

**BOROUGH OF NEW PROVIDENCE
BOARD OF ADJUSTMENT
MEETING MINUTES – MONDAY, SEPTEMBER 23, 2019 – 8:00 p.m.**

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

Absent: Mr. Sorochen

This meeting was held in the Council Conference Room on the third floor.

A. CALL TO ORDER

Chairman Nadelberg called the meeting to order at 8:02 p.m.

D. RESOLUTIONS

25 Division Avenue, Block 121, Lot 20, R-2 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule II, Section 310-11E for permission to construct an addition. The proposed front-yard setback to the addition is 29.8 feet to the addition along Lavina Court and 36 feet to the second-floor addition along Division Avenue whereas 40 feet is the minimum required. The proposed rear-yard setback to the addition is 35.9 feet whereas 40 feet is the minimum required. The property does not have a garage whereas a one-car garage is required. The existing front-yard setback to the house is 29 feet along Division Avenue and 30.4 along Lavina Court. The existing rear-yard setback is 37.7 feet. The existing driveway is 20 feet wide.

The applicant is working with a new architect on revised plans and requested an extension of time. The resolution includes language that would require the applicant to resubmit a variance application should the Construction Official determine that the revised plans are substantially different from those the Board approved in 2017.

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

E. PUBLIC HEARINGS SCHEDULED FOR SEPTEMBER 23, 2019

Trevor Joseph Duddy Application #2019-20
51Magnolia Drive, Block 180, Lot 22, 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 Porter Place is 4 feet high whereas 30 inches is the maximum height permitted.

Trevor and Meghan Duddy were sworn in and Ms. Duddy testified that they live on Magnolia Drive at the corner of Porter Place. They would like to install a 4' fence along Porter Drive that would be located 10' out from the house. They would like to maximize the use of the dry space in their back yard for their children as parts of it are wet. Ms. Duddy added that they would like to have the fence because vehicles speed down

Magnolia Drive in the afternoon. Mr. Duddy added that New Providence only allows a 30" fence in the front yard and this isn't high enough to contain the children. In addition, they may get a dog in the future and 30" isn't high enough to contain a dog. The fence will be stained cedar and not white vinyl. It will be 3' high with 1' of lattice on top.

The Duddys responded to questions from the Board. The fence will be located behind the trees along Porter Place and won't obstruct the sight line. When placing where they would like the fence, they measured from the property line. They believe it's 15' from property line to the curb. Ms. Ananthakrishnan noted that it's 19.8' from the house to the property line so if the fence is located 10' from the house, it will be 10' off of the property line. Mr. Duddy found the iron cap for the property line and the three trees on Porter Place were planted outside of the property and are not on their property. The Board noted that a homeowner is not permitted to plant in the public right-of-way. The trees were planted by the previous owner. The Board asked about the other three fences in the interior of the property. These fences were installed to contain the previous owner's dog and will be removed. There are also fences along the left and rear side of the property. The Board recapped the fences: There is a 6' fence along the rear of the property, a 6' fence along the left side of the property and the applicants propose a 4' fence along Porter Place that would be placed 10' off of the house and extend to the fence at the rear of the property. Mr. Duddy asked if he can move the proposed fence farther out from the house. The Board stated that if this is what he wanted, he should have submitted the application with such location. In addition, the Board always wants to leave enough room between the fence and the property line for plantings which is usually 10.' The Board concluded that it can only grant approval for the fence based on its distance from the house (as submitted) because it doesn't know definitively how far the fence would be from the property line if relocated.

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.

Michael Cronin, 48 Magnolia Drive, was sworn in. He lives across the street and has no problem with the fence. It will be a nice looking fence and he hopes the Board will approve the application.

Discussion: The Board had no issue with the 4' fence (3' fence topped with 1' of lattice) to be located 10' off of the house. Mr. Ammitzboll would like to add the condition that the applicant will not remove the trees planted in the right-of-way planted by the previous owner. :

Mr. Ammitzboll moved to approve the application for a 3' fence with 1' lattice above for a total of 4' height to be located 10' from the house with the condition that the applicant will not remove the trees the previous owner planted in the right-of-way. Mr. Grob seconded the motion. A resolution will be passed at the next meeting. Members voting in favor: Mr. Ammitzboll, Ms. Ananthakrishnan, Mr. Grob, Mr. Morgan, Mr. Ping, Mr. Galluccio and Mr. Nadelberg.

Daniel Robert and Sarah Elizabeth Harrington

Application #2019-22

5 Dogwood Lane, Block 181. Lot 1, R-2 Zone, New Providence, NJ 07974

Chapter 310, Article IV, Section 310-32(B) for permission to erect a fence. The proposed fence in the front yard is 36 inches high whereas 30 inches is the maximum height allowed.

Daniel Harrington was sworn in and presented a survey showing an updated location for the fence which was marked as Exhibit A-1. Mr. Harrington moved into the house two months ago. The Harringtons have a small child and the back yard of the property, which is on the corner of Magnolia Drive and Dogwood Lane, doesn't have enough room to play so they play in the front yard and on the driveway. In the application as submitted, the 36" fence was proposed to extend from the front corner of the house out to Magnolia Drive. Mr. Harrington would like to move the fence back from the house and have it extend out from the front corner of the three-season room. The fence would extend out to Magnolia Drive and wrap around Magnolia Drive and across the primary front yard on Dogwood Lane. There is an existing 6' fence in the back that Mr. Harrington will paint. The proposed fence is a standard 3' picket fence with 3' spacers and will be installed on the property lines on Magnolia Drive and Dogwood Lane.

Mr. Harrington responded to questions from the Board. The wooden deck and hot tub are no longer on the property. The block wall is still there. They have mulched the area and planted hollies. Mr. Harrington would like to change the location of the fence because they have installed some new plantings that they would like to be able to see. Mr. Grob commented that the Board rarely allows a fence on a corner lot to be located on the property line and asked why the fence is needed. Mr. Harrington would like to fence to contain his child. The fence will have a gate at the walkway on Dogwood Lane as shown on the original application. There will also be a gate in the 6' fence at the back of the property as well. It will be a white picket fence.

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. Grob again commented that the Board usually doesn't permit a fence to be located on the property line on a corner lot, but the fence is only 36" rather than the 30" permitted. He believes it will add character to the neighborhood. Mr. Ammitzball believes the Borough set the 30" requirement for a front-yard fence so that it would have the opportunity to review front-yard fences. He also believes the fence is in character with the neighborhood and that it's a "picket fence neighborhood." The fence will look nice. The applicants also have a hardship because the property has no usable back yard.

Mr. Grob moved to approve the white picket fence. Mr. Ping seconded the motion. A resolution will be passed at the next meeting. Members voting in favor: Mr. Ammitzball, Ms. Ananthakrishnan, Mr. Grob, Mr. Morgan, Mr. Ping, Mr. Galluccio and Mr. Nadelberg.

61 Crescent Drive LLC

Application #2019-21

61Crescent Drive, Block 73, Lot 8, R-2 Zone, New Providence, NJ 07974

Chapter 310, Article IV, Section 310-10, Schedules II & III for permission to construct a new home. The proposed lot size is 8,125 square feet whereas 15,000 square feet is the minimum required. The proposed lot width at the setback is 65 feet whereas 110 feet is the minimum required. The proposed rear yard is 39.5 feet whereas 43.75 is the minimum required. The proposed building coverage is 1,708.5 square feet whereas 1,563 square feet is the maximum allowed.

The newspaper didn't publish the legal notice for the hearing by the date required. The hearing will be carried to October 7, 2019.

F. COMMUNICATION ITEMS

No communications items.

G. MISCELLANEOUS BUSINESS

The Board discussed the number of fence applications it has heard and options for changing the ordinance for fences especially the height in the front yard. One option is to allow a higher fence with 50% transparency on the secondary front yard for corner lots. Options for possible zoning changes require further discussion. Until then, Mr. Morin offered to prepare a one-page document outlining what an applicant needs to provide in a variance application for a fence to streamline the hearing process.

H MINUTES FROM 9/9//19

The minutes from September 9, 2019, were approved as submitted.

J. ADJOURNMENT

The meeting was adjourned at 8:50 p.m.