

**BOROUGH OF NEW PROVIDENCE
BOARD OF ADJUSTMENT
MEETING MINUTES – MONDAY, JULY 15, 2019 – 8:00 p.m.**

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

Absent: Ms. Ananthakrishnan

A. CALL TO ORDER

Chairman Nadelberg called the meeting to order at 8:04 p.m. This meeting was held in the Council Conference Room.

B. RESOLUTION

Michael and Denise Jeffries Application #2019-14
133 Stoneridge Road, block 253, 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 2,812.84 square feet whereas 2,404.94 square feet is the maximum permitted. The existing covered front porch is 38 feet from the front property line. The existing driveway is 3.5 feet from the side property line and the curb cut is 18 feet.

Mr. Galluccio moved this and Mr. Morgan seconded same. Members voting in favor: Mr. Ammitzboll, Mr. Grob, Mr. Morgan, Mr. Galluccio, Mr. Kogan and Mr. Nadelberg.

C. PUBLIC HEARINGS SCHEDULED FOR JULY 15, 2019

Theodore Kwok Application #2019-13
328 Elkwood Avenue, Block 51, Lot 4, R-1 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 Jane Road is 6 feet high whereas 30 inches is the maximum height permitted.

This hearing was carried from June 17 and July 2, 2019.

Mr. Kwok and Ms. Oviedo, previously sworn in on June 17, 2019, re-appeared before the Board proposing a wooden fence although the applicants still prefer a white privacy fence similar to the fence shown in Exhibit A-2. A photograph of the natural wood fence was marked as Exhibit A-5. The applicants testified that they had their property line marked and the existing chain link fence is located on the property line which is 9' to 10' in from the curb. They would like to put the wooden fence in the same location as the existing fence on the property line.

Mr. Grob commented that putting the fence on the property line would not leave space for plantings on the street side of the fence as they would be in the public right-of-way. Mr. Kwok responded that there are fences in town as shown in Exhibits A-2 and A-3 that

don't have plantings in front of them. Mr. Nadelberg asked if any of the fences shown in the exhibits are as long as the fence proposed. Mr. Kwok believes the fence on Walton (page 1 of Exhibit A-3) is longer. Mr. Nadelberg commented that that fence is shorter than the proposed fence.

The applicants would like to put the fence on the property line so they don't lose any more of their yard and are willing to plant in front of it if the Board approved the location. Mr. Nadelberg responded that the Board can't approve planting in the public right-of-way. They would have to get permission from Council to do this. Ms. Oviedo testified that the cost of the open rail black aluminum fence on the property line with plantings inside the fence as discussed as a possible option at the July 2, 2019, hearing was the most expensive of the options and double the cost. Ms. Oviedo stated that the panels for the fence they would like only come in one size which is 6' high.

The Board asked the applicants if they would like to consider other options for the fence. The applicants did not want to consider other options.

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.

The hearing was opened to comments from the public.

There were no comments from the public and the hearing was closed.

Discussion: Mr. Galluccio stated that the solid wooden fence doesn't address the Board's concern about the length and mass of the fence. Mr. Ammitzboll agreed that a 6' high solid fence on top of a 1' grade without plantings in front of it was not an acceptable option. Mr. Grob recapped the options available to the applicant: 1) keep the chain link fence and plant behind it, 2) install a new fence as proposed back from the property line and plant in front of the fence or 3) lower the fence to a compliant height and plant behind it to get privacy. He was not in favor of the proposed fence without plantings to break up the mass.

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

Susan and Dan Moroney
119 Mountain Avenue, Block 267, Lot 19, R-1 Zone, New Providence, NJ 07974
Also known as 393 Mountain Avenue, Summit, NJ 07901
Application #2019-10
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

Mr. Nadelberg was absent from the June 17, 2019, hearing and recused himself from hearing the application.

Susan and Dan Moroney previously sworn in on June 17, 2019, would like to construct a sunroom on the side of their house for seasonal enjoyment and believe the variance can be granted because the narrow width of the lot presents a hardship; the sunroom doesn't propose anything negative; and, they didn't receive any negative responses to the public notice and Ms. Anderson, the neighbor most affected, appeared at the last hearing in favor of the sunroom. The following exhibit was marked:

Exhibit A-6 – Nine-page document consisting of a 200' adjacent property owner map for Block 262, Lot 18; side-by-side surveys for the applicant's and neighbor's properties. (Lots 19 and 18.01, respectively); and, six pages of photographs of the property and view from the neighbor's property. Mrs. Moroney described the documents in the exhibit as follows:

- Page 1 – A 200' adjacent property owner map showing the property to the right of the applicant prior to the subdivision of that property. The applicants purchased their property in 1984 prior to the subdivision of the adjacent property (Lot 18) in 2006 into Lots 18.01 and 18.02. Their property is long and narrow (100' wide) compared to the width Lot 18 before it was subdivided and to other properties shown on the map.
- Page 2 – Side-by-side surveys of the applicant's property and the adjacent neighbor's property. The Moroneys marked up their survey to show the stone wall and woods at the back of their property and the location of the proposed sunroom. The sunroom would face the neighbor's, Ms. Anderson's, driveway not her house as shown on the survey. The neighbor's house is 61' back from the street. The Moroney's deck extends back to the neighbor's house toward Ms. Anderson's bedroom.
- Page 3 – A photograph of the street view of the house showing the fence and trees that will screen the sunroom and a close-up photograph of the front of the house.
- Page 4 – A photograph taken from the adjacent neighbor's driveway showing the side of the Moroney's house where the sunroom would be located and the neighbor's *arbor vitae*s that will screen the sunroom.
- Page 5 – Photograph of the side of the house where the sunroom will be located and a photograph "Photoshopped" to show the proposed sunroom. The sunroom will be 12.6' by 15' and 10' high. The sunroom will not have an exterior door.
- Page 6 – Photograph taken from the backyard showing the deck and a photograph taken from the deck looking into the back yard toward the neighbor and marked to show the neighbor's roof line. The contractor told the Moroneys that he could put the sunroom where the deck is but this would increase the cost by more than 125% and it would encroach more toward the neighbor.
- Page 7 – Photograph of the right rear corner of the house (as viewed from the back yard). It wouldn't be possible to locate the sunroom here because of the kitchen fixtures and plumbing on this side of the house. In addition, there isn't enough sunlight here as it faces northwest.

- Page 8 – Two photographs of the back yard showing the trellis and plantings.
- Page 8-A – Photograph of the back yard showing the trellis and marked up to show the neighbor's roof line and the trees that would have to be removed if the sunroom were located in the back yard.

Mr. and Mrs. Moroney responded to questions from the Board. The deck is 16' square. The distance from the deck to the stone wall marked on page 2 of Exhibit A-6 is 20.' It's 24' from the house to the rose bushes around the deck. Beyond the rose bushes is grass. It's 60' from the back of the house to the rock wall. If the deck were removed for the sunroom, the deck would be close to the rock wall. Mr. Grob asked if the deck could be reconfigured in a way that hasn't been considered yet. Mr. Moroney stated that the sun would not be as good at the rear of the house because of the Norfolk pines on the other side of the property: The *arbor vitae*s on the east side by the proposed location for the sunroom stop at the house so they get morning sun on that side of the house. Mr. Grob asked why the Moroneys couldn't locate the sunroom where the deck is. Mr. Moroney responded that they would like to keep the back yard the same size as it is now. Mr. Grob doesn't believe the hardship presented is the shape of the lot but what the applicants have on the lot that they want to keep. Mrs. Moroney believes the lot is peculiarly narrow and if the lot weren't so narrow, they would be able to put the sunroom in the proposed location without a variance. Mr. Grob argued that the lot is over 250' deep and they could put the sunroom where the deck is located and add the deck behind the sunroom without hitting the trellis in the back yard. Mrs. Moroney responded that that's not what they want to do. Mr. Moroney added that they want to be a good neighbor and prefer to locate the sunroom on the side of the house so that it's farther away from the neighbor's house.

Mr. Kogan asked about the rock wall. The wall is 3' high and then the property grades up from the wall to the woods. During the summer, no one sees their neighbors' yards. Mrs. Moroney stated that the sunroom as proposed is in line with the neighbor's driveway and if located at the rear of the house would impact the rear neighbor.

Mr. Ammitzboll asked if the Moroneys would consider moving the deck to the other side of the breezeway at the back of the house and put the sunroom where the deck is now. Mr. Moroney stated that the kitchen fixtures are on that side of the house. Mr. Ammitzboll stated that putting the sunroom behind the family room where the deck is and the deck behind the kitchen where the hydrangeas are (page 6 of Exhibit A-6) would give them what they want with a small loss of yard. The Moroneys believe this would cost more. Mr. Ammitzboll noted that while the Board is sensitive to cost, its concern is zoning and this option would put the deck farther away from the neighbor's house. They could put a door in the sunroom that would lead to the deck. Mrs. Moroney said it would be a "tiny" headache to locate the sunroom on the side of the house as proposed but a big headache and lots of stress to remove and relocate the deck to put the sunroom at the back of the house behind the family room. The Board believes the applicants could relocate the deck and the sunroom without a variance.

The following exhibit was marked:

Exhibit A-7 - Two photographs of the interior of the kitchen.

The dining room has a window that can be converted to French doors to access the proposed sunroom (page 5 of Exhibit A-6). Mrs. Moroney believes this is a simpler option than putting the sunroom at the rear of the house. They would like to have plants year round as well as a place to sit and read. The Board asked about the air conditioning condenser. It is located behind the proposed sunroom.

The Board asked if the Moroneys would consider other options for the sunroom. The Moroneys opted to present the application as proposed.

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.

The hearing was opened to comments from the public.

There were no comments from the public and the hearing was closed.

Discussion: Mr. Ping stated that the visuals presented by the applicant helped and he thinks the sunroom will be tucked away and screened by shrubbery. It won't have any exterior lights or doorway plus the neighbor's house is set farther back. Even though the sunroom is up against the property line, he didn't have an issue with it. Mr. Ammitzball commented that better options may exist, but he understands the constraints and that it's a lot to ask the applicant to move things around. It's unfortunate that the sunroom wasn't considered in 2011 when the applicants did their addition. The sunroom isn't in a bad spot and it's shielded from the road plus the neighbor prefers this location. Messrs. Galluccio and Kogan both struggled with the application but the photographs help. Mr. Sorochen expressed concern that the sunroom will only be 2.7' from the property and granting the variance will set a precedent. Mr. Morgan was also concerned about the setback although there is a buffer and questioned whether the Board would approve the location of the sunroom on the side if the applicants didn't have the deck and the addition. Mr. Grob was not convinced of a hardship because there are other options which make this a self-imposed hardship because of personal preference. He was not inclined to approve it. The *arbor vitaes* will die at some point as all plants do and the sunroom will be 2.7' from the property line when the back yard is 100' deep. Mr. Ammitzball asked if there's a significant detriment to approving the application. Mr. Grob believes there is. Mr. Ammitzball doesn't see the negative impact because the neighbor's house is so far back and the *arbor vitaes* will screen the sunroom. Mr. Ping also didn't see a negative impact if approved. Mr. Galluccio added that the property is well maintained and he believes the applicants will maintain the *arbor vitaes* and replant any if they die.

Mr. Ping moved to approve the application with the condition that the sunroom will never be enclosed and will remain an all-glass sunroom without an exterior door. Mr. Galluccio seconded the motion. A resolution will be passed at the next meeting. Members voting in favor: Mr. Ammitzball, Mr. Morgan, Mr. Ping, Mr. Sorochen, Mr. Galluccio and Mr. Kogan. Those opposed: Mr. Grob.

Chapter 310, Article IV, Section 310-10, Schedule III and Article V, 310-10 (G&I) and 310-32 (B) for permission to construct an addition, shed and fence. The proposed rear-yard setback is 38 feet whereas 43.75 feet is the minimum required. The proposed side-yard setback is 7.65 feet whereas 8 feet is the minimum required. The proposed shed is 4.10 feet from the rear property line, 1.5 feet from the front property line and abuts the detached garage whereas 6 feet from the rear property line, 40 feet from the front property line and 12 feet away from the detached garage are the minimums required. The proposed fence in the front yard along Holmes Oval South is 6 feet high whereas 30 inches is the maximum height is allowed.

Darrin and Hope Estep were sworn in. A 29-page presentation consisting of text and photographs was marked as Exhibit A-1. They've lived in the house, which is located on the corner of Ridgeview Avenue and Holmes Oval, since 2005. The house needs work and they would like to make improvements because they don't want to move. The Esteps are seeking variance relief to extend the existing porch at the rear of the house, locate a shed next to their garage and install a 6' fence along Holmes Oval South. The Esteps would like to cantilever the three-season porch out 2' so that they can use the room as a dining room. The addition to the porch will extend out to where the flower pots are as shown on page 6 of Exhibit A-1 and won't have a foundation. The roof line will be maintained unless they need to raise the floor of the porch. Ms. Estep believes the existing roof line of the porch was intentional to match the roof line of the house and to accommodate the window on the second floor. The existing door to the porch will be eliminated because the porch will be converted to a dining room. A door will be added by the kitchen windows.

Mr. and Mrs. Estep responded to questions from the Board. The wall between the porch and the house will remain. Currently there is a step up to the house. They do not plan to raise the porch to be flush with the house unless they have to. They will probably install electric baseboard heat and air conditioning for the room as well as add more insulation. They would prefer to locate the air conditioning condenser along the side of the house that faces the neighbor as shown on page 14 of Exhibit A-1 because they don't have much back yard and they would like to keep the space on the other side of the house; however, they are not at the point of selecting the location yet. The Board suggested that the location of condenser be included as part of the application so they don't have to come back for a variance since it's only 6' to the property line on the side of the house where they would like to put the condenser.

Graham Hobbs, 12 Ridgeview Avenue, was sworn in. Mr. Hobbs lives next door to the Esteps. There's a bathroom, kitchen and dining room on the first floor on that side of his house and a bathroom and bedroom upstairs. He's not concerned about the condenser on that side of the house because his driveway is on that side.

The Esteps would also like to have an 8' x 12' shed on the street side of the garage as shown on page 11 of Exhibit A-1. The garage is 4' from the rear property line and 11.9' from the side property line and 21' from the curb as shown on page 9 of Exhibit A-1. The proposed shed is 8' wide and would be located 2' from the garage and 2' from the proposed fence.

The Board noted that putting the shed 2' from the garage is a safety issue. If there's a fire in the shed, the garage will also burn. The Board asked about putting the shed on the other side of the garage. Mrs. Estep responded that they don't have much space in

the back yard even for a smaller shed as shown on pages 12 and 14 of Exhibit A-1. It's only 31' from the side fence to the garage and 40' from the three-season porch to the fence at the back of the property plus there are two trees that they don't want to remove. If they put the shed by the three-season porch, it would take up too much yard. They park their vehicles in the garage and use it for storage but they need more storage as shown on page 15 of Exhibit A-1. The garage is structurally sound. The Board asked the Esteps if they could extend their garage instead of installing a shed. Mrs. Estep believes it would be costly to add to the street side of the garage. The garage is about 14' high. The Board suggested that they could extend the garage with a shed roof. Mr. Grob asked about moving the swing set forward so they could put the shed along the fence. Mrs. Estep responded that it would take up a lot of room and there are plantings and mulch there. The Board believes the applicants could get more square footage of storage by extending the garage than they would get from a shed.

The Esteps would also like to install a fence on the Holmes Oval side of the house similar to the current PVC fence that they have on the other side of the property and across the rear of the property. The fence would go from where the fence ends by the walnut tree along the rear of the property and then along Holmes Oval where there would be an open-rail gate across the driveway. The fence would then continue along Holmes Oval and turn in toward the house as shown by the yellow hash line on page 28 of Exhibit A-1.

Mr. and Mrs. Estep responded to questions about the fence. The fence would be 25' long from the back of the church property to the driveway. The distance across the driveway is 13.' The fence would extend 10' to the left of the driveway and then turn in toward the house as shown on page 28 of Exhibit A-1. They would like the fence for privacy. They eat outdoors and they would also like to get a larger-size dog at some point. Mr. Nadelberg noted that the garage sits up higher than the street as shown on page 29 of Exhibit A-1. The Esteps estimated that the stone wall along Holmes Oval is 31" high. Mr. Nadelberg suggested that the Esteps could have a lower fence and still have privacy because of the grade of the property. Mr. Grob believes a 4' fence would provide privacy because of the grade. If the Esteps extended their garage 2' on either side, there would be 9' until the property if they ran the fence from the corner of the garage extension. This would provide plenty of room to plant on the street side of the fence. Mr. Estep asked about extending the garage by 4' on the street side only. Mrs. Estep believes that extending the garage by 2' on either side could be a cost issue for them. The Board was comfortable with extending the garage 4' on the street side with a 4' solid fence rather than a 6' along Holmes Oval with shrubbery planted in front of the fence. Mrs. Estep asked if they can replace the shrubs that are already in the right-of-way. Mr. Nadelberg responded that they would have to ask Council. The Esteps would not have to plant a full hedgerow along the fence. As discussed, the Board stated there will be plenty of room to plant in front of the fence if the garage is extended 4' on the street side and the fence extends from the corner of the garage as the fence will be 8' from the property line and 18' from the curb.

The Board was concerned about the locating the air conditioning condenser 1' from the property line as proposed and asked about putting it on the Holmes Oval side of the house either to the left of the window as shown or page 28 of Exhibit A-1 or under the double windows also shown on page 28 of Exhibit A-1. Mrs. Estep would prefer not to put the condenser under the double windows because it can be seen from the front of the house.

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.

The hearing was opened to comments from the public.

There were no comments from the public and the hearing was closed.

Discussion: The Board had no further discussion of the application.

Mr. Grob moved to approve the application with the following conditions: 1) The garage will be extended 4' along the Holmes Oval side, 2) the air conditioning condenser will be located on the Holmes Oval side of the house, 3) the fence will be a 4' solid fence and will run from the northeast corner of the garage to the northern most part of the northwest portion of the house with plantings regularly spaced in front of it along the portion that runs from the garage to the gate for the driveway. Mr. Galluccio seconded the motion. A resolution will be passed at the next meeting. Members voting in favor: Mr. Ammitzboll, Mr. Grob, Mr. Morgan, Mr. Ping, Mr. Sorochen, Mr. Galluccio and Mr. Nadelberg. Those opposed: None.

Mark McDonnell and Sarah Namini
304 Charnwood Road, Block 36, Lot 20, R-2 Zone, New Providence, NJ 07974
Application #2019-16
Chapter 310, Article IV, Section 310-10, Schedule II for permission to construct a deck. The proposed side-yard setback to the deck is 5 feet whereas 12 feet is the minimum required.

Mark McDonnell was sworn in and testified that he and his wife moved to New Providence a year ago. They would like to construct a deck off the rear of their house where the dining room is located but the house does not sit straight on the lot. Because the house is positioned on the lot at an angle, the proposed deck encroaches into the side yard. The deck would extend straight back from the left corner of the house which is already a pre-existing non conformance for the side-yard setback. The house is on a corner lot and the deck will be located away from the corner to provide more privacy.

Mr. McDonnell responded to questions from the Board. There will be three steps with a railing to access the deck from the slider in the dining room. The deck is one to two steps off the ground so it won't require a railing. It's approximately 3' from the McDonnell's property line to the neighbor's driveway and there's a fence between the properties that belongs to the neighbor. Mr. McDonnell noted that the fence is at least 6' high not 5' as indicated on the survey. The fence provides a buffer between the deck and the neighbor. Mr. McDonnell believes electrical outlets were installed outside of the slider when it was put in. Any lighting on the deck will be compliant. It will not have a spot light. Mr. McDonnell testified that the area where the deck is proposed is the only private area in the back yard. He talked to the neighbors and they were supportive of the deck. The deck is low enough that there's no need for lattice underneath it for screening, but the Board suggested that the applicants may want to consider lattice to keep animals out.

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.

The hearing was opened to comments from the public.

There were no comments from the public and the hearing was closed.

Discussion: The Board had no issue with the deck.

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

C. REVIEW OF PUBLIC HEARINGS SCHEDULED FOR AUGUST 5, 2019

No public hearings were scheduled for August 5th; however, the Board Secretary received an application this morning that could be heard at that meeting. The Board agreed to hear the application on August 5, 2019, as it has to come in to memorialize the resolutions from tonight's meeting.

D. COMMUNICATION ITEMS

No communication items.

E. MISCELLANEOUS BUSINESS

No miscellaneous business.

F. MINUTES FROM 7/1/19

The minutes from July 1, 2019, were approved as submitted.

G. ADJOURNMENT

The meeting was adjourned at 10:50 p.m.