

METUCHEN ZONING BOARD OF ADJUSTMENT

MINUTES

July 11, 2013

The meeting was called to order at 7:45 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
Jonathan Rabinowitz, Alt. I
Sheri-Rose Rubin, Alt. II
Robert Renaud, Attorney
Chris S. Cosenza, Zoning Officer

Late: (none)

Absent: Brian Tobin, Vice Chairperson
Jim Constantine, Planner
Lisa DiFranza, Engineer

Ms. Lagay noted that the Planner and Engineer were not present but did submit memoranda.

NEW BUSINESS

13-994 Craig Morano – Applicant is seeking bulk variance approval to construct a rear deck.
98 Spring Street Block 142, Lot 1.08 R-2 Zone

Mr. Morano was sworn in by Mr. Renaud.

Mr. Morano stated that he had his contractor present as well, if necessary.

Mr. Renaud indicated that the Board should defer swearing in his contractor until it was deemed necessary by the Board.

Ms. Lagay requested Mr. Morano to describe his application and why he was before the Board.

Mr. Morano stated that he wanted to construct a deck at the back of the house. When they went to get permits, he was told that they had to be a certain distance away from the property line. He believed it had to be 21 feet (the rear yard setback is 25 feet; however, decks may project into side and rear yard setbacks up to four (4) feet) whereas the proposed deck will be set back 16.1 feet. As a result, he requests a variance in order to construct the deck.

Ms. Lagay noted that no other variances were required.

Mr. Morano further described his rear yard area, with fence between his property and the property to the rear.

Ms. Lagay referred to the survey and noted various patio areas.

Mr. Morano indicated that there is currently a concrete patio and the deck will be located right next to it.

Ms. Lagay asked about the dimensions of the proposed deck.

Mr. Morano stated it would be two (2) feet high and 14 feet by 16 feet.

Ms. Lagay referred to the photographs to which Mr. Morano described for the Board. She noted the professionals indicated in their memoranda comments regarding whether or not there would be any other walkways or other improvements provided.

Mr. Morano indicated that there would be none. The deck would be Trex-type of material.

Mr. Rabinowitz asked if the stairs would lead onto the existing patio.

Mr. Morano confirmed.

Ms. Lagay asked where the door would be, leading to the deck.

Mr. Morano stated it would replace the existing windows, as shown in the photographs.

Ms. Lagay asked if there were any drainage issues in the rear yard area.

Mr. Morano opined that there were none.

Ms. Andrews asked about the vinyl fence and its location.

Mr. Morano stated that the vinyl fence replaced an existing wood fence where it originally was.

Ms. Andrews asked if it was on the property line.

Mr. Morano was not able to confirm.

Mr. Cosenza noted that the survey, dated 2009, indicates a wood fence and it appears to be between half of a foot to a foot over onto the neighbor's property.

Ms. Lagay asked Applicant if he replaced the fence.

Mr. Morano confirmed that he did, in the same exact location and received permits.

Mr. Spiegel stated that, for the record, Applicant may want to indicate that the front yard setback was quite large, which significantly shortens the rear yard area.

Mr. Cosenza noted that was provided in the Application for Development.

Mr. Morano confirmed that he had an "enormous" front yard and a very small rear yard. With that said, he required a variance to construct a reasonably-sized deck.

Mr. Renaud asked, based on the survey provided to the Board, if any other improvements had been constructed.

Mr. Morano confirmed that there had not been any.

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

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

Mr. Morano thanked the Board.

RESOLUTIONS

13-983 **Michael & Lauren Cohn** – (Bulk variance for open space to construct a one-story addition – approved 5/9/2013)

47 Hanson Avenue

Block 196, Lots 24, 25, 26

R-2 Zone

A motion to approve the resolution as written was made by Ms. Sisko and seconded by Mr. Sondergard. Roll call vote taken. Ms. Andrews, Ms. McCartin, Ms. Sisko, Mr. Sondergard, Mr. Spiegel, Mr. Rabinowitz and Ms. Rubin voted yes. Ms. Lagay abstained. Motion passed.

CORRESPONDENCE

Minutes from November 8, 2012

A motion to approve the minutes as written was made by Ms. Sisko and seconded by Mr. Rabinowitz. Roll call vote taken. Ms. Andrews, Ms. Lagay, Ms. Sisko, Mr. Sondergard, Mr. Spiegel and Mr. Rabinowitz voted yes. Ms. McCartin and Ms. Rubin abstained. Motion passed.

Ms. Lagay noted that Mr. Cosenza prepares a Zoning Department report. The Board has to do their own, but noted Mr. Cosenza's report includes the activity of the Board.

Mr. Spiegel requested clarification from Mr. Renaud regarding a previous application. An applicant had come before the Board several years ago, requested and was approved to demolish a single-family dwelling and improve and expand the parking facilities. The dilapidated building remains. He asked what happens when an applicant does not perform.

Mr. Renaud rephrased the question to what he believe was being asked as "does the applicant have to avail themselves of what was granted," the answer is no. In other words, if an applicant comes in and requests to demolish a house and construct a new one, the applicant is under no obligation to do so, they have been granted the ability to do so if they wish.

Mr. Sondergard asked if an approval could be rescinded after a certain amount of time.

Mr. Renaud stated that any variance expires in accordance to the Ordinance. However, there have been a series of Permit Extension Acts which have been passed. He believes the latest one expires July 1, 2015. The answer, therefore, is no, the Board can not rescind an approval on the basis that they did not do it because that is what the purpose of the Permit Extension Act is, to allow permits to be extended for the period covered by the Permit Extension Act. For example, the Renaissance District approval is still good. Mr. Renaud indicated that the issue of the dilapidated house is a code enforcement issue.

Mr. Cosenza agreed and would take a look at the property.

Ms. McCartin indicated she would not be present at the following meeting, August 8.

ADJOURNMENT

A motion to adjourn the meeting was made by Ms. Sisko and seconded by Mr. Spiegel. Voice vote taken. Motion passed.

The meeting adjourned at 8:08 p.m.

Respectfully Submitted,

Chris S. Cosenza
Recording Secretary

METUCHEN BOARD OF ADJUSTMENT

RESOLUTION OF MEMORIALIZATION GRANTING
C VARIANCES TO
MICHAEL COHN AND LAUREN COHN
47 HANSON AVENUE
BLOCK 196, LOTS 24-26
APPLICATION NO. 13-983

WHEREAS, Michael Cohn and Lauren Cohn, hereinafter referred to as “the Applicants,” are the owners of Block 196, Lots 24-26 as shown on the official Tax Map of the Borough of Metuchen, and more commonly known as 47 Hanson Avenue, in the Borough of Metuchen, County of Middlesex and the State of New Jersey; and

WHEREAS, the Applicants have applied to the Metuchen Zoning Board of Adjustment for approval of C variances and waivers/exceptions; and

WHEREAS, the Metuchen Board of Adjustment held a public hearing on said application on May 9, 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. Board of Adjustment Application for Development dated March 28, 2013.
2. Review letter of Maser Consulting, P.A., by Lisa R. Di Franza, P.E., CME, dated May 8, 2013.
3. Memorandum of Looney Ricks Kiss, Inc., Jim Constantine, PP, Borough Planner, Mike DiGeronimo, AICP, PP, dated May 8, 2013.

4. Architectural plan entitled “Proposed Addition to The Cohn Residence, 47 Hanson Avenue, Metuchen, New Jersey 08840, Lot: 24, Block: 196,” prepared by Area Design Group, dated July 9, 2012, consisting of one sheet.

5. Plan entitled “Property Survey of Lot 24.01 in Block 196, Borough of Metuchen, Middlesex County, New Jersey,” prepared by Goodland & Clearwater, Inc., dated July 30, 2005.

WHEREAS, the Applicant Michael Cohn appeared pro se and gave testimony; and

WHEREAS, the Applicant proposes to enclose a portion of the existing porch located on the west side of the existing one-family dwelling, construct a handicap accessible ramp from the front loop driveway to the new porch entrance, construct a one-story addition to the rear of the residence, and replace a portion of the existing wood deck and stairs with a new paver patio and stairs at their existing single-family residence, located at 47 Hanson Avenue; and

WHEREAS, the subject property is located in the R-2 Zone District; and

WHEREAS, the applicant requires the following C variances:

§110-64, minimum front yard setback (Hanson Avenue) – 25 ft. required, 24.99 ft. existing, 24.99 ft. proposed;

§110-64, minimum rear yard setback – 25 ft. required, 23.91 ft. existing, 23.91 ft. proposed;

§110-64, minimum open space – 60% permitted, 60.02% existing, 57.28% proposed.

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 196, Lots 24-26 shown on the Official Tax Map of the Borough of Metuchen, County of Middlesex and State of New Jersey and more commonly known as 47 Hanson Avenue.

3. The property is located in the R-2 Zone District. The property currently consists of an existing one and one-half story frame dwelling on a 75 foot by 125 foot corner lot. The home is oriented toward the longer front yard on Hanson Avenue.

4. Applicant proposes to enclose a portion of the existing porch located on the west side of the existing one-family dwelling, construct a handicap accessible ramp from the front loop driveway to the new porch entrance, construct a one-story addition to the rear of the residence, and replace a portion of the existing wood deck and stairs with a new paver patio and stairs at their existing single-family residence.

5. Mr. and Mrs. Cohn have a handicapped child who is wheelchair bound. They wish to make the property more accessible for her. The addition at the back of the house will expand the bedroom and the bath and make them more handicapped accessible. They will also enclose part of the porch. The addition will not be visible from the street. There is presently just over 60 percent open space. After the addition is constructed, it will be 57.28 percent.

6. The Applicant agreed to comply with the recommendations contained in the memorandum of the Board Engineer dated May 8, 2013.

7. Applicant addressed the comments in the Board Planner's memorandum dated May 8, 2013. No changes to the plans were required by this testimony. Applicants do not intend to remove any mature trees.

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

9. The Board finds that the relief requested may be granted because the Applicant has demonstrated that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements and that the benefits of the deviation would substantially outweigh any detriment, particularly promoting Purpose (e) in that it will contribute to the well-being of persons.

10. 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 deviation from the zoning ordinance from 60% open space to 57.28% is minimal and will not affect other properties.

11. 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 Michael Cohn and Lauren Cohn 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 May 8, 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

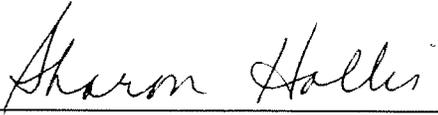
failure of the Applicant to adhere to the terms of any agreement or condition may result in revocation of the within approval and may terminate the right of the Applicant to obtain any further permits or any other governmental authorizations necessary in order to effectuate the purpose of this resolution. 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 May 9, 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.



Sharon Hollis, Secretary

Dated: July 12, 2013