

METUCHEN ZONING BOARD OF ADJUSTMENT

MINUTES

November 10, 2011

The meeting was called to order at 7:46 p.m. by Pat Lagay, Chairperson, who read the statement in accordance with the Open Public Meetings Act.

ROLL CALL

Present:	Suzanne Andrews	Daniel Spiegel
	Robert Fair, Vice Chairperson	Brian Tobin, Alt. I
	Pat Lagay, Chairperson	Mike DiGeronimo, Planner
	Catherine McCartin	Robert Renaud, Attorney
	Judith Sisko	Kathy Elliott, Engineer
	Byron Sondergard	Chris S. Cosenza, Zoning Officer

Late: (none)

Absent: Jonathan Rabinowitz, Alt. II

OLD BUSINESS

10-891 **Constantine Papanicolaou / Metuchen Inn** – Applicant is seeking to amend site plan and use variance approval to include outdoor dining on an existing patio, to maintain a pre-fabricated garbage shed, maintain existing light fixtures and to maintain the existing parking lot in lieu of repaving it.

424 Middlesex Avenue Block 104, Lots 24 & 23.03 R-1 Zoning District

Ms. Lagay stated that the Board had received a letter from the Applicant's Attorney to request that the hearing be carried to the next hearing date.

Mr. Renaud stated that the application would be carried to the following hearing date, December 8th, 2011 at 7:45 P.M. There would be no further notice.

Ms. Lagay noted that both Robert and Nicole Contursi had previously been sworn in at the previous hearing. She indicated that the Board had received revised plans and asked Mr. Contursi to begin his presentation.

Mr. Contursi stated his wife, Nicole, was not present and would be arriving shortly.

Ms. Lagay stated that she did not believe the following application would take long and that the Board could hear it first.

Mr. Contursi stated that he had no objection and thanked Ms. Lagay.

NEW BUSINESS

11-935 **Madhusudhan Sonee** – Applicant is seeking bulk variance approval for a second story addition on a corner lot.

317 Midland Avenue Block 51.7, Lots 38-39 R-2 Zoning District

Madhusudhan Sonee was sworn in by Mr. Renaud.

Mr. Renaud requested Mr. Sonee to describe the application.

Mr. Sonee stated that he is the owner of the property and that he was requesting approval for a second floor addition on his existing home. He had photographs for the Board to consider.

Mr. Renaud stated that he would mark the photographs as exhibit A-1.

Mr. Sonee described the photographs as showing the other homes that have had additions. The upper-left and upper-right photographs show the dwelling across the street and the lower-left and lower-right photographs show the other two (2) homes at the corner.

Mr. Cosenza noted that, for the Board's benefit, the upper-left and upper-right photographs depict 316 Midland Avenue, which had been before the Board within the past two (2) years.

Ms. Lagay requested Mr. Sonee to further describe the addition and the photographs that were provided in the application package.

Mr. Sonee stated that the additional photographs were taken from various points of his property. On the first floor, at the rear, there is a kitchen; he stated that he wished to construct the second-floor addition on top in order to add a new master bedroom suite. The footprint of the existing dwelling would not change.

Ms. Lagay noted that there were floor plans and asked the Applicant's Architect to describe them.

Thomas Giegerich, Applicant's Architect, was sworn in by Mr. Renaud.

Mr. Renaud requested Mr. Giegerich to qualify himself before the Board.

Mr. Giegerich stated that he has been a registered architect since 1982. He has testified before numerous boards and commissions. He described the elevations and floor plans for the addition. The proposal requires a variance because the house is located on a corner property. The issue is the front setback, which is pre-existing.

Ms. Lagay asked Mr. Giegerich to address the comments made in the Borough Engineer's memo.

Mr. Giegerich stated that the leaders are extended onto the ground and discharges into the backyard. He requested that they continue to do so.

Ms. Lagay asked if there was a water problem and if the façade would match.

Mr. Sonee and Mr. Giegerich both stated that there were no water issues and that the façade would match the appearance of the current dwelling. The addition would carry the existing side walls and there would be a two-foot cantilever to the rear.

Ms. Lagay requested Ms. Elliott to review her memo.

Ms. Elliott stated that her primary concern was comment #5 regarding drainage issues. The roof leaders and sump pump drainage should be piped underground and connected to the storm sewer system within Midland Avenue.

Mr. Giegerich stated that he believes the sump pump is connected to the storm sewer system, not the sanitary sewer system.

Ms. Elliott stated that it should be confirmed with the Building Department when inspections are made. Connections to a sanitary sewer line are illegal. She opined that the addition was going up so the impervious coverage does not change. As a result, she does not see any significant problems. She requested that the roof leaders not discharge off onto neighboring properties, it should go into the ground.

Ms. Lagay asked how many bedrooms there would be when finished.

Mr. Sonee stated that the house would have four (4) bedrooms and 2½ bathrooms.

Mr. Renaud requested clarification as to whether or not the Applicant was going to comply with all of the recommendations in Ms. Elliott's memo.

Mr. Giegerich stated that there was a recommendation for trees that he wanted to address.

Ms. Elliott stated that that comment referred to the Planner's memo and all comments regarding landscaping would be deferred to Mr. DiGeronimo.

Mr. Renaud asked Mr. Sonee if he had Ms. Elliott's memo.

Mr. Sonee stated that, yes, he had it.

Mr. Renaud asked Mr. Sonee if the roof leaders would be piped underground.

Mr. Giegerich raised his concern that it would disturb the sidewalk.

Mr. Renaud asked what the alternative was.

Mr. Giegerich stated that he would continue to do what was there now: discharge into the yard.

Ms. Elliott stated that it could be tied with the sump pump discharge, with a "Y" connector. She clarified that sump pumps and roof leaders should be going into the storm sewer system, especially if the sump pump is already connected, as previously testified.

Mr. Giegerich stated that it was possible.

Ms. Elliott stated it should be connected with the sump pump discharge. If the sump pump discharges into the sanitary sewer, that has to be fixed. Either way, there will be some digging.

Mr. Renaud reviewed comment #7 regarding the fence in the front yard area. He asked if a permit had been taken out for the fence.

Mr. Sonee stated that he had applied for a permit and that he had to pick it up.

Mr. Cosenza confirmed that it had to be picked up and clarified that the fence was supposed to be 50% open, picket-style, and it appears the fence was not constructed to that effect. He believes that was the point of the Engineer's comment as it is a solid fence.

Ms. Elliott agreed. The fence does not meet the design standards for fences in the front yard area. Although a permit was applied for, the fence was not constructed correctly.

Mr. Renaud asked, if the application was to be approved, if the Board would require the fence to be corrected.

Ms. Elliott stated that she would defer to Mr. DiGeronimo.

Mr. DiGeronimo stated that there were two (2) issues: 1) the fence is solid and 2) there is an air conditioner condenser unit in the front yard area as well. The solid fence is actually serving to screen the unit from view. That might be a way to deal with the fence, despite it not being 50% open.

Mr. Spiegel requested that additional landscaping, particularly to shield the massing of the new addition.

Ms. Lagay requested Mr. DiGeronimo to review his memo further.

Mr. DiGeronimo recommended leaving the fence as is but providing additional landscaping in a planting bed in order to soften the fence. There should be something, a tree, to soften the corner of the house where the addition is being constructed. Other comments recommended that foundation plantings along University Avenue, an ornamental tree on University Avenue and a shade tree along Midland Avenue, be included on a landscape plan.

Mr. Giegerich agreed and indicated that he would prepare and submit a landscaping plan to the Planner for his review and approval.

There being no further questions from the Board, Ms. Lagay opened the hearing to the public for questions concerning the application.

Todd Pagel, 313 Midland Avenue, asked what the required time frame to construct the addition.

Mr. Renaud responded that, for a bulk variance, one year is the required time frame.

There being no further questions from the public, Ms. Lagay closed the public portion.

Ms. Lagay opened the hearing to the public for comments concerning the application. There being none, Ms. Lagay closed the public portion.

Mr. Spiegel noted that he supported the application because no deck was being proposed, only a small landing and several steps down into the backyard. He indicated that he might not be in favor had there been a deck proposed, as same would infringe on the neighbors.

Mr. Cosenza noted that there is room left for a deck with the primary issue being the setbacks.

Mr. Fair commented that it was unclear as to whether or not the Applicant had agreed to tie in the roof leaders with the storm pipe.

Ms. Elliott clarified that testimony provided to the Board made it evident that the sump pump was tied in already; the Applicant should then tie in the roof leaders with the sump pump pipe. She was not asking the Applicant to run 100 feet of piping.

A motion to approve the application as presented to the Board with the landscaping and engineering recommendations was made by Mr. Spiegel and seconded by Mr. Sondergard. Roll call vote taken. Motion carried unanimously.

11-928 **Robert & Nicole Contursi** – Applicant is seeking bulk variance approval to construct an addition.

122 Hollywood Avenue

Block 224, Lot 57

R-2 Zoning District

Ms. Lagay noted for the record that with Ms. Sisko not present at the previous meeting, she was not eligible to vote on this application. As a result, Ms. Sisko left the hearing. Ms. Lagay asked Mr. Contursi to begin his presentation.

Mr. Contursi stated that they had considered the public comments made at the last hearing. He and his wife understand that with changes in the neighborhood, it can evoke emotions from the residents. They appreciate the Board's position that while a number of comments were worthy of being heard, some of them were not entirely relevant. This gave the Applicants confidence that the Board was recognizing its mandate and can make an informed decision. Secondly, he wanted to share a number of photographs with the Board to illustrate a number of changes on Hollywood Avenue. Of the 31 homes in the neighborhood, eight (8) have had additions.

Mr. Siegel noted that the photographs did not depict which of the homes required variances or some sort of Board approval.

Mr. Contursi stated that his intention was to show the direction that the neighborhood seemed to be going toward.

Mr. Spiegel stated that he appreciated the effort but the Board needed to focus on evidence.

Mr. Renaud marked the photographs as Exhibits A-1 through A-8, which are labeled and described as below:

Mark	Description
A1	130 Hollywood Avenue
A2	115 Hollywood Avenue
A3	90 Hollywood Avenue
A4	81 Hollywood Avenue
A5	78 Hollywood Avenue
A6	74 Hollywood Avenue
A7	70 Hollywood Avenue
A8	65 Hollywood Avenue

Mr. Spiegel and Ms. Andrews both noted that a majority of the homes did not have a functional third floor.

Ms. Lagay reiterated Mr. Spiegel's previous comment in that the photographs did not indicate which properties received variances or how tall they were. With respect to the application itself, she noted that the height of the proposed addition is now 33 feet, down from 35 feet. She asked Jacob Trpisovsky, the Applicant's designer, to describe the changes between the original and revised plans submitted to the Board.

Mr. Trpisovsky stated that the addition was offset one foot on the north side, which brought it in conformity with the required single side setback (but still requiring a variance for combined side yard setback). The pitch on the front gables was increased slightly. A dashed line was shown on the attic plan to illustrate what could possibly be available as finished living space. It was a very small space.

Mr. Renaud asked what the criteria was to determine possible habitable space.

Mr. Trpisovsky stated that it was based on current building code which requires no greater than one third (1/3) of the floor below and height limitations for headroom, which are 5'-0" knee walls.

Ms. Lagay asked if 5'-0" knee walls are typically required.

Mr. Trpisovsky stated that they are required only for finished spaces, which is under today's building code as well as the Rehabilitation Subcode. He explained that the Applicants plan to use the third floor for storage only. Even if someone in the future wanted to use it for living space, there was a limited area that could possibly be used.

Ms. Andrews asked how tall the proposed addition is.

Mr. Trpisovsky stated that the overall height was reduced from 35 feet to 33 feet. He used Mr. Nunez's property (at 115 Hollywood Avenue) as a guide.

There was a discussion regarding the attic plan and its use, during which Mrs. Contursi objected to the relevance of several questions raised by Board members.

Ms. Lagay stated that the Board wanted it to be clear that it was going to be used as an attic. Once approved, the variance approval is recorded and runs with the land.

After a discussion regarding the revisions in the floor plans, Ms. Lagay noted that, at the previous hearing, concerns were raised regarding the water problem in the backyard. Since the last meeting, there was a big storm. She asked how it had affected the application.

Mr. Trpisovsky stated that, as per conversations with Ms. Elliott, the Applicants would have all roof leaders be piped to the front of the house or that arrangements would be made to carry the water to the existing swale and drainage to the rear yard area.

Ms. Lagay noted that the swale goes through other neighbors' properties.

Ms. Elliott stated that, upon further review, she had explained to Mr. Trpisovsky that there is no overland relief, no drainage easement or pipes. What she has recommended was to provide seepage pits and landscaping that would improve the drainage. She noted that there was a

substantial amount of standing water on the properties, but on one neighbor's property, a large gravel area did not have as much standing water as other properties. There are various landscape and hardscape solutions that can be utilized. There is enough elevation to get the water from the rear to the front.

Mr. Contursi stated that with three (3) young children, he would absolutely do whatever was required to deal with the issue of standing water on the property as they intend to use their yard.

Ms. Elliott noted that these issues have been prevalent for decades but have not been appropriately addressed.

Mrs. Contursi stated that the concept of perforated pipe brought out to the street has been discussed and may be preferred.

Ms. Elliott requested details regarding the drainage plan.

Mr. Trpisovsky stated that he would produce landscaping and drainage plans and submit them to the Board Planner and Board Engineer for their review and approval.

Ms. Elliott noted an error in the zoning chart in the original submission.

Mr. Trpisovsky stated that he realized there was an error and it has since been corrected on the revised plans. The lot coverage calculation is now correct.

Ms. Elliott noted that with the one foot offset, the dimension at the rear portion of the addition should be 37.96 feet, not 38.96 feet.

Mr. Trpisovsky stated that he would correct the plans.

Ms. Lagay reviewed the Planner's memo with respect to the driveway.

Mr. Trpisovsky stated that the proposed driveway was reduced to 18 feet to conform to the design criteria. The driveway was moved eight (8) inches towards the house.

There being no further questions from the Board, Ms. Lagay opened the hearing to the public for questions and comments concerning the application. There being none, she closed the public portion.

Ms. Lagay stated that the Board had considered the comments made at the previous hearing. It was noted that many of the comments came from residents on Hazelwood Avenue despite those properties being located higher than the properties on Hollywood Avenue.

Ms. Lagay requested Board members to discuss the application.

Mr. Spiegel stated that he was pleased with the revisions. Improvements have been made and he appreciates the roofline being lower. He still has concerns regarding the mass in the rear.

Ms. McCartin stated that she was pleased with the changes as well.

There was a brief discussion regarding foundation plantings, to which Mr. Trpisovsky clarified that it would be fully landscaped.

A motion to approve the application as presented to the Board was made by Mr. Spiegel and seconded by Mr. Sondergard. Roll call vote taken. Motion carried unanimously.

CORRESPONDENCE

Mr. Spiegel raised his concerns that it would be beneficial to have some sort of guidance from (Borough) Council. Many people want these types of homes.

Mr. Trpisovsky noted that other towns have reduced their reduced maximum heights of principal structures.

Ms. Lagay noted that Mr. Cosenza and Mr. Renaud have been working with a subcommittee to do some house-cleaning with respect to the Zoning Ordinance.

Mr. Cosenza noted that other towns have different ways to address massing. Some towns have separate second-story side yard setback requirements as compared to the first floor or Floor Area Ratio (FAR) requirements.

Mr. DiGeronimo agreed that FAR can help and noted that the intent of the façade width provision was supposed to guide some of these issues as well, so that, in addition to the height, the overall massing of the building would not be so boxy.

Mr. Spiegel noted that FAR can be challenging on smaller lots. He opined that there are a lot of smart people here and that we have to figure it out.

There was a discussion regarding the nature of the Board applications for the past few years. Many years ago, variances were required in order to construct something that was rather normal and there were hardships presented because of the lot. Now, the Board is receiving applications where the applicant needs variances because it is what they want.

Mr. Renaud noted that if there is something the Board wants to see changed, or at least reviewed, they have to outline the problems or challenges and give it to the governing body and a propose a solution. In general, the governing body will want to know why there are issues. In this particular case, the problems are more now than they were before. There is a lot more adding onto houses than there used to be. Years ago, adding a second floor was unheard of. Now it is done all the time. In the past, people would comply with the rules. Now, people question the rules. It may be a societal problem. In another town, they spent weeks proposing a new ordinance; in the end, it was discussed that one could not use more than "x" percent of the building envelope and, in this case, the higher you went, the percentage would be reduced. As an example, one could use 85% of the envelope on the first floor and no more than 75% of the envelope on the second floor. This prevented boxes from being created.

Ms. Lagay suggested to the Board that another subcommittee be formed to make these suggestions, in addition to current subcommittee that is addressing the immediate house-cleaning changes to be provided to Borough Council.

The Board discussed possible changes.

There was a discussion regarding the patio area being constructed at 130 Hollywood Avenue. Board members expressed disappointment that it did not go to the Board for a variance. The

application went to the Technical Review Committee for technical assistance with respect to patio area design and that it was considered open space.

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Spiegel and seconded by Mr. Fair. Voice vote was taken. Motion carried unanimously.

The meeting adjourned at 9:06 p.m.

Respectfully Submitted,

Chris S. Cosenza
Recording Secretary

