

METUCHEN ZONING BOARD OF ADJUSTMENT

MINUTES

September 10, 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: Suzanne Andrews Daniel Topping, Chairperson
Angela Sielski Jonathan Rabinowitz, Alt. I
Judith Sisko Tyler Kandel, Alt. II
Byron Sondergard Robert Renaud, Attorney
Brian Tobin, Vice Chairperson Chris S. Cosenza, Zoning Officer

Late: (none)

Absent: Catherine McCartin Lisa DiFranza, Engineer
Jim Constantine, Planner

RESOLUTIONS

15-1071 **Hary Disano Homes LLC** – Applicant is seeking bulk variance approval for a front yard setback to construct a new single-family dwelling – approved August 13, 2015.

6 Myrtle Avenue Block 215 Lot 6.01 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. Andrews and Mr. Kandel were not eligible to vote. Ms. Sielski, Ms. Sisko, Mr. Sondergard, Mr. Tobin, Mr. Rabinowitz and Mr. Topping voted yes. Motion carried.

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. Topping asked if a formal request had been made to have the application carried.

Mr. Cosenza indicated that the request was not formal in nature, but he received an email from Applicant's Attorney requesting that the application be carried to October 8, 2015.

Mr. Topping indicated that it has already been postponed for several months. He suggested that Applicant be given no additional time after the October meeting. The application should be heard or cancelled and re-noticed.

Mr. Renaud requested a motion be made to that effect.

John Wiley, Jr. indicated that he had sent in a letter; he represents the adjacent property owner. He indicated that it was suggested to work out something with his client. Basically, that has not happened and has not happened the entire summer. He understands that since the application is pending, violations to the Ordinance have been going on for a significant amount of time. No regulatory enforcement can be made while the application is pending. There is no plan pending. There has been no discussion. He asked Board, at this point, to dismiss the application.

A member of the public indicated that he has been present a few times; it has been going on a long time and nothing has happened. It has been ongoing.

Mr. Topping asked for the date of the first hearing.

Mr. Cosenza indicated that it was back in April.

Mr. Renaud indicated that Applicant has made a request for the application be carried. The Board needs to make a motion of some kind. He heard a suggestion that the application be carried but no further adjournments be granted.

Mr. Topping opined, for the adjacent property owner's sake, is to allow the October hearing to come but no further to give this some sort of resolution and keep it moving.

A motion to carry the application to October 8, 2015 was made by Ms. Sielski and seconded by Mr. Sondergard. Roll call vote taken. Ms. Andrews and Ms. Sisko were not eligible to vote. Ms. Sielski, Mr. Sondergard, Mr. Tobin, Mr. Rabinowitz, Mr. Kandel and Mr. Topping voted yes. Motion carried.

Mr. Renaud announced that the Board has determined that the application be carried to the October 8, 2015 meeting. It will be heard on that date at 7:45 p.m. in this room. There will be no further notice.

12-957 **Pearl Street Associates** – Applicant is seeking preliminary and final major site plan approval with a D-6 variance for height, bulk variance and exceptions to construct a four-story building with 22 units and no parking on site.

22 Center Street Block 113 Lots 37.01 D-1 Zone

Mr. Topping asked if a request had been made to have the application carried.

Mr. Cosenza confirmed yes, to October 8, 2015 as well.

Mr. Renaud announced that the application will be carried to the October 8, 2015 meeting. It will be heard on that date at 7:45 p.m. in this room. There will be no further notice.

15-1070 Todd & Nora Pagel – Applicant is seeking bulk variance approval for a two-story addition.

313 Midland Avenue Block 51.07 Lots 36 & 37 R-2 Zone

Mr. Wiley introduced himself to the Board, appearing on behalf of Applicant. He requested that Applicant be sworn in.

Ms. Pagel was sworn in by Mr. Renaud.

Mr. Wiley asked Applicant to describe the purpose of the addition.

Ms. Pagel indicated that the purpose is to build a 2-story addition on the left side of the house. There will be a bathroom on the first floor along with living space. On the top floor, there will be a bedroom and a full bathroom. The addition will make the house a little bigger as well as create easier access to the bathroom for her mother and father in law who are the primary caretakers for her daughter. They would be able to operate on the first floor and not be forced to go to the second floor.

Ms. Andrews indicated that application noted that an application was made in 2012 and that it was dismissed without prejudice. She requested that someone speak to that.

Ms. Pagel indicated that she had come before the Board for an addition to the side of the house. However, what was proposed was not approved because it was too wide. This application is significantly smaller. The Board had suggested that she go to the Technical Review Committee (TRC) to try to come up with a new plan for an addition to the house. They had come to the conclusion after the meeting that a backyard addition would not work because of the amount of updates they have done to the house over the years. For instance, they have taken down the 16' x 20' garage and replaced it with a 96 square foot shed that conforms to regulations. They have re-landscaped the entire backyard, giving it more grass and planted several trees, a new fence, updated the kitchen, moved windows to the back so they have a full view of the backyard so that when their child is in the backyard (when their child is in the backyard, they have greater visibility for safety reasons) and redid the upstairs bathrooms. All of this would be destroyed if the addition was put on the back of the home.

Mr. Cosenza confirmed that, over the past few years, a number of permits were taken out to make various improvements to the property. They have since contracted with another architect. The previous plans were not "up to snuff" so to speak. Prior board members suggested making the house smaller or put the addition to the back. Applicant made a great effort to find that happy-medium. They went to the TRC and, from what he understood, they received good commentary regarding the re-design.

Ms. Pagel indicated they met with TRC a couple months ago and went over the entire design.

Ms. Andrews asked if the original design was also to the side.

Ms. Pagel confirmed yes, however, it was much wider. Basically, they do not want to take up the entire backyard space.

Mr. Wiley asked for his next witness.

Mark Marcille, Applicant's Architect, was sworn in by Mr. Renaud. He was accepted by the Board as an expert.

Mr. Marcille indicated that the request is to add an eight (8) foot wide addition to the left side of the house. A 6.1 foot side yard is being provided. The building coverage exceeds 30 percent by 0.23 percent. Impervious coverage is actually being reduced quite a bit. Essentially the proposal is to introduce a living room, behind that will be a small bathroom, mostly for the benefit of the parents. There will be a rear access provided. On the second floor, the proposal is to add an eight (8) foot wide master bedroom with a full master bathroom. He indicated that they did a study an option to put the addition in the back; however, the floor plan would not be desirable. They have provided for a side addition with a much greater side yard.

Mr. Wiley referred to the Planner's memorandum, with respect to parking, the driveway width accommodates one (1) car but that there is adequate space to add a second car.

Mr. Marcille indicated that such would take up most of the front yard; Applicant wishes to maintain the one (1) car driveway. This would be more common in the neighborhood. Materials will be clapboard siding. The addition will feature vertical siding to give a more contemporary look and make the addition recede back into the background.

Mr. Wiley referred to the Engineer's memorandum, he indicated Applicant would agree to maintain a driveway opening no greater than 12 feet and flare out to no more than 20 feet; however, it will be considerably less.

Mr. Marcille confirmed; what is existing is a driveway that is 9'-6" wide and they do not intend to make it wider. The sidewalks will be ADA compliant. Regarding the A/C condenser units, they will be located at the rear of the home, away from the side yard.

Mr. Topping asked if sidewalks will be replaced.

Mr. Marcille indicated no.

Mr. Wiley indicated that some sidewalks may be damaged during construction and Applicant agrees to replace them as necessary. He stated that he has no further questions for Mr. Marcille.

Ms. Sielski asked about placement of the condenser unit.

Mr. Marcille indicated that it will be located at the rear of the property.

Mr. Tobin indicated that, in the renderings, they appear to be garbage cans.

Mr. Kandel indicated that he thought they were condenser units as well; Ms. Sielski and Mr. Kandel indicated that they appreciated the clarification.

Board members commended Mr. Marcille for the thoroughness of the rendering.

Mr. Rabinowitz asked about the size of the rear yard.

Mr. Marcille indicated that the existing rear yard setback is 59 feet; to the proposed addition, it is 46 feet.

Ms. Andrews requested additional testimony regarding the thought process of the addition and the vertical siding whereas the existing house has horizontal siding.

Mr. Marcille indicated it was an aesthetic design to give it a more contemporary look.

Ms. Andrews indicated she had not seen that and was curious if any other houses in the neighborhood that had done that.

Mr. Cosenza offered that he has vertical siding himself; it is a technique, with the shadow lines, to draw the eyes up and down so that house does not appear to be as wide. Ultimately, it is an aesthetic decision. He is not aware if other homes have it and does not believe it to be an issue.

Ms. Andrews indicated that she understands but was more curious about the mix between the horizontal and vertical siding.

Mr. Cosenza indicated that he has seen it before but would not be able to give a specific example.

Mr. Topping asked if it would be a board and batten design.

Ms. Pagel confirmed yes; she is very passionate about board and batten design.

Mr. Topping asked if it would be vinyl.

Ms. Pagel confirmed yes, it would match the color of the rest of the house.

Mr. Cosenza asked if color would be muted dark blue as shown in the drawings.

Ms. Pagel confirmed yes, the house is currently a light sage green.

Mr. Topping reviewed the survey and observed that it is a "shady" street. He believed plantings as proposed may be a difficult species (that would survive). He suggested that Ms. Pagel walk up and down the block to see what survives in the neighborhood.

Ms. Pagel agreed and thanked Mr. Topping for the suggestion.

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

Mr. Topping indicated that this application is an example of, when feedback is given, no matter how much time has passed, that the attention to details and listening to professionals is appropriate. It is a sensitive application. The massing goes a long way to address what other houses have done and what has not been done, which is to respect the massing surrounding it. He believes the setbacks from either side are very much in keeping the best part of that neighborhood and other neighborhoods as well. He commended the design of the project.

Ms. Sisko agreed. When looking at the previous design on paper, it was tight. When you look at the new plans, it does not look so bad anymore.

Ms. Pagel indicated that she loves the house and the neighborhood. She wanted to make sure that they were not bulldozing the house and starting from scratch. She tried very hard to make the house look like the way it was always supposed to look, from 1929 on. It will pay respect to that original design. She thanked the Board.

Ms. Andrews agreed; the plans are very good. She asked if the parents are moving in.

Ms. Pagel indicated that they are not moving in; however, they are putting a shower downstairs just in case something ever happened. This would address that issue.

Ms. Andrews asked if there is an entrance to the house where they do not have to up the stairs.

Ms. Pagel indicated that their access is through the side door, which has small steps followed by small steps. The deck in the rear has several very steps.

Ms. Andrews indicated she observed a door at the rear.

Ms. Pagel indicated that there will be a small porch at the rear and they enter into a mud room.

Mr. Topping asked, from a technical standpoint, if the Board were to make a motion to approve, most of what is being asked for is a geometric hardship due to existing non-conforming issues. He believes Applicant has addressed the positive criteria. The geometric hardship was essentially created from the original settlement of this neighborhood. The scale and massing are appropriate.

Mr. Sondergard and Ms. Sielski agreed.

Mr. Renaud summarized the variances being applied for. There are variances for lot size: lot area and lot width, both of which are existing. The front setback, which is not going to change, is 16.6 feet where 25 feet is required. The right side setback is 2.9 feet whereas 8 feet is required. Again, these are all pre-existing conditions. The left side setback is currently 14.8 feet, 6.13 feet is proposed whereas 8 feet is required. The Board can grant the variance for 1.8 feet. A variance is required for combined side yard setback and for building coverage where a 0.23 percent variance is being requested.

Regarding Residential Site Improvements Standards (RSIS), two (2) parking spaces are required for a 3-bedroom home. What the Board would have to do is make a determination, which would be part of the resolution, that adequate on-street parking is available to account for that one (1) missing parking space that is not provided. He has explained to the Board in the past that RSIS actually provides that you only have to provide off-street parking if on-street parking is not available. So those are all of the variances and one (1) finding on RSIS. Then you are not granting a waiver or de minimis exception, the Board is making a finding (that parking is adequate).

Ms. Sielski indicated that she is slightly uncomfortable with how close the houses are to each other, but understands it does fit in the Radio Section

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

15-1077 Matthew & Jenna Curran – Applicant is seeking bulk variance approval for a second story addition on a corner lot.

149 Mason Drive

Block 7

Lots 1, 2 & 3

R-1 Zone

Mr. and Ms. Curran were sworn in by Mr. Renaud.

Mr. Renaud asked Applicants to tell the Board what they are proposing and why.

Mr. Curran indicated that what they are proposing is to add a partial second floor addition to the existing home. They want to turn the ranch into a 1 ½ story dwelling. They bought the house about three (3) years ago. On paper, it is considered a three (3) bedroom home with one (1) bath. They would like to take the largest bedroom (on the first floor) and convert it into a dining room; they currently do not have a dining room. They will be losing a bedroom and then will be putting two (2) bedrooms upstairs with a bathroom. They are looking to do the project, essentially because, when they bought the house, they loved the neighborhood. He grew up on the street, his parents still live on the street. They are very familiar with the town and neighborhood. They love the neighborhood and they are planning to expand the family at some point. The house, right now, will not be suitable for that. Right now, there are three (3) bedrooms, one (1) of which is really a computer room. They are seeking to gain a little more space. They will be “dormer-ing” up the back as well as a small dormer in the front.

Mr. Topping referred to the professionals’ memoranda. He discussed the Planner’s comment regarding shade trees in the yard. Rightly so, he agreed with the Planner’s commendation regarding the landscaping and hardscaping improvements throughout the yard. He does not really see any more issues at this time.

David Dugas, Applicant’s Architect, was sworn in by Mr. Renaud. He qualified himself and was accepted by the Board as an expert.

Mr. Dugas indicated that the Currans went to builders and got involved with seeing what could be done. The house is situated on a corner, which creates a very tight front yard setback (from Wistar Avenue). He considers the home to be of a bungalow style and the attempt is to convert it to a cape. They talked about the appearance of the home and made an attempt to not make it look like a full second story because of the setback issues. They felt that going straight up was the best use of their financial resources while maintaining the open side and rear yards.

The addition is 30 feet by 30 feet under the roof. It will not appear to be a 2 story addition in the front. A shed dormer will be introduced to the rear. There will be a small doghouse dormer to bring more light into the bedroom and add balance to the front of the home. He indicated that they will utilize a neutral color siding.

Mr. Renaud asked if the footprint of the house would be increased.

Mr. Dugas indicated that it would not.

Mr. Renaud asked if there would be any new variances.

Mr. Dugas confirmed that there would not be; all variances are pre-existing.

Mr. Renaud asked if there is any on-site parking.

Mr. Dugasz indicated that there is not; however, Applicants live on a dead-end street and they currently park on the street. There is adequate parking on the street.

Mr. Tobin asked Mr. Cosenza if Applicant was not on a corner lot, would they be here.

Mr. Cosenza indicated that, as in most cases with corner lots, not necessarily. However, there are extenuating circumstances related to the grading where it is not logistically possible to install a sidewalk (on the Wistar Avenue side). That is actually a variance, but it is a pre-existing condition.

There was a brief discussion regarding the roof lines; Ms. Andrews asked if Applicant could visualize and is happy with the design.

Applicants indicated yes.

Mr. Topping discussed the rear elevation.

Ms. Andrews indicated that she has larger windows but utilizes blackout shades. Additional windows should be considered.

Mr. Topping agreed; he suggested that additional windows be considered, especially given the nice patio and landscaping in the rear.

Ms. Curran opined that it was a great suggestion and would definitely consider it.

Ms. Sisko indicated that it appeared that all of the variances were related to pre-existing non-conforming conditions. There were no new variances.

Mr. Renaud agreed and reviewed the variances. As indicated in the Planner's memorandum, there are variances required for lot area, lot with, front yard setback. There is a variance request for the shed and allow it to remain in its current position. With respect to the shade trees, apparently, it appears they may not be able to reasonably accommodate it, in which case, a contribution may be considered. There is the sidewalk issue and it is suggested it not be provided because it is simply not feasible. In the Engineer's memorandum, there is a reference to RSIS. Again, the Board has to make the same findings like in the last application except, in this case, it is for both spaces being on-street. Here, we have a corner lot, so there is sufficient on-street parking on the side street.

Mr. Topping agreed; as for the landscaping, he offered to defer that decision for when the permit is pulled.

Mr. Renaud asked if he was referring to the shade tree or its payment in lieu.

Mr. Cosenza asked if the deferment would be up to the Planner or to himself.

Mr. Topping indicated it could be up to Mr. Cosenza.

Ms. Sielski opined that the proposed improvements are in line with the other homes that have been updated. She believes it will be lovely addition and it is clear that the property is very well taken care of.

Mr. and Ms. Curran thanked Board members; Mr. Curran indicated that it is actually one of the smaller homes in the neighborhood.

Ms. Sisko agreed and commented that the landscaping does not make it look like a small home.

Mr. Topping agreed; he indicated it is a unique property. The other corner lots along Mason Drive tend to be set at a 45 degree angle, which has its own issues. This property fronts Mason and appears to be the original white house. It has great charm and the landscaping is well done. In most cases, he would push on the sidewalk but it is clear it is not feasible.

Ms. Sielski agreed that the sidewalk is not possible here plus the fact it is on a dead end street.

Mr. Topping believed there was only one (1) other home behind the home.

Applicants confirmed yes.

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

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

CORRESPONDENCE

Minutes from August 13, 2015

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

Mr. Cosenza indicated that he has spoken with Mr. Constantine and will be with Ms. DiFranza and, in cases like the applications heard tonight, he will begin to provide a memorandum for residential applications. He will be taking on a greater role as he is there day-to-day anyway; Applicants come in to see him for completeness and advice. He understands he cannot give legal advice but will be able to present what the Board will expect to see and provide them with base-line comments that Mr. Constantine and Ms. DiFranza typically provide in their memoranda. The purpose is to prevent homeowners from having to deal with excessive escrow bills from all three (3) professionals; instead, the escrow is, ideally, mostly for Mr. Renaud's time to write the resolution.

Mr. Topping asked for his thoughts on when he receives a tricky application.

Mr. Cosenza indicated that in those cases, he would seek additional input. He will provide the professionals with his memorandum and allow input, if necessary, and, as a result, they can bill the escrow a much smaller amount.

Ms. Sisko indicated that it is a good idea because of concerns regarding escrow.

Mr. Cosenza opined that it has gotten better over the past couple years but it can go a step further. He is there day-to-day; he is the face of the Borough when homeowners seek variance approvals. He would also be able to provide his comments well in advance and allow homeowners to prepare to address them more fully.

Ms. Andrews suggested that Mr. Cosenza be careful with legal advice.

Mr. Cosenza agreed; he will focus on the technical aspects of the application and attempt to provide commendations and suggestions as necessary; he will not suggest to Applicant to "not worry about this or that" because, after all, he could be wrong. He intends to provide a draft to the professionals and get their blessings before it is published.

Mr. Renaud indicated that he did not make this suggestion but was happy to hear it. He represents other Boards and, generally, the Zoning Officer does a memorandum for each application, offering a summary of the application, the variances being request, in summary form.

Ms. Andrews opined that the revamped Application forms that Mr. Cosenza adopted outlines those issues as well.

ADJOURNMENT

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

The meeting adjourned at 8:46 p.m.

Respectfully Submitted,

Chris S. Cosenza
Recording Secretary