

# METUCHEN ZONING BOARD OF ADJUSTMENT

## MINUTES

December 12, 2013

The meeting was called to order at 7:49 p.m. by Pat Lagay, Chairperson, who read the statement in accordance with the Open Public Meetings Act.

### ROLL CALL

Present: Suzanne Andrews Jonathan Rabinowitz, Alt. I  
Pat Lagay, Chairperson Jim Constantine, Planner  
Judith Sisko Robert Renaud, Attorney  
Daniel Spiegel Lisa DiFranza, Engineer  
Brian Tobin, Vice Chairperson Chris S. Cosenza, Zoning Officer

Late: (none)

Absent: Catherine McCartin Eileen Millett, Alt. II (7:54 p.m.)  
Byron Sondergard

Ms. Lagay explained the procedures of the Board.

### NEW BUSINESS

**13-1006** **Matt & Maria Fulham** – Applicant is seeking bulk variance approval to construct an addition and new garage.

116 Main Street Block 215, Lots 1 & 1.01 R-2 Zone

Mr. Wiley indicated that his clients were not present and would defer to the second application.

**12-960** **Metuchen Investors, LLC** – Applicant is seeking major site plan with bulk variance approval to construct a three-story, 19 unit apartment building. Application was bifurcated, use variance approval was granted in December 2012.

23-27 Hillside Avenue Block 118, Lots 18.04, 19-21 B-1 Zone

Dave Frizell, Applicant, indicated that he would have himself as a fact witness and two (2) additional witnesses, an Engineer and a Planner.

Mr. Frizell, Applicant's Engineer and Applicant's Planner were sworn in by Mr. Renaud.

Mr. Frizell indicated that he had previously done work at 450-460 Main Street. He presented architectural plans by Robert Adler, AIA. He showed and briefly explained site plan. He presented Exhibit A-1, an exhibit depicting a historical building from 100 years ago, known as the Hillside Inn, which was located in the general vicinity. Mr. Frizell then briefly explained the general layout of the floor plans.

Mr. Siegel apologized for interrupting and, given the bifurcated nature of the application, members of the Board and public, requested that Mr. Frizell describe the story, the reason why he is before the Board.

Mr. Frizell stated that he is proposing a 19-unit apartment building: 10 one-bedroom units, eight (8) or nine (9) 2-bedroom units and perhaps a 3-bedroom unit as a result of the affordable housing requirement. The variances are for front yard setback on Hillside Avenue (3.3'), front yard setback on Inn Place (4.7'), height variance (38'). He noted that, at one point, the building goes above 35 feet but never exceeds 38.5 feet (this means it is a typical bulk variance and not a d variance for height). In connection with the front yard setback, there is a violation of the sight triangle.

Mr. Spiegel asked about the side yard setback requirement. Was it zero in the zoning district?

Mr. Cosenza confirmed yes.

Mr. Frizell further discussed the requested waivers required for parking. Pursuant to the Residential Site Improvement Standards (RSIS), 36 parking spaces are required, whereas 34 is provided on site. There are three (3) spaces on the street; however, they will not be considered because he does not believe he could incorporate metered parking.

Mr. Constantine clarified that the side yard setback provided is 7.1 feet.

Mr. Frizell discussed the elevations. The building will be completely brick and stone, which he opined would make it of very high quality architecture, matching the historical context and look of the Borough. His architect attempted to make the building look like a converted loft/industrial building. It has the look of a sturdy, hefty-looking building. Due to the grading, the building steps down.

Ms. Lagay asked if his architect would be present.

Mr. Frizell indicated that his architect had a conflict.

Mr. Renaud requested Mr. Frizell to restart the discussion regarding the floor plans.

Mr. Frizell discussed the floor plans. There will be three (3) flats accessible to Hillside Avenue. On the second floor, there are flats accessible from the rear parking area. The flats that back to Inn Place have cellars below (due to grading of Inn Place). Doors (from the rear parking area) lead to a common area shared by two (2) units each. One door leads to the flat and another door that leads to the 2-story unit (above the flat).

Mr. Wiley interjected that his clients were in the hospital and had a birth and requested the application be carried to the following hearing date.

Ms. Lagay asked if the Board had taken jurisdiction in order to do so.

Mr. Renaud indicated that notice was given and saw no reason not to carry it. He announced that the Fulham application would be carried to January 9, 2014 at 7:45 p.m. There would be no further notice.

Mr. Wiley thanked the Board.

Ms. Lagay indicated that was a first for the Board.

Mr. Renaud opined that it was certainly a valid excuse.

There was further discussion regarding the layout of the floor plans. The smallest unit would be approximately 600 square feet; the largest unit will be approximately 1,100 square feet.

Mr. Rabinowitz requested information regarding the unit sizes and expected rent.

Mr. Frizell indicated that it would be between 20 to 26 dollars per square foot for rent, considering the proximity to the train station. He opined that 600 square feet is generally for career-oriented singles.

Ms. Andrews asked about the height of the units.

Mr. Constantine indicated that the plans show 9 foot ceiling heights for the first and second floor units. The ground floor units have approximately 12 foot ceiling heights.

Ms. Lagay asked how Applicant arrived at 19 units.

Mr. Frizell indicated that was what the appropriate site design allowed.

Mr. Spiegel indicated he would have questions for the architect. For example, he would ask questions for what he was instructed to design, what a conforming building would accommodate and so on.

Mr. Frizell indicated that he had worked with the typical 15 foot setback from the curb, which he opined was the de facto condition in the B-1 zoning district. He indicated that he is proposing a lot of parking, more than most sites have. He indicated that he was getting ahead of himself and would defer to his Engineer and Planner regarding the site plan and parking.

For the benefit of the Board and the public, Mr. Renaud summarized RSIS; a state statute mandated that these standards be adopted for every municipality. They cover things like site improvements: curbs, sidewalks, road as well as parking. For all residential uses, including apartments, there is a chart. The standards required 1.8 spaces for 1-bedroom units, 2.0 spaces for 2-bedroom units and 2.1 spaces for 3-bedroom units. The calculation came up to a total of 36 parking spaces.

However, there are two (2) different ways in which Applicant can request the Board not to use the required 36 spaces. Section 5:21-4.14: "(c) Alternative standards to those shown in Table 4.4 shall be accepted if the applicant demonstrates these standards better reflect local conditions. Factors affecting minimum number of parking spaces include household characteristics, availability of mass transit, urban versus suburban location and availability of off-

site parking resources." Also, "(f) When, in the judgment of the local approving authority, on-street parking is available, then only that portion of the parking requirement which is not available on the street shall be provided in off-street parking facilities." Given it is not mixed-use project, shared parking does not apply. Because of the issues raised, Applicant, while has less parking than what is technically required, may be able to prove that no such exception is required, or may request a de minimis exception. There is also the option of the waiver, but that requires the approval of NJDCA, which he opined likely does not occur often. Applicant's Engineer and Planner should address these issues. When the Board gets to the voting part, he opined that should be one of the first threshold questions to consider, whether the parking meets RSIS or grant a de minimis exception.

Mr. Constantine indicated the plans had come to the TRC several times. Applicant has generally addressed the TRC's concerns by pushing back more, less massing and less visibility of units.

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

Three (3) members of the public asked questions about the site plan and parking, to which Mr. Frizell indicated they would be addressed by the Engineer when site plan issues were discussed. In his opinion, he had too much parking on site and would not need all that parking; however, it was a concern raised by the Board in 2012 and they have been incorporated into the plans.

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

Mr. Frizell requested his Engineer to qualify himself to the Board.

Jeff Laneza introduced himself to the Board; he provided his qualifications and experience. He works for Onmand Engineering, located in Freehold, New Jersey. He runs the office and has 30 years of experience. He was accepted by the Board as an expert.

Mr. Laneza indicated that he was familiar with the plans and described the existing conditions. There are currently three (3) two-family homes on the property with a gravel parking area in the rear, along Inn Place. The homes would be demolished. The proposed site plan indicates an L-shaped building sited at the corner of Hillside Avenue and Inn Place. There is a parking area behind the building and tandem spaces along Inn Place. He described the parking layout.

Mr. Spiegel asked if that piece of land would qualify as a parking lot and what is the setback standard for a front yard parking lot, as opposed to a driveway.

Mr. Constantine indicated that (while the Ordinance does not allow front yard parking) the Ordinance permits side and rear yard parking areas. The internal parking area conforms. The parking along Inn Place exists today.

Mr. Spiegel recalled the issues raised by the Borough, in an application for a bank at the corner of Main Street and Route 27, where there was parking proposed near the street.

Mr. Constantine stated that the parking exists today and requires a waiver because it technically cannot be in the front yard area. In fairness to Applicant, the parking is to the rear of the building. The parking happens to front on a lower order street, which is more of a lane.

Mr. Cosenza indicated that the first 4.7 feet along Inn Place is considered the front yard area, the rest of that area is all the rear yard area given that it is the opposite of the shortest front.

Ms. DiFranza stated that it is own lot, but is consolidated as part of the application.

There was a discussion regarding the drawings.

Mr. Constantine indicated that there are two (2) residential buildings on the other side of Inn Place: 29 Hillside Avenue and 52 Inn Place. 29 Hillside Avenue, a single-family home, sides to Inn Place. 52 Inn Place, which is not a single-family home, (is the only structure that) fronts upon the parking area.

Mr. Rabinowitz asked how many parking spaces were being provided.

Mr. Laneza stated there are nine (9) spaces behind the building and 25 along Inn Place.

There was a discussion regarding the parking arrangement, during which Board members raised their concern regarding the nature of tandem spaces.

Mr. Frizell indicated that tandem parking is permitted by RSIS (in townhouse situations) and it is generally not uncommon as it even exists all along Hillside Avenue. He further indicated that the spaces would be assigned, the two (2) spaces would be assigned to the same unit.

After a discussion regarding the Mr. Renaud opined that it appeared that each unit would have at least 1 parking "area" or "domain."

Mr. Spiegel raised his concern regarding visitor parking when there are parties.

Mr. Frizell stated that it was a good question; however, there is on-street parking adjacent to the site and along the street.

Ms. Lagay opined that it is no different than when visitors come to a single-family residence; they park on the street.

Mr. Laneza described the utilities and stormwater plans, which refer to sheet four (4) of the submittal to the Board. He further described the landscaping and lighting plans, which refer to sheet five (5) of the submittal to the Board. There will be evergreen landscaping along the edges of the property as well as flowering/ornamental trees.

Ms. Andrews asked how many trees were being removed.

Mr. Laneza indicated that on sheet two (2) of the submittal, 35 trees area being removed.

Mr. Frizell indicated that he would request for a waiver of the tree replacement requirement. Upon confirmation with Mr. Cosenza, trees approximately six (6) inches in caliper would require one to one replacement, but assuming they were up to 12 inches in caliper, Applicant would require 105 tree replacement trees. Mr. Frizell indicated he would be happy to contribute some of that amount around the Borough. The trees being removed are not visible.

Mr. Laneza introduced Exhibit A-2, a board showing improvements to Inn Place. As a result of advice given from TRC, there will be paver gutters and an asphalt center.

Upon a question from Ms. Andrews, Mr. Frizell clarified that the pavers and asphalt areas are completely within the public right-of-way and parking does not encroach in this area.

Mr. Rabinowitz opined that it may be possible for cars to hang over in the right-of-way.

Ms. Andrews agreed, given that the combined length of the nearest tandem stall is 32 feet.

Mr. Constantine indicated that a couple of the shorter tandem spaces can be removed and allow landscaping/trees to remain.

There was a discussion regarding the intent of the pavement treatment. The pavers help visually separate the parking areas from the actual Inn Place right-of-way. The shared space would be conducive to enhanced pedestrian activity. People will walk in the street.

Mr. Renaud questioned the Inn Place public right-of-way; he asked for the width of the right-of-way as well as the pavement itself.

Mr. Laneza indicated that the right-of-way is 25 feet and the pavement is approximately 18 feet.

Upon review of the plans, Mr. Renaud indicated that there appeared to be approximately three (3) feet on both sides before the start of the pavement. Mr. Renaud asked how long the shortest tandem stall is.

Mr. Laneza indicated 31.6 feet.

Mr. Renaud noted that it was just testified that there was an additional three (3) feet between the property line and the start of the roadway pavement.

Mr. Cosenza asked what the three (3) foot zones consisted of.

Mr. Frizell indicated that it would be paved; you would not notice the beginning of the parking area and the street. The parking area is entirely on private property.

Mr. Frizell introduced Exhibit A-3, a photograph which shows Inn Place looking south, and Exhibit A-4, a photograph which shows Inn Place looking north, towards 29 Hillside Avenue.

Mr. Spiegel asked whose cars were in the parking spaces.

Mr. Frizell they belonged to the people who lived across the street.

Ms. Andrews asked who took the photographs.

Mr. Frizell indicated he believed his Engineer took the photographs in 2008.

Mr. Tobin raised his concern regarding the terminology of FABC and the 1.5 inch thickness but deferred to Engineer. He asked if there would be truck traffic.

Ms. DiFranza indicated that it is a RSIS standard but asked to bump it up to 3.5 inches.

Mr. Frizell indicated there would be garbage trucks.

Ms. Andrews asked if the Fire Department can access the roadway.

Mr. Frizell indicated that it would have to comply. With respect to garbage, he would have a professional superintendent to handle the garbage. There would be a number of bins which would be shared by all of the units. They will not use dumpsters.

Mr. Constantine indicated that the use of shared bins is the same concept used at Franklin Square and Central Square; it was encouraged to not use dumpsters because of the connotation they have with (traditional) apartment (complexes).

Ms. Lagay asked where the garbage cans would be located.

Mr. Laneza indicated where they would be located, in two (2) separate locations.

Mr. Frizell indicated that the superintendent would bring the cans to the curb, as required by the Department of Public Works.

There was a long discussion regarding the plans and garbage/recycling. Mr. Spiegel indicated that he fills up a two (2) bins each week. Mr. Tobin opined that the residents at this location will have a minimalist lifestyle and will take the train. Mr. Spiegel stated that no testimony had been given; he was attempting to understand what was being proposed. Mr. Constantine referred to Franklin Square: there are 110 units with five (5) garbage areas. Using the same proportion and given that Franklin Square consists of larger market-rate units, he opined that garbage area (for this project) is adequate as shown on the plans.

Mr. Renaud asked about drainage in general.

Ms. DiFranza indicated that the site does not qualify for major development. She indicated that what is proposed is generally adequate but will require additional information regarding calculation on the pipes being utilized.

Mr. Renaud asked about impact to surrounding properties, with respect to drainage.

Mr. Laneza opined that there would be little to no impact.

Ms. Andrews asked about the lighting.

Mr. Laneza showed sheet five (5) of the submittal to the Board. The western side, along the side of the courtyard parking will have three (3) lights. There will be bollard lighting near the building. There will also be three (3) Main Street lights along Hillside Avenue. There will no Main Street lights proposed along Inn Place.

Upon a question asked about the lights along Inn Place, Mr. Frizell stated that he did not want to have pedestrians in the downtown area to be confused, alluding to any action occurring up Inn Place; therefore, no lights were being proposed there. There will be wall-lighting at entry doors.

Mr. Frizell indicated that he had received Ms. DiFranza's report. He had reviewed it and does not have any substantive problems with it; he did not see anything objectionable.

Mr. Renaud indicated that he had to address it one way or the other. Applicant can agree to everything or each item can be addressed one by one.

Mr. Frizell indicated he did not want to address each item since he did not see anything objectionable.

There was a very long discussion regarding the parking layout and access, during which Mr. Renaud indicated that the shorter tandem spaces require a de minimis exception. With respect to the parking requirement, the standard being used downtown is one (1) space per unit. Mr. Renaud summarized that Mr. Frizell's argument was that given that cars can park in tandem in single-family homes, the Board could accept the concept for the multi-family setting.

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

Leonard Roseman, 40 Miller Drive, asked how many spaces would be lost if had to comply with the 18 foot requirement.

Mr. Laneza indicated that approximately four (4) parking spaces would be lost.

Mr. Roseman asked how far the site is from Pearl Street parking lot.

Mr. Laneza indicated it is less than 500 feet.

Mr. Roseman asked how far the site is from the Station Place parking lot.

Mr. Laneza indicated it was approximately 170 feet.

Ms. Andrews asked if the parking lot required permits.

Mr. Frizell confirmed.

Ms. Andrews opined that it was not really accessible.

Mr. Frizell indicated that he would have to get the required permits.

Mr. Roseman asked if future testimony would address the implications on parking.

Ms. Lagay indicated that was the testimony the Board was expecting to hear (shortly).

Mr. Constantine commented that that the average person runs 250 feet per minute. Therefore, one is less than two (2) minutes from the Pearl Street lot and under a minute from the Station Place lot.

426 Main Street questioned the (left) side of the development. He asked if anything will be done to the driveway.

Mr. Frizell indicated that the driveway is on the adjacent property. The proposed retaining wall actually preserves the driveway. Only a portion of the driveway on the subject property will be removed. The existing driveway (on the adjacent property) will remain.

Roland Staal, 72 Hillside Avenue, asked if Inn Place will be 2-way. Garbage cans.

Mr. Laneza indicated that it is 2-way now and it will remain that way.

Mr. Staal questioned the garbage cans.

Mr. Laneza indicated that the garbage cans will be brought from the nook to the curb on Hillside Avenue. There is another area along Hillside Avenue, which is buffered.

Mitsuko Thornton, 33 Hillside Avenue, asked questions about the parking spaces on Inn Place. She stated that signage on the parking spaces shows names of businesses.

Mr. Frizell indicated that they will be moved when apartment building comes in.

Mr. Spiegel recalled earlier testimony that the parking spaces belonged to the three (3) two-family homes.

Mr. Frizell clarified that they belong to him.

Mr. Spiegel stated that photographs were shown.

Mr. Frizell clarified that the cars belong to the three (3) homes and a home across the street.

Mr. Spiegel requested clarification regarding the signage on the spaces.

Ms. Thornton stated that signage on the parking spaces show names of businesses.

Mr. Frizell indicated that most of signs either say no parking or are for his businesses only. He controls the parking by putting his signs on it. He allows people to park there.

David Aitken, 24 Highland Avenue, questioned the state of Inn Place as it is in severe disrepair; he asked if the subsurface will be sufficient for garbage trucks.

Mr. Laneza confirmed it was bumpy. The roadway will be sufficient when reconstructed.

Mr. Aitken asked about questions about garbage cans when placed on street.

Mr. Laneza indicated that the cans on Inn Place could be placed along the building, about 30-35 feet away, but would not be in obstruction of users of Inn Place.

Mr. Aitken questioned the turn-around space.

Mr. Laneza indicated that it would be about 22 feet and would be adequate.

Mr. Aitken asked how long construction would be.

Mr. Frizell indicated approximately nine (9) months.

Joseph Schaffer, 24 Henry Street, disclosed that he is a licensed engineer and planner by trade and had testified before the Board in the past. He further disclosed that he had worked with Mr. Laneza in the past. He asked about Mr. Laneza's experience in Hudson County.

Mr. Laneza confirmed indicated there was a lot of dependence on mass transit.

Mr. Schaffer asked if the development was in Hudson County, would he characterized that the parking was excessive.

Mr. Laneza confirmed.

Mr. Schaffer asked if he thought it was a fair assessment that the housing stock that is being built here is more conducive to people who would live in Hudson County.

Mr. Laneza confirmed.

Mr. Schaffer asked if he would characterize this site as more urban than suburban.

Mr. Laneza confirmed.

Mr. Schaffer asked how many trees would be saved if all of the tandem parking spaces were removed.

Mr. Laneza indicated approximately 20 to 25 trees would be saved.

Mr. Schaffer asked by building the tandem parking space, if the development would be constructing on steep slopes.

Mr. Laneza confirmed.

Mr. Schaffer requested clarification that the steep slopes would be disturbed for the sake of the tandem parking spaces, not the (compliant) 18 foot parking spaces (directly accessible from Inn Place).

Mr. Laneza confirmed.

Mr. Schaffer asked, given flooding issues on Main Street, if more parking and, as a result more impervious surface, would be detrimental.

Mr. Laneza generally agreed: additional impervious would not help. Snow removal may be an issue. It would be have to be carted.

Mr. Frizell indicated that he does cart snow.

Evelyn Grant, 36 Highland Avenue, questioned the parking along Inn Place. She asked how many parking spaces were there.

Mr. Frizell indicated that there are 18 parking spaces.

Ms. Grant asked if any of these spaces were required spaces for Main Street businesses. She indicated that it had appeared that eight (8) (of the 18) parking spaces were dedicated to Main Street businesses.

Mr. Frizell indicated that the lot was subdivided off approximately eight (8) years ago. It is a separate lot now.

Ms. Grant stated she had copies of deeds and easements.

Mr. Frizell indicated that the parking was available for his businesses.

Ms. Andrews indicated if the easement could be vacated.

Mr. Frizell confirmed.

There was an extension discussion regarding easements and 2005 subdivision, during which Mr. Spiegel asked if the parking lot was associated with any other site plans and upon review of all other resolutions, if there would be any reference to the parking lot. Mr. Frizell indicated that the subdivision application (in 2005) would be the only relevant application. Mr. Spiegel wanted to understand what was required by the resolution(s) previously adopted by the Borough. Mr. Frizell indicated that the easement was not part of the resolution; it is an agreement between Applicant and Applicant. Mr. Spiegel indicated that he understood, but wanted to understand if parking had been required in connection to some prior application, it is a possibility. Mr. Renaud recalled seeing records; however, his records were wiped away by Hurricane Irene.

Ms. Lagay noted that we currently have a member of the public with some records.

Mr. Renaud requested Ms. Grant to provide the deeds to Mr. Cosenza to make copies and mark into evidence.

Mr. Constantine vaguely recalled that the parking area was sufficient in 1988.

Ms. Andrews opined that having an easement was extreme to require parking on one site for another site.

Mr. Renaud indicated that the research can be done. It does not make sense to discuss what might be in a resolution that no one has a copy of. The Board cannot make a decision until someone checks.

Mr. Constantine indicated that Applicant represented, on the Application for Development, that the only prior decisions/hearings regarding the subject site was the 2012 (use) approval. He opined that the Board could continue to hear the matter.

Ms. Andrews indicated that sometimes people are not aware of what are required on their own sites.

Mr. Renaud indicated that the research needs to be done. It was not uncommon to have an Applicant come in to allow parking for one site to be parking two (2) doors down. However, Boards were not as diligent 15 years ago as they are now to ensure the proper recording instruments are in place. He understands the concerns raised by the Board. Either the Board can wait or assume it is resolved.

Mr. Frizell agreed it is a sensitive issue and should be clarified.

Mr. Renaud accepted, from Ms. Grant, Exhibit B-1, a deed dated May 1, 2005, Exhibit B-2, a deed dated May 3, 2001, Exhibit B-3, another deed dated May 3, 2001 and Exhibit B-4, a deed dated August 31, 2001.

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

Board members requested a recess.

The Board recessed at 10:29 p.m. and reconvened at 10:37 p.m.

Ms. Lagay suggested that the Board carry the hearing given the remaining testimony that is to be given.

Mr. Frizell indicated he would be out of the country next month and possibly February. We are looking at March. He agreed to sort out the parking with Mr. Constantine and Mr. Renaud; it is a very complex topic. He does not anticipate it being an issue.

Mr. Cosenza noted that there are two (2) applications on the agenda for January.

Mr. Renaud asked what the date was for February.

Mr. Cosenza indicated that Board has to reorganize and adopt a schedule for February.

Mr. Renaud opined that Applicant may have to renounce. After further consideration, he offered the caveat that, if the Board, during reorganization, was not going to have meeting on February 13, Applicant would have to renounce.

Mr. Frizell indicated that he understood.

Mr. Renaud announced that the application would be carried to February 13, 2014 at 7:45 p.m. There would be no further notice.

Ms. Andrews indicated that she would not be present.

## RESOLUTIONS

**13-992**      **Amboy Holdings LLC** – *(Applicant is seeking minor subdivision, use variance and bulk variance approval to subdivide the parcel into two lots with the existing two-family house to remain and to construct a new single-family house on the subdivided lot. – approved 11/14/2013)*

292 Central Avenue

Block 51.04, Lot 20.01

R-2 Zone

Ms. Lagay asked if the resolution would be attached to the deed.

Mr. Renaud indicated that, on page 13, the resolution refers to the attachment as a condition of approval.

A motion to approve the resolution as written was made by Ms. Andrews and seconded by Mr. Tobin. Roll call vote taken. Ms. Andrews, Ms. Lagay, Mr. Tobin and Mr. Rabinowitz voted yes. Motion passed unanimously.

**13-1004**      **Eugene Dooley** – (*Applicant is seeking bulk variance approval to construct a second floor addition. – approved 11/14/2013*)

25 Beverly Court

Block 125.02, Lot 18

R-1 Zone

A motion to approve the resolution as written was made by Ms. Andrews and seconded by Mr. Tobin. Roll call vote taken. Ms. Andrews, Ms. Lagay, Mr. Tobin and Mr. Rabinowitz voted yes. Motion passed unanimously.

## **CORRESPONDENCE**

### **Minutes from April 11, 2013**

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

Ms. Lagay wished everyone Happy Holidays.

Mr. Spiegel indicated that on next year's Annual Report, he would recommend a digital library of the resolutions adopted by the Borough.

Mr. Cosenza indicated that was a project he had already undertaken; however, it would take a couple years to complete.

## **ADJOURNMENT**

A motion to adjourn the meeting was meeting by Mr. Tobin and seconded by Ms. Andrews. Voice vote taken. All voted yes. Motion passed unanimously.

The meeting adjourned at 10:47 p.m.

**Respectfully Submitted,**

**Chris S. Cosenza**  
**Recording Secretary**

METUCHEN BOARD OF ADJUSTMENT

RESOLUTION OF MEMORIALIZATION GRANTING  
MINOR SUBDIVISION APPROVAL WITH D VARIANCE, C VARIANCES  
AND WAIVERS/EXCEPTIONS

TO  
AMBOY HOLDINGS, LLC  
292 CENTRAL AVENUE  
BLOCK 51.04, LOTS 20.01, 20.03  
APPLICATION NO.:13-992

**WHEREAS**, Amboy Holdings, LLC, hereinafter referred to as “the Applicant,” submits this application with the consent of Joseph Rufolo, Sr., the owner of the subject premises, as shown on the official Tax Map of the Borough of Metuchen, and more commonly known as 292 Central Avenue, in the Borough of Metuchen, County of Middlesex and the State of New Jersey; and

**WHEREAS**, the Applicant has applied to the Metuchen Borough Zoning Board of Adjustment for minor subdivision approval with C and D variances and waivers/exceptions; and

**WHEREAS**, the Metuchen Board of Adjustment held public hearings on said application on October 10, 2013 and November 14, 2013 after compliance with the notice, service and publication requirements of N.J.S.A. 40:55D-12; and

**WHEREAS**, at said hearing, the Board of Adjustment considered the following documents:

1. Zoning permit.
2. Application for development dated August 29, 2013.
3. Proof of payment of taxes and assessments.
4. Application and escrow fees.
5. Review letter of Maser Consulting, P.A., by Lisa R. Di Franza, P.E.,

CME, dated October 9, 2013.

6. Memorandum of Looney Ricks Kiss, by Jim Constantine, P.P., Borough Planner, dated October 9, 2013.

7. Resolution of the Metuchen Board of Adjustment dated February 8, 1989 which granted a use variance for the utilization of the subject premises for two-family residential use, subject to certain conditions.

8. Memorandum dated October 9, 2013 from Shirley M. Bishop, P.P., the Borough's Affordable Housing Consultant, concerning the subject application.

9. "Use Variance, Site Development Plan and Minor Subdivision Plan" dated February 28, 2013, last revised July 22, 2013, by Gladstone Design, Inc., consisting of one page.

10. Floor plans and elevations, "Proposed Single Family House, Amboy Holdings", dated July 22, 2013, by Netta Architects, consisting of three sheets.

**WHEREAS**, the Applicant was represented by John Wiley, Jr., Esq.; and

**WHEREAS**, the subject property is located in the R-2 Zone and contains a non-conforming two-family residence that was granted use variance approval by the Board of Adjustment in 1989; the Applicant is proposing a minor subdivision to divide the subject property into two lots, with the existing two-family dwelling to remain with a modified driveway on a new smaller lot and a new single-family residence proposed on the remainder of the property on a newly created lot; and

**WHEREAS**, the Applicant requires the following D Variance:

§101-68, expansion of pre-existing two-family use previously permitted by variance by virtue of reduction of lot size by subdivision; and

**WHEREAS**, the Applicant requires the following C Variances:

**Lot 20.01**

§101.64, minimum lot area – 7,500 sq. ft. required, 4,919 sq. ft. proposed;

§110-64, minimum lot depth – 100 ft. required, 77.9 ft. proposed;

§110-64, minimum front yard setback – 25 ft. required, 14.9 ft. existing non-conformity  
(Central Avenue);

§110-64, minimum front yard setback – 25 ft. required, 7.2 ft. existing non-conformity  
(Midland Avenue);

§110-64, minimum open space – 60% permitted, 54% proposed.

**Lot 20.03**

§101.64, minimum lot area – 7,500 sq. ft. required, 4,538 sq. ft. proposed;

§110-64, minimum lot width setback – 62.5 ft. required, 52.6 ft. proposed;

§110-64, minimum lot depth – 100 ft. required, 89.2 ft. proposed; and

**WHEREAS**, the Applicant requires the following waivers/exceptions:

**Lot 20.01**

§110-136.1B(3), garage setback – minimum 8 ft. from façade required, 2.5 ft. proposed;

§110-136.1B(4), driveway width – maximum 9ft. between the driveway apron at the  
street and the foremost portion of the front of the structure permitted, 12 ft. width proposed;

§110-136.1B(2), façade width – not to exceed 50% of the permitted lot width at setback  
line, overall width of 30 ft. at the foremost portion 18 ft. in width, proposed; and

**WHEREAS**, the Board heard the presentation and evidence as follows:

1. Applicant's attorney John Wiley, Jr., Esq., made an opening statement. Mr. Wiley indicated that the Applicant has constructed a 12 unit townhouse development on Amboy Avenue in Metuchen and that as a condition of approval, Applicant was required to provide two affordable housing units off-site. Applicant proposes to locate the two affordable units in the existing two-family residence on the subject premises, which is to be renovated. He indicated that the two-family unit obtained a D Variance in 1989. Unfortunately, it appears that none of the conditions which were imposed in the Resolution granting the variance were carried out. These included construction of railings for risers on staircases, trimming of hedges located in the site triangle at the corner of Central and Midland Avenues to a height of three feet or less, and the provision of a gravel turnaround area on the driveway. Mr. Wiley indicated that the proposed subdivision, the renovation of the existing two-family residence and the construction of a new single family residence would constitute a better zoning alternative than the existing condition, and that the proposal, which includes the renovations and refurbishments would visually enhance the subject property.

2. William Salmon of Gladstone Design, Inc., was sworn, qualified and gave testimony. He is a licensed professional engineer. He was accepted by the Board as an expert in professional engineering. Mr. Salmon introduced Exhibit A-1, an existing conditions rendering. He described the property as being at the intersection of Central and Midland Avenues, consisting of approximately 9,400 sq. ft. There is an existing two-family residence with a floor area of about 1,500 sq. ft. There is a circular driveway. The property is not well maintained. To the rear of the property (from Central Avenue), there is a shed and a brick patio. Mr. Salmon

introduced Exhibit A-2, a proposed subdivision/site plan rendering. There will be two lots, which are depicted on the rendering as Lot 20.01, the proposed lot which will contain the existing two-family residence, and proposed Lot 20.03, which will contain the proposed two-story single family dwelling. According to Mr. Salmon, Lot 20.01 will be approximately 4,900 sq. ft. and Lot 20.03 will be approximately 4,500 sq. ft. Applicant proposes foundation plantings on the Midland Avenue side on both residences and buffer plantings on the south side of the property. On Lot 20.01, there will be a sidewalk on that lot running from the parking lot to the house. Mr. Salmon indicated that the Residential Site Improvements Standards of the State of New Jersey require parking for three cars for a two-family residence. Applicant proposes only two parking spaces, which would require a *de minimis* exception from the Residential Site Improvement Standards. With respect to proposed Lot 20.03, the single family residence lot, there will be a one car driveway. Applicant requests a 12 ft. driveway where the design standards call for 9 ft. Mr. Salmon indicated that there will be an open front porch on the house, foundation plantings, ornamental trees and shade trees.

3. Mr. Salmon discussed the variances. With respect to the lot area, 7,500 sq. ft. is required in the zone. These lots would be approximately 4,900 and 4,500 feet in area. Lot 20.03 would have a lot width of 52.56 ft. where 62.5 ft. is required. It would have a lot depth of approximately 89 ft. where 100 ft is required. With respect to proposed Lot 20.01, the ordinance requires a lot depth of 100 ft. where 77.9 ft. is proposed. The existing residence would also violate the front yard setback requirement from Central Avenue and from Midland Avenue, although this existing non-conforming condition will be not be changed. The lot would also require an open space variance. 54% is proposed, where 60% is permitted. Mr. Salmon addressed the Board Engineer's review letter of October 9, 2013. Applicant will comply with

the comments and the recommendations contained in the Board Engineer's October 9, 2013 review letter. With respect to the conditions in the 1989 variance approval, the existing vegetation is being removed and replaced and the existing driveway is to be reconfigured due to the subdivision. With respect to site comment 4, Mr. Salmon reiterated that the Applicant seek a *de minimis* exception from the Residential Site Improvement Standards, proposing two off-street parking spaces instead of the three which are required by the Residential Site Improvement Standards. With respect to site comment 7, Mr. Salmon indicated that the new dwelling will have a basement and that Applicant will comply with this comment.

4. Mr. Salmon next addressed the Board Planner's review letter of October 9, 2013. He noted that Applicant seeks waivers/exceptions as noted in Mr. Constantine's comments 8, 9 and 10, and that Applicant will comply with comment 11 with respect to foundation plantings and trees on the new single family lot. With respect to comment 11, he indicated that the calculations include all proposed features shown on the plans. With respect to comment 15, Applicant will comply. Applicant will contribute shade trees or make a contribution in lieu of same for trees that cannot fit on the property, all of which will be subject to the Planner's approval. Mr. Wiley interjected that materials and colors will be subject to the Planner's approval. Mr. Salmon indicated that the new home would have approximately 2,500 sq. ft. of floor area.

5. The hearing was opened to the public for questions for Mr. Salmon. Juliane Montanez of 428 Midland Avenue asked about ownership of the property and was told that the Applicant would own the two-family residence. There being no further questions, that portion of the hearing was closed.

6. Mark Bess, Architect, was sworn, qualified and gave testimony. He is a licensed architect. He described the existing two-family. He introduced Exhibit A-3, which consisted of six images showing the existing conditions. The two-family residence is vinyl sided, wood frame, with a stairway in the rear to the second floor. Applicant will re-side the entire building. There will be stone veneer on the lower portion. Shutters will be installed on the windows. Mr. Bess introduced Exhibit A-4, an elevation of the existing dwelling as proposed. He indicated that Nick Netta will testify at the next hearing as to the interior renovations proposed. Applicant will make the building safe and code-compliant. With respect to height, Mr. Bess indicated that the existing dwelling is approximately 30 ft. 4 in. to the roof ridge. Mr. Wiley indicated that one of the principals of the Applicant now owns the property.

7. Mr. Bess further elaborated on Exhibit A-4, another elevation of the existing building. It shows stone cladding on the lower portion. As indicated, the existing building has two units. One of those units is currently occupied.

8. Mr. Bess discussed Exhibit A-5, an elevation of the proposed new single family dwelling. Stone wraps around the entire residence. He indicated the colors and finishes may change. Mr. Bess also discussed Exhibit A-6, the floor plan of the proposed single family. There is a porch on the front that projects about 5 to 6 feet. The front door setback is another 2 feet. There are three bedrooms on the second floor, with a master bathroom and a full bathroom. The basement has a bonus room, an open area, a mechanical area, and a laundry room. The basement ceiling height is about 8 feet.

9. The hearing was opened to the public for questions for Mr. Bess. No member of the public had questions for Mr. Bess.

10. John McDonough, professional planner and licensed landscape architect, was sworn, qualified and gave testimony. He indicated that he would be giving planning testimony. He then proceeded to discuss neighborhood compatibility. He introduced Exhibit A-7, an overview of the neighborhood and photos of the neighborhood on Midland, Rutgers, and University Avenues. Most lots are approximately 4,000 sq. ft., 40 ft. wide by 100 ft. deep. Mr. McDonough then introduced Exhibit A-8, a lot comparison table. According to Mr. McDonough it shows that the predominate lot size in the neighborhood is 40 ft. by 100 ft., 4,000 sq. ft., with the average lot size being 4,337.50 sq. ft. Ms. Andrews interjected that the lot comparison table analyzes Midland Avenue, and that she thinks that Central Avenue requires its own analysis.

11. Mr. McDonough indicated that the pattern of development indicates a lot depth of 100 sq. ft. where 79 ft. and 89.2 ft. are proposed for the lots in question. He indicated that the lots, however, meet or are close to the lot coverage requirement.

12. Mr. McDonough proceeded to address the variances required. With respect to the D-2 variance for the reduction of lot area for the existing two-family residence, he indicated that the Applicant was required to comply with the *Razberry's* test because Applicant is seeking to subdivide a lot containing a use which does not conform to the zoning ordinance. Mr. McDonough reiterated the required variances which have been previously enumerated in this Resolution. He also discussed the waiver/exceptions required. These have been previously listed in this Resolution. Mr. McDonough asserted that there are special reasons for the granting of the requested variances deriving from the purposes of zoning as detailed in N.J.S.A. 40:55D-2. According to Mr. McDonough, these include purposes (a)(encouraging municipal action to guide the appropriate use and development of land in a manner which will promote the public health, safety, morals and general welfare), (i)(promoting a desirable visual environment through

creative development techniques and good civic design and arrangement), (m)(encouraging the efficient use of land), and (g)(providing space and appropriate locations for a variety of uses).

With respect to the negative criteria, Mr. McDonough indicated that there would be no negative impact caused by the granting of the requested variances. Lot coverage requirements are met by the overall development. There will be no substantial runoff from the property. Mr. McDonough gave the opinion that the proposed development would meet the infill standards as described in the Metuchen Master Plan, discussed in comment 7 of the Board Planner's October 9, 2013 memorandum. Mr. McDonough indicated that for the same special reasons as would justify the D variance requested, the C-2 variances (flexible C) may be granted and that the reasons in support of the variance outweigh any detriment, which Mr. McDonough found to be non-existent.

13. The hearing was opened for questions for Mr. McDonough. No member of the public had any questions.

14. The hearing was adjourned, to be continued on November 14, 2013.

15. The hearing was resumed on November 14, 2013. Nicholas Netta, architect, was sworn, qualified and gave testimony. He is a licensed architect. He was accepted by the Board as an expert in architecture. Additionally, he is testifying as a principal in Amboy Holdings, LLC.

16. Mr. Netta introduced Exhibit A-9, a depiction of the existing structure on Central Avenue. It is a two-family home. He described the floor plan and indicated that the home is run down. He next introduced Exhibit A-10, consisting of photos of the existing interior of the two-family. He indicated that the interior needs updating. He introduced Exhibit A-11,

photos of the exterior of the existing home. He indicated that the siding is “shot” and the canopies need to be replaced.

17. Mr. Netta testified that the two-family residence will meet COAH requirements. There will be one low-income and one moderate-income residence. Applicant will install new siding, repave the parking lot and replace the canopies. The two residences, the existing two-family and the proposed one-family, will be made compatible.

18. The new single family will be a three bedroom, three bathroom home. He agreed that as a condition of the issuance of the Certificate of Occupancy for the new single family that renovations as described on the existing two-family residence will be completed. The chairperson, Ms. LaGay, asked whether parking for another car could be fit onto the proposed two-family lot. Mr. Salmon will address that possibility.

19. Mr. Netta agreed that landscaping, the new parking lot, the new siding, gutters, canopies, lighting around the property, selection and location of shade trees and street trees, as well as decisions concerning the health of the existing trees, would all be subject to the review and approval of the Board Planner and Board Engineer.

20. Mr. Salmon was recalled. It was his opinion that the third parking space on the two-family lot was not needed but that it could be fit on the lot if the Board required it. He indicated that there was a proposed deficiency in open space of approximately 6% less than is presently required and that adding the additional parking space would increase that deficiency to about 10%. He noted, however, that under the newly adopted ordinance, which does not apply to this application, the lot would meet the 50% open space requirement. With respect to shade trees, Mr. Salmon indicated that the Applicant would try to satisfy the shade tree requirement on the lots, but if not able to do so, they can be planted in the pocket park to the rear of the subject.

Street trees will be planted on Central Avenue only if Middlesex County will allow it. If not, they will be placed elsewhere at the Planner's direction. Mr. Salmon indicated that if the spot was added, he would add it on the east side of the parking area and move the sidewalk.

21. The hearing was opened to questions or comments from the public. Only one person from the public spoke and it was apparent that he was interested in another hearing on another matter scheduled before the Board. No other member of the public spoke for or against the application.

22. The Board proceeded to have discussion. It was the consensus of the Board that if the application was to be granted, the three parking spaces should be placed on proposed lot 20.01.

**WHEREAS**, the Metuchen Board of Adjustment, after hearing the testimony on behalf of the application, and considering the recommendations of the Board Engineer and the Board Planner, has made the following findings of fact and has drawn the following conclusions of law:

1. The Board of Adjustment of the Borough of Metuchen has proper jurisdiction to hear the within matter.

2. The Board of Adjustment heard and accepted the testimony of Applicant's witnesses with respect to the proposed subdivision, the proposed variances and the proposed waivers/exceptions. The Board also considered the memorandum of the Borough Planner, Jim Constantine and the Board Engineer, Lisa R. Di Franza with respect to same.

3. With respect to the D variance, the Board finds that the requested relief may be granted because the Applicant has demonstrated special reasons for the granting of the requested variances including purposes (a), (i), (m), and (g) of N.J.S.A. 40:55D-2, as testified to by Mr. McDonough.

4. With respect to the C-2 variances, the Board finds that the requested relief may be granted because the Applicant has demonstrated that the purpose of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements and that the benefits of granting the minor subdivision with bulk variance would substantially outweigh any detriment, for the reasons given by the Applicant's planner, Mr. McDonough.

5. The Board further finds that exceptions from the design standards may be granted because the literal enforcement of the ordinance is impractical and would cause undue hardship in this case. The design of the proposed residence meets the objectives sought to be achieved by the design standards from which waivers and exceptions are requested.

6. The Board further finds that the relief requested may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and the zoning ordinance, subject to the conditions set forth in this Resolution.

7. The Board finds that the granting of the proposed minor subdivision with D and C variances and waivers/exceptions should be conditioned on the Applicant's agreement to comply with the conditions contained in this Resolution.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Borough of Metuchen that the application of Amboy Holdings, LLC, be and hereby is granted for minor subdivision with bulk variance and waivers/exceptions in accordance with the application and plans filed herein, subject to and conditioned upon the following:

A. Publication by the Applicant of a notice of this decision in an official newspaper of the Borough of Metuchen and return of proof of said publication to the Secretary of the Board of Adjustment.

B. The Applicant furnishing proof to the Secretary of the Board of Adjustment that no fees, escrows or assessments for local improvements are due or delinquent on the property in question. No permits, if any, nor deeds of subdivision for minor subdivision maps, shall be executed for filing until all fees and escrows are paid in full.

C. The Applicant shall comply with the following conditions:

1. Applicant shall comply with all of the requirements and recommendations contained in the Maser Consulting memorandum dated October 9, 2013.

2. Applicant shall provide three parking spaces on the proposed two-family lot. The additional parking space shall be provided as described by Mr. Salmon in his testimony. Applicant shall provide all required shade trees and street trees or make contributions in lieu thereof, all as directed by and as approved by the Board Planner. Where shade trees or street trees cannot be placed on or near the subject premises, they shall be located as directed by the Board Planner.

3. Applicant shall consult with the Board Planner as to all materials and finishes.

4. All landscaping, the configuration of the two-family parking lot, the new siding on the two-family residence, the replacement of the canopies, the installation and discharge of gutters, shade trees and street trees, and all lighting on subject premises shall be shown on the revised plans, and which revised plans shall be subject to the review and approval of the Board Engineer and Board Planner.

D. The Applicant shall obtain new lot numbers for the new lots from the Tax Assessor's Office and shall prepare and submit proposed deeds and descriptions for the minor subdivision to the Board Engineer and Board Attorney for review and approval. This Resolution shall be attached to the subdivision deed and shall be recorded with it.

E. The application shall be subject to any other outside agency approvals as may be necessary, including, but not limited to, County of Middlesex Board of Adjustment, Borough of Metuchen Fire Department, Middlesex County Utilities Authority, and Middlesex Water Company.

F. This approval is subject to execution and performance pursuant to a Developer Agreement with the Borough of Metuchen, to be prepared by the Borough Attorney, or a letter stating that no Developer Agreement is required.

G. This approval is subject to compliance with the Borough Affordable Housing ordinance, including payment of any fees required.

H. The Applicant shall reimburse the Metuchen Board of Adjustment and/or the Borough of Metuchen for professional fees associated with this application.

I. The Applicant shall submit revised plans reflecting the conditions of approval within 60 days of the date of this Resolution. All the revised plans shall be subject to the review of the Board Engineer and Board Planner.

**BE IT FURTHER RESOLVED** that the Applicant understands and acknowledges that all of the conditions contained in this Resolution and the record of proceedings in this matter including any agreements made or plans submitted by the Applicant were essential to the Board's decision to grant the approval set forth herein. Breach of any such conditions or the failure of the Applicant to adhere to the terms of any agreement or condition may result in revocation of the within approval and may terminate the right of the Applicant to obtain any further permits or any other governmental authorizations necessary in order to effectuate the purpose of this Resolution. The Applicant has been advised by this Resolution that all conditions

contained in this Resolution are to be complied with and that breach of any of the conditions shall be rectified before the issuance of any Certificate of Occupancy.

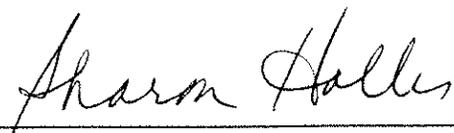
**BE IT FURTHER RESOLVED** that if any of the above-stated conditions are found to be illegal by a court of competent jurisdiction or conditions similar to the above are deemed to be illegal by a court of competent jurisdiction or any action of the Legislature, then in that event, the approval rendered in this Resolution shall be deemed null and void based upon these changed circumstances.

**BE IT FURTHER RESOLVED** that nothing herein shall be interpreted to excuse compliance by the Applicant with any and all other requirements of this municipality or any other governmental subdivisions as set forth in any laws, ordinances or regulations.

**BE IT FURTHER RESOLVED** that this Resolution shall serve as one of memorialization of the action taken by this Board at its meeting of November 14, 2013 and effective as of that date.

**BE IT FURTHER RESOLVED** that a copy of this Resolution, certified by the Secretary of the Board of Adjustment to be a true copy, be forwarded to the Zoning Officer, the Borough Clerk, Borough Planner, Borough Engineer, Borough Attorney, Borough Construction Official and the Applicant herein within ten (10) days of the date hereof.

**BE IT FURTHER RESOLVED** that the Chairman and Secretary be and hereby are authorized to sign any and all documents necessary to effectuate the purpose of this Resolution, provided the Applicant has complied with the above-stated conditions.

  
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Sharon Hollis, Secretary

Dated: December 12, 2013

METUCHEN BOARD OF ADJUSTMENT

RESOLUTION OF MEMORIALIZATION GRANTING  
C VARIANCES TO  
EUGENE C. DOOLEY  
25 BEVERLY COURT  
BLOCK 125.02, LOT 18  
APPLICATION NO. 13-1004

**WHEREAS**, Eugene C. Dooley, hereinafter referred to as “the Applicant,” is the owner of Block 125.02, Lot 18 as shown on the official Tax Map of the Borough of Metuchen, and more commonly known as 25 Beverly Court, in the Borough of Metuchen, County of Middlesex and the State of New Jersey; and

**WHEREAS**, the Applicant has applied to the Metuchen Zoning Board of Adjustment for approval of C variances; and

**WHEREAS**, the Metuchen Board of Adjustment held a public hearing on said application on November 14, 2013 after compliance with the notice, service and publication requirements of N.J.S.A. 40:55D-12; and

**WHEREAS**, at said hearing, the Board of Adjustment considered the following documents:

1. Zoning permit.
2. Board of Adjustment Application for Development dated October 8, 2013.
3. Proof of payment of taxes and assessments.
4. Application and escrow fees.

5. Review letter of Maser Consulting, P.A., by Lisa R. Di Franza, P.E., CME, dated November 12, 2013.

6. Memorandum of Looney Ricks Kiss, Inc., Jim Constantine, PP, Borough Planner, Mike DiGeronimo, AICP, PP, dated November 12, 2013.

7. Building Plans for the real property located at 25 Beverly Court, Metuchen, New Jersey 08840, Lot: 125.02, Block: 18, drawn by E. Dolley, dated September 1, 2013, consisting of nine sheets.

**WHEREAS**, the Applicant, Eugene C. Dooley appeared pro se and gave testimony; and

**WHEREAS**, the Applicant seeks variance approval for a second story addition to a single family residence in the R-1 District; the proposed improvements include adding a front porch and retaining the existing the single-story garage wing of the home, located at 25 Beverly Court; and

**WHEREAS**, the subject property is located in the R-1 Zone District; and

**WHEREAS**, the applicant requires the following C variances:

§110-64, minimum lot area – 10,000 sq. ft. required, 7,200 sq. ft. existing non-conformity;

§110-64, minimum lot depth – 100 ft. required, 80 ft. existing non-conformity;

§110-64, minimum front yard setback – 25 ft. required, 24.94 ft. existing non-conformity, 24.94 ft. proposed addition;

§110-64, minimum rear yard setback – 25 ft. required, 14.56 ft. existing non-conformity, 14.56 ft. proposed addition.

**WHEREAS**, the Metuchen Board of Adjustment, after hearing the testimony in support of the application, and no member of the public having spoken for or against the application, and after considering the recommendations of the Board Engineer and Board Planner, has made the following findings of fact and has drawn the following conclusions of law:

1. The Board of Adjustment of the Borough of Metuchen has proper jurisdiction to hear the within matter.

2. The property is designated as Block 125.02, Lot 18 shown on the Official Tax Map of the Borough of Metuchen, County of Middlesex and State of New Jersey and more commonly known as 25 Beverly Court.

3. The property is located in the R-1 Zone District. The site currently contains a one story, single-family residence, block patio area, walkway and paved driveway. The applicant proposes to construct a second story addition over the existing dwelling.

4. The home has existing non-conformities for lot area, lot depth and front and rear yard setbacks. These non-conformities are not being proposed to be expanded in any way. The roof eaves for the second floor addition may go beyond the walls of the existing home. There will be no additional encroachments or non-conformities.

5. In essence, the Applicant is proposing to construct a second floor over the first floor, with the first floor walls to be carried up to two stories. Additionally, the Applicant is adding a deck over the garage. The deck will be set into the roof. Applicant also proposes to extend the front stoop into an open porch as shown on the elevations (this porch is not shown on the floor plan). The porch will not encroach into the required front yard. It will be set behind the foremost portion of the residence.

6. The Applicant proposes to side the renovated residence with cedar shingles.

7. The porch is planned to be approximately five feet deep, although at the suggestion of the Board Planner, Applicant requested that the porch be permitted to be up to six feet deep.

8. In response to a question regarding landscaping, Applicant indicated that the existing landscaping will remain, although some landscaping will be relocated. The landscaping presently in front of the dwelling will probably be relocated to an area in front of the walkaway which will be in front of the new porch.

9. Applicant agreed to comply with the recommendation contained in the Board Engineer's memorandum that all proposed roof gutters be directed away from adjacent properties and that the roof gutters be directed to the nearest storm inlet or discharged through the curb to the gutter, if feasible.

10. Applicant testified, in response to questions from the Board Attorney, that compared with the other lots on the block in which the property is situated, and the other lots in the neighborhood, the subject lot is shallower than the other lots and smaller in terms of area. The present residence on the property is existing and applicant is unable to purchase any additional land in order to increase either the lot depth or the lot area.

11. The hearing was opened to the public. No member of the public spoke for or against the application.

12. The Board finds that the relief requested may be granted because the Applicant has demonstrated that due to the extraordinary and exceptional situation uniquely affecting Applicant's property and the structures lawfully existing thereon, that is, the existing shallowness and lot area, as well as the existing residence, the strict application of §101-64 with respect to lot area, lot depth and front and rear yard setbacks would result in peculiar and exceptional practical

difficulties and exceptional and undue hardship to the Applicant because Applicant would be unable to add a second floor consonant with the existing dwelling without encroaching into the setbacks and is unable to increase the size of the lot.

13. The Board further finds that the relief requested may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and the zoning ordinance because the existing residence already does not conform to the dimensional requirements and the addition will cause no further deviation.

14. The Board finds that the granting of the application for C variances should be conditioned on the Applicant's agreement to comply with the conditions contained in this resolution.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Borough of Metuchen that the application for C variances of Eugence C. Dooley be and is hereby granted in accordance with the application and plans filed herein, subject to and conditioned upon the following:

A. Publication by the Applicant of a notice of this decision in an official newspaper of the Borough of Metuchen and return of proof of said publication to the Secretary of the Board of Adjustment.

B. The Applicant furnishing proof to the Secretary of the Board of Adjustment that no fees, escrows or assessments for local improvements are due or delinquent on the property in question. No permits, if any, shall be executed for filing until all fees and escrows are paid in full.

C. The application shall be subject to any other outside agency approvals as may be necessary, including, but not limited to, Middlesex County Planning Board, Borough of Metuchen Fire Department, Middlesex County Utilities Authority, Middlesex Water Company, Metuchen Shade Tree Commission, and Freehold Soil Conservation District.

D. The Applicant shall reimburse the Metuchen Board of Adjustment and/or the Borough of Metuchen for professional fees associated with this application.

E. Applicant shall comply with the following additional conditions:

1. The variances granted are limited to the variances requested. No other variances have been requested or have been granted.

2. Applicant shall comply with the recommendations contained in the Board Engineer's memorandum dated November 12, 2013.

F. Approval of the variance applied for shall expire one year from the date of this resolution if construction has not commenced within that time period, provided, however, that the Board may extend the time period of such approval for one period of one year in accordance with §110-41 of the Land Development Chapter.

**BE IT FURTHER RESOLVED** that the Applicant understands and acknowledges that all of the conditions contained in this resolution and the record of proceedings in this matter including any agreements made or plans submitted by the Applicant were essential to the Board's decision to grant the approval set forth herein. Breach of any such conditions or the failure of the Applicant to adhere to the terms of any agreement or condition may result in revocation of the within approval and may terminate the right of the Applicant to obtain any further permits or any other governmental authorizations necessary in order to effectuate the purpose of this resolution. The Applicant has been advised by this resolution that all conditions

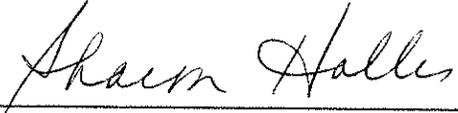
contained in this resolution are to be complied with and that breach of any of the conditions shall be rectified before the issuance of any certificate of occupancy.

**BE IT FURTHER RESOLVED** that nothing herein shall be interpreted to excuse compliance by the Applicant with any and all other requirements of this municipality or any other governmental subdivisions as set forth in any laws, ordinances or regulations.

**BE IT FURTHER RESOLVED** that this resolution shall serve as one of memorialization of the action taken by this Board at its meeting of November 12, 2013 and effective as of that date.

**BE IT FURTHER RESOLVED** that a copy of this Resolution, certified by the Secretary of the Board of Adjustment to be a true copy, be forwarded to the Zoning Officer, the Borough Clerk, Borough Planner, Borough Engineer, Borough Attorney, Borough Construction Official and the Applicant herein within ten (10) days of the date hereof.

**BE IT FURTHER RESOLVED** that the Chairman and Secretary be and are hereby authorized to sign any and all documents necessary to effectuate the purpose of this resolution, provided the Applicant has complied with the above-stated conditions.

  
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Sharon Hollis, Secretary

Dated: December 12, 2013