

July 20, 2023 Regular Meeting

The July 20, 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. Dixon, vice chair Pasola, Mr. Davis, Mr. Driber, Mr. McGee, Mr. Neill, Ms. McFadden, Mr. Dealmeida and Chairman Struncius

Absent – Mr. Kelly

Moment of Silence for Howard Schneider

Memorialize minutes –

Motion by Mr. Davis, second by Mr. Dixon to memorialize the minutes of March 16, 2023 –

In favor: Dixon, Davis, Pasola, Driber, McGee and Struncius

Opposed: None

Motion by Mr. Davis, second by vice chair Pasola to memorialize the minutes of April 20, 2023 - LK, JP, JD, TD, DD, MM and PS

In favor: Pasola, Dixon, Davis, Driber, McGee and Struncius

Opposed: None

Motion by Mr. Dixon, second by vice chair Pasola to memorialize the minutes of May 18, 2023 –

In favor: Dixon, Pasola, Davis, McGee, McFadden and Struncius

Opposed: None

Memorialize resolutions

Motion by Vice chair Pasola, second by Mr. Dixon to memorialize the action and vote approving application 2023-10 of Samer/Hala Ghanem – 11 Danby – Block 121; Lot 4.03 – Applicant placed a/c condensers in setback without permit/variance. – with conditions

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

Opposed: None

Motion by Vice chair Pasola, second by Mr. Dixon to memorialize the action and vote denying #2022-38 of Jeff Brown – 1304 Baltimore Avenue – Block 18.01 Lot: 9 – Applicant wishes to install in-ground pool in front yard. –

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

Opposed: None

Motion by Mr. Driber, second by Mr. Dixon to memorialize the action and vote of application #2023-15 – Vin Mistretta – 157 Baltimore Avenue – Block 146 Lot: 4 - Applicant looking to construct a porch addition along with other exterior improvements. –

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

Opposed: None

Agenda

2023-11 – Flugrad – 9 Niblick Street – Block 130; Lot 9 – Applicant seeks variance relief for a/c platform.

John Dixon stepped down from this application.

John Jackson, attorney for applicant. Entered the following exhibits and reviewed requested variances.

A1 – Certified Variance Application

A2 – Architectural Plans by Aquatecture Associates, Inc. (John Amelchenko, R.A.), dated 1/26/23

A3 - Power Point Packet (6 pages)

5/1/23 Board Engineer Report of Raymond W. Savacool, P.E., P.P.

George Flugrad, applicant, sworn, stated that he is the applicant and the title owner of the subject property and that the lot is an irregular (pie shape) lot with water frontage on Lake Louise. The application proposes a complete renovation/addition which incorporates the existing home on site. The property is located in Flood Zone AE (Elevation 9). Per the plans submitted the finished first floor is at Elevation 14.3, in excess of the required DFE of 12.

The proposed elevation of the home makes the home compliant with all flood/FEMA requirements. He confirmed that the building meets the height ordinance as depicted on the plans and that the design improves the overall aesthetics of the home design and will be an improvement to the neighborhood. The ground level floor plan provides for non-habitable garage and storage space and the two stories above the ground floor level as shown on the plans provide for the habitable living space with 4 bedrooms proposed. He noted that the proposed application meets RSIS requirements for off street parking. The proposed application provides for new construction compliant with flood zone requirements, thereby improving overall safety of the structure at the site.

Deliberations

Davis – Based on the proofs I do not see any hardship being created. Always a bit more of a challenge when applicants come for forgiveness other than that I think the changes are deminimis.

Pasola – I don't see any problem with it but I also do not like the idea of people doing things without permits.

Driber – I also do not like people just doing what they want, I do not like the design but like the other members stated it does tie in with the design.

McGee - It is regrettable that you just did the work; a/c platform is not that big of a deal but you shouldn't take things for granted. Silly to take that kind of gamble.

Neill – My opinion would be to move it back 18 inches.

McFadden – Coming in after the fact is a gamble. The a/c is deminimis I am not a fan of the deck and the railing.

Struncius – The railing is the easy one for me' I believe there was prior discussion with Mr. Savacool – weird you just did the work. It aggravates what is already there. The part that it is over 30% is bothersome. If you had come here first, we might of done some negotiating. The board is very fair – it is annoying.

Motion by vice chair Pasola, second by Mr. Davis to approve application #2023-11 – Flugrad – 9 Niblick Street – Block 130; Lot 9 with conditions

In favor – Davis, Pasola, Driber, McGee, Neill, McFadden and Struncius

Opposed: None

Application approved with conditions

2023-12 – James/Nancy Mulvihill – 1000 St. Louis Avenue – Block 41; Lot 11 – Applicant wishes to add open porch.

The Board determined that the plans were not flood compliant and voted to carry the application with notice to November 16, 2023 to give them time to redesign.

Motion by Mr. Davis, second by Mr. McGee to carry application #2023-12 to November 16, 2023 with notice

In favor: Dixon, Davis, Pasola, Driber, McGee, Neill and Struncius

Opposed: None

Application carried with notice

In favor:

2023-05 – Joe Disciulli – 72 inlet – Block 176; Lot 9.01 – Applicant wishes to construct a residential home. Zone does not permit residential. Carried without notice from March 16, 2023.

John Jackson, attorney for applicant.

Exhibits entered

- A. Exhibit A1 – Certified Variance Application;*
- B. Exhibit A2 – Variance Plan, by KBA Engineering Services, LLC (Joseph Kociuba, P.E., P.P.) dated 8/15/22; Architectural Plans by Robert J. Lombardi, dated 9/20/22; Survey by Alan R. Boettger, P.L.S., Clearpoint Services, LLC, dated 7/10/22;*
- C. Exhibit A3 – Power Point Packet (12 pages)*
- D. Exhibit A4 – Photograph (Privacy Lattice-Outdoor Shower)*

Robert Lombardi, PA, sworn, credentials accepted, stated that the proposed home is a two-story home elevated over a ground floor level that provides for a garage parking space, storage, mechanical room, staircase and elevator shaft. The second-floor plan provides for a living room, dining room, kitchen, sitting area and full bath in an open concept. The third-floor plan provides for three bedrooms, a laundry room and one full bath. A review of the elevations identifies the architectural details and balconies incorporated for functional and aesthetic purposes. He believes that the proposed development is consistent and similar in style to the newer development in the immediate area and that the proposed development is an aesthetic improvement to the site and surrounding area. The elevated home with full flood zone/ FEMA compliance is a safety improvement to the site and surrounding properties.

Joseph Kociuba, PE, sworn, credentials accepted stated that the existing site is located in the MC zone and currently contains a one-story single family residential home that is a prior-nonconforming use in the MC zone. The home predates 2002, when the Ordinance was changed to eliminate single family use as a permitted use in the MC zone. The applicant proposes to demolish the existing nonconforming one-story single-family home and construct a new elevated two-story dwelling with a non-habitable storage/parking area on the ground floor level. He noted that despite the limited lot size, the proposed development meets the Ordinance criteria for height and impervious coverage (reducing the impervious coverage that currently exists on site). He further noted that the side setbacks on site are improved by the proposed development and the proposal provides for one parking space in the ground level garage and (although not a fully conforming RSIS parking space) a functional second parking space in the driveway to the curb line. He stated that the new home proposed is fully compliant with flood zone/FEMA requirements which is a safety benefit for the site and surrounding properties. He explained that there is a shared common access driveway for the benefit of the rear lots (otherwise landlocked) which runs along the common property line between the subject property and adjoining Lot 10.01. As seen on the survey of the property the distance from the property line to the home on Lot 10.01 is 3.3' (at its front and rear corners) while the distance from the property line to the existing home on the subject property is 6.3' and 6.4' at its corners. The new proposed home will increase that distance from the property line to 7.52' at its front corner and 7.61' at its rear corner. Applicant agreed as a condition to not encroach in any way (landscaping, fencing, etc.) for the full extent possible (7.52' at its front corner, 7.62' at the rear corner of the home). Applicant shall similarly not encroach for a minimum of 7.52' along the shared driveway from the front of the lot to the front corner of the home and 7.62' from the rear corner of the home to the rear of the lot. This will insure a

minimum 10' wide driveway for its full length to the rear landlocked lots; thereby improving access and safety at the site.

In discussing the existing home and outdoor shower on the neighboring lot (Lot 8.02 – Kinsella property), Applicant agreed as a condition to provide and install pervious privacy lattice over the currently open outdoor shower, paying all costs of said installation (as depicted in photo marked as Exhibit A4). He believes that the proposed development as depicted on the plans submitted will be a significant aesthetic and functional improvement to the site and that the proposal advances purposes of zoning as set forth in NJSA 40:55D-2 (a), (c) and (i).

Deliberations

Dixon – It is the way things are going – house is pretty. The town needs to give better direction about what they want to see in this zone. Giant house on a postage stamp lot.

Davis - I find it very difficult to apply SF% to the MC zone. If the lots were viable for the MC zone these lots would have been gobbled up. Then we have the question is how much is too much on these small lots.

Pasola – It is an awful lot of houses on this tiny lot and I don't like it. I am glad they worked it out with the neighbor.

Driber – People buy a house and now they want to change it drastically. Why did they buy it in the first place. It is a commercial zone and if we keep changing things there will not be a commercial area anymore. I will not support it

McGee – Believe that the master plan needs to be revisited. Clearly the zone is obsolete.

Neill – I really appreciate the applicant working with your neighbor. I understand things are changing. I think I would want to do the same thing. I appreciate the upgrade

McFadden – I feel like we are between a rock and a hard place. I do not like the trend that is happening. This application does decrease the setbacks and building coverage.

Dealmeida – I also would want to make improvements if it was my house.

Struncius – Complete impracticality to build anything on this piece of property that is allowed in this zone. It is absolutely suited where a house is. We were not able to combine lots for a commercial use after Sandy. We do not have a standard for residential in the MC zone. Wishes the town would keep up with what's going on. Bulk criteria are subsumed in the use; setbacks reduced and neighbors do not mind. The way things are being built; this is what is happening in 2023 and I believe that this is advancing the MLUL and fits with what is happening in the MC zone.

Motion by Mr. Neil, second by Mr. McGee to approve application 2023-05 of Joe Disciulli – 72 inlet – Block 176; Lot 9.01 – with conditions

In favor: Dixon, Davis, McGee, Driber and Struncius

Opposed: Pasola and Driber

Application approved with conditions

Conditions

- 1. Applicant shall not encroach in any way (landscaping, fencing, etc.) for the full extent possible between the proposed home and the side property line (7.52 at its front corner, 7.62 at the rear corner of the home). Applicant shall similarly not encroach for a minimum of 7.52' along the shared driveway from the front of the lot to the front corner of the home and 7.62' from the rear corner of the home to the rear of the lot.*
- 2. Applicant shall provide and install pervious privacy lattice over the currently open outdoor shower, paying all costs of said installation (as depicted in photo marked as Exhibit A4) on the Kinsella property (Lot 8.04).*
- 3. Applicant must apply for and obtain approval from the Borough Council for the proposed new curb cut/driveway for the subject property.*

Motion by

2023-18 – Christina Campbell -411 Yale Avenue – Block 162; Lot 12 – Applicant wishes to build new single-family home.

John Jackson, attorney for applicant reviewed application and requested variances.

Exhibits entered

A1 – Certified Variance Application

A2 – Architectural Plans by Dario Architecture Design, dated 2/6/23; Plot Plan by RC Burdick, dated 11/14/22 (last revised 12/28/22); Survey by RC Burdick, dated 4/23/21

A3 - Power Point Packet (7/20/23- 10 pages)

7/10/23 Board Engineer Report of Raymond W. Savacool, P.E., P.P.

Robert C. Burdick, P.E., P.P., sworn, credentials accepted, stated that the applicants are the title owners of the subject property in in the SF5 zone. Single family residential homes are a permitted use in the zone. The lot is irregular and is a corner lot with frontage on Yale Avenue and Cornell Avenue. The proposed plan calls for the relocation of the driveway on Cornell Avenue. Applicant agreed as a condition that relocation of the driveway requires separate Borough Council approval and applicant must make application for same. He testified that there will be no loss of on street parking as a result of the proposed relocated driveway. The property is located in Flood Zone AE (Elevation 9). The proposed elevation of the home makes the home compliant with all flood/FEMA requirements. He noted that the finished first floor is being revised to elevation 13, while DFE is 12. This additional foot caused the revision to the front yard setback to the stairs (now calculated at 8.0' from Cornell Avenue). He confirmed that Applicant agreed to modify the architectural plan to reduce the third-floor habitable square footage to a maximum of 500 s.f. and therefore the Application complies with the ordinance for an allowed half story. No variance is requested nor approved for a third story (or noncompliant half story). In comparing/contrasting the existing home on site with the proposed elevations of the home proposed (see Exhibit A3), he believes that the proposed application will be a significant aesthetic improvement to the site. He noted that the proposed application meets RSIS requirements for off street parking. The proposed application provides for new construction compliant with flood zone requirements, thereby improving overall safety of the structure at the site. He believes that the proposal satisfies the criteria for C(1) relief based upon the narrow dimension of the corner lot and its irregular shape, together with the Applicant's effort to maintain the general location of the existing home for the benefit of the neighbors and that the proposal advances purposes of zoning as set forth in NJSA 40:55D-2 (a)(b)(c) and (i) – noting that the proposal provides for a functional, aesthetic and safety improvement to the site by constructing the home at an elevation for flood zone/FEMA compliance; while the nonconformity for front setback and lot width creates no detriment to the public good.

Deliberations

Dixon - Nice to have architect and planner come in without all these extras and considerate of their neighbors.

Davis – Beautiful home – corner lot – only issue is the 6-foot-wide porch an 8 foot porch is more useful

Driber – no objection to this drawing

McGee – No problem with it

Neil – No objection – love the improvement

McFadden – think it is a beautiful design

Dealmeida – nice looking house

Struncius – Corner lot and this fits in nicely – wonderful safety and aesthetic improvement.

Motion by Mr. Neil, second by Mr. McGee to approve application 2023-18 of Christina Campbell -411 Yale Avenue – Block 162; Lot 12 with conditions

In favor: Dixon, Davis, Driber, McGee, Neil, McFadden and Struncius

Opposed: None

Conditions

- 1. The applicant shall comply with all items set forth in the Board Engineer report dated 7/10/23, unless specifically exempted herein.**
- 2. Applicant must comply with the following special conditions:**
 - A) Applicant must apply for and obtain approval from the Borough Governing Body for the relocation of the driveway on Cornell Avenue.**
 - B) The plans shall be revised to reflect a finished first floor elevation of 13 and the commensurate revision of the front yard setback to the stairs at 8'.**
 - C) The architectural plans shall be revised to reduce the third-floor habitable space to a maximum of 500 square feet and be fully compliant with the Ordinance for a half story.**

Meeting adjourned at 10:15pm pm

Attest: Karen L. Mills, LUA

Clerk of the Board