

**BOROUGH OF NEW PROVIDENCE
BOARD OF ADJUSTMENT
MEETING MINUTES - MONDAY, SEPTEMBER 22, 2014 – 8:00 p.m.**

Present: Mr. Nadelberg, Mr. DeSarno, Mr. Grob, Mr. Hoefling, Ms. Jaynes, Mr. Karr, Mr. Pennisi, Shana Attas, Substitute Board Attorney, Phil Morin, Board Attorney, and Margaret Koontz, Secretary

Absent: Mr. Ammitzboll and Mr. Ping

Also present: Ms. Susan Gruel, Borough Planner, and Mr. Keith Lynch, Director of Planning and Development.

Ms. Attas covered the meeting until Mr. Morin arrived.

A. CALL TO ORDER

Chairman Nadelberg called the meeting to order at 8:00 p.m.

B. 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.

C. RESOLUTION

Dmitry and Elena Kozachenok Application #2014-11
77Overhill Road, Block 257, Lot 14, R-1 Zone, New Providence, NJ
Chapter 310, Article IV, Section 310-10, Schedules II & III for permission to construct an addition. The proposed side-yard setback to the addition is 8.99 feet with a combined total of 28.54 whereas 12 feet with a combined total of 30 feet is the minimum permitted. The floor area ratio is .32 whereas .260 is the maximum permitted.

Mr. Hoefling moved this and Mr. Grob seconded same. Members voting in favor: Mr. Grob, Mr. Hoefling, Mr. Karr, Mr. DeSarno and Mr. Nadelberg.

E. PUBLIC HEARINGS SCHEDULED FOR SEPTEMBER 22, 2014

Ian and Cynthia Fowles Application #2014-16
41 Brookside Drive, Block 132, Lot 3, R-2 Zone, New Providence, NJ
Chapter 310, Article IV, Section 310-10, Schedules II & III for permission to construct an addition. The proposed side-yard setback to the addition is 7 feet with a combined total of 22.6 feet whereas 12 with a combined total of 30 feet is the minimum required. The proposed floor area ratio is .272 whereas .248 is the maximum permitted. The existing side-yard setback to the shed is 4 feet.

Cynthia and Ian Fowlis and their architect, Carol Hewitt, were sworn in. Ms. Hewitt described the application which requires two bulk variances and a D variance for the floor area ratio (FAR). Several years ago the applicants constructed a first-floor addition on the right side of the house, repositioned the kitchen and extended the house in the rear (Sheet A-2, first floor plan). The garage on the left side of the house is only 10'4" wide with obstacles including the chimney and stairs making it difficult to get in and out of the car and to use the garage for storage. The applicants propose to expand the garage 10'8" across the front and 20'9" to the back with stairs from the mud room to the new bonus room and bathroom above. The existing roof on the garage will be raised 6' making it 22' to the new ridge for the 1.5 story addition. New peaks will be added to diminish the bulk. A photo board showing the front, rear and left side of the house, the interior of the garage and chimney, the neighboring house and other houses with two-car garages was marked as Exhibit A-1. The road curves and the neighbor's house is set back a bit so there is decent space to the neighbor.

The applicants responded to questions from the Board and planner. A third of the houses within 200' of the Fowlis' house have two-car garages. The paver walkway to the left of the garage will be relocated and the two air conditioning condensers have been relocated to the left. Additional condensers are not expected. The Board discussed the relocation of the AC condensers. Mr. Fowlis agreed to leave the units behind the garage. The tree next to the proposed addition is not in the way and will remain. The stone treatment on the house will be carried to the garage but not around to the side and the siding will be Hardie plank. The distance from the neighbor's house to the property line in the rear is 10' and 12' in the front. The distance from house to house is 24' in the front and 17' in the rear. The Board noted that it looks as if the relocated walkway is going to go through the tree. The applicants will adjust the walkway to keep the tree. The applicants looked at relocating access to the bonus room from the second floor but couldn't logistically do this. With the proposed addition, the house will have four bedrooms and 3.5 baths. The applicants looked at other houses before they did the first addition but didn't find anything in a neighborhood where there are children. They like the area and the schools.

The lot is undersized so the expansion of the garage triggers the variance for FAR. If the lot were 15,000 SF, a 3,055 SF house would be fine. If the garage were not included in FAR, the FAR would be .235 and would comply with the requirement of .248. Ms. Hewitt noted that the Board approved a FAR application at 94 Brookside Drive for a larger garage with side-yard variances. The side-yard setbacks for the Fowlis' proposed addition are larger than those granted for 94 Brookside Drive. The lot width also creates a problem for the applicants because it is only 80' rather than the required 110' and the lot narrows in the rear. The house sits parallel to the property line on one side but is skewed on the other. The setbacks for the shed are exiting non-conformances. The Fowlises ordered a smaller shed that would comply and a larger shed was delivered. The shed on the neighbor's property is 13' away from their shed so there is no issue with the fire code. Ms. Hewitt provided the positive and negative criteria for the variances. The expanded garage will allow the applicants to park their cars in the garage not in the driveway and they will be able to store the toys and bikes in the garage. The addition will have a minimal impact on the neighborhood and the height of the 1.5 story addition to the ridge is less than what is permitted.

Ms. Gruel was comfortable with the increase in FAR but expressed concern about the intrusion into the side yard because it is not consistent with the neighborhood and asked

about adding in the rear. Ms. Hewitt responded that she looked at putting the addition in the rear but bedroom #2 (Sheet A-3. Second-floor plan) becomes captive and wouldn't have windows so it doesn't qualify as a bedroom. She looked at other options but they all compromised the bedrooms. The applicants could add a 1.5 car garage that would accommodate one car plus the toys, but Ms. Hewitt stated that the shape of the lot is a hardship and the two-car garage is in keeping with the neighborhood. The applicants responded that they plan to keep the cars in the garage especially after shoveling so much snow off the cars last winter.

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

There were no questions from the public.

No further witnesses appeared to testify and the hearing was opened to comments from the public.

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

Discussion: The Board routinely approves a 9.6% increase in FAR, but Mr. Karr was concerned about the side-yard setback which is tight. Mr. Karr agreed with Mr. Hoefling that the shape of the lot is a hardship and the purpose of the Board is to grant variances that will bring houses up to reasonable use and improve the town and neighborhood but asked what happens if the neighbor wants expand to 7' of the property line: How can the Board deny them if it approves this application? Mr. Hoefling is not sure such a request would bother him. Mr. Pennisi believes the size of the addition is in keeping with the neighborhood and will not have a substantial impact but is also concerned about the side-yard and appreciates Mr. Karr's concern. The mitigating factor is that it is a garage not living space that encroaches on the neighbor and the neighbors don't have windows on that side. Mr. DeSarno also expressed concern about the side yard. Mr. Grob believes the saving grace is that the garage is only 1.5 stories rather than two and the tree mitigates the closeness of the side yard. The Board also noted that none of the neighbors were present to object.

Mr. Hoefling moved to approve the application with the following conditions: 1) There will be no walkway on the side, 2) the tree will remain and the critical root zone will be protected during construction, 3) the air conditioning condensers will remain where they are but if it becomes necessary to move them, they will be located at the rear of the addition, 3) if a third air conditioning condenser is required, it will be a single point unit, and 4) the garage space/bonus room will not be converted to rental space. Mr. DeSarno seconded the motion. A resolution will be passed at the next meeting. Members voting in favor: Mr. Grob, Mr. Hoefling, Mr. Karr, Mr. Pennisi, Ms. Jaynes, Mr. DeSarno and Mr. Nadelberg. Those opposed: None. .

Adam and Katherine Forbes
34 Hickson Drive, Block 134, Lot 23, R-2 Zone, New Providence, NJ
Chapter 310, Article V, Section 310-19 I for permission for a shed. The proposed rear-yard setback to the shed is 3 feet whereas 6 feet is the minimum required. The proposed side-yard setback to the shed is 3 feet whereas 6 feet is the minimum required.

Katherine Forbes was sworn in and testified that the property had a wooden shed on a concrete slab when they bought the house. The shed was rotting and needed to be replaced. Ms. Forbes wanted to put the new shed on crushed stone rather than on an impervious surface and thought the corner of the lot which is raised and had a play area was a good place to put it. Mrs. Forbes was replacing one shed for another and didn't know that she had to come to the Board because of the location of the shed. The location of the new shed protects the neighbor's garage from errant lacrosse balls. The neighbor's garage is probably 12' away from the shed so the location meets the fire code. The neighbor to the right didn't notice the shed for two weeks. It is tucked in and helps the layout of the yard.

Ms. Forbes responded to questions from the Board. The shed is 10' x 16' with the 10' side sitting parallel to the rear property line. The previous shed was 10' x 12' or 14.' The shed is intended for storage so that the applicants can empty the garage and park in it. The only combustible item in the shed is the lawn mower, but the gas is not stored in the shed. The shed could be moved but the applicants would have to redo the crushed stone. The shed was installed by the company that built it.

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

There were no questions from the public.

No further witnesses appeared to testify and the hearing was opened to comments from the public.

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

Discussion: Mr. Karr visited the property and believes it is the best location for the shed. The Board agreed but was concerned about the storage of combustible materials. Mr. Lynch noted that he can't enforce a condition that combustible materials can't be stored in the shed and stated that it would be better not to allow an electrical outlet in the shed.

Mr. Pennisi moved to approve the application with the condition that no electrical outlets will be installed in the shed. Ms. Jaynes seconded the motion. A resolution will be passed at the next meeting. Members voting in favor: Mr. Grob, Mr. Hoefling, Mr. Karr, Mr. Pennisi, Ms. Jaynes, Mr. DeSarno and Mr. Nadelberg. Those opposed: None. .

Our House, Inc. Application #2014-18
340 Central Avenue. Block 271, Lot 46.01, R-2 Zone, New Providence, NJ
Chapter 310, Section 310-12, Permitted Uses; Schedule I and Article VI Conditional Uses Section 310-37 for permission to sublease existing classroom space from Morris-Union Jointure Commission. The proposed sublease of existing classroom space to ARC of Union County for use as a life skills training center for students over the age of 21 does not conform to the requirements of the R-2 District. The proposed use is B-Business occupancy and is not permitted in the district. The sublease creates an intensification of the existing conditions.

Ms. Jaynes recused herself from the hearing. Mr. Morin informed the applicant that only

six Board members were eligible to vote on the application and five affirmative votes are required. The applicant opted to proceed with the hearing.

Janet Parmelee, Nancy Dougherty, Geraldina Casalaspro, Nicholas Verderese and Michele Wernsing were sworn in. Vincent Vyzas of Vyzas & Associates, P.C., attorney for the applicant, described the application to sublease and renovate the interior of six classrooms at Morris-Union Jointure Commission on Central Avenue to be used for a training skills program for autistic adults over the age of 21. The program is supported by the state. Mr. Vyzas disagrees that the program will intensify the existing conditions because the program will be limited to 21 students while 54 students could occupy the six classrooms if the school were fully occupied.

Geraldina Casalaspro, Director of Employment Service of Our House, Inc. and developer of the Our House program, provided an overview of the program which will operate daily, except holidays, from 9:30 a.m. to 3:30 p.m. The program is open to autistic adults 21 years and older, and accepts graduates from public school and teaches them life skills such as cooking, cleaning, shaving, showering, etc. Participants in the program go out into the community and volunteer (some may be paid). The program also has a recreational component including swimming and yoga. Each participant has a life coach with three participants per coach. Each coach arrives at 8:30 a.m. to get a small van and then leaves the site to pick up his/her three program participants and brings them back to the school. The vans are parked in the spaces specifically designated for the program's use at Morris-Union Jointure. The life coach escorts the program participants into the building which is accessed with a swipe card. The life coaches leave at 3:30 p.m. to take their program participants home and return with the vans which are parked onsite overnight. Our House program participants will only use the entrance designated for the program.

Ms. Casalaspro responded to questions from the Board. The program will have its own driveway entrance that will be separate the driveway for students at Morris-Union Jointure and the queue of vehicles on Central Avenue. The Division of Developmental Disabilities limits the number of program participants to 21. A director will be onsite. No deliveries are expected other than initial deliveries of furniture for the classrooms since the program participants will bring their own lunches or will shop for themselves and bring the groceries to the building in the van. The facility will have a full kitchen so the participants can prepare food. In addition to the program participants, there will be seven life coaches plus the director onsite. A behaviorist may also be onsite for meetings and occasionally family members may be onsite. Many of the potential program participants are still in high school or are at home with their parents. Our House started a similar program in Basking Ridge in 2012 that is filled to capacity. The participants are mainly from Union County including New Providence and the surrounding area. If the application is approved, some of the program participants in Basking Ridge will be relocated. Our House is currently offering a pilot program with nine participants at Morris-Union Jointure that is filled to capacity with a waiting list. The program participants will not spend all six hours at Morris-Union Jointure. The three program participants stay together all day with their life coach.

Ms. Casalaspro described programs offered by our House which provides residential and employer services. Our House operates homes/residences with 24-hour staff, supervised apartments as well as supported living programs. Our House provides employer services to 250 individuals per year and places individuals in jobs. It also

offers volunteer programs.

Ms. Casalaspro responded to additional questions from the Board. Program participants can stay until they age out and retire or until the program no longer fits a participant's needs. Individuals tend to stay and age out. Participants must be Medicare eligible to be in the program and have a diagnosis of autism. Our House receives referrals and reviews applications to ensure the applicant is eligible, that the program will serve the individual and that the individual can maintain the program. Applicants are not turned away unless Our House can't serve them. The staff works with the program participants and behaviorists work with the staff. If one of the participants is having a bad day, the participant is not allowed out in the community that day and the three-participant team and life coach stays back, but the program doesn't usually have these types of participants. Public safety has never been a problem in the two years the program has operated in Basking Ridge. In an emergency, the staff calls 911 since they are not medical staff.

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

Anatoli Dontsoy, 69 The Fellsway, asked if the program participants can drive and if their families have weapons in their homes. Program participants cannot drive. Mr. Morin stated that the second question is not relevant. Mr. Dontsoy also asked about the sidewalk access to Salt Brook School. Participants in the Our House program do not arrive until 9:30 a.m. after the 8:30 a.m. start at Salt Brook School. Children walking through the ball fields at Morris-Union Jointure to get to Salt Brook School can continue to walk through the ball fields. Our House program participants will not use the playground at Morris-Union Jointure.

The Board asked what would happen to the program if Morris-Union Jointure no longer uses the facility. A copy of the Lease Agreement between Morris-Union Jointure Commission and Youth Consultation Services, Inc., dated March 2014, allowing Our House to lease space at the Developmental Learning Center on Central Avenue for a three-year term, was marked as Exhibit A-1. A copy of the Amendment to Lease Agreement, dated May 2014, was marked as Exhibit A-2.

Janet Parmelee, Superintendant of Schools for Morris-Union Jointure, described the terms of the lease. The initial term is three years with two additional one-year renewals for a total of five years.

The Board asked about the long-term plan after three years. Dr. Parmelee responded that she has no doubt that the Our House program will be successful. Morris-Union Jointure is already successful and Dr. Parmelee believes the marriage between Our House and Morris-Union Jointure has to happen and that it will become a model for new programs in other counties.

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.

Nancy Dougherty, Studio 1200, LLC was sworn in, presented her credentials as a

licensed professional architect and was accepted as such. Ms. Dougherty described the space to be occupied by Our House, Inc. and the parking areas for Our House as indicated by cross-hatching on SP-1 of the Proposed Site Plan. Fifteen parking spaces are required for Our House: Seven spaces for the vans, seven spaces for the life coaches and one space for the director. The site has an abundance of onsite parking and Our House can use other spaces on the site if necessary. Ms. Dougherty described traffic circulation for Morris-Union Jointure and the separate entrance to the site for Our House. Ms. Dougherty then described the proposed changes for Our House. Our House's space will be separated from Union-Morris Jointure with an emergency exit out of Morris-Union Jointure into the Our House space. The emergency exit door will be locked with a panic bar and alarm. A female bathroom and unisex shower room will be added. The space will also have a small teaching kitchen. There is an emergency exit at the east end of the Our House space.

The Board had additional questions that were answered by Ms. Dougherty, Ms. Casalaspro and Dr. Parmelee. The Our House program will have male and female participants grouped by team-based needs. The teams are usually all the same sex but sometimes males and females will be mixed. If the team is mixed, only the staff will be with a team member when toileting and all staff can handle toileting. Our House's program in Basking Ridge has not had any problems with mixed teams. Morris-Union Jointure students will not mix with Our House program participants. Students from Morris-Union Jointure cannot leave the facility on their own: The school is one-on-one and the students are never alone. If Morris-Union Jointure were to use the six classrooms that Our House would like to sublet, there could be 36 students ages eight to 14 and up to 54 older students plus teachers: Our House will have a maximum of 21 students and eight staff members. Morris-Union Jointure currently has 20 openings. If filled, Morris-Union Jointure could have 80 students. The maximum number of students at the facility with full occupancy at Morris-Union Jointure and occupancy by Our House is 101. Our House is currently using three classrooms at Morris-Union Jointure on a pilot basis that were previously used as laboratories. The two doors on the south side of the building that could be used by Our House are not needed for egress and will be locked.

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

There were no questions from the public.

Nicholas Verderese, Dynamic Traffic, was sworn in and was accepted by the Board as a licensed professional engineer. Mr. Verderese testified that the application represents a contraction of a conditional use as Our House will have 21 students plus eight staff in a space that could be occupied by 36 to 54 students plus 30 to 60 staff members. All of the driveways will remain the same. The staff for Morris-Union Jointure arrive onsite at 8:15 a.m. The vehicles dropping off students for Morris-Union Jointure queue on Central Avenue at 8:30 a.m. and leave the site at 8:45 a.m. In the afternoon the vehicles picking up students arrive at 2:30 p.m. and leave the site at 2:45 p.m. It takes 20 to 30 minutes to clear the site. The traffic for Our House will be separate from Morris-Union Jointure: The hours of arrival and departure for Morris-Union Jointure and Our House are staggered so there is no peak-hour impact although the Our House program would extend the length of time vehicles are onsite. Traffic for Our House will arrive 15 to 30

minutes after the morning traffic at Morris-Union Jointure. In a one-hour period, there will be 21 trips for the seven vans entering and exiting the site, and 80 trips for Morris-Union Jointure. Mr. Verderese presented the results of a traffic count. The maximum bus queue was seven in the morning and sixteen in the afternoon.

The Board discussed queuing on Central Avenue. Dr. Parmelee assured the Board that the “partying” that used to occur on Central Avenue several years ago while the bus drivers were waiting to pick up students at Morris-Union Jointure has been addressed. The school had 120 students at that time. Since then the number of students has decreased as students were relocated to the Warren facility which is larger. The number of buses queuing is now seven to 16.

Mr. Verderese did not complete a traffic count on Central Avenue but it’s moderate. The site has 194 parking spaces. A maximum of 101 cars were parked on the site in the morning and a maximum of 93 in the afternoon. Even if the lot is 2/3 full, only 130 parking spaces will be used. Our House will park seven vans overnight and Morris-Union Jointure will park 11 vehicles overnight behind the shrubbery that fronts Central Avenue so they are not visible. Our House vans are regular vans/minivans: Morris-Union Jointure has 16-passenger buses and regular vans.

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

There were no questions from the public.

Mr. Lynch explained that educational uses are permitted as a conditional use; however, educational uses end at the age of 18 years which makes the proposed space for Our House a college that requires a variance for B-Business occupancy which is not permitted in the district and is an intensification of another business. If the Our House application is approved but the program doesn’t work out, another business could move in.

The Board asked for input from Ms. Gruel. Ms. Gruel believes the application to permit Our House to sublet space for a skills training program for autistic adults over the age of 21 is an inherently beneficial use. From the testimony presented, occupancy by Our House will have a minimal impact on the neighborhood.

Mr. Hoefling stated that the queuing on Central Avenue now is a non-event and Our House relieves the pressure of what could be on the site. He is comfortable approving the application but is concerned about future uses. Mr. Morin stated that he can craft the resolution to limit future use to a program similar to what the testimony for the Our House application purported or that the space would revert to its previous use. The Board asked if Our House could take over the whole building if Morris-Union Jointure left. Our House would have to come back for a variance to could occupy all of the space.

No further witnesses appeared to testify and the hearing was opened to comments from the public.

There were no comments from the public.

The hearing was closed.

Discussion: Mr. Pennisi approves of granting a B-use variance so that Our House can occupy the space at Morris-Union Jointure: Use of the space by Our House for the training skills program makes sense and benefits the community. Mr. Karr concurred noting the alarming increase in autism. Mr. DeSarno's concerns about public safety were addressed in the testimony. The application presents no detriment to the public.

Mr. Pennisi moved to approve the application with the condition that future use of the space to be sublet to Our House, Inc. will be limited to a similar program or returned to its previous use. Mr. Hoefling seconded the motion. A resolution will be passed at the next meeting. Members voting in favor: Mr. Grob, Mr. Hoefling, Mr. Karr, Mr. Pennisi, Mr. DeSarno and Mr. Nadelberg. Those opposed: None.

F. REVIEW OF PUBLIC HEARINGS SCHEDULED FOR OCTOBER 6, 2014

Lee and Stacy Howell Application #2014-19
51 Holmes Oval, Block 41, Lot 14, R-2 Zone, New Providence, NJ
Chapter 310, Article IV, Section 310-10, Schedule II for permission to construct an addition. The proposed side-yard setbacks are 9.44 feet with a combined total of 20.73 feet whereas 12 feet with a combined total of 30 feet is the minimum permitted. The existing driveway is 3 feet from the property line.

Kenneth and Heather Huber Application #2014-21
15 Brook Road, Block 44, Lot 19, R-2 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule II for permission to construct a deck. The side-yard setbacks are 5 feet with a combined total of 13.6 feet whereas 12 with a combined total of 30 feet is the minimum required. The existing front-yard setback is 39.7 feet. The existing shed is 2 feet from the house. The existing wood deck/platform on the right rear of the house is 2 feet from the property line. The existing driveway is 2 feet from the property line.

Robert and Michelle Krautheim Application #2104-23
151 Woodland Road, Block 232, Lot 20, R-2 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule II for permission to construct an addition. The proposed front-yard setback along South Street is 33.3 feet whereas 40 feet is the minimum permitted. The existing front-yard setback to the house along South Street is 21.6 feet and along Woodland Road is 38.7 feet. The existing shed is 3.6 feet from the side property line.

Susan Wirth Application #2014-24
4 East Second Street, Block 140, Lot 3, 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 Livingston Avenue to the generator is 20 feet whereas 40 feet is the minimum required.

G. MISCELLANEOUS

No miscellaneous business.

H. EXECUTIVE SESSION

No Executive Session.

I MINUTES FROM 9/8/2014

The minutes from September 8, 2014, were approved as submitted.

J. ADJOURNMENT

The meeting was adjourned at 10:30 p.m.