

BOROUGH OF NEW PROVIDENCE

BOARD OF ADJUSTMENT

AMENDED RESOLUTION

WHEREAS, John and Kerry Filippatos are the owners of 55 Dogwood Lane, New Providence, New Jersey (the "Applicants"), and have applied to the Zoning Board of Adjustment of the Borough of New Providence (the "Board") pursuant to N.J.S.A. 40:55D-70(c) for variance relief to construct an addition and front porch. The proposed side-yard setback to the addition is 10 feet whereas 15 feet is the minimum required. The proposed front-yard setback to the front porch is 37.9 feet whereas 40 feet is the minimum required. The existing front yard is 39.9 feet. The existing driveway is 3 feet from the property line. The property is designated as Block 181, Lot 7 on the Borough Tax Map, and lies in the R-1 Single Family Residential Zone; and

WHEREAS, the Board has reviewed the application and the testimony presented by the Applicant at the hearings conducted on January 14, 2019, and February 4, 2019; and

WHEREAS, the Board has made the following findings of fact and drawn the following conclusions of law:

FINDINGS OF FACT

1. The Applicants, John and Kerry Filippatos, are the owners of 55 Dogwood Lane, New Providence, New Jersey. The property is designated as Block 181, Lot 7 on the Borough Tax Map, and lies in the R-1 Single Family Residential District.

2. The Applicants have applied pursuant to N.J.S.A. 40:55D-70(c) for variance relief to construct a six (6) foot high fence in the front yard along Central Avenue. The proposed side-yard setback to the addition is 10 feet whereas 15 feet is the minimum required. The proposed

front-yard setback to the front porch is 37.9 feet whereas 40 feet is the minimum required. The existing front yard is 39.9 feet. The existing driveway is 3 feet from the property line.

3. John Filappatos was sworn in and described his split level house. The Filappatos have one child and are expecting another and would live to add a level above the living room on the right side of the house. The following exhibit was marked:

- Exhibit A-1 – Four photographs showing the front of the house, right side of the house, left side of the house to their right and rear of the house to their left that added a level to their split level.

4. Mr. Filappatos testified that he made some changes to the plans submitted to the Board including an A-frame dormer over the existing front door to break up the front roof line and make the addition more aesthetically pleasing. The roof profile and height will remain the same as shown on the submitted plans. The proposed side elevations will not change. The following exhibits were marked:

- Exhibit A-2 – Marked-up copy of the Proposed Side View (Right Side – NE Side) to correct the elevation and show that the siding goes all the way up to the roof, and
- Exhibit A-3 – Marked-up copy of the Proposed Front View to show the proposed dormer over the front door.

5. Mr. Filappatos responded to questions from the Board. He did not have floor plans but the second level over the living room will have a bathroom, open master bedroom and a laundry room. The air conditioning compressor is on the right side of the house not in the back as shown on the survey and the second compressor will be located next to the existing unit. Although the units face the neighbor's blank wall, the Filappatos plan to plant around the units to screen them.

6. The Board reviewed the required variances. The right side-yard setback will not change. The addition will go straight up above the existing living room and will not encroach further into the setback but a variance is required because of the height of the addition. The existing front-yard setback is 39.9 feet as measured from the left side of the house. The right side of the house, where the proposed 8.5 foot deep front porch will be located, is set back 5.5 feet from the left side of the house thus requiring a variance for 3 feet of additional encroachment into the front-yard setback for the porch. The proposed front-yard setback is 36.9 feet rather than 37.9 feet as stated in the denial letter. The driveway will remain as is. The house has a side-loading garage. The house will be re-roofed and the entire house will be re-sided. The Filippatos do not like the narrow vinyl and hope to re-side with Hardy plank or a wider vinyl.

7. Mr. Ammitzboll commented that 8 feet is deep for a front porch and asked if the applicants would consider a 5 foot deep porch so that a variance would not be required. Mr. Filappatos responded that it would be more aesthetically pleasing if the porch is built out with posts. In addition, the Applicants do not believe a 5 foot deep porch would not accommodate chairs and a rocker.

8. Mr. Grob stated that the Board has to balance what an Applicant wants against the variances and believes that Mr. Ammitzboll has a good point about the size of the porch.

9. Ms. Ananthakrishnan pointed out that the Applicants will lose some of the light in the living room with an 8.5 foot deep porch. This was not an issue for Mr. Filappatos as they get light from the rear of the house which is why he did not want to cantilever the second floor addition in the back. The Board asked if the Applicants would consider a 7 foot deep porch as it

would reduce one of the variances.

10. Ms. Ananthakrishnan was not concerned with the porch as much as the side view of the addition. Even though the house faces the neighbor's blank wall, the addition is a two-story blank wall that creates a tall narrow alley between the houses and mass. Mr. Ammitzbohl recommended that the Applicants look at the houses on Birch Place to see what re-orienting the roof the other way can do to reduce the mass. Windows would also help. Mr. Grob agreed noting that when coming down the street the visual is a large wall: Changing the roof would mitigate this and yet it would not impact the interior space of the house.

11. Mr. Filippatos stated that he would comply with whatever the Board wants to make the addition work. Mr. Nadelberg offered him the opportunity to revise his plans and come back. Mr. Filippatos has retained an architect but wanted to know if the Board could grant the variances based on the changes discussed at the hearing and he would present the revised architectural plans at a future hearing. The Board wanted to see revised architectural plans before granting any variances. Mr. Filippatos agreed to carry the hearing.

12. Mr. Filippatos, previously sworn in on January 14, 2019, reappeared before the Board with revised plans for the second-floor addition to his split level house on February 4, 2019. Mr. Filippatos drove around after the first hearing and looked at rooflines and testified that some houses have big walls created by additions, but they do not look as nice as when the roof is re-oriented as suggested by the Board. Mr. Filippatos re-oriented the roof on the second-floor addition on the right side of the house so the right-side elevation is not so imposing. He also added windows to the right side of the proposed addition. In addition, he added a dormer on the right front of the house and a second dormer on the left side of the house for aesthetics. Mr.

Filippatos would prefer to have an 8 foot deep porch, similar to his neighbor's porch at 74 Dogwood Lane, but the revised plans include both an 8 foot deep porch as well as a 7 foot deep porch so the Board can see both options. The following exhibit was marked:

Exhibit A-4 – Four photographs of 74 Dogwood showing the front porch.

13. Mr. Filippatos measured the setback of 74 Dogwood from the curb to the porch and found that his front yard is a foot deeper so he would have an additional 2 feet of front yard compared to the neighbor if the porch were 7 feet deep. However, he thinks the porch will look awkward if it's only 7 feet, as opposed to 8.2 feet deep.

14. The Board asked Ms. Ananthakrishnan for her opinion, as an architect, on the depth of the porch. She had no opinion on the depth and commented that the Applicant is not going to have parties on the deck. The Board had additional questions about the porch. The porch will have a railing around it similar to the one shown in Exhibit A-4. The preferred porch will extend out 8.2 feet from the right side of the house and the steps extend out 2 feet from the porch.

15. The Board had no further questions for the Applicants. The hearing was opened to questions from the public. There were no questions from the public. The hearing was opened to comments from the public. There were no comments from the public and the hearing was closed.

CONCLUSIONS OF LAW

1. The proposed addition and front porch do not comply with the requirements for this lot as established by Chapter 310, Article IV, Section 310-10, Schedule II. Applicants have applied for variance relief to permit the construction pursuant to N.J.S.A. 40:55D-70(c).

2. Through the testimony and exhibits presented, the Applicants have established that the application:

- (a) relates to a specific piece of property, namely the Applicants' premises;
- (b) that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, namely the promotion of the public health, safety, morals and general welfare and the preservation of neighborhood character and conservation of neighborhood values;
- (c) that the variances can be granted without substantial detriment to the public good;
- (d) that the benefits of the deviations would substantially outweigh any detriment and that the variances will not substantially impair the intent and purpose of the zone plan and ordinance.

NOW, THEREFORE, BE IT RESOLVED, on this 25th day of February, 2019, that John and Kerry Filippatos's application for a variance to permit the construction of an addition and front porch is hereby **GRANTED** subject to the following conditions:

- 1. The construction must be constructed strictly in accordance with the plans and testimony presented to the Board; and
- 2. The approval is subject to all other governmental approvals, including but not limited to compliance with the Borough's lot grading ordinance; and
- 3. The variances granted herein shall not constitute authority to engage in any construction which is not authorized by the Zoning Ordinance of the Borough of New Providence, except as expressly stated herein.

ROLL CALL VOTE

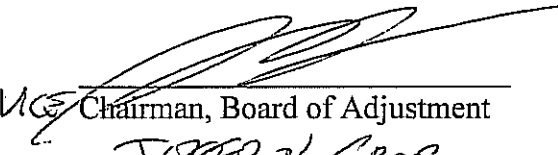
Those in Favor: Mr. Ammitzboll, Ms. Ananthakrishnan, Mr. Sorochen,
Mr. Morgan, Mr. Ping and Mr. Grob

Those Opposed: -----

The foregoing is a Resolution duly adopted by the Zoning Board of Adjustment of the Borough of New Providence at its meeting on February 25, 2019.

ATTEST:

Margaret Kenty
Secretary, Board of Adjustment


Vice Chairman, Board of Adjustment
JEFFREY GROB