

**BOROUGH OF NEW PROVIDENCE
BOARD OF ADJUSTMENT**

Present: Mr. Nadelberg, Mr. Ammitzboll, Mr. Grob, Mr. Hoefling, Mr. Karr, Mr. Pennisi
Mr. Ping, Mr. Wycko, Mr. Philip Morin, Board Attorney, and Margaret Koontz, Secretary.

Absent: Ms. Polesak

Also present: Ms. Susan Gruel, Borough Planner.

A. CALL TO ORDER

Chairman Nadelberg called the meeting to order at 8:02 p.m.

B. ROLL CALL

C. PUBLIC NOTICE

Chairman Nadelberg stated that this is a meeting of the Board of Adjustment of the Borough of New Providence, County of Union, and State of New Jersey. Adequate notice of this meeting was given in accordance with P.L. 1975, Chapter 231, in that a notice was made in conformance with Section 13 of the Act. He also stated the protocol for the meeting.

D. RESOLUTIONS

Alfred F. Hanzl and Kathryn V. Hanzl Application #2012-10
3 Colony Court, Block 281, Lot 14, R-2 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule II for permission to install a generator.
The proposed front-yard setback along Forest Road to the generator is 22 feet whereas
40 feet is the minimum required.

Mr. Ping moved this and Mr. Wycko seconded same. Members voting in favor: Mr. Grob, Mr. Karr, Mr. Wycko and Mr. Nadelberg. Those opposed: None.

E. PUBLIC HEARINGS SCHEDULED FOR JULY 1, 2013

Steve and Donna Nisberg Application #2013-12
82 Possum Way, Block 380, Lot 9, R-1 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule II, for permission to construct a front porch. The front-yard setback to the porch is 36.78 feet whereas 40 feet is the minimum required. The existing driveway abuts the property line.

Steve and Donna Nisberg were sworn in. The Nisbergs moved into their house in 1997 and would like to make some renovations including new front steps and a covered front porch that reduces the front-yard setback to 36.78' and requires a variance. The proposed porch is larger than the existing porch with enough room for a chair and will be covered to provide protection from the weather. The renovations also include a new kitchen. The Nisbergs have a significant investment in their home and want to give the house more curb appeal and make it more livable.

The Board asked questions about the existing porch and lighting on the new porch. The existing porch does not have a roof. The new covered porch will be safer and will provide protection from rain, snow and ice. The lighting is not shown on the plan, but the Nisbergs do not plan to install floodlights or spotlights on the porch and were agreeable to a condition that the porch never be enclosed. The existing driveway is an existing non-conformance and abuts the property line. The Nisbergs are not changing the driveway. The kitchen has not been updated since the 1960s. The roofline will be changed for the front porch and to add the window above the porch. These changes conform to the zoning ordinances and do not require a variance. All of the neighbors were noticed of the hearing.

The Board had no further questions for the witness. The hearing was opened to questions from the public.

There were no questions from the public.

No one else appeared to testify for this application. The hearing was opened to comments from the audience.

There were no comments from the public. The hearing was closed.

Discussion: Mr. Karr believes the front porch will increase the curb appeal of the house and is an attractive addition. Messrs. Hoefling and Grob agreed that it improves the house and the neighborhood.

Mr. Karr moved to approve the application with the condition that the porch never be enclosed. Mr. Ping seconded the motion. A Resolution will be passed at the next meeting. Those in favor: Mr. Ammitzboll, Mr. Grob, Mr. Karr, Mr. Wycko, Mr. Ping, Mr. Hoefling and Mr. Nadelberg. Those opposed: None.

Anil Kapoor
Application #2013-13
3 Birch Place, Block 72, Lot 18, R-2 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule II & III for permission to construct an addition. The proposed side-yard setback to the addition is 2.24 feet with a combined total of 14.24 feet whereas 12 feet with a combined total of 30 feet is the minimum required. The proposed floor area ratio is .264 whereas .252 is the maximum allowed. The existing driveway is on the property line and has a curb cut of 19 feet wide.

Anil Kapoor and his son, Nick Kapoor, were sworn in along with their architect Michael Bengis. Mr. Bengis provided his credentials as a licensed architect in New Jersey. He was the architect for 14 Birch Place which was extensively renovated. Mr. Kapoor testified that he and his son wanted to buy 14 Birch Place but it sold. They like the neighborhood and want to build there so that they can all stay together. The Kapoors plan to add a second story with the same setback and an 8-foot addition to the back of the house which puts the house 5% over the permitted Floor Area Ratio (FAR).

Mr. Morin noted the additional variances required for the side yard setback and combined side yard setback on the northern and southern sides of the house.

Mr. Pennisi asked why the Kapoors didn't look for a larger house so that they can stay together. Mr. Nick Kapoor responded that they looked at houses for a year and, as stated earlier, were interested in buying 14 Birch Place but it was sold to someone else. They like Birch Place because the area is safe and the schools are good. This is not their first time building a house: They built their previous house and learned from that experience. The Board asked if alternate designs were considered. Mr. Bengis stated that he and the Kapoors discussed adding the second floor without the addition in the rear, but the Kapoors want four bedrooms and enlarging it represents a modest 5% increase in FAR. In addition, the enlargement meets the Kapoor's request. The present house is fine and there is nothing wrong with it, but Mr. Bengis believes that the proposed house improves the neighborhood by adding the garage. He walked the neighborhood, which is a mixture of one- and two-story houses, and believes the proposed two-story house is in keeping with the neighborhood which is in transition toward a greater mix of one- and two-story homes. Some of the houses in the neighborhood are quite a bit larger than what is proposed. Mr. Kapoor noted that the application includes photos of other houses on Birch Place, Crescent Drive and Commonwealth Avenue that have been renovated.

The Board asked about the side elevations since the house is only two feet off of the property line. Mr. Bengis did not prepare side and rear elevations but stated that the rendering of the front façade gives a feel for the house. There will be a window where the former garage used to be and a new garage. The sides of the house are almost devoid of windows. The house will have 16' interior walls and will have siding from the grade to the gable roof. The rear of the house will have a bay window in the kitchen and a sliding door. The bedrooms upstairs will have windows. Mr. Bengis put the design in the front of the house for curb appeal.

The Board expressed concern about the mass of the house and asked how the proposed house compares to 14 Birch Place since the rendering for 3 Birch Place looks a lot wider. Mr. Bengis responded that 14 Birch Place sits on a larger lot. Mr. Anil Kapoor added that the footprint for the proposed addition is the same as the existing house except for the addition in the back. Mr. Bengis testified that he hasn't added anything to the eastern and western sides and he is not concerned about the width. The house to the left is not cheek-by-jowl with the applicant's house because of the driveway between the two.

Marked as Exhibit A-1 is a photo board with photos of: 1) the driveway and house to the left, 2) the driveway and part of the house, 3) the patio in the back which will be removed for the rear addition, and 3) the shed which will also be removed. The exhibit shows there is room to expand in the back. A photograph of the house was marked as Exhibit A-2. If necessary, Mr. Bengis can leave the front of the house alone. The garage has been pushed out 2' so it is 4" closer to the property line, but the garage could be left where it is to avoid further encroachment on the property line. The foyer, which is in the front of the house now, is not being enlarged. Mr. Grob noted that the rendering doesn't represent what the plans show such as the setback for the roofline. Mr. Bengis agreed that the plans and rendering of the front elevation do not match and stated that the rendering is what the house will look like.

The Board would like to see more information about the addition including side and rear elevations to determine if the proposed addition is good for the neighborhood. The Board expressed concern that even though the proposed house is not wider than the

existing house, it feels wider because it is going up. A site plan showing the relationship of the proposed house to the neighbors would also be helpful.

The Kapoors received a copy of Ms. Gruel's report with her comment that the driveway appears to encroach on the neighbor's property and that realignment might be necessary to eliminate this encroachment. Mr. Kapoor said that he checked with the Borough and was told they can't move the curb, but he would be willing to do so.

The Kapoors responded to additional questions from the Board about the chimney and the foundation. The chimney will be removed. The house is built on a slab.

The Board had no further questions for the witness. The hearing was opened to questions from the public.

Christopher Bull, 27 Crescent Drive, asked how the work can be done without disrupting the properties to the left and right without airlifting in the equipment. Mr. Bull can still see the tire tracks on his property from when the previous owners erected the shed in the back. Mr. Bengis responded that the contractors cannot go onto the neighbors' properties without asking their permission which they are not obligated to give.

Mr. Bengis clarified that the house will be demolished: The floor slab, foundation and footings will remain and new footings will be added for the rear addition. There is room in the front to demolish the house which Mr. Bengis believes can be done in two to three days with a backhoe and a flatbed to remove the debris.

Ms. Gruel commented that it is not just the FAR that needs to be addressed in this application but the scale and setbacks and how they are mitigated. Ms. Gruel noted that there is a lot of rear yard and asked if there had been any consideration to adding footage in the middle of the rear of the lot rather than building to the existing footprint. She agreed with the Board that not having windows on the side may not mitigate the concern of the proximity to the neighbors. In addition, the relationship of the side yard to the neighbor would be helpful. Mr. Bengis clarified that there are windows on the second floor on each side of the house and agreed that re-orienting the house is a good idea that deserves consideration.

Sharon Scappetto, 7 Birch Place, stated that the driveway has a nail in it that shows the property line and she would like to reclaim her property. She asked whether it was legal to build so close to her property line and added that the two-story house is going to tower over her home and block the windows on that side of her house. Mr. Bengis responded that the house will not be any taller than hers, but he has heard the Board's concerns about the scale of the house.

No one else appeared to testify for this application. The hearing was opened to comments from the audience.

Hans Ammitzboll, 15 Birch Place, who lives three doors down was sworn in. The mass of 14 Birch Place concerned him as does the mass of the applicant's house since 70% to 80% of the mass is in the front. Bringing the carport area even to the house isn't a big exacerbation of the footprint but it adds to the mass of the house and would seem like a 29' foot wall that is visible from everywhere on the block. The increase in the mass of the house is obvious even though it isn't a big increase in size. Other houses

on “bowling alley” lots have built in the back. Putting a giant square in the front yard is visibly painful. Mr. Ammiztball wants to be a good neighbor, but he doesn’t like the proposed house and would like to see another use for the big lot.

The Board offered the applicant the option to continue the hearing at another meeting. The applicant agreed to carry the hearing and will submit new plans by July 26th for the August 5, 2013, meeting. The hearing was carried to August 5, 2013. No further notice is required or will be given.

F. COMMUNICATION ITEMS

No communication items.

G. MISCELLANEOUS

No miscellaneous business.

H. EXECUTIVE SESSION

No Executive Session.

I. MINUTES FROM 6/17/13

The minutes from June 17, 2013, were approved as submitted.

J. ADJOURNMENT

The meeting was adjourned at 9:23 p.m.