

**BOROUGH OF NEW PROVIDENCE
BOARD OF ADJUSTMENT
MEETING MINUTES – MONDAY, AUGUST 19, 2019 – 8:00 p.m.**

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

Absent: Mr. Ammitzball, Mr. Morgan and Mr. Ping

A. CALL TO ORDER

Chairman Nadelberg called the meeting to order at 8:03 p.m.

B. RESOLUTIONS

Eric Erdenberger Application #2019-18
6 Badgley Drive, Block 133, Lot 6, R- 2 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule II for permission to construct a deck. The proposed rear-yard setback to the deck is 34 feet whereas 40 feet is the minimum required.

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

C. PUBLIC HEARINGS SCHEDULED FOR AUGUST 5, 2019

Stephen Zarsky Application #2019-19
28 Club Lane, Block 264, Lot 9, R-1 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule II for permission to construct a deck. The proposed rear-yard setback to the deck is 26 feet whereas 40 feet is the minimum required.

Stephen Zarsky was sworn in. Mr. Morin questioned the applicant about the utilities list provided by Summit. Mr. Zarsky's property is within 200' of Summit and Berkeley Heights. Mr. Zarsky properly noticed the homeowners and utilities on the certified lists for New Providence and Berkeley Heights but didn't have the list of utilities from Summit so Mr. Morin couldn't verify that Mr. Zarsky had noticed all of the utilities on the Summit list. Mr. Morin advised the Board that it could consider the application, and if approved, could include the condition that Mr. Zarsky must provide the utilities list from Summit for verification that all were properly noticed of the hearing. Mr. Morin advised Mr. Zarsky that he would have to come back to the Board if he didn't notice all of the utilities on the list. The Board agreed to hear the application.

Mr. Zarsky's father built the house which has a small kitchen that only accommodates four or five people. There is no room for an island in the kitchen and he plans to bump out the kitchen 8.' Part of the deck which is behind the kitchen will be removed for the expansion of the kitchen. He doesn't want to lose any of the deck space so he would like a variance for the rear-yard setback to extend the deck back from the kitchen

addition. He has a patio that extends beyond the existing deck. The proposed deck will extend 8' to 10' over the patio. The property is very wooded and he lives in a rural area. His property abuts a 2-acre parcel of undeveloped land in Summit. There is a stream behind his property and the deck won't impact any of the neighbors.

A four-page set of photographs was marked as Exhibit A-1. Mr. Zarsky described the photos as follows:

- Page 1 – Photograph of the back of the house showing the deck, patio and the area of the house where the kitchen is located.
- Page 2 – Photograph looking off the deck into the back yard.
- Page 3 – Photograph of the deck taken from the back yard.
- Page 4 – Photograph of the patio, vegetable garden and back yard. The stream is located behind the spruce trees.

There is a property to the left of Mr. Zarsky but he doesn't face that house. There are no neighbors to the right of his property. There are two houses across the street. The house behind him is on Mountain Avenue and the stream separates his property from the rear neighbor. The stream is way below his property so there are no drainage issues. Mr. Zarsky doesn't think anyone will notice if he expands the deck and noted that none of the neighbors were present at the hearing.

Mr. Zarsky responded to questions from the Board. The deck currently has subdued post lighting. The area under the deck has lattice although it was hard to see it on Page 3 of Exhibit A-1. The Board asked if the new deck will have lattice. Mr. Zarsky asked why the Board cared about lattice. Mr. Galluccio responded that the Board is concerned about applicants storing "junk" under the deck and prefers lattice to screen the area underneath the deck. Mr. Zarsky was agreeable to installing lattice. The patio is made of pavers and the new deck will overhang some of the patio. The patio will not be enlarged.

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. Zarsky's property is in a rural section of town and Mr. Grob thinks the deck is modest and was inclined to approve the application. Mr. Galluccio agreed with the condition that the applicant provide the list of utilities from Summit.

Mr. Grob moved to approve the application with the following conditions: 1) The applicant will provide the list of utilities to be noticed provided by Summit so that it can be reviewed to ensure that all utilities on the list were noticed: Should this review show

that the utilities were not noticed, the applicant will have to re-notice and re-appear before the Board, 2) The area below the deck will be screened with lattice, and 3) No additional lighting or spotlights will be installed on the deck. Mr. Galluccio seconded the motion. A resolution will be passed at the next meeting. Members voting in favor: Ms. Ananthakrishnan, Mr. Grob, Mr. Sorochen, Mr. Galluccio, Mr. Kogan and Mr. Nadelberg.

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Application #2019-17

13 Brookside Drive, Block 132, Lot 8, R- 2 Zone, New Providence, NJ 07974

Chapter 310, Article IV, Section 310-10, Schedule II for permission to construct a deck. The proposed side-yard setback to the deck is 10.2 feet whereas 12 feet is the minimum required.

Ms. Ananthakrishnan is the architect for the applicant and recused herself from the hearing.

Ms. Ananthakrishnan appeared on behalf of the applicant and presented her credentials as a licensed professional architect and was accepted as such. In 2016, prior to her appointment to the Board, Ms. Ananthakrishnan represented the applicant for a variance for building coverage for an addition. As a result of a joint mistake made by Ms. Ananthakrishnan and the Borough, the applicant constructed a deck 22" closer to the side yard than permitted. The permit for the deck was issued and it was constructed and inspected. It wasn't until the Borough Engineer requested as-built drawings that Ms. Ananthakrishnan discovered the error. Ms. Ananthakrishnan stated that she had two options: Shrink the deck so that it is conforming or re-appear before the Board on behalf of the applicant for a variance.

A sheet with three photographs of the rear of the house, the plantings toward the neighbor and the rear yard showing the distance to the neighbor was marked as Exhibit A-1. The deck aligns with the old part of the house as shown on the photograph in Exhibit A-1. Ms. Ananthakrishnan thought that the setback for a 75'-wide property was 8' rather than 12.' The left side of the deck is 10.2' from the property line. As shown on Exhibit A-2, the applicant has planted *arbor vitae* along the property line. The deck faces the neighbor's garage which is 25' from the property line and the neighbor's driveway. The distance from the deck to the neighbor's garage is 35.' The deck will be hidden from the neighbors when the *arbor vitae* grow.

Ms. Ananthakrishnan responded to questions from the Board. The applicants have not had any complaints about the deck from the neighbors. The deck and the house are 10.2' from the property line and are parallel to it. The applicant was going to put lattice under the deck but because they were unsure about what was going to happen, they haven't done so yet. The distance between the door to the deck and the deck railing is 13.' The deck would have to be 11' wide at that point to be conforming which doesn't accommodate the deck furniture. Ms. Ananthakrishnan tried to lay out the existing furniture to see if it would fit if she reduced the deck but 3' are required to open the door and the furniture didn't fit.

The following exhibits were marked:

- Exhibit A-2 – A copy of the survey that includes the rear-yard setback (58').

- Exhibit A-3 – A copy of the first floor layout showing the location of the furniture as well as the deck and space required to open the door to the deck.

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

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. Grob commented that the request for the 22” encroachment into the side-yard setback is *de minimus* and the deck is in keeping with the setback for the house. Ms. Ananthakrishnan is just trying to clear things up and make it right. The setback was an honest mistake and there hasn’t been any uproar from the neighbor. The Board agreed with Mr. Grob.

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

D. REVIEW OF PUBLIC HEARINGS SCHEDULED FOR SEPTEMBER 9, 2019

No public hearings are scheduled.

G. COMMUNICATION ITEMS

No communication items.

H. MISCELLANEOUS BUSINESS

Request for Extension of Time

The homeowner of 25 Division Avenue, who appeared before the Board in 2017 and was granted a variance for an addition, has hired a new architect for the project; however, the applicant was unaware that the variance has expired and asked about getting an extension. Mr. Morin stated that an applicant has a year from the date the Board memorializes the resolution to apply for permits and another year to complete construction. Although the variance has expired, Mr. Morin believes the Board can consider the applicant’s request for an extension rather than hearing the application again if the applicant can provide, in writing, good cause for the delay in filing for permits if it has been less than 24 months since the Board memorialized the application. The applicant would also have to appear before the Board to request the extension. The Board secretary will check the file to see when the resolution was memorialized.

I. MINUTES FROM 8/5/19

The minutes from August 5, 2019, were approved as submitted.

J. ADJOURNMENT

The meeting was adjourned at 8:42 p.m.