METUCHEN ZONING BOARD OF ADJUSTMENT

MINUTES

October 9, 2014

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

Present:	Suzanne Andrews Pat Lagay, Chairperson Judith Sisko Byron Sondergard Daniel Spiegel	Brian Tobin, Vice Chairperson Daniel Topping, Alt. II Robert Renaud, Attorney Chris S. Cosenza, Zoning Officer
Late:	(none)	
Absent:	Catherine McCartin Jonathan Rabinowitz, Alt. I	Lisa DiFranza, Engineer James Constantine, Planner

Ms. Lagay explained the procedures of the Board.

NEW BUSINESS

14-1036 **Thomas Toomey** – Applicant is seeking bulk variance approval to expand the driveway apron to 20 feet to allow easier access for a handicap van.

86 Mason Drive Block 6.01, Lot 14 R-1 Zone

Mr. Toomey was sworn in by Mr. Renaud.

Mr. Toomey indicated that he would like to widen the driveway and is asking for a variance from §110-112.3.C of the Ordinance. The existing driveway is approximately 18 feet in width and he seeks approval to make it 20 feet in width, as well as at the apron. His mother-in-law has Muscular Dystrophy and is bound to a wheelchair and accessible van. There are issues with the ramp lowering onto the surface. A few times, there have been issues with bringing in mud and she has trouble getting out of the van. Any other exposed area would be replanted with grass. He noted that many homes in the neighborhood have double-wide driveways. Since they are on a curve, it would look better with a double-wide driveway.

Ms. Lagay asked about how access is made.

Mr. Toomey indicated that they have to life the chair up and she is carried in.

Ms. Lagay asked if the van could be turned around.

Mr. Toomey indicated that backing up the van would not help because when the wheelchair comes down the ramp, the wheelchair will still wind up in the mud if the ground is wet.

Ms. Lagay noted that pictures were taken and asked if the homes were located in Metuchen or Edison.

Mr. Toomey indicated that they were all in Metuchen, all on Mason Drive.

Ms. Lagay noted that if the variance is granted, it runs with the land. She noted that the Borough has a new ordinance, requiring a 12 foot driveway entrance (whereas it was nine (9) feet). It is for aesthetic, safety and parking reasons. She noted that there is an optional walkway shown on the plan.

Mr. Toomey clarified that it is a paver walkway in the rear yard, not requiring a variance.

Mr. Spiegel understood the reason why a wider driveway was necessary but asked why it was necessary all the way down to the apron.

Tina Toomey, Applicant's spouse, was sworn in by Mr. Renaud.

Ms. Toomey indicated that whole driveway needs to be redone and the van is very old and very low to the ground. The van bottoms out; therefore, they need the extra space.

Ms. Lagay asked if the whole driveway will be redone.

Mr. & Ms. Toomey both confirmed yes. The ramp goes down into the grass and it presents an unsteady and unsafe condition.

Mr. Spiegel indicated that he understood that and given that the whole driveway would be redone, that is the opportunity to regrade as necessary; however, he indicated that he did not understand the need for the wider driveway right at the entrance.

Ms. Toomey indicated that she understood that she required a grassy area before the driveway could be 20 feet overall. You have to go in on an angle.

Ms. Lagay agreed; it had to be 12 feet at the opening and flare out to 20 feet overall.

Ms. Toomey indicated that she understood; she took photographs of several properties on Mason Drive. She did not believe asking for what she needs for her mother was not out of the ordinary because everyone else has it. A couple of them seem to be brand new.

Ms. Lagay indicated that it is hard for the Board to know which properties received variances, replaced pre-existing non-conforming conditions or were constructed illegally.

Mr. Spiegel asked about the new Ordinance requirement.

Mr. Cosenza indicated that the old Ordinance permitted a maximum width of nine (9) feet at the driveway opening and a maximum overall width of 18 feet. This has been modified to 12 and 20 feet, respectively. He further indicated that there may not have been driveway requirements in place until 1989.

Mr. Renaud agreed that it is difficult to address; however, the Board should only be discussing this particular driveway.

Mr. Spiegel noted that, looking at the submitted photographs, there appeared be additional space for the van on the left side. He indicated that the sidewalk and apron are being re-engineered; the bottoming out issue will be resolved. He opines that the wider driveway width would not be necessary. He asked Mr. Cosenza what the current width at the opening is.

Mr. Cosenza indicated that he believed it to be approximately 11 feet.

Ms. Toomey indicated that there really is not that much space.

Mr. Renaud indicated that a 20 foot driveway is permitted, to which Mr. Cosenza agreed, but only in the yard; so the issue really is with the opening. He asked how that is an issue with the van.

Mr. Toomey indicated that when the van is parked there, there is no room for everyone else to get out.

Mr. Spiegel indicated that he understood that Council recently changed the Ordinance, offering a clearer policy regulating driveway aprons. He did not understand why 20 feet would be required in this case.

Mr. Toomey indicated that a special exception should be allowed for handicap access.

Ms. Toomey indicated that it would make it easier to maneuver.

Mr. Spiegel indicated that the bottoming-out would be resolved once it is re-engineered.

Ms. Lagay indicated that she understood. Allowing 20 feet in the yard would permit easier access.

Ms. Toomey asked for those who had double-wide driveways that existed before 1989, if they wanted to redo their driveway they, if could just do it.

Mr. Cosenza indicated that the 1989 date is approximate; otherwise, Mr. Cosenza and Mr. Renaud both confirmed yes. They would not need to get a variance because the driveway is considered to be pre-existing non-conforming.

Ms. Toomey asked if someone had a double-wide driveway if they had to bring it down to 12 feet at the entry.

Mr. Cosenza indicated no; as just discussed, those driveways are considered pre-existing non-conforming improvements and would be permitted to be replaced in-kind only.

Ms. Toomey asserted that they did not have to do concrete either.

Mr. Cosenza indicated that the sidewalk and apron should be concrete.

Ms. Toomey indicated that (nearby) there is a brand new driveway that does not have that.

Mr. Cosenza opined that the property is either in the Township of Edison, was a re-seal job or it was done without permits.

Mr. Spiegel opined that 12 feet is a pretty good width. Engineering a car into 12 feet is not difficult.

Ms. Toomey indicated that the 1995 handicap van is low to the ground.

Mr. Spiegel indicated that the apron is being re-engineered; the bottoming-out issue will be resolved.

Ms. Toomey indicated that it would be easier.

Mr. Toomey indicated that it is very difficult to leave the van in the driveway and get cars around the van.

Mr. Spiegel indicated that he was trying to craft a solution that would work.

There was a discussion regarding possible configurations of the driveway width at the opening, starting right behind the sidewalk, which is still a few feet within the right-of-way. If flaring out immediately behind the sidewalk, the driveway width would be 16 to 17 feet at the property line whereas a maximum of 12 feet is permitted, still requiring a variance. The visual appearance of the driveway opening at 12 feet would remain.

Mr. Spiegel opined that was an agreeable solution.

Ms. Toomey indicated that it was only four (4) or five (5) feet more; it was not enough.

Ms. Lagay referred to a photograph from the exhibit; the van is behind a car. She asked if the car could be parked elsewhere.

Ms. Toomey indicated that the car would then have to be in the street. When she drives the van, she does not drive that car; therefore she leaves that car in the driveway.

Ms. Lagay asked if any cars are in the garage.

Mr. Toomey indicated that nothing fits in the garage.

There was another discussion regarding possible configurations, during which Mr. Topping offered that a van-accessible handicap parking space is eight (8) feet wide with another eight (8) foot loading zone. He does not see this as a matter of the turning radius, but the convenience of being able to get a car around the handicap van.

Board members agreed; Mr. Spiegel indicated that 16, 17 or 18 feet at the property line would be sufficient.

Mr. Cosenza asked if the driveway would maintain 12 feet right behind the sidewalk.

Mr. Spiegel confirmed yes.

Mr. Cosenza drew and offered a sketch for Applicant to visualize.

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

Mr. Spiegel indicated he was comfortable with the 17 foot width at the property line under the pretense it has the visual appearance of being 12 feet right behind the sidewalk.

Ms. Lagay asked if the Board was inclined to permit the widening, if it should be subject to the Engineer's review.

Mr. Cosenza opined that would not be necessary, there are no engineering issues.

Board members agreed.

Ms. Toomey asked if the Board would consider anything wider than 12 feet behind the sidewalk.

Mr. Topping asked about the sidewalk; right now it ends at the asphalt. He asked if the plan was to have the sidewalk go through the driveway.

Ms. Toomey confirmed yes; there will be a nice sidewalk and a nice apron.

Mr. Cosenza indicated that Applicant is removing one of the pre-existing non-conforming conditions and bringing it up to code.

Ms. Toomey agreed; it will look so much better. She is asking for more than 12 feet. 12 feet is extremely narrow for her. The other driveways are 20 feet across.

Ms. Andrews asked about the properties referred to in the photographs and if there were more.

Ms. Toomey indicated that she had provided only just a few and they had the wider driveways.

Ms. Lagay offered that there may also be driveways just exactly like Applicant has now.

Ms. Toomey apologized and opined that there are other wider driveways out there and had just been paved. She went through the motions to come here.

Ms. Toomey indicated that she wanted more than 12 feet.

Ms. Andrews asked if Applicant would agree to the sketch Mr. Cosenza provided.

Ms. Toomey indicated she did not know what her options are.

Ms. Lagay asked how often the mother-in-law came to the home.

Mr. Toomey indicated she comes often.

Mr. Spiegel indicated that Council recently adopted the revised Ordinance. He understands and has sympathy with Applicant regarding their issue. The solution that is being proposed deals with that issue, which is not having enough room to unload the ramp; the Board is solving that problem. He does not see how the apron addresses this issue.

Ms. Toomey indicated that it would just be easier.

Mr. Spiegel indicated that he understands but the Board considering a variance to that particular issue.

Ms. Toomey desired that it be wider.

Ms. Andrews opined that the proposal may not satisfy Applicant 100% and may not satisfy the Board 100% but believes it does address the issue. She recalled recent testimony given that the mother-in-law does not live in the home and asked if that was correct.

Ms. Toomey confirmed no, but she visits often.

Ms. Andrews indicated that the Board is sympathetic to the situation and believes the compromise is reasonable.

Mr. Cosenza summarized the sketch and offered that the driveway will be at least 20 feet in width at the point where the handicap ramp comes down.

Mr. Topping agreed; he opined that the Board has more than accommodated the issue.

There was another discussion regarding the sketch and what the Board was voting on. Mr. Cosenza reiterated that the sketch showed that the driveway will be approximately 17 feet at the property line but will maintain the 12 foot width behind the sidewalk.

Ms. Sisko indicated that, therefore, the variance was for five (5) feet.

Board members agreed that would be acceptable.

Mr. Spiegel requested that a finding be made that the Board considered that the 12 foot width at the curb and sidewalk were the visual accommodations that were consistent with the Ordinance.

A motion to approve the application as modified was made by Mr. Spiegel and seconded by Ms. Andrews. Roll call vote taken. Ms. Andrews, Ms. Lagay, Ms. Sisko, Mr. Sondergard, Mr. Spiegel, Mr. Tobin and Mr. Topping voted yes. Motion carried.

14-1045 **Sanjay Potdar** – Applicant is seeking bulk variance approval to construct a 2-story addition at the rear and the addition of a front porch on an existing concrete terrace.

95 Linden Avenue Block 95.01, Lots 13.01 & 9.05 R-1 Zone

Mr. and Mrs. Potdar and Jonathon Booth, Applicant's Architect, were sworn in by Mr. Renaud.

Mr. Potdar indicated that he is present with his wife and Architect, requesting a bulk variance and is prepared to address the professionals' memoranda. He indicated that he has been a resident of Metuchen for the past five (5) years and purchased this home almost three (3) years ago. This renovation project is being considered based on growing needs of the family.

The existing house has three (3) bedrooms and 1 1/2 baths. The bedrooms and a full bath are on the second floor. The half bath, the living and dining rooms as well as the kitchen are on the first floor. They would like to extend the house to the rear. The addition will include a family room and bathroom on first floor as well as a master bedroom on the second floor. The additional bathroom on the first floor is important to the family. There is an existing six (6) foot deep terrace leading to the entry door. There is currently no roof which is a problem during snow and rain. They would like to add a front porch on existing terrace which would visually compatible with the houses on the street.

He understood that the property does not meet the Ordinance and that is why they are here. There are number of reasons for hiring Mr. Booth; Mr. Booth understands the neighborhood very well as he did work on a couple homes nearby. He described the changes to the coverage on the property; its impact will be minimal. The project will increase the size of the house from 1,120 to 2,009 square feet.

Mr. Booth provided his qualifications and experience. He indicated that he has been licensed since 1983 and specializes in residential design. He was accepted by the Board as an expert.

Mr. Booth indicated that the lot is very narrow relative to the R-1 zone. The R-1 zone requires a 75 foot lot width; the lot is 45 feet in width. Because of that, the existing residence is not conforming with the side yard setbacks. When the 10 foot side yard requirement is applied, the options for a conforming addition very quickly minimize the size of the addition. It is a small house. The lot is in a transitional part of Linden Avenue. Properties to the south tend to be conforming. Properties to the north tend to be slightly smaller, around 9,000 square feet or less. The intent of the project is to provide more living space on the first floor. He described the floor plans. The addition is 19 feet by 24 feet. The variances being requested are to allow the proposed addition be 4.7 feet from the south (left) side lot line whereas 10 feet is required. The north (right) side will comply, as well as the combined side yard setback. The building and lot coverage are also satisfied.

Ms. Lagay asked about the materials of the proposed addition.

Mr. Booth indicated that it will be vinyl siding. He interjected that the addition is within the existing height so it is effectively not visible from the street. The existing home has white vinyl siding. The proposed addition will either match (for the sake of uniformity) or the entire structure will be resided with hardie plank if the budget allows.

Ms. Andrews asked if any trees will be removed.

Mr. Booth indicated that the rear yard will remain as is; no trees will be removed. The landscaping is adequate and Applicant would like to not disturb the landscaping.

Mr. Spiegel asked about the porch.

Mr. Booth indicated that there is already a ground-level terrace; the porch will be right on top of it. There will be no need to excavate. It does require a side yard variance.

Ms. Lagay asked about how much further the porch will protrude into the setback area.

The porch will be set back 38 feet from Linden Avenue. The neighboring home to the south is set back slightly more. The porch will come forward slightly.

Mr. Topping suggested that it would be slightly in front.

Ms. Lagay asked about the bay window on the right side of the house.

Mr. Booth indicated that the bay window will be removed.

Ms. Lagay requested Applicant to review the Engineer's memorandum. He addressed all of the comments; with respect to comment #4, Mr. Booth indicated that the yard will generally slopes from front to rear. With respect to comment #5, no additional landscaping is being proposed; Mr. Cosenza confirmed what exists is adequate. With respect to comment #6, Mr. Booth indicated that a second A/C condenser unit will be provided. The existing unit straddles the property line; two (2) new units will be placed in that location and will have a one (1) foot setback whereas three (3) feet is required.

Ms. Lagay asked for clarification if the existing unit had a one (1) foot setback.

Mr. Booth confirmed.

Mr. Sanjay indicated that he spoke to his neighbor and that they are in support. Because of the narrow width of the lot, he requested the additional variance (from §110-112.6 of the Ordinance).

Ms. Lagay asked if there is a fence.

Mr. Sanjay indicated that his neighbor has already started putting in additional landscaping. There is existing landscaping (on Mr. Sanjay's property) that will further screen the units (from view).

Mr. Spiegel asked about the second story windows. He commented that everything looked great; everything has changed architecturally and had comments regarding the second story on the front. He opined that it needed something architecturally consistent with the first floor.

Mr. Booth indicated that the strategy was to minimize construction on the front. He opined that nothing was wrong. He agreed that porch will be a nice amenity for not only owner but also for neighborhood.

Board members agreed that the porch was a great addition.

Mr. Topping asked about the 2nd floor overhang in the front and how it would compete with the structure of the porch.

Mr. Booth indicated that the bottom of the cantilever will be flush with the porch ceiling. The roof will be shallow.

Mr. Topping asked about the side elevation. He opined that a wing wall may be necessary.

Mr. Booth clarified that there indeed was a minor error in the drawing; there should have been an overhang. The roof can be shed roof.

Mr. Renaud asked if Applicant would comply with the Engineer's memorandum.

Mr. Booth confirmed yes but that a variance would be required for the A/C condenser units.

Mr. Cosenza clarified that the variance request is from section 110-112.6 of the Ordinance.

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

Ms. Sisko indicated that she lives around the corner and opined that the proposed addition is a tremendous improvement.

Mr. Sanjay thanked Ms. Sisko.

Mr. Spiegel indicated that Applicant was careful to taper the side yard. The improvements are outstanding.

Mr. Sanjay thanked Mr. Spiegel. He talked about his experience with his neighbors; his neighbors were of great help during the whole process.

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

Ms. Lagay indicated that she went down to see the property and was shocked to find it was only 45 feet wide and found it unusual. Nevertheless, what is being done is careful and appreciated. It was presented very well.

Mr. Spiegel agreed; he wanted to add to the findings of fact that the Board considered the depth of the property, the front yard setback as significant offsets to side yard variance and the fact that the addition is being tapered with additional offset. Applicant was very careful and accommodated the existing conditions.

Mr. Renaud indicated it that appears that the Board was leaning on approving the variance based on hardship related to the size and shape of the existing lot and location of structures on the lot.

Mr. Spiegel and Ms. Lagay agreed.

A motion to approve the application as presented with conditions as noted above was made by Mr. Spiegel and seconded by Ms. Sisko. Roll call vote taken. Ms. Andrews, Ms. Lagay, Ms. Sisko, Mr. Sondergard, Mr. Spiegel, Mr. Tobin and Mr. Topping voted yes. Motion carried.

Board members wished Mr. Sanjay luck.

Mr. Sanjay thanked the Board.

RESOLUTIONS

14-1039 **Florence Reyes** – *Applicant is seeking bulk variance approval for a second story addition to the front and a two-story addition to the rear of the single-family dwelling.* – Approved September 11, 2014

58 Plainfield Avenue | Block 50, Lots 11, 11.01 | R-2 Zone

A motion to approve resolution as written was made by Mr. Tobin and seconded by Mr. Sondergard. Roll call vote taken. Ms. Andrews and Mr. Spiegel were not eligible to vote. Ms. Lagay, Ms. Sisko, Mr. Sondergard and Mr. Tobin voted yes. Motion carried.

14-1032 **St. Joseph's High School** – *Applicant is seeking major site plan, d(3) conditional use variance and bulk variances with exceptions and waivers to replace the track and field and construct bleachers, ticket booth, concession stand and fencing.* – Approved September 11, 2014

145 Plainfield Avenue Block 2, Lot 1 R-1 Zone

Mr. Renaud indicated that he had received a comment from the attorney before the Board voted on it. The resolution currently has condition #4 on page 24 that reads "no lighting of the facility shall be permitted so as to allow night activity." Mr. Sharlow sent him an email that reads "I request that no. 4 on page 24 of the Resolution regarding lighting be deleted or modified. There was no lighting proposed with this application and any lighting could require board approval in the future. I do not believe a condition of the approval was that there be no lighting as to allow night activity. We understand that there is a condition in the LDO of the conditional use section of no outdoor lighting. However, I don't believe a condition of the approval as stated in no. 4 on page 24 should be included in the Resolution. A request for lighting in the future by the applicant could trigger another application." Mr. Renaud responded that he would bring it up to the Board and that he understood that there was to be no light. Mr. Sharlow responded with an email that reads "We understand that no exterior lighting is a condition of the conditional use. However, I don't believe the "no lighting" was a condition of the approval. The approval should not be based on the condition of no lighting. We understand that any future exterior lighting could require Board approval."

There was a discussion regarding the lighting. Mr. Tobin recalled testimony regarding security lighting.

Mr. Renaud opined it could be left the way it is.

Mr. Spiegel agreed but opined that a finding of fact be provided regarding the bleachers.

Mr. Renaud offered comment #13 on page 22 which reads "The Board further finds that its determination that parking is adequate is based upon the proposed seating capacity as proposed, that is, bleachers accommodating 1,500 spectators."

Mr. Spiegel indicated that he found it adequate.

A motion to approve resolution as written was made by Mr. Sondergard and seconded by Mr. Spiegel. Roll call vote taken. Ms. Andrews was not eligible to vote. Ms. Lagay, Ms. Sisko, Mr. Sondergard, Mr. Spiegel and Mr. Tobin voted yes. Motion carried.

CORRESPONDENCE

Annual Report for 2013

Ms. Lagay summarized the intent of the annual report. There was a discussion regarding the change of policy regarding apron width. People are still coming in. Residents should be going to

Council. Mr. Renaud indicated that he represents other Boards where the Board receives applications for the same issue, the Board can send a report to Council. If there is no response, then the Board understands that is what the policy is. Mr. Tobin indicated a minor typo to be corrected.

A motion to approve the Annual Report with the correction as noted was made by Ms. Sisko and seconded by Mr. Spiegel. Voice vote taken. All eligible Board members voted yes. Motion carried.

Minutes from October 10, 2013
A motion to approve the minutes as written was made by Ms. Andrews and seconded by Mr. Sondergard. Voice vote taken. Ms. Andrews, Ms. Lagay, Mr. Sondergard and Mr. Spiegel voted yes. Motion carried.

Minutes from November 14, 2013
A motion to approve the minutes as written was made by Mr. Tobin and seconded by Mr. Sondergard. Voice vote taken. Ms. Andrews, Ms. Lagay, Mr. Sondergard and Mr. Tobin voted yes. Motion carried.

Minutes from December 12, 2013
A motion to approve the minutes as written was made by Mr. Tobin and seconded by Ms. Sisko. Voice vote taken. Ms. Andrews, Ms. Lagay, Ms. Sisko, Mr. Spiegel and Mr. Tobin voted yes. Motion carried.

Minutes from January 9, 2014
A motion to approve the minutes as written was made by Ms. Sisko and seconded by Mr. Sondergard. Voice vote taken. Ms. Lagay, Ms. Sisko, Mr. Sondergard and Mr. Tobin voted yes. Motion carried.

ADJOURNMENT

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

The meeting adjourned at 9:34 p.m.

Respectfully Submitted,

Chris S. Cosenza
Recording Secretary