

**BOROUGH OF NEW PROVIDENCE
BOARD OF ADJUSTMENT
MEETING MINUTES – MONDAY, APRIL 18, 2016 – 8:00 p.m.**

Present: Mr. Ammitzboll, Mr. DeSarno, Mr. Grob, Mr. Karr, Mr. Morgan, Mr. Ping, Mr. Phil Morin, Board Attorney, and Margaret Koontz, Secretary

Absent: Mr. Nadelberg

Also present: Keith Lynch, Director of Planning and Development

Martha Jaynes resigned from the Board effective April 12, 2016.

A. CALL TO ORDER

Vice Chairman Grob called the meeting to order at 8:05 p.m.

B. PUBLIC NOTICE

Vice Chairman Grob 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. RESOLUTIONS

New York SMSA Limited Partnership d/b/a Verizon Wireless Application #2016-01
121 Chanlon Road, Block 221, Lot 6, TBI-2, New Providence, NJ 07974
Conditional use and site plan approval to install a wireless communications facility on the roof of 121 Chanlon Road. Height variance to allow the antenna enclosures to extend to 63' and the equipment shelter to 65' above grade, where 50' is permitted and a variance to allow a zone setback of 130' to the C-1 Special Commercial Zone where a 150' zone setback is required, together with any additional variances, waivers or other relief required by the Board after its review of the application.

This resolution will be memorialized at the May 2, 2016, meeting.

Members eligible to vote in favor: Mr. Ammitzboll, Mr. DeSarno, Mr. Grob, Ms. Jaynes, Mr. Karr, Mr. Ping and Mr. Nadelberg

Kline Boulevard Associates, LLC Application #2016-06
38 Kline Boulevard, Block 202, Lot 1, 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 to the front stoop is 31 feet and 32 feet to the addition along Kline Boulevard and 23.83 feet to the addition along Richland Drive whereas 40 feet is the minimum required. The existing front-yard setback to the house is 34.7 feet along Kline Boulevard and 22.6 feet along Richland Drive to the detached garage.

The applicant's attorney is reviewing the resolution. It will be memorialized at the meeting on May 2, 2016.

Members eligible to vote in favor: Mr. Ammitzboll, Mr. DeSarno, Mr. Grob, Ms. Jaynes, Mr. Karr, Mr. Ping and Mr. Nadelberg

Page K. Woodbury and Elizabeth Woodbury Application #2016-09
67 Holmes Oval, Block 41, Lot 9, R-2 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule III for permission to construct a garage addition. The proposed building coverage is 1839 square feet whereas 1500 square feet is the maximum allowed. The existing front-yard setback to the house is 39.8 feet and 36 feet to the portico.

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

New Cingular Wireless PCS, LLC ("AT&T") and Application #2015-11
Sprint Spectrum Realty Company, L.P. ("Sprint") Application #2016-12
1778 Springfield Avenue, Block 191 Lot 1, C-2 Zone, New Providence, NJ 07974
Joint applicants received temporary approval for a use variance, height variance, rear yard setback variance, variance for setback from another zone and preliminary and final site plan approval to construct a temporary 100' ballast frame monopole with AT&T antennas at the top of the pole and Sprint's antennas below AT&T's antennas. Applicants placed related equipment at the base of the pole. Applicants have also received extensions of this approval. Applicants now seek an additional twelve (12) month extension until June 30, 2017.

Mr. Morin advised that the order of the sentences in paragraph 3 is reversed and will amend the resolution.

Mr. Ammitzboll moved to approve the resolution with the correction to paragraph 3. Mr. Morgan seconded the motion. Members voting in favor: Mr. Ammitzboll, Mr. DeSarno, Mr. Grob, Mr. Ping and Mr. Morgan.

E. PUBLIC HEARING SCHEDULED FOR APRIL 18, 2016

Lena Chen Application #2016-02
87 Passaic Street, Block 53, Lot 1, R-2 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule II and III, to construct a new house. The proposed lot area is 11, 867 sq. ft. whereas 15,000 sq. ft. is the minimum required. The proposed lot width at the right of way along Passaic Street is 58 feet whereas 70 feet is the minimum required. The proposed lot width at the setback along Passaic Street is 70 feet whereas 110 feet is the minimum required. The proposed front yard along Lincoln Lane is 14.25 feet and 29.4 feet along Passaic Street. The proposed rear yard to the house is 19.75 feet whereas 40 feet is the minimum required. The proposed building coverage is 2372 sq. ft. whereas 1937 sq. ft. is the maximum allowed. The proposed driveway width is 20 feet whereas 16 feet is the maximum permitted. The property is on the Borough historical register. The property has two existing sheds one is 3 feet from the property line and the other is in the right of way along Lincoln Lane. Also there is an existing 6' high fence along Lincoln Lane.

The applicant submitted revised plans, however, additional information about the revised plans was requested by the Zoning Official and the hearing was carried to May 2, 2016. No further notice is required or will be given.

Gene Gregory

Application #2016-08

41 Brook Road, Block 44, Lot 25, 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 to the front porch is 32.77 feet and 39.6 feet to the second-floor addition whereas 40 feet is the minimum required. The proposed side-yard setback is 10 feet to the second-floor addition and 10.83 feet to the covered front porch with a combined total of 20.83 feet whereas 14.4 feet with a combined total of 26.7 is the minimum required. The existing side yard is 6.8 feet.

Gene Gregory and Al Leonard, his architect, were sworn in. Mr. Morin questioned the applicant about noticing the hearing as the applicant served the notice to the new owner of the property at 37 Brook Road rather than the owner of record on the property owners' list. Mr. Gregory testified that he hand delivered the notice to the new homeowner of the property which is adjacent to the property in question. Mr. Morin determined that the Board has jurisdiction to hear the application.

Mr. Gregory lives at 49 Charnwood Road but owns the property at 41 Brook Road which is adjacent to his house. Mr. Gregory is a local landscaper and his goal in constructing the proposed addition is to save trees as that will reduce cooling costs by 50%. The drainage will be directed to the river but he plans to install a rain garden so there will be no run off to the back. It is a wide lot. Mr. Gregory proposes to add a front porch to give the house character. Although not shown on the elevation, he will use natural stone across the front of the house from the bottom of the house up to the windows. He will use the best insulation to make the house as green as possible. He originally bought the house as an investment but he and his wife may now sell their house and move into this one. Mr. Gregory will manage the construction. He hopes to re-use the siding because it is brand new. Mr. Gregory wants to build a beautiful house that adds character to and increases the value of the neighborhood. He does not want to overbuild. He is not removing any trees and will put piers around the large ash in the back to save it.

The following exhibits were marked:

Exhibit A-1: Colorized version of the front elevation; site plan showing addition and zoning data for the property and addition; and, floor plans for the first and second floors.

Exhibit A-2: Photo board with photographs of the front yard to Brook Road; rear yard to the river; left side yard at the front; left side elevation; front elevation; right side yard; rear elevation; and, west side yard elevation at the rear.

Mr. Leonard described the application and variances required to add a second floor addition, first-floor addition for a family room at the rear of the house and a covered front porch. The lot is a very irregular shape that skews because it is located on a corner which triggers the side-yard variances. The house respects the 12' side-yard setback on the right side of the house except for a corner of the covered porch. The variance requested for the encroachment of the porch is *de minimus*. The rear addition is stepped back to conform to the setbacks. The front-yard to the covered front porch is 32.77' and the addition is cantilevered back for a 39.6' setback. The house is currently a

pure rectangle. A one-story addition is proposed at the back of the house to push out the kitchen and for a family room. A mudroom will also be added. The second-floor addition is for a master bedroom. The peaks create balance and symmetry which is important for the property and the neighborhood. The addition is not intrusive.

Messrs. Gregory and Leonard responded to questions from the Board. The porch is 5' deep. The existing setback at the right corner of the house is 12.7' and the proposed setback is 10.83' to the covered porch. Mr. Grob was concerned that the two-story addition will create a wall for the neighbors especially since the front right corner of the addition is only 12' from the property line. Mr. Leonard couldn't put a window on that corner on the second floor because of the shower but there are two windows facing the neighbor. Mr. Leonard added that a portion of the second-floor addition also sits back from the front of the house to break up the bulk. Mr. Gregory added that he installed trees along the right property line that breaks up the mass, and the neighbor has a generator on that side of the house. Mr. Leonard described the proposed windows on the right side of the house closest to the neighbor. Mr. Leonard thinks that most of the houses in the area have 40' front-yard setbacks: Some have porches. There are other two-story houses on Charnwood Road but less so on Brook Road. The porch will seat two people and Mr. Gregory does not plan to use it for barbecuing and is okay with a condition that the porch won't be enclosed.

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 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 was initially concerned about the bulk of the addition but the relief requested is not excessive and he is comfortable granting the variances. Mr. Ammitzboll was also concerned about the bulk of the addition especially on the right side of the house but he is not sure it will ever become an issue because of the trees. In addition, the neighbor will not be staring at a big side wall because the addition angles away from the property line, the walls are staggered and there are almost a dozen windows. The improvements outweigh the negatives of the addition. The 6.8' setback on the left corner of the house is a "victim" of the irregularly shaped lot. Mr. Ping believes the addition is an improvement over the existing house and the applicant has been very attentive to protecting the trees. Mr. DeSarno was impressed with the level of thought that went into the design of the house which is on an irregularly shaped lot and admired the applicant's compassion for the trees.

Mr. Ping moved to approve the application with the condition that the front porch will never be enclosed. Mr. Ammitzboll seconded the motion. A resolution will be passed at the next meeting. Members voting in favor: Mr. Ammitzboll, Mr. DeSarno, Mr. Karr, Mr. Ping, Mr. Morgan and Mr. Grob. Those opposed: None.

Kathy Dwyer

24 Hickson Drive, Block 134, Lot 25, R-2 Zone, New Providence, NJ 07974

Application #2016-10

Chapter 310, Article IV, Section 310-10, Schedule III for permission to construct an addition. The proposed building coverage is 1,721 square feet whereas 1,611 square feet is the maximum permitted. The maximum improved lot coverage proposed is .41 whereas .40 is the maximum permitted. The existing driveway is 3 feet from the property line. The existing detached garage is 3.25 feet from the rear property line and 2.6 feet from the side property line.

Jack and Katherine Dwyer and their architect, Tom Hofmann, were sworn in. The Dwyers would like to construct an addition for a mudroom and family room at the back of the house. The proposed addition exceeds the zoning requirements for building and lot coverage. The overage on lot coverage is created by the pavement required to access the detached garage at the back of the property. The proposed addition is similar to others in the neighborhood including the additions on either side of the Dwyer's house. There is enough setback in the rear to the houses on Delwick Lane. Mrs. Dwyer testified that there have been a lot of improvements on Hickson Drive and described the following exhibit:

Exhibit A -1: Photo board showing a 1-story bump-out for a family room at 34 Hickson Drive; a one-story bump-out for a family room at 25 Hickson Drive directly across the street from the Dwyer's house; a one-story family-room addition at 20 Hickson Drive, the Dwyer's neighbor to the left; a one-story addition on Pleasantview Drive; and, a two-story addition for a family room and master bedroom on Primrose Drive.

Mr. Hofmann testified that the addition is 110' over the allowed building coverage and 86 SF over the impervious lot coverage. The addition will be centered at the rear of the house and is set in 13' 6" from the side of the existing house so that it is farther away from the neighbor's property unlike the addition at 34 Hickson Drive which is on the side.

The Dwyers responded to questions from the Board. They have a two-car garage at the rear of the property. They re-did the driveway two years ago and reduced it as much as possible so that it would lead directly to the garage. The side door on the addition will be illuminated with wall sconces. The Dwyers plan to keep the existing paver patio and install the new patio later. They hope to use the existing air conditioning system and plan to use siding materials that will match the siding installed in 2011.

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 further witnesses appeared to testify and the hearing was opened to comments from the public.

Bill Ryan, 30 Hickson Drive, was sworn in. Mr. Ryan lives to the right of the Dwyers and welcomes the addition as it will add value to the Dwyer's property and to his property. He has seen the plans and has been inside the house.

Discussion: The Board agreed that the addition looks good. It's located in the rear and is pulled back from the sides of the house. It's consistent with the neighborhood and has minimal impact.

Mr. Ammitzboll moved to approve the application and Mr. Ping seconded the motion. A resolution will be passed at the next meeting. Members voting in favor: Mr. Ammitzboll, Mr. DeSarno, Mr. Karr, Mr. Ping, Mr. Morgan and Mr. Grob. Those opposed: None.

Robert and Erica Zecca Appeal #2016-11
17 Fourth Street, Block 160, Lot 3, R-3 Zone, New Providence, NJ 07974
APPEAL of permit denial of the Zoning Officer and Zoning Review Officer for non-compliance with Chapter 310, Article V, Section 310-19(D) and 310-20(D) for permission to construct a new home. The proposed driveway is 22 feet wide whereas 16 feet is the maximum curb cut permitted. The proposed structure is inappropriate to the neighborhood with respect to the elements of exterior design affecting the character of the neighborhood, such as size, height, and materials used in construction.

The applicant withdrew the appeal on April 15, 2016.

F. REVIEW OF PUBLIC HEARINGS SCHEDULED FOR MAY 2, 2016

Scott and Linda Littlejohn Application #2016-12
3 Darby Court, Block 335, Lot 26, R-1 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule III for permission to construct an addition. The proposed building coverage is 1,721 square feet whereas 1,611 square feet is the maximum permitted. The existing driveway is 1 foot from the property line.

Lena Chen Application #2016-02
87 Passaic Street, Block 53, Lot 1, R-2 Zone, New Providence, NJ 07974
Chapter 310, Article IV, Section 310-10, Schedule II and III, to construct a new house. The proposed lot area is 11,867 sq. ft. whereas 15,000 sq. ft. is the minimum required. The proposed lot width at the right of way along Passaic Street is 58 feet whereas 70 feet is the minimum required. The proposed lot width at the setback along Passaic Street is 70 feet whereas 110 feet is the minimum required. The proposed front yard along Lincoln Lane is 14.25 feet and 29.4 feet along Passaic Street. The proposed rear yard to the house is 19.75 feet whereas 40 feet is the minimum required. The proposed building coverage is 2372 sq. ft. whereas 1937 sq. ft. is the maximum allowed. The proposed driveway width is 20 feet whereas 16 feet is the maximum permitted. The property is on the Borough historical register. The property has two existing sheds one is 3 feet from the property line and the other is in the right of way along Lincoln Lane. Also there is an existing 6' high fence along Lincoln Lane.

The applicant has submitted revised plans which are substantially different from those originally submitted. The driveway will stay within the 50' of the right-of-way and the house will face Passaic Street. The Board discussed what constitutes the public right-of-way given that Lincoln Lane is mapped as a public right-of-way but it is not maintained by the town as a public street. Mr. Morin stated that even if the residents have assumed responsibility for plowing Lincoln Lane it doesn't let them decide who can have access to the roadway. Mr. Ammitzboll noted that 87 Lincoln Lane was built 150 years ago and the driveway was Lincoln Lane: Lincoln Lane was effectively underneath the driveway for 87 Passaic Street until the subdivision behind was built. The homeowners on Lincoln Lane submitted incomplete documents at the hearing on February 22, 2016, about Lincoln Lane and maintenance of the Lane. Mr. Morin will look for additional documentation regarding Lincoln Lane including the deeds for the houses.

G. COMMUNICATION ITEMS

Mr. Lynch summarized the recent soil remediation at Lantern Hill done in response to the New Jersey Department of Environmental Protection's findings that the property had elevated levels of hydrocarbons and metals. The soil was tested because the property is on the historical fill list, and the standards are higher now that the site is residential. NJDEP originally requested soil remediation on the entire site. Lantern Hill hired a Licensed Site Remediation Profession (LSRP) to come up with an alternate plan so as not to have to remediate the entire site which NJDEP approved. NJDEP requires the top 12" of soil to be removed and replaced with clean soil (or the contaminated area to be covered with a building or pavement). Soil remediation was done on sections of the front yard. Mr. Lynch added that no trees were removed and soil remediation will be required for the next two phases of construction.

As discussed at the meeting on April 4, 2016, the Board is concerned that the way the soil was removed and the damage to the trees during the soil remediation may result in a drastically altered site. The Board acknowledged that Lantern Hill was required to comply with the NJDEP requirements but no steps were taken to mitigate possible damage to the trees. The Board questioned why it wasn't advised of the action since it has jurisdiction over the landscaping especially given that Sprint and New Cingular Wireless ("AT&T") both came back to the Board when NJDEP required them to relocate ground equipment because of changes in the wetlands. The Board asked what would be required to get Lantern Hill to come back to the Board. Mr. Morin will contact the attorney that represented Lantern Hill (Redwood-ERC) and inform him of the discrepancies of the conditions of approval and get an explanation of what happened and mitigation going forward.

Gene Gregory, a local landscaper, distributed photographs of Lantern Hill as well as photographs of other trees in the Borough endangered by construction/re-grading and expressed his concern about the soil remediation at Lantern Hill. Mr. Gregory volunteered his help to try and save the trees on the site but stated that the damage has been done and there is only one tree shown in the photographs that can be saved. Mr. Gregory spoke to a representative from Lantern Hill who told him the soil will be removed from around the trunks of the trees.

The Board asked Mr. Grob what Lantern Hill can do in terms of mitigating the damage. Mr. Grob responded that time is critical in any mitigation which would include cleaning up the damage that was done, deep-root feeding of the trees and cutting back the crowns of the trees so they can recover. Mr. Grob believes that Lantern Hill has hurt itself in that the property will not have the park-like front yard, a selling point to buyers.

H. MISCELLANEOUS

No miscellaneous business.

I. MINUTES FROM 4/4/16

The minutes from April 4, 2016, were approved as submitted

J. ADJOURNMENT

The meeting was adjourned at 9:55 p.m.