr. Finelli responded that the fence is

legal and when it is being laid out, the applicant can work with the neighbors. It may be that the fence doesn't have to go to the property line, but Mr. Finelli believes a fence is needed.

The Board asked why the applicant bought the property knowing it didn't have a back yard. Ms. Idnani like the property a lot and thought the patio would make it look more beautiful. Ms. Ananthkrishnan asked about lot coverage. The lot is 10,080 SF and the building coverage is 1,928 SF. Ms. Ananthkrishnan calculated the maximum building coverage at 1,708 SF. The building coverage would conform if one garage were moved. Mr. Finelli responded that the house has the same footprint and the building coverage is a pre-existing non-conformance.

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

Mi Young Jin, 32 Verona Road, was sworn in and stated that she has lived in her house for two years. They pay \$22,000 in taxes and have a long-term investment in the town. Ms. Jin and some of the neighbors didn't receive the legal notice of the hearing until last Wednesday and Thursday making it difficult for some of the homeowners to come to the hearing because of previous commitments. Ms. Jin offered a letter opposing the patio signed by some of those who couldn't attend. Mr. Morin stated that she can submit the letter for the file as a courtesy but case law doesn't allow the Board to see the letter or take it as evidence. Ms. Jin stated this is a flip investment: The owner of the house is also the realtor. Ms. Jin would like the Board to consider this in its decision. She drives around town and sees lots of new homes. Ms. Jin made her house into a colonial home based on the original foundation. Instead of doing the right thing to improve the town, the house is just barely renovated and it will ruin the view with the change in the orientation of the front yard. The real estate market is not doing well. She's not sure her house has the same value as she paid for it. The right thing is not being done here.

John Cronin, 20 Woodland Road, was sworn in. The applicant is a realtor and bought a house that she knew didn't have a back yard. Making the front yard on Verona Road into a back yard will change the character of the neighborhood and will stick out like a sore thumb. No one has a patio in their front yard.

Damian Schwartz, 37 Verona Road, was sworn in and testified that he bought his house as a "forever" house 18 years ago. He had to come to the Board for an addition in 2004 and had to make changes to get approval. He made sacrifices because he wanted to stay in the neighborhood. This application is way over the top. The patio is going to change their neighborhood and the applicant is not going to stay in the neighborhood. What's to stop a swing set or above ground pool on Verona Road. The application is ridiculous.

Aditya Krishnan, 14 Woodland Road, bought his house, which is across the street from the applicant, three years ago. Since he's lived there, the door on Woodland Road has always been a side door. He agrees with the previous comments that the patio on Verona Road would change the character of the neighborhood.

There were no further comments and the hearing was closed.

Discussion: Mr. Morgan is not convinced that the yard on Verona Road isn't the front

yard and putting a patio there changes the character of the neighborhood. The patio sticks out into the yard. Mr. Ping agreed although the fence will screen the patio. He believes the patio will change the look of the neighborhood and is struggling with this. Mr. Sorochen believes the patio is out of character but he recognizes that the lack of a back yard presents a hardship; however, the applicant knew this when she bought the property. Mr. Grob believes the patio is inappropriate for the street and the comments from the neighbors are true. Ms. Ananthakrishnan also commented that the applicant knew there was no back yard when she bought the property.

Mr. Ping moved to deny the application. Mr. Morgan seconded the motion. A resolution will be passed at the next meeting. Members voting to deny the application: Ms. Ananthakrishnan, Mr. Grob, Mr. Morgan, Mr. Ping, Mr. Sorochen and Mr. Nadelberg. Those opposed: None.

Joseph and Lisa Gill Application #2019-09
88 The Fellsway, Block 273, Lot 2, R-2 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule II & III for permission to construct an addition and front porch. The proposed front-yard setback to the front porch is 36.25 feet whereas 40 feet is the minimum required. The proposed building coverage is 1,781 square feet whereas 1,590 square feet is the maximum allowed. The proposed lot coverage is 40.42% whereas 40% is the maximum permitted. The existing side-yard setback is 7.67 feet. The existing driveway abuts the property line.

This application was not publicly noticed within the legally required time frame and will be carried to June 3, 2019.

D. REVIEW OF PUBLIC HEARINGS SCHEDULED FOR JUNE 3, 2019

Susan and Dan Moroney Application #2019-10
119 Mountain Avenue, Block 267, Lot 19, R-1 Zone, New Providence, NJ 07974
Also known as 393 Mountain Avenue, Summit, NJ 07901
Chapter 310, Article IV, Section 310-10, Schedules II & III for permission to construct a sunroom addition. The proposed side-yard setback to the sunroom is 2.17 feet whereas 12 feet is the minimum required.

Bernard and Stacey Renger Application #2019-11
49 Ridge drive, block 37, Lot 6, R-2 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-19 I and 310-20(2) for permission to expand a driveway. The proposed curb cut is 20 feet whereas 16 feet is the maximum permitted. The proposed driveway expansion is 5 feet from the property line whereas 6 feet is the minimum required.

D. Joseph and Lisa Gill Application #2019-09
88 The Fellsway, Block 273, Lot 2, R-2 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule II & III for permission to construct an addition and front porch. The proposed front-yard setback to the front porch is 36.25 feet whereas 40 feet is the minimum required. The proposed building coverage is 1,781 square feet whereas 1,590 square feet is the maximum allowed. The proposed lot coverage is 40.42% whereas 40% is the maximum permitted. The existing side-yard setback is 7.67 feet. The existing driveway abuts the property line.

Eric Reitter

Application #2019-12

48 Commonwealth Avenue, Block 76, Lot 9, R-1 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule II and Article V, Section 310-19 G for permission to construct an addition. The proposed side-yard setback to the addition is 8.2 feet whereas 19.2 feet is the minimum required. The setback between the addition and the detached garage is 11 feet whereas 12 feet is the minimum required. The existing garage is 2' 6" from the side property line. The existing driveway is 4 feet from the side property line

E. COMMUNICATION ITEMS

Mr. Nadelberg sits on the Economic Development Committee and reported that Harley's Tap and Grill on Springfield Avenue expects to open in two weeks. McDonald's has a new owner.

Mr. Nadelberg also reported that the Committee discussed the lack of downtown parking. Ms. Ananthkrishnan commented that two new parking spaces have been added by Fan Bistro and questioned whose idea this was.

F. MISCELLANEOUS BUSINESS

No miscellaneous business.

G. MINUTES FROM 5/6/19

The minutes from May 6, 2019, were approved as submitted.

H. ADJOURNMENT

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