

# METUCHEN ZONING BOARD OF ADJUSTMENT

## MINUTES

July 10, 2014

The meeting was called to order at 7:50 p.m. by Pat Lagay, Chairperson, who read the statement in accordance with the Open Public Meetings Act.

Present: Pat Lagay, Chairperson  
Judith Sisko  
Brian Tobin, Vice Chairperson  
Jonathan Rabinowitz, Alt. I  
Robert Renaud, Attorney  
Chris S. Cosenza, Zoning Officer

Late: (none)

Absent: Suzanne Andrews  
Catherine McCartin  
Byron Sondergard  
Daniel Spiegel  
Jim Constantine, Planner  
Lisa DiFranza, Engineer

Ms. Lagay indicated that Mr. Renaud advised her that four (4) members are sufficient to establish a quorum.

Mr. Renaud confirmed.

## RESOLUTIONS

**14-1030**      **Stephen Armeli** – *Applicant is seeking bulk variance approval for a rear dormer addition – approved June 12, 2014*

114 Rutgers Street                      Block 51.03, Lots 12 & 13                      R-2 Zone

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

**14-1029**      **Richard & Telma Domingues** – *Applicant is seeking bulk variance approval to construct a second floor addition – approved June 12, 2014*

108 New York Avenue                      Block 221, Lot 55                      R-2 Zone

Ms. Lagay indicated that there should be a minor revision on page 4, adding "setback."

Mr. Renaud confirmed.

A motion to approve the resolution with the correction as noted was made by Ms. Sisko and seconded by Mr. Tobin. Roll call vote taken. Ms. Lagay, Ms. Sisko and Mr. Tobin voted yes. Motion passed unanimously.

## **CORRESPONDENCE**

Mr. Renaud announced that next month, the Board will hear an application for St. Joseph's High School for a new turf field with bleacher seating. After some discussion, it was determined that the application requires a d(3) variance. Furthermore, Maser Consulting, P.A. has disqualified themselves from the application because they were involved with the project at one point (prior to being named the Borough Engineer). There will be a resolution for the contract of Katherine Elliott to be the conflict engineer.

Ms. Lagay noted that there will probably be a large audience for that application.

Mr. Renaud agreed; he has already received correspondence from an attorney.

Mr. Cosenza indicated that there will also be a residential application prior to the St. Joseph's application.

## **ADJOURNMENT**

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

The meeting adjourned at 7:57 p.m.

**Respectfully Submitted,**

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

METUCHEN BOARD OF ADJUSTMENT

RESOLUTION OF MEMORIALIZATION GRANTING  
C VARIANCES TO  
STEPHEN & MARY ARMELI  
114 RUTGERS STREET  
BLOCK 51.03, LOTS 12 & 13  
APPLICATION NO. 14-1030

**WHEREAS**, Stephen and Mary Armeli, hereinafter referred to as “the Applicant,” are the owners of Block 51.03, Lots 12 and 13 as shown on the official Tax Map of the Borough of Metuchen, and more commonly known as 114 Rutgers Street, 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 June 12, 2014 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 March 20, 2014.
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 June 9, 2014.

6. Memorandum of Looney Ricks Kiss, Inc., Jim Constantine, PP, Borough Planner, Mike DiGeronimo, AICP, PP, dated May 6, 2014.

7. Plans entitled "Armeli Residence, Rear Dormer, 114 Rutgers Street, Metuchen, New Jersey 08840" prepared by Dugasz & Brower, Architects, dated March 19, 2014, last revised, April 11, 2014.

**WHEREAS**, the Applicant, Mary Armeli, appeared pro se and gave testimony; and presented the testimony of David Dugasz, Architect;

**WHEREAS**, the Applicant seeks variance approval for a second floor rear dormer addition on an existing single-family residence in the R-2 District located at 114 Rutgers Street;

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

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

§110-64, side yard setback - 8 ft. required, 3 ft. existing, 3 ft. proposed;

§110-64, side yard setback (combined) - 18 ft. required, 17.7 ft. existing; 17.7 ft. proposed, and;

**WHEREAS**, the applicant's property and/or residence have the following preexisting non-conforming conditions, none of which will be changed if the application is granted:

§110-64, minimum lot area – 7,500 sq. ft. required, 4,000 sq. ft. existing, 4,000 sq. feet proposed;

§110-64, lot width – 62.5 ft. required, 40 ft. existing, 40 ft. proposed;

§110-64, front yard setback – 25 ft. required, 17 ft. existing, 17 ft. proposed;

§110-64, building coverage – 30% maximum permitted, 33.4% existing, 33.4% proposed;

§110-64, impervious coverage – 50% maximum permitted, 54.8% existing, 54.8% 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 51.03, Lots 12 & 13 shown on the Official Tax Map of the Borough of Metuchen, County of Middlesex and State of New Jersey and more commonly known as 114 Rutgers Street.

3. The property is located in the R-2 Zone District. The site currently contains a one and a half story, single-family residence. The applicant proposes to construct a rear second floor dormer within the building envelope of the existing residence.

4. The home has existing non-conformities as set forth above. These non-conformities are not being proposed to be expanded in any way. There will be no additional encroachments or non-conformities.

5. Mrs. Mary Armeli testified that the existing residence had become too small for her family. Presently, there are three bedrooms on the second floor, one useable, one small, and the other too small to be used as a bedroom. Applicant proposed to construct a dormer at the rear of the house over an existing addition. They are going to have three usable bedrooms and a bathroom on the second floor.

6. David Dugasz, Architect, was sworn in, qualified and gave testimony. He prepared the plans for the dormer addition. He testified that an existing first floor addition had been previously added to the house. They are proposing to raise the roof at the rear of the home from the ridgeline back. The dormer addition will not be seen from the street.

7. Mr. Dugasz testified that requiring compliance with the zoning ordinance would create a hardship because the lot is narrow, 40 feet, and almost any addition would require a variance. The existing second floor contains approximately 376 square feet of usable space. The addition will add approximately 262 square feet of usable living space. The second floor will now comprise approximately 638 square feet of living space.

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 due to the extraordinary and exceptional situation uniquely affecting Applicant's property and the structures lawfully existing thereon, that is, the existing narrowness and lot area, as well as the existing residence, the strict application of the zoning ordinance requirements would result in peculiar and exceptional practical difficulties and exceptional and undue hardship upon the Applicants because the Applicants would be unable to add to the second floor consonant with the existing dwelling without encroaching into the setbacks and is unable to increase the size of the lot. The proposed dormer addition fits in with the neighborhood and will not be noticeable from the front yard.

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 existing residence already does not conform to the dimensional requirements and the addition will cause no further deviation.

11. The Board finds that the granting of the application for C variances should be conditioned on the Applicants' 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 Stephen and Mary Armeli 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. 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.

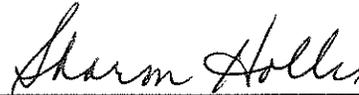
**BE IT FURTHER RESOLVED** that nothing herein shall be interpreted to excuse compliance by the Applicant with any and all other requirements of this municipality or any other governmental subdivisions as set forth in any laws, ordinances or regulations.

**BE IT FURTHER RESOLVED** that this resolution shall serve as one of memorialization of the action taken by this Board at its meeting of July 10, 2014 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 10, 2014

METUCHEN BOARD OF ADJUSTMENT

RESOLUTION OF MEMORIALIZATION GRANTING  
C VARIANCES TO  
RICHARD & TELMA DOMINGUES  
108 NEW YORK AVENUE  
BLOCK 221, LOT 55  
APPLICATION NO. 14-1029

**WHEREAS**, Richard and Telma Domingues, hereinafter referred to as “the Applicant,” are the owners of Block 221, Lot 55 as shown on the official Tax Map of the Borough of Metuchen, and more commonly known as 108 New York Avenue, 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 June 12, 2014 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 April 18, 2014.
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 June 9, 2014.

6. Memorandum of Looney Ricks Kiss, Inc., Jim Constantine, PP, Borough Planner, Mike DiGeronimo, AICP, PP, dated May 6, 2014.

7. Plans entitled "Second Floor Addition and Renovations for Richard and Telma Domingues" dated March 27, 2014, last revised, April 8, 2014.

**WHEREAS**, the Applicant, Richard Domingues, appeared pro se and gave testimony; and presented the testimony of R.W. Dill, Architect and Planner;

**WHEREAS**, the Applicant seeks variance approval for a second floor addition to an existing one story single-family dwelling located at 108 New York Avenue;

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

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

§110-64, minimum lot area – 7,500 sq. ft. required, 5,443.75 sq. ft. existing, 5,443.75 proposed;

§110-64, minimum lot depth - 100 ft. required, 65 ft. existing, 65 ft. proposed;

§110-64, minimum front yard setback – 25 ft. existing, 23.02 feet proposed (New York Avenue);

§110-64, minimum rear yard setback – 25 ft. required, 13.73 ft. proposed;

§110-112.6, accessory structure setback – 5 ft. required, 2.4 ft. and 2.8 ft. existing, 2.4 ft. and 2.8 ft. proposed;

**WHEREAS**, the Metuchen Board of Adjustment, after hearing the testimony in support of 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 221, Lot 55 shown on the Official Tax Map of the Borough of Metuchen, County of Middlesex and State of New Jersey and more commonly known as 108 New York Avenue.

3. The property is located in the R-2 Zone District. The site is located on the northwest corner of New York Avenue and Hazelwood Avenue. The property is 65ft. by 83.75 ft. and contains 5,443.75 sq. ft. There is an existing one story single-family dwelling, sheds, walkways and concrete driveway on the premises. Applicant proposes to expand the existing dwelling by constructing a second floor addition to the residence.

4. The home is oriented with the front of the dwelling towards New York Avenue, although by §110-101B, the Hazelwood Avenue side of the property is considered to be the front lot line and the lot line parallel to that lot line is considered to be the rear lot line for the purpose of determining rear yards and side yards. Accordingly, the rear lot line for the lot is located along the right side of the existing and proposed dwelling as it faces New York Avenue.

5. The home has existing non-conformities for lot area, lot depth, rear yard setback and accessory structure setback. These non-conformities are not being proposed to be expanded in any way, except that the currently existing 10 foot rear yard setback will be carried from the first floor through the proposed second floor addition.

6. The only new variance requested is for the New York Avenue front setback, where the existing setback is 25.02 ft. and Applicant proposes to cantilever the second floor addition at the front by 2 ft. which would encroach by 2 ft. into the existing conforming front setback. The proposed 2 ft. cantilever at the rear of the dwelling (the side yard for the purposes of §110-101B) will not encroach into the required side yard.

7. Applicant, Richard Domingues, was sworn in and gave testimony. He indicated that his family has lived in Metuchen since 1996. His children are older than they were at that time. The house has only one bathroom, so he needs to expand the home.

8. R.W. Dill, Architect and Planner, was sworn in, qualified and gave testimony. He indicated that the property is located on the northwest corner of New York Avenue and Hazelwood Avenue. He stated that it is an undersized lot, 65 ft. by 83.75ft. The lot area is about 5,400 sq. ft., where 7,500 sq. ft. is required and the rear yard is 10 ft. He indicated that the Applicant needs to keep the existing shed, because storage is limited in the property. The lot area, lot depth and rear yard setback are not proposed to be changed. The only new variance pertains to the cantilever in the front yard setback. Mr. Dill indicated that the bedrooms would be located on the new second floor. There would be a master bedroom with a master bath, and three additional bedrooms with a full bath. He stated that the cantilever was necessary in order to be able to keep the minimum bedroom size at 10 ft. by 12 ft., and that space was needed for the two bathrooms being added.

9. Mr. Dill reviewed the Looney Ricks Kiss memorandum dated May 6, 2014. Mr. Dill indicated that the Applicant was seeking a waiver of the sidewalk requirement contained in §110-148. He indicated that there were no sidewalks to connect up with a sidewalk if one were required. He also indicated that there were three mature maple trees with approximately 30 to 36 inch calipers.

10. In testifying regarding the neighborhood, Mr. Dill indicated that on the house to the east, the house had an existing first floor setback which appeared to be 25 ft. and that he believed that the second floor cantilever encroached by about 2 ft. into the front yard area.

11. Mr. Dill testified regarding Exhibit A-1, which was a series of photographs of the property and the area.

12. Mr. Dill stated that the first floor is approximately 1,122 sq. ft. and the second floor as proposed will be 1,280 sq. ft. The bedroom sizes are 10x12 ft., 13x12 ft., 13x15 ft., and 14x18 ft. He indicated that he will comply with Mr. Constantine's request and will provide a landscaping plan and will add landscaping, including foundation plantings. He agreed that the Applicant would plant, as requested, one shade tree and one flowering tree. Foundation plantings and one shade tree and one flowering tree are required by §110-112.7F&G.

13. In response to a question from the Chairperson, who asked why no windows were shown on the left side elevation on the first floor, Mr. Dill indicated that there are existing windows on the first floor, and that larger windows are proposed there. Mr. Dill will revise the plans and submit a revised plan showing the larger windows on the first floor.

14. In response to some negative comments by the Board with respect to the appearance to the front entrance, Mr. Dill agreed that he would submit revised plans embellishing the front entrance, including a 10 ft. by 4 ft. platform with a roof overhead and support columns.

15. The hearing was opened to the public. Ben Abrams of 62 Hazelwood Avenue wanted to see the plans and understand where the cantilever was located. The Board Planner and Mr. Dill showed Mr. Abrams the plan.

16. After some discussion, Applicant withdrew their request for the cantilever on the New York Avenue front side. The second floor front wall will not encroach into the required side yard.

17. It was called to the Board's attention that the 10 ft. by 4 ft. platform would increase impervious coverage and that Applicant would require an impervious coverage variance. Impervious coverage would increase by about 1%.

18. Jim Constantine, Board Planner, discussed the sidewalk issue. He noted that the sidewalk, if required, would not connect with any other sidewalk. After some discussion, the Board decided not to require a sidewalk and to grant the sidewalk waiver.

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

20. In discussing the matter, some Board members noted that they thought that the shed was in disrepair. Mr. Dill agreed on behalf of the Applicant that the Applicant would repair or replace the shed if it is, in fact, in disrepair.

21. The Board finds that the relief requested, as amended, may be granted. The only new variance, after the withdrawal of the front yard variance application for the 2 ft. cantilever, is the variance relating to the 10 ft. rear yard, which will not be changed. The second floor addition will carry the same rear yard as the existing first floor of the dwelling. All of the other variances are existing conditions, except for the impervious coverage. The impervious coverage variance was necessitated by the Board's request that a porch be added to enhance the appearance of the front entrance.

22. Due to the foregoing, 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 lot area and lot depth, as well as the location of the existing residence, the strict application of the zoning requirements 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.

23. The Board finds that the waiver/exception from the sidewalk requirement of §110-148 may be granted because the Applicant has demonstrated that undue hardship and/or exceptional practical difficulties would be presented by requiring a sidewalk where no sidewalks exist with which this sidewalk would connect up and where the removal of three mature trees would be required.

24. 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 additions will cause no further deviation.

25. 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 Richard and Telma Domingues 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 requirements and recommendations contained in the Board Engineer's memorandum dated June 9, 2014.

F. Applicant's architect shall revise the plans to show the windows on the first floor as agreed, as well as the embellishments to the front entrance, including adding a 10 ft. wide by 4 ft. deep platform, a shed roof and support columns.

G. Applicant shall prepare and submit a landscape plan, showing the required foundation plantings and the shade tree and the flowering tree.

H. Applicant shall repair or replace the shed if required to do so by the Board Planner in accordance with the comments from the Board regarding the condition of the shed.

I. Applicant shall submit revised building and landscape plans, subject to the review and the approval of the Board Engineer and Board Planner, within sixty (60) days of the date of this resolution.

J. Applicant's request for the variance for the front yard 2 ft. cantilever has been withdrawn and is not granted.

K. 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 July 10, 2014 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 10, 2014