

METUCHEN ZONING BOARD OF ADJUSTMENT

MINUTES

April 11, 2013

The meeting was called to order at 7:54 p.m. by Pat Lagay, Chairperson, who read the statement in accordance with the Open Public Meetings Act.

ROLL CALL

Present: Suzanne Andrews
Pat Lagay, Chairperson
Catherine McCartin
Judith Sisko
Byron Sondergard
Daniel Spiegel

Brian Tobin, Vice Chairperson
Jonathan Rabinowitz, Alt. I
Jim Constantine, Planner
Robert Renaud, Attorney
Lisa DiFranza, Engineer
Chris S. Cosenza, Zoning Officer

Late: (none)

Absent: Sheri-Rose Rubin, Alt. II

NEW BUSINESS

12-977 **Kenneth Kacani** – Applicant is seeking bulk variance approval to construct a second story addition at the rear of the house and a dormer above the garage at the front of the house.

155 Maple Avenue

Block 99, Lot 29.02

R-1 Zone

Mr. Kacani was sworn in by Mr. Renaud.

Ms. Lagay stated that the plans are before the Board and advised Mr. Kacani to explain to the Board what it was that he was seeking.

Mr. Kacani stated that he and his wife were born and raised in Metuchen. They have moved back in order to raise a family. They have three (3) children, ages 13, 11 and 8. With a growing family, they are in need of more space. They love their house, street and neighborhood. They have not considered moving and wish to add onto their existing home.

Mr. Kacani continued and indicated that he is seeking relief from side yard setback, combined side yard setback as well as lot width. The original footprint of the house has several pre-existing non-conforming conditions with the lot width only being 65 feet, the left side of the house is set back only 7.3 feet, the setback on the right side of the house is 8.5 feet and when combined it is 15.8 feet. Since he has purchased the property in 2002, they have added a family room, half bathroom, laundry room at the rear of the house and, in addition, enclosed an existing covered porch. What he would like to do now is construct two (2) additional bedrooms and two (2) additional bathrooms over the existing family room as well as incorporate space

above the existing garage. He will be using all local professionals. Mark Marcille did the architecture and ASAP Carpentry will be doing the general contracting. The plans call for building over what we currently have. They have actually increased the setback on the right side, which would conform to the 10 foot setback requirement. The left side would increase from 7.3 to 8.3 feet (but not conforming) and the total combined setback would increase 15.8 to 18.3 feet. The other variance request is for lot width, which is something he can not really do anything about.

Mr. Spiegel noted that addition will not be any wider than the house had ever been.

Mr. Kacani confirmed and that it would actually be less.

Mr. Spiegel noted that, in a technical point of view, the 7.3 and 8.5 feet setbacks are not being exacerbated at all.

Mr. Renaud agreed and noted that the side yard setback is remaining the same. The addition is not only not encroaching further, but is actually being set back more than the existing setbacks.

Mr. Kacani stated that he also had constraints by building up and is proposing to build a dormer over the garage (as opposed to a full second story). If the dormer was moved in to conform to the 10 foot setback requirement on the left side, it would off-center. By changing it, it would change the whole look of the house and is cognizant of the curb appeal and impact on the general neighborhood. He preferred to center it over the single-car garage, as proposed.

There was a discussion regarding the floor plans; a room appeared to have no label.

Ms. Lagay asked what kind of materials would be used.

Mr. Kacani indicated that he would use siding, either cedar shake or hardie-board, but will otherwise match the existing house.

Ms. Lagay asked about the rear yard area.

Mr. Kacani indicated that he had a brick patio, with one (1) door providing access to the rear yard. No additional access is being proposed.

Mr. Spiegel noted that the plans do not show additional A/C condenser units, if there will be any.

Mr. Kacani indicated that there is an existing one on the right side of the house and they will put the second one right next to it.

Ms. Lagay asked Mr. Kacani if he had an opportunity to review the professionals' memoranda. She noted that the Board Engineer had questioned the covered porch.

Mr. Kacani indicated that the plans were drawn up with respect to the final product. They did do the front porch already.

Ms. Lagay asked if the porch required relief.

Mr. Cosenza stated that, no, the porch is a permitted projection (into the front yard area).

Mr. Kacani agreed and they received the permits a few years ago. Everything that is being proposed is all on the second floor.

Ms. Lagay noted that the plans show, after construction, the home will have four (4) bedrooms, 3 ½ bathrooms and two (2) offices.

Mr. Kacani confirmed.

Ms. DiFranza stated that her concerns as noted in her memorandum were raised because the survey does not reflect what is actually presently on the site. It looks like the house was expanded to the rear at some point.

Mr. Kacani confirmed that it was. A family room was added.

Ms. DiFranza asked if he had obtained a variance.

Mr. Kacani stated that he had received a permit from the town.

Ms. Lagay asked if the downspouts would be directed away from the neighbors.

Mr. Kacani stated that the rear downspouts are pointed into the rear yard area.

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

Mr. Renaud requested clarification and asked if Applicant would agree to comply with all of the comments and recommendations contained in the Board Engineer's memorandum.

Mr. Kacani confirmed.

Mr. Renaud noted the inconsistency between the Application for Development and plans. The cover sheet has a zoning chart and noted different numbers. Each side yard setback is 10 feet, but that is not correct because the side yards are 8.3 and 10 feet. The Application for Development indicates a combined side yard setback of 18.3 feet but the chart on the plans indicates a combined side yard setback of 16.8 feet.

Mr. Kacani stated that the existing side yard setbacks are 7.3 and 8.5 feet.

Mr. Spiegel noted that the proposed addition will have side yard setbacks of 8.3 and 10 feet.

Mr. Cosenza confirmed and stated that it is the addition itself that requires the variances. He noted that it appeared that the Architect's intention was to show that the existing setbacks are not changing. The Application for Development indicates the proposed setbacks to the addition itself. He confirmed Mr. Spiegel's thoughts that the addition is getting narrower as it goes back from the front of the house, which is consistent with what Applicant stated earlier.

Mr. Renaud stated that the numbers in the zoning chart are incorrect and should be corrected. Had the addition complied with the side yard requirements, Applicant would not have required a variance.

Mr. Cosenza agreed; the plans need to be revised (as a condition of approval). He stated that he was actually surprised to see the original first floor addition because, as he interprets §110-108 of the Zoning Ordinance, it should have required a variance. A variance was not applied for because the previous Zoning Officer did not interpret it as such. However, since Applicant is before the Board, the Board could grant the variance if necessary.

Mr. Renaud understood but opined that since Applicant received some form of approval, albeit administratively, the Board does not necessarily have to address it. There is no "cloud" because such had already been approved.

Mr. Constantine noted that, perhaps, the previous Zoning Officer's interpretation (of §110-108) was actually correct. Mr. Constantine noted that an applicant can add onto the existing house if it has at least 50% of the setback requirement.

Mr. Cosenza agreed; however, he noted that the 50% rule is specifically applicable to the individual side yard setback only. It does not apply to the combined side yard setback. Since Applicant is proposing an 18.3 combined side yard setback, whereas 20 feet is required, Applicant requires a variance.

Mr. Renaud agreed and noted Applicant also requires a variance from §110-106B for enlarging a non-conforming structure, which is otherwise prohibited.

Mr. Cosenza noted that this was the same exact variance requested for 122 Hollywood Avenue, for the Board's consideration. They were extending a non-conforming single side yard setback, which is permitted so long as it is at 50% of the required single side yard setback requirements; however, like this application, they did not comply with the combined side yard setback requirements.

Board members agreed.

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

A motion to approve the application as presented was made by Mr. Tobin and seconded by Ms. Sisko. Roll call vote taken. Ms. Andrews, Ms. Lagay, Ms. McCartin, Ms. Sisko, Mr. Sondergard, Mr. Spiegel, Mr. Tobin and Mr. Rabinowitz voted yes. Motion passed unanimously.

Mr. Kacani thanked the Board.

CORRESPONDENCE

Minutes from May 10, 2012

A motion to approve the minutes as written was made by Ms. Sisko and seconded by Mr. Spiegel. Voice vote taken. Motion carried unanimously.

Minutes from June 14, 2012

A motion to approve the minutes as written was made by Mr. Spiegel and seconded by Mr. Sondergard. Voice vote taken. Motion carried unanimously.

Minutes from July 12, 2012

A motion to approve the minutes as written was made by Ms. Sisko and seconded by Mr. Spiegel. Voice vote taken. Motion carried unanimously.

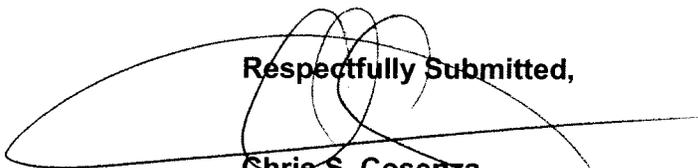
Minutes from September 13, 2012

A motion to approve the minutes as written was made by Mr. Sondergard and seconded by Mr. Rabinowitz. Voice vote taken. Motion carried unanimously.

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Sondergard and seconded by Ms. Sisko. Voice vote taken. Motion carried unanimously.

The meeting adjourned at 8:22 p.m.



Respectfully Submitted,

**Chris S. Cosenza
Recording Secretary**