METUCHEN ZONING BOARD OF ADJUSTMENT

MINUTES

May 14, 2015

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

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

Mr. Topping described the procedures of the hearing and the order of the agenda.

RESOLUTION

15-1062 **Adam Woodruff & Samantha Monday** – *Applicant is seeking bulk variance approval to construct a one-story rear addition* – approved April 9, 2015.

22 Christol Street Block 92 Lots 28 - 31 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. Mr. Topping and Mr. Rabinowitz were not eligible to vote. Ms. McCartin, Ms. Sielski, Ms. Sisko, Mr. Sondergard and Mr. Tobin voted yes. Motion carried.

NEW BUSINESS

15-1063 **Jason Judovin** – Applicant is seeking bulk variance approval to permit a 6' high fence along the front property line on a corner lot.

48 Amboy Avenue Block 194 Lots 11, 12 R-2 Zone

Mr. Judovin was sworn in by Mr. Renaud.

Mr. Judovin indicated that he is seeking approval to construct a six (6) foot tall privacy fence in what is functionally his rear yard; however, it is secondary front yard because they are on a corner property. He testified that the benefits substantially outweigh the detriments of the application for both private and public reasons. The reasons the 10 foot setback is a hardship because he desires privacy and security. His daughter tends to run straight into the street, so the fence would help keep her corralled in the yard. Putting the privacy fence 10 feet back from

the property line would effectively cut his yard in half. It would be impractical; he would not even do that. It would also be unappealing. There is an existing planting bed that will help buffer the fence. Most of the other yards on the block are able to have privacy fences up to the property line. Since this property is on a corner lot, that is much more of a reason to have a privacy fence at this location. The rear yard is exposed to the public. Pedestrians and motorists can really see into the rear yard. The fence would be visually appealing; they would see a nice vinyl fence as opposed to seeing him barbeque in his shorts. It is important for the safety of his daughter. As part of the application, he walked around town and observed other properties with fences up to the property line. On every single street corner, there is at least one (1) house with this type of situation. It is common throughout the neighborhood.

Mr. Topping asked Mr. Cosenza about the fence requirement. He asked if the issue is because if it is two (2) front yards or the six (6) foot fence.

Mr. Cosenza indicated that it is actually both. The crux of the matter is that what is being proposed is a side or rear yard type of fence that is less than 10 feet from the front lot line. Only a fence up to four (4) feet in height and at least 50% percent open would be permitted to be in this location. Variances are necessary for lack of openness and height.

Mr. Judovin indicated that what is being proposed will be nicer than the other fences found throughout town. He is not aware if other properties were grandfathered in or if they sought variances.

Mr. Topping indicated that the fence might cut off the walkway. He drove by the property and noticed that the wall (as shown in the survey) is no longer there.

Mr. Judovin indicated that the walkway will be on the outside of the fence. It will not interfere with the fence. He indicated that the walkway shown in the survey is no longer there. There is a new walkway for which he indicated that he received permits. The existing planting bed will remain outside the fence. He would be willing to put in more plantings.

There was a discussion regarding the changes to the property since the survey was made.

Ms. Sisko and Ms. Sielski asked about the landscaping, to which Mr. Judovin indicated that he would put some more shrubs in the existing planting bed.

Mr. Topping asked Mr. Cosenza if there were any landscaping requirements for privacy fences.

Mr. Cosenza indicated that, yes, for any side or rear fence, effectively any fence greater than four (4) feet in height or any solid fence, that is less than 25 feet from a street line, it must be screened and buffered with landscaping, similar to foundation landscaping requirements in front of homes, spaced every five (5) on center, on average. Depending on the length of the fence, it will require a certain number of shrubs. However, the intent of the Ordinance to require a 10 foot setback was to allow the landscaping to be placed on private property. If the fence is on the property line, as it is proposed, the landscaping would be in the public right-of-way.

Mr. Topping asked if any special permission would be required for landscaping in the public right-of-way.

Mr. Cosenza indicated that he did not believe so, but the Chief of Police would want to ensure that any landscaping in the right-of-way does not exceed approximately three (3) feet in height so as to not become a visual obstruction.

Ms. Sisko asked if landscaping would be required on the side of the fence.

Mr. Cosenza indicated not necessarily, but it can be considered.

Mr. Topping indicated that he has seen these types of conditions, but good landscaping in front of the fence helps.

Mr. Judovin opined that he is putting up a quality vinyl lattice-top fence. He is not putting up a chain-link fence.

Ms. McCartin asked for the reason for a privacy fence and not a four (4) foot fence.

Mr. Judovin indicated that it is for privacy reasons.

Ms. Sisko asked about the style of the fence.

Mr. Judovin said it will be five (5) foot solid with a one (1) foot lattice top; overall a six (6) fence. The goal is to make it look good. Right now, everyone can see into his yard. Amboy Avenue is a popular street. He wants his daughter to play in his yard in private. He does not want anyone to look into his yard. It is almost embarrassing to have people watch him barbeque in his shorts and undershirt.

Mr. Sondergard agreed that the property, being on Amboy, one block from a light, is on a very busy street. People use this (side) street to avoid the traffic light.

Mr. Judovin indicated that it is also for security reasons that benefit both his family and the public. Frankly, if he does not get approval, he will not put up a fence at all.

Ms. McCartin raised a general concern regarding privacy fences that go into the space that is quasi-public. There is something that she does not feel comfortable about.

Mr. Judovin opined that it does not do this at all. The fence is not in the quasi-public space. The fence ends at the property line.

Ms. McCartin indicated that she had meant to say that in a philosophical sense. It is within the public realm.

Mr. Judovin indicated that there is no sidewalk. Pedestrians walk in the street. There is a 10 foot planting strip between them.

Ms. Sielski asked about the walkway to the street.

Mr. Judovin discussed the walkway which leads to the driveway. He described the exterior of his property. There are no sidewalks on McCoy Avenue. There are very large trees along the street. If the Borough was to put in sidewalks, the trees would have to be removed.

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

Mr. Topping indicated that he understandings the struggles with a corner lot. There are not many properties with these types of fences between neighbors. There is a philosophical issue with the separation that is being created. He is aware these fences exist.

Mr. Judovin indicated that he provided notice, he talks to his neighbors and he knows them all. They have made comments that "yea, it kinda stinks you don't have a privacy fence." They endorse the application.

Ms. DiFranza indicated that she reviewed the survey and that there is a discrepancy between the survey and actual conditions. First, a new walkway is there. She indicated that there is a 10 foot separation between the curb and the proposed fence. She opined that the fence should be buffered, but make sure the plantings are not too tall, if located in the public right-of-way, to which Mr. Judovin indicated he could leave the planting bed alone if that would help. She did not agree with that as she opined that Mr. Constantine might want some additional buffering. She commented on the color, to which Mr. Judovin indicated it would be white or tan. She opined that, as a viewer, you do not want to see a long white wall. She recommended moving the fence back a foot or so to ensure that the fence is on the property. She noted that the survey indicated that no property corners were set and one does not want to meander into the right-of-way.

Mr. Judovin indicated that there is a marker; he knows exactly where the property line is. He feels that he does not need that one (1) extra foot. That extra foot would deprive him of extra space.

Mr. Constantine indicated that he understands Applicant's passion to grab every inch of the property. The basic intent of the Ordinance is to provide some buffering and screening. The challenge, from the public stand point, is you have to keep it low. He opined that the fence should be moved back, perhaps, three (3) feet, so that landscaping would be situated entirely on private property. If the Borough chose to put a sidewalk in the future, the fence would be right against the sidewalk. There is a Complete Street policy in place and the Borough is sensitive to streets that do not have sidewalks.

Ms. Sisko agreed that the fence should be moved back. It is a much better idea to move it back to three (3) feet.

Mr. Judovin indicated that all of the pictures show properties that have fences on the property line; they are not set back three (3) feet. A sidewalk would not be 10 feet wide. There is still room for planting between the sidewalk and the fence.

Ms. Sisko indicated that the six (6) foot fence does not thrill her, but is willing to consider a three (3) foot setback.

Ms. DiFranza indicated that it would provide more visibility for the driveway.

Mr. Judovin indicated that there is 10 feet; there is plenty of visibility for the driveway. It is completely visible.

Mr. Sondergard indicated that he is OK with how it is proposed. When sidewalks go in, it would interrupt a lot of properties in the way of fences and shrubbery. There is not much space.

Mr. Rabinowitz agreed.

Mr. Renaud summarized that there are three (3) variances proposed:

- six (6) feet vs. four (4) feet
- not open (solid) vs. open (at least 50% open)
- being located on the property line vs. being set back at least 10 feet

He further opined that if the Board does not move the fence back, an additional variance may be required from the buffering/screening requirements because he did not believe they could be placed in the public right-of-way. If the Board wants screening in the public right-of-way, it is fine, but if screening is required, it would be located in the public right-of-way. He is not certain if it is even legal, but it would be a bad precedent to allow required screening outside their private property.

Mr. Judovin indicated that the screening is already there.

Mr. Topping indicated he is having trouble with the screening being located in the public right-of-way.

Mr. Judovin recommended to the Board to consider that given that the landscaping could not be greater than three (3) feet, which the existing landscaping is not, therefore it is OK. The Board could consider that the screening was grandfathered in or that the screening already exists.

Mr. Tobin opined that there is no landscaping in the planting bed.

Mr. Judovin indicated that there are shrubs there now, 1 1/2 feet tall now, recently planted.

Board members raised their concerns regarding the buffering and screening.

Mr. Topping indicated that it is difficult to understand if any other properties that are referenced in the application put up these fences the correct way. He opined that additional landscaping should be provided and setting the fence back a couple feet would allow that to occur. What he is seeing now in the planting bed is no taller than 12 or 15 inches.

Mr. Tobin echoed his concern raised by Mr. Topping; he preferred that the fence being moved back three (3) feet as well.

Ms. Sisko agreed.

Mr. Judovin raised numerous concerns: whether the other properties came in and got variances, he does not know. But by coming to this meeting, seeking the Town's approval and doing what is right and spending a considerable amount of money just to be here, he feels that he is being penalized as opposed to all of these individuals who may not have received variances. And now he is suffering as a result of doing the right thing. He has done everything by the book. He has come in and spent a considerable amount of money, not even on the fence, just to be here, just to publish the notices that he needed to, just to put the application together, just to go around the entire neighborhood and take photographs for the Board's benefit, so the Board could see what is like in the neighborhood and what the houses look like. All he is asking for is what exactly exists elsewhere in the neighborhood.

Mr. Tobin interjected that what Applicant has done for the Board's benefit is actually for Applicant's own benefit. He opined that the Board is agreeing that they would like to give him the fence. There should be some concessions back and forth. As much he appreciates his passion, he advised him that he needs to be careful with how he is addressing the Board.

Mr. Cosenza discussed the variance from the sight triangle requirements for Mr. Renaud's benefit.

Mr. Sondergard asked if the upper potion being open has any bearing.

Mr. Cosenza indicated that a fence is typically either completely solid or picket-style. For this type of fence, you could argue that the fence is 10% open. The fence is still six (6) feet tall.

Mr. Renaud agreed; the variance is also required for the height itself.

Mr. Cosenza confirmed; the new Ordinance including revisions to the fence requirements was adopted about two (2) years ago. One particular requirement was a reaction to an application he believed to be on Cambridge Road, where the Board heard an appeal of the Zoning Officer's decision and the Board determined that the fence being 10 feet set back from the secondary street front lot line was adequately set back. The Ordinance used to read either 15 or 25 feet; it is now 10 feet; what is being proposed is 0 feet.

Mr. Judovin indicated that one and a half feet could work as a compromise.

Board members asked why three (3) feet was suggested, to which Mr. Constantine indicated that is typically the spacing necessary for a shrub to fully mature.

There was a discussion regarding compromising to a two (2) foot setback.

Mr. Sielski indicated that she appreciated Applicant's efforts to provide the photos and testimony. She understands the frustration and it is an opportunity to make things right. If we do not get it right, it is always going to be wrong. The Board is trying to avoid future issues. The Board is not out to get Applicants.

Ms. Sisko indicated she is satisfied with the separation being two (2) feet.

Mr. Topping asked who would review the landscaping.

Mr. Renaud indicated it can be subject to the Zoning Officer's approval. He also recommended that if the variances were to be granted, that they be granted under the c(1), not c(2), criteria. He suggested c(1) variance because of the hardship by way of the size and shape of the property. Arguing under the c(2) such that it would benefit the public would be stretching it.

Ms. DiFranza asked about the 0 foot setback on the side and rear lot lines.

Mr. Cosenza indicated that there is no setback requirement, per se, but he always recommends that applicants provide for a three (3) or four (4) inch setback so as to ensure that the entire structure of the fence is on private property. If it were right on the line, the fence will meander, naturally, onto the neighbor's property and if the neighbor has any claim that they are infringing on the property, usually a fight ensues.

Mr. Judovin agreed.

A motion to approve the application, modified to have the fence set back two (2) feet from the secondary street front lot line and landscaping subject to the Zoning Officer's review and approval was made by Ms. Sisko and seconded by Mr. Sondergard. Roll call vote taken. Ms. McCartin, Ms. Sielski, Ms. Sisko, Mr. Sondergard, Mr. Tobin, Mr. Topping and Mr. Rabinowitz voted yes. Motion carried.

Mr. Judovin asked about the procedural issues.

Mr. Renaud indicated that it is not up to the Board, it is up to the administrative staff.

CORRESPONDENCE

Minutes from April 9, 2015

A motion to approve the minutes as written was made by Mr. Tobin and seconded by Ms. Sisko. Roll call vote taken. Mr. Topping and Mr. Rabinowitz were not eligible to vote. Ms. McCartin, Ms. Sielski, Ms. Sisko, Mr. Sondergard and Mr. Tobin voted yes. Motion carried.

OLD 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

Ms. Sisko and Ms. McCartin recused themselves from the hearing.

Mr. Mongelli indicated that, given only five (5) members being available to vote, he requested the application be carried.

Mr. Renaud indicated that Board has several members who have contractual relationships with Applicant. They have recused themselves which has brought the Board down to five (5) eligible members. Under the statute, if the Board did not have enough members for a quorum, the Board could borrow enough, but only enough, to make up a quorum, not a full board. He did not recall any other members being eligible to vote.

Mr. Cosenza indicated that he recalls Ms. Andrews also being in conflict. If she were present this evening, she would have to recuse herself anyway. The only five (5) members that are permitted to vote are present.

Mr. Mongelli requested a recess.

The Board recessed at 8:36 p.m. and reconvened at 9:00 p.m.

Mr. Topping indicated that the application will be carried to the next meeting date, to which Mr. Renaud announced that the application is being carried. It will be heard on June 11, 2015 in this room. The meeting will start at 7:45 p.m. There will be no further notice.

Mr. Renaud asked if Applicant would agree to consent to an extension on the application.

Mr. Mongelli indicated Applicant agrees.

ADJOURNMENT

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

The meeting adjourned at 9:01 p.m.

Respectfully Submitted,

Chris S. Cosenza
Recording Secretary

METUCHEN BOARD OF ADJUSTMENT

RESOLUTION OF MEMORIALIZATION
GRANTING C VARIANCES TO
ADAM WOODRUFF AND SAMANTHA MONDAY
22 CHRISTOL STREET
BLOCK: 92, LOTS 28-31
APPLICATION NO.: 15-1062

WHEREAS, Adam Woodruff and Samantha Monday, hereinafter referred to as "the Applicant," are the owners of Block 92, Lots 28-31 as shown on the official Tax Map of the Borough of Metuchen, and more commonly known as 22 Christol 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 April 9, 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 March 24, 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 April 8, 2015.

6. Memorandum of Looney Ricks Kiss, Inc., Jim Constantine, PP, Borough Planner, dated April 6, 2015.

7. Plans entitled "New Kitchen/Renovations, Monday/Woodruff Residence, 22 Christol Street, Metuchen, NJ," prepared by Schmitt Anderson, Architects, dated February 25, 2015, consisting of one sheet.

8. Plans entitled "Property in the Borough of Metuchen, Middlesex County, New Jersey," prepared by Titus Surveying & Engineering, P.C., dated March 5, 2013, consisting of one sheet.

WHEREAS, the Applicant Adam Woodruff and Samantha Monday appeared pro se; and

WHEREAS, the Applicant seeks C variances to construct a one-story, 195 square foot addition to an existing one and a half single-family residence, together with an 84 square foot deck at the rear of the dwelling located at 22 Christol Street; and

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

WHEREAS, the Applicant requires the following C variances:

§110-64, minimum front yard setback, 25 ft. minimum, 23.2 ft. existing non-conformity;

§110-64, minimum side yard setback, 8 ft. each minimum, 0.5/0.3 ft. existing non-conformity, 0.8 ft. proposed rear addition;

§110-112.3.B(1), accessory structure setback, 5 ft. required, 1.9 ft. side yard/3.4 ft. rear yard (shed), existing conformity;

§110-112.3.B(2), a driveway shall be set back a minimum of 3 ft. from a side lot line. The existing driveway is directly on the side lot line which is an existing non-conformity;

§110-112.7.I, public sidewalks shall be provided in the right-of-way along all public streets. The existing paved driveway is in place of sidewalk section;

§110-112.7.J, private sidewalks shall be provided. There is no existing private sidewalk connecting to the public sidewalk;

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 92, Lots 28-31 shown on the Official Tax Map of the Borough of Metuchen, County of Middlesex and State of New Jersey and more commonly known as 22 Christol Street.

3. The property is located in the R-2 Zone District. The site is an irregular lot 87.25 feet wide across the front, 40.24 feet across the back, with sidelines of 208.4 feet and 217.50 feet, 13,175 square feet or 0.302 acres in area. The site currently contains a one and half story, single-family residence with a two-car garage, walkways, shed, patio areas and paved driveway. Applicant proposes to construct a one-story, 195 square foot addition and an 84 square foot deck at the rear of the dwelling.

4. The lot has existing non-conformities for front yard setback, side yard setback on both sides, and combined side yard setbacks. The existing non-conformities are not being proposed to be expanded. The proposed addition will be within the non-conformities which already exist for the existing residence, that is, for example, the minimum side yard violation will not be increased. The accessory structure setback and the driveway setback conditions are also existing non-conformities. Applicant also seeks variances from the requirement for public

sidewalks in the right-of-way as well as for the private sidewalk connecting to the public sidewalk requirement.

5. The property also had existing non-conformities for a chain link fence in the front yard and in the public right-of-way. The public and private sidewalk non-conformities are also existing.

6. Samantha Monday, Applicant, was sworn in and gave testimony. Ms. Monday indicated that she and Mr. Woodruff are the owners and reside in the premises. She stated that the kitchen was very small, the oven cannot be opened. They would like to make the kitchen a little bigger. Putting the addition at the back of the property happens to be the most logical location. Because of the shape of the property and the fact that the existing home is almost from property line to property line, the addition would need to follow the same property line on the east side. She indicated that her neighbors had no objection to the application. No Board members had any questions for Ms. Monday.

7. Frederick Schmitt, Applicant's Architect, was sworn in, qualified and gave testimony. He indicated that the proposed addition requires two variances, one for side yard setback and the other for combined side yard setback. The existing home is about 1,500 square feet and Applicants proposed to construct the addition of approximately 200 square feet, one story. The existing home is approximately 0.3 feet from the property line and the garage, which is connected to the home by way of a breeze way, which makes it part of the home, is close to the side lot line on the other side. He indicated that if the garage was not connected by the breeze way, the combined side yard setback would not have been required. The Board Attorney noted, however, after consultation with the Zoning Officer that the garage, if it were detached, would have needed a variance for the side yard setback from an accessory structure.

8. Mr. Schmitt stated that the existing kitchen is only about 7 ft. by 9 ft. He indicated that because of the configuration of the existing home, there is really no opportunity to add a functional kitchen other than where it is proposed, because a kitchen moved farther to the west would block the existing windows in the dining room. Mr. Schmitt opined that because of the existing non-conforming structures on the property, a hardship is created which would justify the requested variance. Mr. Schmitt also noted that there is an existing concrete block wall that extends out into the back yard on the east side which actually encroaches onto the neighbor's property. He pointed out that the existence of the wall was like already having the addition on the property.

9. The Board Attorney asked for the length of the wall and Mr. Schmitt indicated that it was 15 feet long. The result was that the proposed addition would not extend as far as the existing wall, the addition being 13 feet long. Mr. Schmitt indicated that there would be no basement and that the addition will have a cathedral ceiling. He indicated that the neighbor to the east has a driveway adjacent to the area in question, so there was some space between the residences.

10. There was a discussion of how the addition would be constructed so close to the property line. Mr. Schmitt described how the footing would be constructed and that the addition would be constructed carefully.

11. Mr. Schmitt also offered his opinion that the proposed addition could be constructed without any detriment to the neighborhood. He stated that the addition would match the existing home. It will have siding with traditional details. The windows will be traditional as well, perhaps Andersen windows.

12. The Board Attorney reviewed the Planner's memorandum with Mr. Schmitt. Comments numbers 1 through 4 were simply comments. With respect to Comment 5, Mr. Schmitt addressed the materials, indicating that there will be siding to match. Mr. Schmitt stated that the proposed lattice structure on the east elevation could be vinyl or cedar. Mr. Schmitt indicated that he had a notarized letter from the neighbors, who were unable to attend, but who are in support of the application, which the Board Attorney indicated would be filed, but which could not be considered by the Board. As to Comment 7, Mr. Schmitt indicated that the deck and the details of same are shown on the plans. Mr. Schmitt indicated that the size of the addition will be approximately 13 ft. by 15 ft.

13. Mr. Schmitt next reviewed the Board Engineer's memorandum. Ms. Monday stated that the survey accurately reflects the existing improvements. Mr. Schmitt agreed to comply with comments 5, 6, 7 and 8, and indicated that no existing trees will be removed.

14. The hearing was opened to the public. No member of the public appeared for or against the application. The public portion was closed.

15. At the request of Mr. Tobin, the Board Attorney reviewed the variances. The two variances requested which were actually created by this application were the side yard variance on the side where the addition is proposed and the combined side yard setback variance. On the side yard, 8 feet is required and 0.8 feet is proposed. On the combined side yard setback, 18 feet is required and 1.3 feet is proposed. All of the other requested conditions are preexisting non-conformities. Mr. Cosenza noted that the chain link variance is no longer required because the chain link fence has been removed.

16. 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 of the lot, as well as the existing residence, the strict application of §110-64 with respect to side yard setback and combined side yard 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. The remaining variances may be granted because they are preexisting non-conforming conditions, not proposed to be changed in connection with this application.

17. 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.

18. 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 Adam Woodruff and Samantha Monday 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 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 April 9, 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 April 9, 2015.

Sharon Hollis

Sharon Hollis, Secretary

Dated: May 14, 2015