

**MINUTES OF THE TOWNSHIP OF PARSIPPANY-TROY HILLS
BOARD OF ADJUSTMENT MEETING
WEDNESDAY, AUGUST 7, 2019**

Chairman Iracane called to order the Board of Adjustment Meeting of Wednesday, August 7, 2019 at 7:30 PM.

Members Present: Mr. Berkowitz, Mr. Kaplan, Mr. Persaud, Mr. Reddy,
Mr. Willans, Chairman Iracane

Also Present: Mr. King, Board Attorney
Mr. Chadwick, Board Planner
Mr. Holloway, Board Engineer

Absent: Mr. Joskowitz, Mr. Shah, Ms. Snyder

Announcement is made that adequate notice of this meeting has been given, that it is being conducted in accordance with N. J. S. A. 10:4-6 et seq. of the New Jersey "Open Public Meetings Act".

Pledge of Allegiance

Chairman Iracane opened the floor to the public for anyone wishing to speak.

Agenda:

Application 19:24

Michalis Batas, 18 Pondview Road, Block: 172.1 Lot: 1 Zone: R-3

'C' Variance to install a front walk, side walk, patio expansion and stairs.

Michalis Batas, Property Owner, was sworn by the Board Attorney and testified that his property is oddly shaped and when it was bought, there was an existing patio which is now in need of repair. The property was already over on coverage but with a growing family Mr. Batas wanted to enlarge the patio. The patio is currently solid concrete and would be removed and replaced with pavers as would the walk from the front to the rear of the home.

Chairman Iracane opened the floor to the public for anyone wishing to ask questions of the Witness.

Chairman Iracane opened the floor to the public for anyone wishing to speak in support or opposition of the application.

Mr. Reddy made a recommendation for approval of the application.

Mr. Berkowitz made a motion to approve the application to install a 140 sq. ft. front walk (replacement); 160 sq. ft. side walk; 290 sq. ft. patio expansion; 28 sq. ft. stairs and 10 sq. ft. stairs subject to the condition that pavers are used for the patio expansion and walkway, second by Mr. Reddy.

Approved by all.

Application 19:30

Richard and JoAnn Miller, 909 Lake Shore Drive, Block: 353 Lot: 1 Zone: R-4
'C' Variance to construct an open deck expansion and driveway expansion.

Richard Miller, Property Owner, was sworn by the Board Attorney and testified that he lives on a corner lot. He has a deck located on the side of his house that faces Eldora Road and would like to expand it to connect with his porch at the front facing Lake Shore Drive. The deck will not be covered. The driveway is located off Eldora Road and can fit two cars side by side however, at the opening of the driveway is a tree that blocks part of the opening, allowing one car through. The Applicant has handicapped children who require caregivers and between the owners and caregivers' vehicles, it would make it easier for everyone to get in and out of the driveway if it were open at the access point. Permission has already been given by Parks and Forestry to remove the tree and a curb cut will be needed.

Chairman Iracane opened the floor to the public for anyone wishing to ask questions of the Witness.

Chairman Iracane opened the floor to the public for anyone wishing to speak in support or opposition of the application.

Mr. Willans made a recommendation for approval of the application.

Mr. Kaplan made a motion to construct a 142 sq. ft. open deck expansion and a 39 sq. ft. driveway expansion, second by Mr. Reddy.

Approved by All.

Application 19:33

Hemal and Amola Mehta

21 Irvington Road (30 Jacksonville Drive), Block: 347 Lot: 6 Zone: R-4

'C' Variance to construct a new two-story single-family dwelling with attached garage.

Amola and Hemal Mehta, Property Owners and Fred Meola, Professional Engineer and Surveyor, were sworn by the Board Attorney.

Mr. Meola testified that the need for a variance to install the fence on the property line is no longer necessary. All fencing will be installed 6 in. inside the property line as required.

Exhibit A-1, Adjacent Building, was presented to illustrate the proposed home facing Irvington Road set back 28 ft. Other homes on this road are set back from the property line distances from 25.5 to 48.1 ft.

The property is an odd shaped lot which makes it difficult to construct a home. The variance requested would be for the rear yard setback which requires 20 ft. but is proposed at 6 ft. The driveway width will be from 19 to 20 ft. off from Irvington Road. Fencing was proposed from the rear north corner of the home and along the property line to enclose the entire rear yard but the Board requested the area of fence that runs along Jacksonville Road, be set back 3 ft. from the for landscaping outside of the fence.

Any existing utilities that can be used, will be used. Roof leaders will be tied into the inlet on Irvington Road. The curb cut on Jacksonville will be closed.

Chairman Iracane opened the floor to the public for anyone wishing to ask questions of the Witness.

Chairman Iracane opened the floor to the public for anyone wishing to speak in support or opposition of the application.

Mr. Reddy made a recommendation for approval of the application.

Mr. Persaud made a motion to approve the application to construct a new two-story, 1,914 sq. ft. single family dwelling with attached garage and 5 ft. solid fence with 1 ft. lattice, second by Mr. Reddy.

Approved by all.

Application 19:19

Patrick McGann, 92 Lake Shore Drive, Block: 539 Lot: 7 Zone: R-4

'C' Variance to install 4 ft. and 6 ft. picket style and vinyl stockade fences and legalize an existing 6 ft. stockade fence on the property lines.

Carried from July 10, 2019

Patrick McGann, Property Owner, was sworn by the Board Attorney and testified that he lives on a corner lot and would like to install new fencing. A variance will be necessary for a small portion between his and his neighbor's property where a portion of the fence will be 6 ft. in height and located in the front yard, before dropping to 4 ft. in height. All areas of the fence will be 6 in. inside the property line.

Chairman Iracane opened the floor to the public for anyone wishing to ask questions of the Witness.

Chairman Iracane opened the floor to the public for anyone wishing to speak in support or opposition of the application.

Mr. Reddy made a recommendation for approval of the application.

Mr. Reddy made a motion to approve the application to install 4 ft. and 6 ft. picket style fence, 4 ft. and 6 ft. vinyl stockade fence, second by Mr. Persaud.

Approved by All.

Application 19:20

Ulta Beauty, 30 Watrview Boulevard, Block: 421 Lot: 29.03 Zone RC

'C' Variance to install permanent window signs.

Mr. Kaplan recues himself due to the relationship he has with the property.

Richard Hoff, Attorney from BISGAIER Hoff, was present to represent the Applicant for window signs.

Witness, Erik Keller, Licensed Planner, was sworn by the Board Attorney and testified that the signs will be 126 sq. ft. whereas 103.5 sq. ft. is allowed. The window area allowed to be covered by ordinance is 20% with 22.8% proposed. A variance is also necessary for the number of colors and for exceeding the 30 day limit. The signs will not advertise sales but are part of their corporate branding, quality of their product and type of services provided. It is standard in all their stores countrywide. 36 stores are located in New Jersey and the signs change seasonally along with the season related products and services. The pictures are part of the building design which attracts people to come into the store. They are opaque with top and bottom boarders that will hang from a track. Because some of the products sold can be damaged by UV rays, there are window shades that may be pulled down between the windows and signs. The shades block the view of the signs.

The positive and negative criteria were presented.

Chairman Iracane opened the floor to the public for anyone wishing to ask questions of the Witness.

Chairman Iracane opened the floor to the public for anyone wishing to speak in support or opposition of the application.

Mr. Berkowitz made a motion to approve the application to install window signs exceeding the allowed number of colors, size and time permitted. Second by Mr. Reddy.

Approved by All.

Application 17:16

Robert Campbell, 1092 Littleton Road, Block: 166 Lot: 95 Zone: R-3

'D' Variance to legalize a two-family dwelling.

Carried from June 5, 2019

Douglas Kinz, Attorney, was present to represent the Applicant in the continuation of the application and stated no testimony would be offered. He came into the case in 2018 and in reviewing the file, feels the Applicant has the right of automatic approval. Without having firsthand knowledge of the history of the property or application, Mr. Kinz summarized a view based on the telling of the Applicant and schedule of hearings.

Mr. Campbell bought his home in 2012 and was under the impression that it was a legal two-family home because there were two meters. It was found to be otherwise and an application for 'D' variance was submitted February 24, 2017 to legalize the use.

February 28, 2017 a memo was issued by the Board Planner after review of the application and March 30, 2017 a notice of hearing was sent by the Board Secretary.

At the May 17, 2017 hearing, correspondence dated May 16, 2017 from the applicant's then attorney was read and requested the application be carried to July 5, 2017 without notice because of his unavailability. This request was granted. The applicant nor his attorney were present at this meeting. Although there was a request to carry the application made by the former attorney and it was granted by the Board, Mr. Kinz felt there were no extensions given.

At the July 5, 2017 hearing the Applicant came without an attorney or planner. Because of the nature of the application, the board suggested he come back with an attorney. Mr. Campbell asked at that time for an adjournment which was granted, carrying the case to October 4, 2017. The applicant was told to check with the board secretary to see if he needed an extension and was asked if he understood, for which he replied "yes". Mr. Kinz was under the opinion that because the applicant was told to check with the board secretary for possible extensions he may need, it is not the same as being granted an extension.

At the October 4, 2017 hearing the applicant did not appear. Mr. Kinz stated that according to the applicant, the former attorney was to ask for an adjournment

because the planner was not available, but the attorney never made the request to the Board. Further, Mr. Kinz said there was indication that the applicant's sister called the former board secretary to let her know the planner was not available so the case was adjourned, but it was not in the record. Additionally, there is no record of this request in the recording of this meeting.

Mr. Kinz felt an adjournment was given at the October 4, 2017 hearing and stated Mr. Campbell nor his attorney gave any extensions. Also stated was there had been no correspondence between Mr. Campbell's attorney and the Board and that Mr. Campbell has been given no information regarding the application until August 15, 2018 when the application was again scheduled for hearing on November 7, 2018 by the current board secretary, which is when Mr. Kinz became involved. In September 2018 Mr. Kinz subpoenaed JCP&L to find out when the second meter was installed but the records were not sufficient so a second subpoena was sent. An architect was brought in to tell when the home was expanded into a two family but the architect was unsure. Mr. Kinz viewed records from the townships building department to try to find out if the township had knowledge of the home being used as a two-family home but could not find any documentation to show the use.

Mr. Kinz then read case law regarding other cases of automatic approval and felt automatic approval applied to this application.

No witnesses have been provided and the case was closed.

The Board made a motion to go into conference with each member giving their view of the course of the application.

Motion was made to come out of conference.

Motion was made to either approve or deny automatic approval and 'D' Variance by Mr. Berkowitz, second by Mr. Kaplan.

Denied by All.

Application 18:48

Parsippany Jewelry Center, 176 Route 46, Block: 166 Lot: 95 Zone: R-3

'C' Variance to convert the second floor of an existing commercial building into five residential units on the second floor.

Carried from June 5, 2019.

Joseph O'Neill, Attorney from Garofalo, O'Neill Ruggiero was present to represent the applicant in the continuation of the application which has been amended to reflect site plan as requested by the Board.

Witness, Margery Koestaner, Licensed Professional Engineer, was sworn by the Board Attorney and testified that the lot in question is 1.5 acres with an existing 1,300 sq. ft. building and 80 parking spaces. A 20 ft. X 40 ft. green area at the rear of the site was added and will be used as a children's playground. A 4 ft. fence will enclose this area. Two parking spaces will be lost to the playground area but 77 spaces are required, therefore the parking conforms. Ten spaces will be dedicated to the residential units. Enclosed residential trash and recycling dumpsters were added and to be located next to the commercial dumpster which is also enclosed. The existing lighting currently shuts off at midnight. Under the proposed plan the lights against the building will remain on all night.

The Board asked about lighting in the parking lot and at Route 46. The lights at Route 46 will remain on, but the lights in the lot will go off at midnight as they currently do.

It was thought there was adequate circulation for a school bus to come on site to pick up school aged children but the Board felt the transportation department would not allow buses to circulate through the lot and the applicant would have to provide a safe area for the children to stand at Route 46 to enter the bus.

A condition of approval will be the coordination of transportation with the board of education.

The plan the Witness was referring to was revised July 8, 2019 and filed with the Board July 30, 2019.

The Board Planner felt additional green space should be expanded toward the direction of the dumpster area to have room for a BBQ area.

The Application was amended to provide 73 parking spaces and a larger green area of 70 ft. X 40 ft. A parking variance is now required.

Discussion took place regarding the number of units and bedrooms they contained.

The Board Engineer asked about site access approval onto the highway by the DOT, which will be a condition of the application if needed.

Witness, Michael Pessolano, Licensed Planner, was sworn and qualified by the Board Attorney.

Exhibit A-3 was presented and described.

Page 1; Tax map of the area with the subject lot outlined in yellow.

Page 2; Aerial map of the area with the subject lot outlined in yellow.

Page 3; Colorized land use map of the subject lot and surrounding area to delineate the different uses.

Page 4; Colorized zoning map showing the site within the B-2 zone district.

Page 5; Picture of the subject building.

Page 6; The proposed parking area for residential use.

The positive and negative criteria were presented.

There was discussion regarding affordable housing and how it would be satisfied with this application.

The application was amended for the one-bedroom unit to be used as a medium income affordable housing unit. The plans will be revised to comply to the affordable housing rules.

Chairman Iracane opened the floor to the public for anyone wishing to ask questions of the Witness.

Chairman Iracane opened the floor to the public for anyone wishing to speak in support or opposition of the application.

Mr. Willans made a recommendation for approval of the application.

Mr. Willans made a motion to approve the application and have the Board Attorney prepare the resolution. Second by Mr. Reddy.

Approved by all.

Motion to adjourn.