

METUCHEN ZONING BOARD OF ADJUSTMENT

MINUTES

April 9, 2015

The meeting was called to order at 7:48 p.m. by Brian Tobin, Vice Chairperson, who read the statement in accordance with the Open Public Meetings Act.

Present: Catherine McCartin
Angela Sielski
Judith Sisko
Byron Sondergard
Brian Tobin, Vice Chairperson
Robert Renaud, Attorney
Chris S. Cosenza, Zoning Officer

Late: (none)

Absent: Suzanne Andrews
Jonathan Rabinowitz
Daniel Topping, Chairperson
Jim Constantine, Planner
Lisa DiFranza, Engineer

NEW BUSINESS

15-1060 **DCR Landscaping & Construction, Inc.** – Applicant is seeking preliminary and final major site plan approval, d(3) conditional use variance and bulk variances with exceptions and waivers for a contractor's establishment.

104-108 Norcross Avenue Block 49 Lot 54 L-I Zone

Mr. Tobin indicated that the application would be carried to next month because there were not enough voting members present.

Mr. Renaud agreed and completed the announcement, despite there being no members of the public at the hearing, by announcing that the application is being carried. It will be heard on May 14, 2015 in this room. The meeting will start at 7:45 p.m.

15-1062 **Adam Woodruff & Samantha Monday** – Applicant is seeking bulk variance approval to construct a one-story rear addition.

22 Christol Street Block 92 Lots 28 - 31 R-2 Zone

Frederick Schmitt, Applicant's Architect, introduced himself and indicated that he would present the application.

Mr. Renaud asked if Applicant could be sworn in first.

Ms. Monday was sworn in by Mr. Renaud.

Mr. Renaud asked Ms. Monday to describe the application and why they were before the Board.

Ms. Monday indicated kitchen is really small. The oven cannot be opened. They would like to make the kitchen a little bit bigger. Putting the addition in the back yard happens to be the most logical location, which happens to be right along the property line. She indicated that her neighbors are okay with the application.

Mr. Renaud asked Board members if there were any questions for Ms. Monday.

Board members indicated that they did not.

Mr. Schmitt was sworn in by Mr. Renaud.

Mr. Schmitt indicated that there are two (2) variances required. One is for side yard setback and the other for combined side yard setback. The house is about 1,500 square feet and Applicants seek to construct about a 200 square foot addition, one story. The existing house sits 0.3 feet off the line and the garage, which is connected by way of the breezeway—triggering the second variance, is pretty much on the line as well. Without the breezeway connection, there would have been no combined side yard setback.

Mr. Renaud agreed that if there was no breezeway it would not have required a combined side yard setback, but conferred with Mr. Cosenza, opining that the garage would have needed an accessory structure side yard setback variance.

Mr. Cosenza confirmed.

Mr. Schmitt indicated that the existing kitchen is really tiny, about seven (7) by nine (9) (feet). The house was built in the 1920s or 1930s and it is evident that it was added onto in pieces over time. The layout is cute; it is like a little cottage. He opined it works well with Applicant given their interests and background. It is interesting in that the hardship is really coming from the internal constraint as opposed to the lot size and easement issues. He indicated that in the back of the house, there is really no opportunity to add a functional kitchen other than where it is proposed. They spent the better part of the summer as to how to better configure the addition. If the kitchen was set back to 8'-0", it would block the window exposure from the dining room. They are before the Board to illustrate the hardship. They are extending into the back ground. In a photograph, he indicated that there is an existing concrete block wall that extends out into the back yard. It actually encroaches onto the neighbor's property. His point was that it is like already having the addition on the property anyway. The proposal merely moves the wall back a foot and to add siding to it. There will be a nice trellis added to soften the wall.

Mr. Renaud asked how far back the wall went.

Mr. Schmitt indicated that it is about 15 feet long.

Mr. Renaud indicated that existing wall is coming down and is longer than the proposed addition.

Mr. Schmitt confirmed. The addition is 13 feet long. There will be no basement. The addition will have cathedral ceiling to take advantage of views into the back yard. The neighbor to the east has a driveway adjacent to the area in question. He opined that it was better (this way) than a patio or a part of their residence.

Mr. Tobin asked about the wall being removed and what the neighbor will see.

Mr. Schmitt indicated it would be a new wall with vinyl siding with a trellis. The wall will be fire-rated. The new wall will be set back another six (6) inches.

Mr. Renaud asked how the addition will be constructed.

Mr. Schmitt asked if he was referring to the footing.

Mr. Renaud confirmed.

Mr. Schmitt described the footing construction.

Mr. Cosenza opined that he believed that Mr. Renaud was asking, during excavation, if it will affect the neighbor's property.

Mr. Schmitt indicated that they would have to be careful. They would utilize the typical 3'-0" cut. He opined it would not be detrimental to the neighborhood. Addressing Mr. Tobin's earlier comment, he indicated that house will match the existing home. It will have siding with traditional details. The windows will be traditional as well, maybe Andersen.

Mr. Renaud asked if he had an opportunity to review with the planner's and engineer's memo. Starting with the Planner's memorandum, comments #1 through #4 were comments. Comment #5 was addressed regarding materials – it will be siding. Comment #6 regarding access and maintenance of the trellis, he asked how that will be done.

Mr. Schmitt indicated it could be vinyl or cedar. If it were vinyl, it would be easier to maintain. He advised Applicants that the Planner was concerned about the trellis potentially deteriorating.

Mr. Cosenza asked about the planting of vines and how it would be maintained given that Applicants would have to access the neighbor's property to do so.

Mr. Woodruff indicated that he or his neighbor would simply go up to it and would maintain it as necessary with no problem. They have a good relationship.

To that point, Mr. Schmitt indicated that he had a notarized letter from the neighbors who are in support of the application, to which Mr. Renaud asked for it to be provided and noted it filed for the record.

Regarding comment #7, Mr. Renaud asked if there were any other landscaping or improvements being provided. There is a deck shown on the plans.

Mr. Schmitt indicated that the details are all on the plans. The deck will be more of a transitional stoop for the kitchen and dining rooming. A 13'-0" by 20'-0" concrete pad is being removed.

Mr. Renaud asked about the size of the addition, for the sake of comparison.

Mr. Schmitt indicated that the addition is 13'-0" by 15'-0".

Mr. Renaud indicated that was noteworthy; that the patio that is being removed is larger than the proposed addition.

Mr. Schmitt indicated that was the case, about 60 square feet is being removed. There may be old-fashioned paving in the back yard.

Mr. Tobin asked Mr. Cosenza if pavers counted toward impervious coverage.

Mr. Cosenza indicated that patios require permits and count toward impervious coverage and does not foresee any issues as Applicants have plenty of space to work with.

Mr. Tobin agreed.

Mr. Renaud began to review the Engineer's memorandum. Regarding comment #2, Mr. Renaud asked Ms. Monday if the survey, being two (2) years old, accurately depicts how the property appears today.

Ms. Monday indicated that the chain-link fence has been removed and they added landscaping near the park along the left side of the driveway.

Mr. Renaud indicated comments #3 and #4 were merely comments and asked if Applicants would comply with comments #5, #6 and #7.

Mr. Schmitt indicated that Applicant would comply.

Regarding comment #8, Mr. Renaud asked if any trees were being removed due to the proposed improvements.

Ms. Monday indicated none would be removed.

Mr. Renaud indicated that Applicant would comply with #9 and that would complete the Engineer's memorandum.

Mr. Tobin asked Mr. Schmitt if he had any additional testimony.

Mr. Schmitt indicated that he did not; the application is very self-explanatory.

There being no further questions from the Board, Mr. Tobin opened hearing to the public for questions for Mr. Schmitt. There being none, Mr. Tobin closed the public portion.

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

Ms. McCartin indicated that she had no objections.

Ms. Sisko agreed.

Mr. Tobin opined that it was one of the best applications the Board has heard in years.

Mr. Renaud offered that this is one of few applications where the c(1) variance is more appropriate because of the constraints, size and shape, of the property. Hardship is created and he would be comfortable granting the variance under that criteria.

Mr. Tobin asked, before the Board voted, what variances were being voted upon.

Mr. Renaud indicated that there were actually two (2) variances, the side yard variance, where eight (8) feet is required and 0.8 feet is proposed, and the combined side yard setback, where

18 feet is required and 1.3 feet is proposed. Everything else is pre-existing: the house encroaches into the front yard setback, lot width, lot area, driveway setback, lack of public sidewalk and lack of private sidewalk connection.

Mr. Cosenza noted that the variance request for the chain-link fence is no longer required because of testimony provided that the chain-link fence was removed.

Mr. Woodruff indicated that there is a stepping stone walkway from the entry to the mailbox to which Mr. Renaud indicated that would it would probably not suffice as a private walkway. Mr. Cosenza agreed.

A motion to approve the application as presented was made by Ms. Sisko and seconded by Mr. Sondergard. Roll call vote taken. Ms. McCartin, Ms. Sielski, Ms. Sisko, Mr. Sondergard and Mr. Tobin voted yes. Motion carried.

RESOLUTION

13-1006 **Matt & Maria Fulham** – *Applicant is seeking amended bulk variance approval to construct a new detached single family dwelling – approved March 12, 2015*

116 Main Street

Block 215

Lots 1, 1.01

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. McCartin, Ms. Sielski, Ms. Sisko, Mr. Sondergard and Mr. Tobin voted yes. Motion carried.

CORRESPONDENCE

Minutes from March 12, 2015

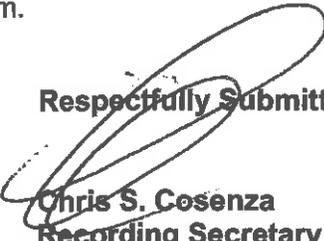
A motion to approve the minutes as written was made by Mr. Sondergard and seconded by Ms. McCartin. Roll call vote taken. Ms. McCartin, Ms. Sielski, Ms. Sisko, Mr. Sondergard and Mr. Tobin voted yes. Motion carried.

ADJOURNMENT

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

The meeting adjourned at 8:13 p.m.

Respectfully Submitted,


Chris S. Cosenza
Recording Secretary

METUCHEN BOARD OF ADJUSTMENT

RESOLUTION OF MEMORIALIZATION
GRANTING AMENDED APPROVAL AND C VARIANCES TO
MATTHEW AND MARIA FULHAM
116 MAIN STREET
BLOCK: 215, LOTS: 1 & 1.01
APPLICATION NO.: 13-1006

WHEREAS, Matthew and Maria Fulham, hereinafter referred to as “the Applicant,” are the owners of Block 215, Lots 1 and 1.01 as shown on the official Tax Map of the Borough of Metuchen, and more commonly known as 116 Main Street, in the Borough of Metuchen, County of Middlesex and the State of New Jersey; and

WHEREAS, Applicant previously applied to the Metuchen Board of Adjustment for C variances to construct an addition and screened porch at the rear of their existing dwelling, a new front porch and a new one and a half story two-car, detached garage at the rear of the subject premises located at 116 Main Street; and

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

WHEREAS, the Metuchen Board of Adjustment held a public hearing on said application on March 12, 2015 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 February 25, 2015.
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 March 5, 2015.
6. Memorandum of Looney Ricks Kiss, Inc., Jim Constantine, PP, Borough Planner, dated March 11, 2015.
7. Plans entitled "Boundary & Topographic Survey for Maria C. Leonow, Middlesex County, New Jersey, Block 215, Lot 1, Boro of Metuchen," prepared by Landmark Surveys, dated October 13, 2014, consisting of one (1) sheet.
8. Plans entitled "Fulham Residence, Proposed SF Home, 116 Main Street (Bl 215, L 1 & 1.01) Metuchen, NJ 08840," prepared by JFS Engineering, PC, dated February 16, 2015, consisting of two (2) sheets.
9. Plans entitled "Fulham Residence, 116 Main Street Metuchen, NJ 08840," prepared by Mark P. Marcille Architect, dated January 7, 2015, consisting of four (4) sheets.

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

WHEREAS, the Applicant seeks amended approval and C variances to demolish the entire existing single-family dwelling and detached garage and to construct a new two-story dwelling and two-story detached garage, with the new dwelling to be within the footprint of the previously approved building with additions; 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 lot area – 7,500 sq. ft. required, 6,492 sq. ft. existing non-conformity (previously approved);

§110-64, minimum lot width – 62.5 ft. required, 37.50 ft. existing non-conformity

(previously approved);

§110-64, minimum front yard setback – 25 ft. required, 0.9 ft. existing (Main St.)/14.9 feet existing (Myrtle Ave.), 6.7 feet/porch, 12.71 feet/building proposed (Main St.)/9.9 feet proposed (Myrtle Ave.);

§110-64, minimum side yard – 8 feet required, 4.4 feet existing non-conformity, 5 feet proposed (previously approved);

§110-64, maximum building coverage – 30% permitted, 16.2% existing, 35.1% proposed (previously approved);

§110-101.C., sight triangle – 25 feet x 25 feet triangle area required, proposed as set forth in plans (previously approved);

§110-112.3.C, maximum driveway width – 12 feet at driveway apron permitted, 18 feet 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 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 property is designated as Block 215, Lots 1 and 1.01 shown on the Official Tax Map of the Borough of Metuchen, County of Middlesex and State of New Jersey and more commonly known as 116 Main Street.
3. The property is located in the R-2 Zone District.

4. John Wiley, Jr., Esq., appeared on behalf of the Applicant. He indicated that the Board may be familiar with the application. They were present just last year. Two (2) events have happened since then: 1) Applicant attempted to rehab the building and discovered it was not feasible to put the addition on. Instead, they seek approval to construct a new dwelling using the same exact footprint that they were previously approved for. 2) However, the survey that they has used turned out to be old and, therefore, not as accurate. As a consequence, there are some deviations. He requested the Board to consider focusing on the aspects of the application that was different.

5. Mr. Renaud offered a summary, particularly for those who were not on the Board last year. He indicated for the Board that the application was heard in January and the resolution was adopted in March, of last year. The request at the time was permission to an addition on an existing residence. The lot is considerably undersized and the Board granted a number of variances for non-conforming conditions which are not changing (for example: lot area and lot width). Because of the width of the lot, which is only 37.5 to 39.8 feet wide, the house is on a corner, which means the lot has two (2) front yards, there are multiple variances that were required in order to construct the addition. There is currently a two-story dwelling and he recalled it would add a two-story addition. It was all approved. What has happened since then, as Mr. Wiley indicated, is that the application is changing from an addition to, instead, a demolition of the existing dwelling and construction of a brand new home. The proposed house is essentially the same house that was proposed last time. Applicant is seeking amended approval rather than a whole new set of approvals. Issues arose at the demolition. There are apparently deviations in a number of the requirements because of the updated survey, not because the changes in the proposed dwelling. There will be an issue regarding the driveway as well.

6. Joseph Schaeffer, Applicant's Engineer, was sworn in, qualified and gave testimony. Mr. Schaeffer described the minor deviations to the numbers, both related to both front yard setback distances. He presented Exhibit A-1, an updated Zoning Summary Chart. He offered that the exhibit reflects corrections to the Zoning Summary Chart that was originally submitted to the Board. The changes were disclosed by a more accurate recent survey. The front yard setback to the porch is 6.75 feet. He realized he had made an error in measuring the depth of the porch, which was previously indicated to be 5.875 feet deep. It is actually 6.0 feet deep. The Exhibit corrects that. The front yard setback was previously proposed to be 14.25 feet. In the previous application, it was noted that the depth of the porch is 7.5 feet. Given that 6.75 foot setback to the porch, the front yard setback was 14.25 feet. However, the porch has always been 6.0 feet deep. It was probably a misread of the architectural plans. In the more accurate plans, the front yard setback is actually 12.75 feet. However, since Main Street is off angle with the porch, the more accurate measurement is 12.71 feet. Therefore, this approval seeks to clarify the measurement made in previous testimony and to more accurately provide such measurement which (reflects a change of only 0.04 feet and) is only really a technicality of the geometry.

7. Mr. Topping noted the existing enclosed porch and that the proposed home is being pushed back (away from the street). Mr. Schaeffer confirmed. He further testified that the other amendment being requested is the front yard setback to Myrtle Avenue. The previously approved setback was 10.8 feet. It is actually 9.98 feet. He opines that the discrepancy came down to a scaling issue of the original survey. It was a drafting error. The footprint of the house is not changing.

8. Mr. Schaeffer noted that the previous approval was to permit a 12 foot driveway opening at the property line. The driveway leads from a two-car garage and funnels toward the

street to a single-car width. Given the length of the driveway, he opined that the geometry does not work to permit turning around the flared entry. Applicant seeks approval to maintain the originally proposed 18 foot driveway opening. To maintain the 12 foot driveway opening would be difficult for Applicant.

9. Mr. Wiley addressed the Planner's memorandum dated March 11, 2015. Comment #4 has been addressed. Regarding comment #5, the wrap-around porch still encroaches into the sight triangle. Regarding comment #6, he indicated Applicant does not have a landscaping plan to present to the Board but would be willing to condition the approval on the landscaping plan being reviewed and approved by the Zoning Officer. A landscaping plan was provided at the hearing a year ago but Applicant does not have a copy of it. There was brief discussion regarding the landscaping plan. Mr. Topping indicated he has not seen it. Ms. Andrews similarly raised her concerns regarding seeing the plans. Mr. Cosenza agrees and recalls that a landscaping plan being presented as an Exhibit at the prior hearing. The plans presented at that time, as indicated in the resolution, complied with the required landscaping for new dwellings as well as the replacement tree requirements. Whatever Applicant can present to him, he anticipates that it will comply with the Ordinance.

10. Mr. Wiley reviewed comment #7, no new walkways are being proposed. Applicant will utilize the public sidewalk to go between the house and the garage. Mr. Cosenza indicated that should a walkway be provided, it need not be reviewed by the Board because there is sufficient pervious coverage on the lot.

11. Mr. Wiley reviewed comment #8, the second floor space above the garage is only being used for storage.

12. Mr. Schaeffer offered planning testimony. He does not see the application as a detriment to the community. The house faces Main Street and does not really face Myrtle Avenue. For that reason as well, if looking at the front yard averaging scenario and specifically the house next door, the permissible building footprint would not exist. The proposed house is completely in the “front yard” of the neighboring house on Myrtle Avenue. Because of the depth of the lot, he does not foresee it being an issue. Ms. Andrews asked why the original plan would not work. Mr. Wiley indicated Applicant could address that.

13. Mr. Constantine asked if Applicant sought an alternative way to address driveway width at street requirement. There is some flexibility to move the garage further back. Mr. Schaeffer opined that it would not work. The turning movement would be difficult to overcome. The setback of 5.5 feet of the garage is another constraint. Mr. Topping indicated that there is room, there is some space between the sidewalk and property line.

14. Mr. Schaeffer indicated that studies would show it would not work. It is particularly difficult on a corner lot where the driveway is off the side street. The 20.36 foot dimension to the property line is too short to permit turning a car around. Mr. Topping indicated that the distance to the curb, rather than to the property line, is approximately 35 feet. Even an SUV is less than seven (7) feet wide. He opined that a 12 foot driveway width opening can still work. The ability to flare once you are in the property is reasonable. Perhaps consider centering the cut or start flaring out earlier (maintain 12 feet at the sidewalk and flare out within the public right-of-way). He has a similar condition in his own home. Mr. Schaeffer indicated that he has studied this and opined that it would not work, in this case. In this particular application, the ordinance does not work for the corner lot. In the scenario where a garage is in the rear of a deeper lot, there is sufficient room to turn the car.

15. Ms. McCartin asked if the funnel could be abrupt. Mr. Schaeffer indicated that if the driveway was 40 feet long, he would agree. However it is only 20 feet long.

16. Mr. Topping indicated it is deeper, it is 36 feet long to the curb. Mr. Schaeffer indicated that the flare has to begin no closer than the property line under the ordinance. Mr. Topping indicated that he had a question for Mr. Cosenza to address. Mr. Cosenza indicated that the 12 feet is to be measured at the property line. This is a similar situation to the request made by the 86 Mason Drive application. The 12 feet was required at the sidewalk and Applicant was permitted to flare out immediately within the public right-of-way, which technically requires a variance. Mr. Topping agreed that it would be a similar application. Mr. Cosenza further noted that the spirit of the 12 foot driveway opening requirement is to maintain the narrower width for the driveway apron itself and the driveway's crossing over the sidewalk. However, by Ordinance, the 12 foot measurement is to be measured at the property line.

17. Ms. DiFranza asked if a basement was proposed. Mr. Wiley indicated it was. Ms. DiFranza requested that a two foot separation between the seasonal high water table and the finish floor of the basement be provided. She noted it was not in her letter but wanted to advise Applicant of that further requirement.

18. There being no further questions from the Board, Mr. Topping opened the hearing to the public for questions for Mr. Schaeffer. There being none, Mr. Topping closed the public portion.

19. Mr. Fulham was sworn in and gave testimony. Mr. Fulham indicated that the original plan was to save a portion of the basement and add on to it. However, after talking to his engineer and architect, they found that it would not be feasible. The house is old and would not take well to new construction.

20. Ms. Andrews raised her concerns about the changes in the plans. Mr. Fulham indicated that the plans are exactly the same, however the contractor found that saving the walls were not feasible to build the house they wanted to build. Ms. Andrews questioned if testimony was really given that only two walls in the basement would be saved. Mr. Wiley agreed. Ms. McCartin noted that it appears that saving two walls in the basement would allow Applicant to call it an addition to a pre-existing non-conforming structure.

21. Mr. Wiley generally agreed but indicated that, technically, when there is a demolition and reconstruction, the Board could move the structure around over parts of the property. The question is if that makes sense. The Board could possibly require a different setback, whereas under the prior application, it would not be possible.

22. Mr. Topping asked about the materials being utilized. He noted that a stone base was shown at the foundation in the architect's rendering. Mr. Fulham indicated it would have vinyl siding with a foundation. He indicated that stone base was wishful thinking (too expensive).

23. Ms. McCartin asked about the front yard setbacks of the neighboring homes. Mr. Schaeffer presented Exhibit A-2, a diagram showing the average front yard setbacks. The adjacent home (on Main Street) is 6.07 feet. On Myrtle Avenue, the average front yard setback is actually behind the southern wall of the existing home (effectively behind the house). Mr. Topping asked what the setback distance on Myrtle Avenue would be. Mr. Schaeffer estimated that it would be approximately 32.05 feet.

24. Ms. McCartin asked about the proposed garage front yard setback, from Myrtle Avenue. Mr. Schaeffer indicated it is approximately 20 feet and steps into the front yard setback a little bit (but will be no closer to the street than the house will be).

25. There being no further questions from the Board, Mr. Topping opened the hearing to the public. There being no questions, Mr. Topping closed the public portion.

26. Ms. Sisko asked what variances are being amended. Mr. Wiley indicated that two variances are requested to be amended: 1) front yard setback on Myrtle Avenue, which is just a dimensional correction, and 2) a new variance for the driveway. Mr. Topping indicated his main concern is the driveway. He discussed the application on Mason Drive in which the Board comprised by permitting the flare to occur before the property line.

27. Mr. Constantine opined that it can work if the garage was canted and the garage was made a foot shorter. The Board could still grant a variance but still require the 12 feet at the sidewalk and flare out can be designed as desired. It would allow the Borough to stay with its Complete Streets Policy. Anyone can make arguments like this and other towns are struggling with issues like these. Why have a Complete Streets Policy if variances are granted. A variance is still necessary but this would be a good compromise. Ms. Sisko indicated that she is comfortable with that. Mr. Topping asked if that would be acceptable with Applicant. Mr. Wiley requested an opportunity to talk to his client. The Board recessed at 8:37pm and reconvened at 8:46pm. Mr. Wiley indicated that Applicant would accept, as a condition, the 12 foot width at the sidewalk and taper into the yard. Mr. Constantine agreed and indicated that the variance is still required because it is measured at the property line, at which point it will be greater than 12 feet.

28. Mr. Renaud indicated that perhaps the Zoning Officer will be able to locate the approved landscaping plan, if not, a landscaping plan shall be submitted and subject to the review and approval of the Planner and/or Zoning Official.

29. 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, the strict application of §110-64 with respect to lot area, minimum lot width at street, minimum lot area at setback, minimum front yard setback, minimum side yard and sight triangle setback would result in peculiar and exceptional practical difficulties and exceptional and undue hardship to the Applicant because Applicant is severely restricted by the narrowness of the existing lot.

30. The Board further finds that the relief with respect to driveway width, as modified by the Board, whereby Applicant will be permitted to have a driveway up to 18 feet in width up to the sidewalk line closest to the garage, at which point it must narrow to 12 feet, may be granted because of the unique conditions specifically affecting the lot in question, especially the narrowness of the lot.

31. 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.

32. 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 amended approval and for C variances of Matthew and Maria Fulham 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 and requirements contained in the Board Engineer's memorandum dated March 5, 2015 and with the additional requirements set forth at the hearing of a two foot separation between the seasonal high water table and the finish floor of the basement.

4. Applicant shall comply with the landscape plan previously submitted in connection with the prior Application No. 13-1006, if same can be located by the Zoning Officer.

If the prior landscape plan cannot be located, then a new landscaping plan shall be prepared and provided and shall be subject to the review and approval of the Board Planner.

5. The proposed driveway shall be limited to a width of 12 feet at the line of the sidewalk closest to the garage and shall flare out to no more than 20 feet at the garage.

6. Applicant shall comply with the Borough tree replacement ordinance.

7. The second floor of the garage may be used only for storage.

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.

G. Applicant shall have prepared and shall submit revised plans, reflecting the conditions of this approval and reflecting the recommendations and requirements contained in the Board Engineer's memorandum within 60 days of the date of this resolution. Such revised plans shall be subject to the review and approval of the Board Engineer and the 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 within the time required 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 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 March 12, 2015 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.

I hereby certify that the Zoning Board of the Borough of Metuchen took the foregoing action at its meeting held on March 12, 2015.



Sharon Hollis, Secretary

Dated: April 9, 2015