

June 15, 2023 Regular Meeting

The June 15, 2023 Regular Meeting of the Board of Adjustment opened at 7:30pm. The clerk read the notice of compliance with the "Open public meetings act." Present were Board members: Mr. Kelly, Mr. Dixon, vice chair Pasola, Mr. Driber, Mr. Neill, Ms. McFadden, Mr. Dealmeida and Chairman Struncius

Absent – Schneider, Davis and McGee

Memorialize minutes – March 16, 2023 - LK, JP, JD, TD, DD and PS

Memorialize Resolutions–

Motion by Mr. Dixon, second by vice chair Pasola to memorialize the action and vote approving application 2023-14 of John Nichole Dougherty – 219 Parkway – with conditons

In favor: Kelly, Dixon, Pasola, Neill and Struncius

Opposed: None

Motion by Vice chair Pasola, second by Mr. Dixon to memorialize the action and vote approving application 2023-19 of Kevin/Margaret McGuirl – 427 Yale – with conditions

In favor: Kelly, Dixon, Pasola, Neill and Struncius

Opposed: None

Agenda

2023-10- Samer/Hala Ghanem – 11 Danby – Block 121; Lot 4.03 – Applicant placed a/c condensers in setback without permit/variance.

The Applicant has requested variance relief for the placement of AC units in the back of the property within the side yard setback.

A. The following were submitted in support of the Application:

A1 – Certified Variance Application

**A2 – Survey of Property by Richlan, Lupo and Associates, Inc.
(dated December 26, 2022)**

**3/27/23 Board Engineer Report of Raymond W. Savacool, P.E.,
P.P.**

Samer Ghanem, applicant sworn stated that he is the title owner of the subject property. The subject property is located in the RR-1 Zone and there is an existing two-story dwelling on the subject property. The Applicants' intent with the application is to obtain approval for the placement of AC units in the rear of the property within the side yard setback. Applicant testified to the Board that there are no other locations on the property suitable for the AC units. There is an existing shed on the rear of the property that crosses over the rear lot line and into the neighboring property. Applicant advised the Board that no survey was obtained when he purchased the property and that he was unaware of the angled property line that creates the rear yard fence encroachment. Applicant advised the Board that the frame shed on the side of the building has been removed. Applicant agreed as a condition that the rear yard shed will be removed within thirty (30) days of approval.

No audience questions/comments

Motion by Mr. Dixon, second by vice chair Pasola to approve application 2023-10 of - Samer/Hala Ghanem – 11 Danby – Block 121; Lot 4.03 with conditions

In favor: Kelly, Dixon, Pasola, Driber, Neill, Dealmeida and Struncius

Opposed: None

Application approved with conditions

#2022-38 – Jeff Brown – 1304 Baltimore Avenue – Block 18.01 Lot: 9 – Applicant wishes to install in-ground pool in front yard.

Exhibits entered

A1 – Certified Variance Application

A2 – Survey of Property by Ronald W. Post Surveying, Inc. (dated September 2, 2021)

A3- Plot Plan Proposed Pool by TEC Engineering (dated 7/26/22)

A4- PowerPoint Packet (9 pages)

A5- Pictures of Property

12/21/22 Board Engineer Report of Raymond W. Savacool, P.E., P.P.

James Giordano, P.E., Sworn, stated that he is a professional engineer and prepared the Plot Plan for the proposed pool submitted for approval and is fully familiar with the subject property and surrounding properties. The subject property is located in the SF5 Zone; there is an existing single-family home on the subject property with existing nonconformities. The Applicants' intent with the application is to construct an inground pool (10 ft. x. 24 ft) with paver walkways, patio, trench drain, fencing and landscaping within the front yard area. The subject property is a corner lot with frontage along Baltimore Avenue and Makin Avenue and has a limited rear yard. Upon Board questioning, he agreed that the submitted renderings of the proposed pool were not accurate as it pertains to the neighboring home directly behind Applicants' property. He agreed that based on the Borough's Code standards, the proposed fence surrounding the pool will be within the site triangle and that applying the standards established by the American Association of State Highway and Transportation Officials (AASHTO), the fence is outside the site triangle and that there are no safety issues. He advised the Board that the Applicants are proposing installing a recharge trench to mitigate the increase in impervious coverage. He believes that the proposed application meets the criteria for C(1) hardship variance relief based upon the existing location of the developed home and that there is no other location to install a pool on the property and that the proposed application meets the criteria for C(2) variance relief based as it would be an aesthetic improvement and the pool will not be visible from the street due to the proposed surrounding landscaping.

Jeff Brown, applicant, sworn stated that he purchased the home 10 years ago as a second home, and plan to live in the home full time in the near future. He claimed to the Board that the application presents a valid hardship, in that that the proposed location of the pool is the only location on the property suitable for a pool. He acknowledged that in 2001 prior owners of the property obtained significant variance relief to construct the existing home on the property.

After the Applicant's presentation, the Board made the following determinations:

The Board concluded that the existing house is already an oversized home in relation to the lot size, and that the Applicants were fully aware of the home size and layout of the site at the time of purchase. The Board concluded that not being able to install a pool on a property is not a hardship. The Board finds that there will be negative impacts upon the surrounding property owners and upon the Master Plan and Zoning Ordinance by allowing for the proposed pool in the front yard area.

The following members of the public objected to the application: (1) Mary Cortian (Makin Avenue); John Longfield (Makin Avenue)

O1 - Picture of subject property from Objector's viewpoint (submitted by Ms. Cortian)

Deliberations

Kelly – Pool would be about eleven feet wide – would be very close to the house and the setback from the street would allow passer byes to jump in the pool. Pool is too small and the lot is too small. Too much for the lot.

Dixon – The home was given more than what was allowed when the house was built. It is already over on coverage. It is in the front yard and a pool is not allowed there. The pool does not meet any of the

setbacks. The neighbor's view is going to be blocked of the lake. There is no hardship. You bought an oversized house on a small lot.

Pasola – Beautiful home – I do not see any where on that lot to put a pool. It presents substantial damage to the public good. Not good for the town or neighbors.

Driber – I see no value in approving this application.

Neill – Looking at the photos I agree with Mr. Kelly; if the house had been shifted there might have been more room. Looking to fit too much in a small space.

McFadden – Echo what everyone else said. I think it requires too many variances and the pool is too close to the house.

Dealmeida – I also echo what everyone else has said. It is too much for the lot.

Struncius – The only reason you are talking hardship is that you already have 38% building coverage. The location puts in in somebody else's front yard. We are making decisions based on zone. Also, the proximity of the pool to the right away does not meet the setbacks and causes safety hazards. Doesn't fit in the building coverage, impervious coverage, too may variances, safety hazard – just too much for this property.

Motion by Ms. McFadden, second by Mr. Driber to deny #2022-38 – Jeff Brown – 1304 Baltimore Avenue – Block 18.01 Lot: 9

In favor: Kelly, Dixon, Pasola, Driber, Neill, McFadden and Struncius

Opposed: None

Application denied

#2023-15 – Vin Mistretta – 157 Baltimore Avenue – Block 146 Lot: 4 - Applicant looking to construct a porch addition along with other exterior improvements

John Jackosn, attorney's applicant, reviewed application and the following requested variances.

Minimum front yard setback to Baltimore Avenue required is 25 ft. whereas 13.76 ft. is proposed to the front porch stairs (21.03 ft. exists), 15.68 ft. to the porch.

Minimum front yard setback to Yale Avenue required is 25 ft. whereas 13.51 ft. is proposed to the box window and 13.72 ft. is proposed to the front porch; building coverage permitted is 30% whereas 32.31% is proposed, and 30.56 exists; Minimum front yard setback to Yale Avenue required is 25 ft. whereas 8.75 ft. exists to the AC unit (existing). Minimum accessory side yard setback required to the shed is 5 ft. whereas the shed encroaches on the adjacent lot to the north (existing). Minimum accessory rear yard setback required to the shed is 5 ft. whereas 1.6 ft. exists from the western property line to the shed (existing). AC unit not permitted in the front yard, whereas AC unit is located in the front yard (existing).

The Applicant has requested variance relief for approval of an addition of a front porch to the southeast corner of the existing single-family dwelling and an alteration of the bay window on the Yale Avenue side of the dwelling.

Exhibits entered

A1 – Certified Variance Application

A2 – Architectural Plans by John Amelchenko of Aquatecture Associates, Inc. (dated January 16, 2023)

A3 – Letter from neighbor, Robert Glass

3/27/23 Board Engineer Report of Raymond W. Savacool, P.E., P.P.

John Amelchenko, A.I.A.. sworn, credentials accepted, stated that he is a licensed architect and prepared the architectural plans submitted for approval and as such, is fully familiar with the subject property and surrounding properties. The applicant is the title owner and the property is located in the

SF-5 Zone. There is an existing single-family home on the subject property with existing nonconformities. The Applicant's intent with the application is to obtain approval of an addition of a front porch to the southeast corner of the existing single-family dwelling and an alteration of the bay window on the Yale Avenue side of the dwelling. Applicant and his wife spend a significant amount of time enjoying their front porch. Applicant proposes to add an additional 96 sq. ft. to the porch and relocate the steps to front Baltimore Avenue. Applicant's plans call for additional craftsman-style exterior improvements to the home and updated landscaping. Applicant agreed as a condition that the existing shed encroachment onto their neighbor's property is not to be legalized by any approval of the requested variance relief. Applicant agreed as a condition that the proposed porch is not to be enclosed. He stated that the proposal satisfies the criteria for C(2) relief based upon the improved aesthetics and good civic design of the proposed improvements and that the proposed improvements promote a more desirable environment and is a better fit for the neighborhood.

He also believes that the proposal advances the purposes of zoning as set forth in N.J.S.A. 40:55D-2(a)(c) and (i) – noting that the proposal provides for an aesthetic improvement to the site; adequate light, air and open space; while the nonconformities create no detriment to the public good and that there are no negative impacts created by the minimal deviations from strict compliance with the Zoning Ordinance and that the benefits outweigh any detriments.

Laura Mistretta, applicant, sworn stated that then plan to install new siding and a new roof if the requested variance relief is improved, which will further improve the aesthetics of the proposal.

Applicant agreed as a condition that the color of the new siding to the home is subject to review by the Board Engineer.

Applicant's next-door neighbor, Robert Glass, made public comments and expressed his full support for the approval of the application.

Deliberations

Kelly – Improvements will be quite attractive and a nice improvement for the neighborhood. Glad to see the concrete wall remaining.

Dixon - This is another corner lot; It doesn't encroach any more than existing and it will be quite attractive. Spending a lot of money for 5 feet.

Pasola – Beautiful improvement; I see why the neighbors are in favor.

Driber – I think it is beautiful; nothing to object to

Neill – A wonderful improvement; building coverage is increasing but the benefits outweigh the detriments.

McFadden – Agree, beautiful house. The benefits outweigh the detriments.

Dealmeida – Really adding to the character of the home. In favor

Struncius – No encroachment to the setback on Baltimore. Keeping the setbacks but aesthetically improving it. You will be able to enjoy the space. Good improvement that doesn't negatively affect surrounding properties.

Motion by vice chair Pasola, second by Mr. Driber to approve application#2023-15 of Vin and Lauren Mistretta – 157 Baltimore Avenue – Block 146 Lot: 4 with conditions

In favor: Kelly, Dixon, Pasola, Driber, Neill, McFadden and Struncius

Opposed: None

Application approved with conditions

#2023-16 – Residences at Bay Point – 320 Maryland – Block 6; Lot 24 – Applicant looking to install a/c condensers and patios Not being heard – transferred to Planning Board

#2023-13 – Holmes – 903 Bay Avenue – applicant installed fence without permits in site triangle.

Requesting to be carried to September 21, 2023 without notice

Mr. Lozuke has waived the time for this application to be heard.

Motion by Vice chair Pasola, second by Mr. Driber to carry application #2023-13 – Holmes – 903 Bay Avenue to September 21, 2023 at 7:30pm without notice.

In favor: Kelly, Dixon, Pasola, Driber, Neill, McFadden and Struncius

Opposed: None

AGENDA

Meeting adjourned at 10:45pm pm

Attest: Karen L. Mills, Clerk of the Board