

Township of Millburn
Minutes of the Zoning Board of Adjustment
August 3, 2020

A regular meeting of the Township of Millburn Zoning Board of Adjustment was held on **Monday, August 3, 2020** at 7:00 PM via Zoom webinar.

Board Secretary, Eileen Davitt opened the meeting by reading Section 5 of the Open Public Meetings Act.

The following members were present for the meeting:

Mary McNett
Craig Ploetner
Jyoti Sharma
Joy Siegel
Steve Togher
Wolfgang Tsoutsouris
Kevin Wenzel
Jessica Glatt, Vice Chairwoman
Joseph Steinberg, Chairman

Also present:

Gail Fraser, Board Attorney
Eric Fishman, Court Reporter
Eileen Davitt, Zoning Officer/Board Secretary

APPROVAL OF MINUTES

A motion to approve the minutes of July 6, 2020, as corrected, was made by Mary McNett, seconded by Jyoti Sharma, and carried with a unanimous voice vote.

BUSINESS

The Board discussed the need for Matthew Jessup to return and provide further testimony in the matter of Cal#3751-20, Springfield 92 Millburn Avenue Urban Renewal, LLC, scheduled for the Board's 8/17/20 agenda. The Board felt they have further questions and would like him to be at the Board's 8/17/20 meeting in order for them to be able to further question his testimony.

MEMORIALIZATIONS

Cal#3749-20, Hitesh Shah, 55 Lake Road, Short Hills

Upon a motion made by Mary McNett, a second by Craig Ploetner, and with a roll-call vote as follows:

Mary McNett – yes
Craig Ploetner – yes
Jyoti Sharma – yes
Joy Siegel – yes
Steve Togher – yes
Jessica Glatt – yes
Joseph Steinberg – yes

the following memorializing resolution was adopted:

**HITESH SHAH
BLOCK 3005, LOT 2**

**CALENDAR NO. 3749-20
AUGUST 3, 2020**

Mister Chairman, I move the adoption of the following resolution memorializing the granting of variance relief requested by the Applicant, Hitesh Shah, to permit the construction of a patio with a firepit/grill on property located at 55 Lake Road, Short Hills, New Jersey known and designated as Lot 2, Block 3005 on the tax map of the Township of Millburn.

RESOLUTION

WHEREAS, the Millburn Township Zoning Board of Adjustment (the “Board”) has held a public hearing according to law on July 6, 2020 in Calendar No. 3749-20 filed by Hitesh Shah (the “Applicant”) for permission to construct a patio with a firepit/grill on property located at 55 Lake Road, Short Hills, New Jersey; and

WHEREAS, the Board does hereby set forth the following findings of fact, circumstances, reasons and conclusions:

1. The application and service of notice were found to be in order. The Applicant appeared without counsel. No objectors or interested parties appeared or testified at the hearing.
2. The subject property is located in the R-3 zone, which requires that accessory uses on corner lots shall be no closer to any street line than two times the required front yard setback and shall not be located in the front yard. In this case, two times the required 40 foot front yard setback requires an 80 foot accessory use front setback on a corner lot. The proposed patio with a firepit/grill would result in a 50 foot accessory use front yard setback from Western Drive, a 68 foot accessory use front yard setback from Lake Road and it would be located in the front yard. Therefore, the Applicant requires variance relief to permit the construction of the proposed patio with a firepit/grill.

3. A survey of the property prepared by Parker Engineering & Surveying PC, dated March 31, 2020, and a copy of the survey, marked up by the Applicant to depict the location of the proposed patio with a firepit/grill, were submitted in support of the application.
4. The Applicant, Hitesh Shah, and his wife, Mita Shah, testified in support of the application.
5. The subject property is a corner lot located at the intersection of Lake Road and Western Drive. The property is an undersized lot with a lot area of 17,062 square feet instead of the minimum 29,000 square foot lot area required in the R-3 zone district. The existing dwelling has deep front yard setbacks from Lake Road and Western Drive. There is a paved driveway in the northerly side yard setback and there is a side yard setback of approximately 15 feet from the westerly side property line. The minimum accessory side yard setback is 12 feet, so there is no location on the property where the Applicant could construct a patio which conforms to the accessory use requirements. The proposed patio would be constructed at the base of the existing side porch on the southerly side of the dwelling. The existing porch is 25 feet wide and approximately four to five feet deep. The proposed patio would be 25 feet wide and 15 feet deep with an 18-inch-high firepit/grill area. The proposed patio location, located in the front yard, currently serves as the Applicant's back yard area and it is screened from view from both Lake Road and Western Drive by landscaping. In response to questions from the Board, the Applicant acknowledged that the landscaping facing Lake Road is not as densely planted as the Western Drive front yard. The Applicant testified that in the fall of 2020, he intends to supplement the existing landscaping on the Lake Road side of the property with additional evergreen Skip Laurels at a height of five to six feet, which would supplement the existing landscaping buffer.
6. The Board concludes that variance relief requested by the Applicant may be granted to permit the construction of the proposed patio with firepit/grill. The Board is satisfied that the need for variance relief is the result of the corner lot status of the property, its undersized lot area and the placement of the existing dwelling on the property which precludes the placement of a functional patio in a conforming location. The Board finds these conditions are exceptional circumstances that result in undue hardship and practical difficulties to the Applicant. The proposed patio with a firepit/grill will generally be concealed from view from Lake Road and Western Drive by existing and proposed landscaping. Moreover, the proposed patio with a firepit/grill will maintain a conforming accessory side yard setback from its western property line. As a result, the Board is satisfied that the proposed patio with a firepit/grill will not result in any negative impact on the nearest neighbors or the streetscape. The Board is also satisfied that the home with the proposed patio with a firepit/grill will be in keeping with the other homes in the neighborhood. Therefore, the Board also concludes that variance relief can be granted without substantial detriment to the zone plan, zoning ordinance or the public good.

NOW, THEREFORE, BE IT RESOLVED on this 3rd day of August, 2020 that variance relief granted by this Board on July 6, 2020 to permit the construction of a 25 foot wide by 15 foot deep patio with a firepit/grill in the front yard of the property resulting in a 68 foot accessory use corner lot setback from Lake Road and a 50 foot accessory use corner lot setback from Western Drive be and it hereby is memorialized pursuant to the provisions of N.J.S.A. 40:55D-10(g) subject to the following conditions:

1. Construction shall be in accordance with the testimony at the hearing and the copy of the Parker Engineering survey, marked up by the Applicant to depict the location of the proposed patio with a firepit/grill.

2. This approval is contingent upon the Applicant installing additional evergreen Skip Laurels, five to six feet in height above the root ball at the time of planting, along Lake Road to supplement the existing landscaping in order to further screen the view of the patio from Lake Road. The Applicant shall maintain the existing and proposed landscape screening along Lake Road and Western Drive in perpetuity, which includes the replacement of any dead, diseased or dying evergreens. Prior to the issuance of a Certificate of Occupancy/Approval, the Applicant shall record a copy of this Resolution as a deed restriction in the Essex County Register's Office and provide the Board Secretary with a conformed copy of the document which bears the recording information.

3. The Applicant shall apply for a building permit within 365 days from the date of publication of this Resolution, or this variance approval shall expire unless one or more of the provisions of Section 422 of the Township Land Development Ordinance shall provide otherwise.

4. The Applicant shall be bound to comply with the representations made before this Board by the Applicant and the Applicant's professionals and other witnesses at the public hearings, if any, as set forth in the Board's findings of fact contained in this Resolution. The Board has relied upon such representations in adopting its findings of fact and granting the approvals set forth herein. Such representations are hereby made conditions of such approvals.

5. Prior to the issuance of a Certificate of Occupancy/Approval, the Applicant shall remove all debris from the subject premises immediately upon completion of construction and shall maintain the site in reasonable order during construction.

6. The Applicant shall comply with all other rules, regulations and requirements affecting development in the Township, County and State.

CLERK CERTIFICATION

I, Eileen Davitt, Secretary of the Zoning Board of Adjustment of the Township of Millburn, County of Essex, State of New Jersey, hereby certify that the foregoing is a true and exact copy of a Resolution adopted at the meeting of the Zoning Board of Adjustment of the Township of Millburn held on the 3rd day of August, 2020.

APPLICATIONS

CAL#3752-20, LAUREN & GIUSEPPE INCITTI, 94 KNOLLWOOD ROAD, SHORT HILLS

Timothy Klesse, Architect, and Lauren & Giuseppe Incitti, appeared and were sworn. The applicant would like to install a patio. Proposal is in violation of:

609.5 – Accessory structure front lot line setback on a corner lot

Timothy Klesse’s credentials were presented and accepted by the Board. He gave a brief description of the applicants’ proposal. He indicated that the applicants recently purchased the property and would like to install a patio on the property. Mr. Klesse indicated that the subject property has frontage on 3 sides. They are proposing a raised patio in the Western Drive front yard area.

Entered as A-1: 3 photos
Entered as A-2: video

Mr. Klesse stated that the patio will be approximately 77 feet from Taylor Road. The proposed patio exceeds the required 80 foot setback from Western Drive. However, it is in the front yard area thereby requiring variance relief.

The property is a designated site in the Short Hills Park Historic District and the proposed patio received approval from the HPC.

Entered as A-3: HPC resolution

The applicants agreed to planting 19 evergreen boxwoods around the perimeter of the raised patio in order to buffer the patio from street view.

Upon a motion made by Mary McNett, a second by Joy Siegel, and with a roll-call vote as follows:

Mary McNett – yes
Craig Ploetner – yes
Jyoti Sharma – yes
Joy Siegel – yes
Steve Togher – yes
Jessica Glatt – yes
Joseph Steinberg – yes

Cal#3752-20, Lauren & Giuseppe Incitti, 94 Knollwood Road, was APPROVED, with the condition that the applicant install 19 evergreen boxwoods around the perimeter of the patio.

CAL#3753-20, PADMA & KIRAN SUBRAMANYAM, 50 SOUTH TERRACE, SHORT HILLS

Danial Dubinett, Architect, and Padma & Kiran Subramanyam appeared and were sworn. Danial Dubinett's credentials were presented and accepted by the Board. The applicants would like to construct an addition. Proposal is in violation of:

606.2e1d – Front yard setback

Danial Dubinett gave a brief description of the applicants' proposal.

Entered as A-1: photo of front of house

Entered as A-2: average front yard setback calculations

Mr. Dubinett stated that the applicants would like to construct an enclosed vestibule. The proposed vestibule will result in a front yard setback of 29.4 feet. The average front yard setback within 500 feet of the property is 30.4 feet.

Joseph Steinberg asked if the applicants would agree to some plantings in front of the vestibule area in the grassy area along the circular portion of the driveway. Mr. Dubinett indicated that the applicants would be agreeable to planting 5-6 boxwoods, approximately 2-1/2 to 3-1/2 feet in height in the subject area.

Upon a motion made by Joy Siegel, a second by Craig Ploetner, and with a roll-call vote as follows:

Mary McNett – yes

Craig Ploetner – yes

Jyoti Sharma – yes

Joy Siegel – yes

Steve Togher – yes

Jessica Glatt – yes

Joseph Steinberg – yes

Cal#3753-20, Padma & Kiran Subramanyam, 50 South Terrace, was APPROVED with the condition that the applicant install 5-6 boxwoods, 2 feet apart, 2-1/2 to 3-1/2 feet in height at time of planting in the grassy area along the circular drive.

CAL#3754-20, SHASHANK KUMAR/SHIVANGI MATHUR, 341 OLD SHORT HILLS ROAD, SHORT HILLS

Timothy Klesse, Architect, and Shashank Kumar and Shivangi Mathur, appeared and were sworn. Tim Klesse's credentials were presented and accepted by the Board. The applicant proposes to construct an addition to the dwelling. Proposal is in violation of:

606.2e3d – Front facing garage prohibited

Mr. Kumar stated that they recently purchased the house and would like to have more living area. They are proposing the conversion of the existing attached garage to living space and constructing a detached garage in its place.

Entered as A-1: Township issued construction permits

Mr. Klesse gave a brief description of the applicants' proposal. He stated that the applicants received permits to do interior renovations. When the Township building inspector went out to do inspections, he realized that more work was done than what was indicated on the permits. The applicants installed new sheetrock as permitted but then finished the garage area and made it into living space, thereby eliminating their existing garage. It was at that time that they were informed that they are required to have a garage space on the property.

They are proposing a detached front facing garage to be constructed to the side and behind the rear face of the dwelling. The garage will be 12 feet off the property line, as required. However, front facing garages are not permitted in this zone.

Entered as A-2: 2 photos of dwelling

Entered as A-3: video

The proposed garage is 92 feet from the front property line.

Joy Siegel asked if any consideration was given to a more interesting garage door. Mr. Klesse stated that they could install carriage-style doors which will add a little character.

Steve Togher felt there was no hardship here other than the hardship created by the applicant.

Joseph Steinberg indicated that the house directly across the street has a front facing garage and this proposed garage is set back quite a distance from the street.

Upon a motion made by Jessica Glatt, a second by Mary McNett, and with a roll-call vote as follows:

Mary McNett – yes

Craig Ploetner – no

Jyoti Sharma – yes

Joy Siegel – yes

Steve Togher – no

Jessica Glatt – yes
Joseph Steinberg – yes

Cal#3754-20, Shashank Kumar/Shivangi Mathur, 341 Old Short Hills Road, was APPROVED with the following conditions: 1) the applicant shall install carriage-style garage doors; 2) the applicant shall install six 6 foot conifers along the right side of the driveway to screen the garage from street view; 3) the applicant shall install 2 double hung windows in place of the former garage doors.

BUSINESS

There were no members of the public who wished to speak on non-agenda items.

ADJOURNMENT

A motion to adjourn was made by Craig Ploetner, seconded by Mary McNett, and carried with a unanimous voice vote. (8:50 PM)

Eileen Davitt
Board Secretary

Motion: MM
Second: CP
Date Adopted: 10/5/20