

CHATHAM BOROUGH ZONING BOARD OF ADJUSTMENT

August 23, 2017

7:30 p.m.

Chairman Michael Cifelli called this Regular Meeting of the Zoning Board of Adjustment to order at 7:30 p.m. in the Council Chambers, Chatham Borough Hall. He stated that adequate notices for this Zoning Board of Adjustment meeting were given as required by the Open Public Meetings Act.

Names	Present	Absent
Chrmn. Michael Cifelli	X	
Helen Kecskemety	X	
Frederick Infante	X	
Douglas Herbert		X
H.H. Montague		X
Jean-Eudes Haeringer	X	
Patrick Tobia – 1 st Alternate	X	
Alida Kass	X	
Patrick Dwyer, Esq.	X	

Resolution #ZB 2017-13

The minutes of the July 26, 2017 Zoning Bd. of Adjustment meeting were approved as amended.

The minutes of the July 26, 2017 Zoning Bd. of Adjustment Meeting's Closed Session were approved as submitted

Old/New Business

Mr. Montague was not present to give his liaison report on recent Planning Board activities.

Public Comment

No one came forward.

Resolutions

Application ZB #17-09

Austin & Christine Fagan

95 Hillside Avenue

Building Coverage/Lot Coverage

Block 114, Lot 6

Attorney Dwyer summarized this application which proposed an addition at the rear of an existing home, triggering variances for building coverage, lot coverage, and left side yard setback. Board members believed the variances were justified and granted them. Mrs. Kass made a motion to approve the resolution confirming the Board's approval of these variances. Mrs. Kecskemety seconded the motion. A roll call vote was taken:

Mrs. Kass - yes

Mrs. Kecskemety	-	yes
Mr. Infante	-	yes
Mr. Haeringer	-	yes
Mr. Tobia	-	yes

Application ZB #17-10

Kevin Towers

5 Penn Terrace

Front Yard/Side Yard/Rear Yard/FAR

Block 23, Lot 4

Attorney Dwyer summarized this application which proposed a first-floor family room, an increase on the second floor, to be constructed on a slightly undersized lot. The proposed addition will be at the rear of the property, not visible from the street. The Board then approved the variances. Mrs. Kass made a motion to approve the resolution confirming the Board's approval of these variances. Mrs. Kecskemety seconded the motion. A roll call vote was taken:

Mrs. Kass	-	yes
Mrs. Kecskemety	-	yes
Mr. Infante	-	yes
Mr. Haeringer	-	yes
Chrmn. Cifelli	-	yes

Application ZB #17-11

Aaron & Tamara Aue

15 Vincent Street

Side Yard/Building Coverage/FAR

Block 79, Lot 26

Attorney Dwyer summarized the application which proposed modifications to an existing home which had been constructed on a severely undersized lot. The Board felt this undersized situation contributed to the need for the proposals, and granted the variances. Chrmn. Cifelli made a motion to approve the resolution, confirming the Board's approval of the variances. Mr. Infante seconded the motion. A roll call vote was taken:

Mrs. Kass	-	yes
Mr. Infante	-	yes
Mr. Haeringer	-	yes
Chrmn. Cifelli	-	yes

New and Returned Applications

Chrmn. Cifelli noted that 13 applications are now pending before the Board. A back-log of applications has unfortunately occurred. An extra Board meeting will be scheduled for the night of September 13th to help relieve this back-log. The Regular Board Meeting will still be held on

September 27th. It is hoped that the 13 pending applications will be taken care of with these two September meetings.

The attorney for Application ZB #16-020: REO Development – 94 Washington Avenue asked if this application could be adjourned until the next meeting. The Board consented. Application ZB #16-020 will carry to the September 13, 2017 Special Meeting of the Zoning Board of Adjustment.

Application ZB #17-12
Leo Acevedo/Adonis Real Estate, LLC
11 Fern Avenue
Front Yard/Side Yard/Building Coverage/FAR
Block 125, Lot 23

This is continued from the July 26, 2017 Zoning Bd. of Adjustment meeting.

The following were present and remained under oath from the previous hearing:
Leo Acevedo, the sole owner and member of Adonis Real Estate, LLC
Cindy Boerner, architect for the applicant

Chrmn. Cifelli recalled at the last hearing a neighbor had expressed concerns about the bulk proposed for this application. The neighbor had felt that the bulk would negatively impact his air, space, and light in between the two homes. Chrmn. Cifelli stated that the hearing had ended with the understanding that the applicant would address this concern and submit revised plans. Mr. Acevedo confirmed that he has submitted revised plans.

Attorney Dwyer noted that the applicant's attorney, Carlotta Budd, was not present at this time. He asked Mr. Acevedo if Attorney Budd was still representing him. Mr. Acevedo answered that Attorney Budd was still representing him; however, he would like to still proceed with tonight's hearing.

Ms. Boerner testified that the new revised plans will move the bulk of the addition over another 2 feet. The side yard setback will be 10.7 feet versus the 12 feet required by Borough regulations. The new proposal removes 19.6 sq. ft. of lot coverage. The deck size has now been reduced and moved. The Floor Area Ratio (FAR) has now increased by 11 sq. ft. to make the roofline work. The building coverage variance remains the same as originally proposed.

Ms. Boerner testified that on the first floor the first 5 feet of the proposed addition will line up with the existing house.

Ms. Boerner submitted and explained Exhibit A-4: An enlargement of the site plan with measurements of the neighboring homes.

Ms. Boerner submitted Exhibit A-5: Photos taken, mainly of the neighbor's garden and the spacing relationship with the applicant's property. She reviewed the shadow situation occurring

over the neighbor's garden at different times of the day in relationship to the applicant's proposed addition.

Ms. Boerner submitted Exhibit A-6: photos taken showing the shadows between the neighbor's garden and the garage.

Chrmn. Cifelli asked if the peak of the proposed roof of the addition has changed. Ms. Boerner testified that the peak has been lowered a foot. Also, the peak has been moved further away. Chrmn. Cifelli confirmed with Ms. Boerner that the original shadow caused by the pitch of the roof has now been made smaller and has been positioned away some more.

Ms. Boerner reviewed the relationship of the travels of the sun on June 21, 2017, the longest day of the year, and how it would interact with the applicant's proposed addition, and the property next door. Ms. Boerner submitted the same research she had done on December 21st and March 21st as Exhibit A-7.

Ms. Boerner testified she and the neighbor had reviewed the revised plans together on August 10th. They also talked about the sun's path in relationship to the addition.

Ms. Boerner testified that she and the applicant have done all they can to alleviate the Board's initial concerns that the applicant had not considered stepping in the addition, setback-wise, to try and make the side yard more conforming. The proposed lot coverage has been reduced in the revised plans. She hoped that the Board looked favorably on these revised plans.

Chrmn. Cifelli asked if the public had any questions for the witnesses.

The public had no questions.

Chrmn. Cifelli asked if the public had any comments on this application.

Jeff Stanton, 7 Fern Ave., came forward. He remained under oath from the previous hearing. He felt that the revised plans would now raise the height of the original structure. Mr. Stanton suggested the height of the second floor of the proposed addition be reduced.

Mr. Haeringer recalled that at the last hearing Mr. Stanton expressed concerns about the proposed wall. Mr. Haeringer asked Mr. Stanton if he was satisfied with the most recent revisions.

Mr. Stanton answered that the revised wall being proposed is better than what was originally proposed.

Mr. Haeringer asked if there was a reason why the back wasn't flipped with the deck to be constructed on the left side to minimize the setback.

Ms. Boerner answered that the garage and the driveway are on that particular side of the property. She explained that the arrangement being proposed would make it easier for a person to walk down the driveway, go up to the deck, and enter the mudroom.

Mrs. Kecskemety asked why was the proposed building coverage was increasing.

Ms. Boerner answered that the garage is the major factor in raising the proposed building coverage. If the garage was eliminated, a building coverage variance would not be needed.

Mrs. Kecskemety asked if someone would be able to live in the proposed attic.

Ms. Boerner answered yes. She clarified that the attic section over the main part of the house will be livable. The attic section over the addition in the back will not be livable. That section won't be high enough.

Carlotta Budd, Esq., the attorney for the applicant, for the record, announced that she was now present at the hearing.

Attorney Budd stated that the revisions have now been fully explained. The applicant is trying to make the house a little more large and more livable. An effort was made to keep it within a reasonable amount.

Mr. Acevedo closed his application and submitted it to the Board for their consideration.

Chrmn. Cifelli asked for comments from the Board. Mr. Infante noted that the plans call for the construction of a garage and creating a safe entranceway, which the Borough encourages. The applicant tried to accommodate the neighbor's concerns. Mr. Haeringer pointed out that the applicant will not be living in this house. He felt that the house, with the proposals, is "a want" for a business transaction and not "a need" expressed by a resident actually living in the home. Mrs. Kass wasn't sure this proposed design was right for this particular lot. She questioned whether this particular size lot should be allowed the proposed third floor space. Mrs. Kecskemety said she agreed with many of the comments made by Board members. Mr. Tobia and Chrmn. Cifelli appreciated that the applicant re-designed his plans; however, they felt that this design did not fit this particular lot.

Mr. Infante made a motion to approve Application ZB #17-12: Leo Acevedo/Adonis Real Estate, LLC – 11 Fern Avenue, with the applicant to follow any stipulations from the Borough Engineer regarding stormwater run-off. Mr. Tobia seconded the motion. A roll call vote was taken:

Mrs. Kass	-	no
Mrs. Kecskemety	-	no
Mr. Infante	-	yes
Mr. Haeringer	-	no
Mr. Tobia	-	no
Chrmn. Cifelli	-	no

The application was denied.

Application ZB #17-15

Gerard & Christina Norcia

69 Elmwood Avenue

Side Yard/Building Coverage/Lot Coverage

Block 64, Lot 17.01

John Johnson, Esq., attorney for the applicant, introduced himself. He stated that the applicant is seeking a lot coverage variance and a building coverage variance. When Mr. and Mrs. Norcia purchased the house, they knew there was termite damage. However, contractors informed them that the termite situation was so severe, that the house should be considered for demolition.

Mr. Johnson stated that Mr. and Mrs. Norcia is before the Board seeking to demolish this existing house and to construct a new home which will conform with the neighborhood. He listed the three witnesses who will be testifying tonight.

Mark Marion, the architect for the applicant, was sworn in to testify. Mr. Marion submitted his educational and professional credentials to the Board. The Board accepted them.

Mr. Marion testified that he has visited and inspected the applicant's property. He prepared an architectural plan for the property. Mr. Marion submitted the architectural plan as Exhibit A-1.

Mr. Marion testified that the existing house is a two-story colonial home, built circa 1926. An effort will be made to construct the new home to emulate the footprint of the original home, with a modern twist for the interior. Mr. Marion reviewed the floor plan for the proposed home. A mudroom will lead to the garage that is currently existing. Four bedrooms and two bathrooms will be constructed. The attic will not be habitable.

Mr. Haeringer asked if the existing foundation will remain. Mr. Marion answered that the existing foundation is leaking.

Mr. Marion explained how the new home will be squared off. A large gable will be constructed at the back, to shelter the proposed expansion out the rear. Simple lines will be kept on the new home.

Mr. Marion testified that the new home will be 16 inches higher than the original house; however, the height will still comply with Borough regulations. The side yard setbacks will remain the same. The FAR is under the allowable amount for the lot. Mr. Marion testified that the proposed building coverage 22 ft. 30 inches.

He also testified that the improved lot coverage will be 4,048 sq. ft.

At this point, Gerard & Christine Norcia, the applicants, were sworn in to testify.

Attorney Johnson asked if the Board members had any questions for Mr. Marion.

Chrmn. Cifelli and Mr. Marion discussed the proposed steps that will be included in the interior of the second floor. Chrmn. Cifelli asked what would be the access from the basement to the exterior. Mr. Norcia testified that he and his wife have spoken with contractors what could be constructed to make at least one point of egress. An escape window can be constructed. The basement will be expanded. A new foundation will be constructed, replacing the existing foundation which is in poor condition.

Chrmn. Cifelli asked, since the existing house will be demolished, was any thought given to center the new home a little more.

Mr. Marion explained how centering the new home would create problems for family members accessing the rear of the home. Tight conditions already exist with the neighbor's house on the right side. Mr. Norcia offered to pass around photos showing these tight conditions.

Chrmn. Cifelli confirmed with Mr. Marion that the side yard setback for the left side is driven by the covered porch. The Board noted that the Borough's Master Plan favors porches.

The Board discussed the proposed attic space. Mr. Marion stated that if the attic became habitable, it would still be under the allowable FAR. It's still a half story.

The public had no questions for Mr. Marion.

Robert Michaels, the applicant's planner, was sworn in to testify. Mr. Michaels submitted his educational and professional credentials. The Board accepted them.

Mr. Michaels testified that he has studied the architectural plans for this application and has prepared a planning study for this application.

Attorney Johnson asked Mr. Michaels to testify on his planning study, paying particular attention to the variances that were triggered by this application.

Mr. Michaels submitted Exhibit A-2: the planning study he had prepared of properties within the 200-ft. radius and in the same zone as the subject property.

Mr. Michaels brought up the chart in Exhibit A-2 which compared the building and lot coverages of the subject property, both existing and proposed, with some of the neighboring properties. The rest of the exhibit consists of photos of the fronts of the neighboring homes and the subject property. Also included is an aerial photo that highlights the subject property and the neighboring properties.

Mr. Michaels testified that the existing home was constructed in 1926. It has five bedrooms, an enclosed porch, and a detached garage. He reviewed the non-conformities of the property. Mr. Michaels testified that the lot sizes of the lots in the immediate area are of varying sizes. The subject property is one of the smaller ones in the neighborhood.

Mr. Michaels testified that the proposed new home will be within the FAR standards in that particular zone. The expanded area of the footprint will conform to the side and rear yard setbacks. A drywell will be installed to mitigate the increased lot coverage.

Mr. Michaels discussed the two variances being sought. They are C variances. He testified that the width and the frontage of the property is narrow and contribute towards the non-conforming condition of the side yard setback. The small size of the subject lot limits the building and lot coverage. Mr. Michaels pointed out that the proposed lot coverage is over the allowable by only 27 sq. ft.

The Board felt the proposed covered porch is triggering the variances in this application. Chrmn. Cifelli asked what would be the neighborhood analysis regarding porches.

From his research on the Borough tax records, Mr. Michaels reviewed the square footage of some of the porches in the immediate area of the subject property. Mr. Norcia gave testimony on some of the neighboring exterior porches.

Summing up, Mr. Michaels testified that the benefits outweigh the detriments. The proposed plans meet some of the reasons and purposes of planning. The problems of infestation will be eliminated by demolishing the existing house and building a new home. Adequate light, air and open space will be provided because of the attention paid to the setbacks. Mr. Michaels stated that the proposals will be well within the character of the applicant's neighborhood. The installation of a drywell will mitigate the increased lot coverage. The addition to the house will be screened. Mr. Michaels explained how the variances could be granted without a substantial impairment to the zone plan and zoning ordinance. Mr. Michaels noted that the 2016 Re-examination of the Borough's Master Plan encourages the construction of reasonably sized homes. He believed that the applicant's home is of a reasonable size and meets the purposes of planning

There were no further questions from the Board. The public had no questions for Mr. Michaels. The application was submitted to the Board for consideration.

Board discussion began. Chrmn. Cifelli noted that all the variances being sought were driven by the proposed porch. He pointed out that the porch will be open and won't produce a visual, negative impact from a streetscape point of view. Chrmn. Cifelli pointed out that the applicant's lot is very deep. The proposed bulk will be constructed at the back of the house, and will have no real visual impact from the street. Mrs. Kass commended the applicants for replicating the original house as close as possible. She agreed with Chrmn. Cifelli's point that there is really no detriment to what is being proposed. Mr. Tobia believed the plans were reasonable. There is enough shrubbery to serve as a buffer between the side porch and the next door neighbor. Mrs. Kecskemety and Mr. Haeringer believed the plans were nicely done. Mr. Infante believed the proposed home will be in keeping with the neighboring properties.

Mr. Haeringer made a motion to approve Application ZB #17-15: Norcia – 69 Elmwood Avenue, with the applicant to follow any stipulations from the Borough Engineer regarding stormwater run-off. Mrs. Kass seconded the motion. A roll call vote was taken:

Mrs. Kass	-	yes
Mrs. Kecskemety	-	yes
Mr. Infante	-	yes
Mr. Haeringer	-	yes
Mr. Tobia	-	yes
Chrmn. Cifelli	-	yes

The application was approved.

At 9:10 p.m. a break was taken in the meeting.

At 9:20 p.m. the meeting resumed.

Application ZB #17-16

Jed Tuminaro & Meredith Eckert

31 Roosevelt Avenue

Side Yard/Building Coverage

Side Yard/Building Coverage

The following were sworn in to testify:

Jed Tuminaro & Meredith Eckert, the applicants

Ms. Eckert stated that the house was constructed between 1929 and 1935. When she and her husband bought the house, an addition had already been constructed on the first floor. She and her husband are now looking to fill out the second floor to match the addition that had been constructed on the first floor. The new addition will go up and cantilever 2 to 3 feet in the back. The existing garage will have to be moved back.

Ms. Eckert testified that the proposed addition on the second floor will have a master suite. A third bedroom will be created. She felt the proposals will make the house more functional.

Kenneth Anness, the architect, was sworn in to testify. He submitted his professional credentials to the Board. The Board accepted them. Mr. Anness clarified that he was the project architect for this application. The Board accepted his credentials.

Mr. Anness testified that the proposed cantilever is generating the overage on the building coverage.

Chrmn. Cifelli asked for more testimony on the proposed cantilever.

Mr. Anness testified that the cantilever will be constructed across the rear of the house. It will measure 2 ft. 4 inches. The reason the cantilever is being constructed is to create a bedroom that complies to the building code, and to provide some closet and bathroom space.

Chrmn. Cifelli confirmed with Mr. Anness that technically, if the additional space was not allowed on the second floor, the bedrooms would be extraordinarily small and would not meet

the legal definition of a bedroom. Therefore, Chrmn. Cifelli felt that what was being proposed was on a modest scale.

Chrmn. Cifelli asked for testimony on the intensification of the side yard setback. He asked where was that intensification coming from.

Mr. Anness pointed out that the intensification occurs on the left side of the bedroom. He noted that the house is skewed about 2 inches. The intensification would be about 7 feet. The applicant's lot is only 50 sq. ft., where 60 sq. ft. is required.

Chrmn. Cifelli confirmed with Mr. Anness that the proposed roofline will be conforming with Borough regulations. Mr. Anness testified that the proposed roofline will be below the existing roof.

Chrmn. Cifelli asked how far the next door neighbor's home, to the left, is to the property line.

Ms. Eckert didn't have an exact calculation, however she testified the neighbor's driveway and garage sit very close to her property line. She pointed this situation out on a photo-board she had on the easel.

Ms. Eckert submitted this photo-board as Exhibit A-1.

Chrmn. Cifelli confirmed with Ms. Eckert that her lot is deeper than what is required.

The Board discussed the proposals for the applicant's garage. Mr. Anness testified that the existing garage is not in good condition. The plans propose to demolish the existing garage and to construct a new one, about the same size as the original garage, and will slide it back some.

The Board had no further questions for the architect or the applicant.
The public had no questions or comments on this application.

Mr. Anness and Ms. Eckert then closed the application and submitted it to the Board for comments and a vote.

The Board discussion began. Chrmn. Cifelli believed the applicant was not over-reaching with these proposals. It is not an aggressive application. The proposals will improve the housing stock. The light, air, and space will not be negatively impacted by these proposals.

Mrs. Kass made a motion to approve Application ZB #17-16: Tuminaro/Eckert – 31 Roosevelt Avenue, with the applicant to follow any stipulations from the Borough Engineer regarding stormwater run-off. Mrs. Kecskemety seconded the motion. A roll call vote was taken:

Mrs. Kass	- yes
Mrs. Kecskemety	- yes
Mr. Infante	- yes
Mr. Haeringer	- yes

Mr. Tobia - yes
Chrmn. Cifelli - yes

The application is approved.

Application ZB #17-17

Adam Deters

38 Hedges Avenue

Front Yard/Side Yard

Block 53, Lot 19

The following were sworn in to testify:

Adam & Terry Deters, the applicants

David DelleDonne, the architect for the applicants

Mr. Deters testified that the house was built in 1926. The house originally had 3 bedrooms. A side addition was constructed in the 1940s or 1950s. After that a rear addition and a shed roof were constructed.

Mr. Deters is proposing to construct a master bathroom and closet on the second floor. He reviewed the improvements that he has already done to the house, among them was an upgrade of all of the home's mechanicals. Chrmn. Cifelli confirmed with Mr. Deters that what is being proposed will be a definite update to the home.

Mr. DelleDonne submitted his educational and professional credentials to the Board. The Board accepted them.

Mr. DelleDonne testified that the proposed addition for the second floor measures 10 feet wide and 17 ½ feet deep, and will contain a master bath and master closet. The proposed addition will extend over the existing first floor, carrying the ridge line across, carrying the gutter lines across, and matching all the gable rooflines. On the second floor, on the front, a slight cantilever of 6 inches will be created. However, this cantilever will be hidden by an extended roofline.

Mr. DelleDonne stated that essentially, all the first floor roof lines, that were shed roofs, are being raised. They didn't really match the style of the house. A window will be installed on the second floor, in the front. For the two setbacks, a "C" variance is being sought. Mr. DelleDonne testified that the front yard setback is a non-conforming condition, and a non-conforming condition exists for the side yard setback on the right hand side.

Mr. DelleDonne submitted the following:

Exhibit A-1: a photo-shopped picture of the applicant's home

Exhibit A-2: individual photos of the applicant's home

The Board discussed with Mr. DelleDonne the proposed addition in relationship to the street.

Mr. Haeringer confirmed with Mr. DelleDonne that the application is really just seeking to add a bathroom measuring 135 sq. ft. on the second floor. Chrmn. Cifelli also confirmed with Mr. DelleDonne that the attractive Dutch Colonial look will be maintained on both sides of the house. Mr. DelleDonne testified that the plans are under on FAR.

Mr. DelleDonne testified that a driveway exists between the proposed second story and the neighbor's home next door. The neighbor's house produces shadows on the applicant's home which faces west.

Summing up, Mr. DelleDonne testified that the proposed addition will match the architectural style of the applicant's home, and will only exist on the second story. The addition will be keeping in style with the rest of the neighborhood.

Board discussion began. Chrmn. Cifelli believed the proposals were modest. He felt that the light and air between the applicant's home and the neighboring homes will not be impacted.

Mrs. Kecskemety made a motion to approve Application ZB #17-17: Deters – 38 Hedges Avenue, with the applicant to follow any stipulations from the Borough Engineer regarding stormwater run-off. Mr. Infante seconded the motion. A roll call vote was taken:

Mr. Tobia	-	yes
Mr. Haeringer	-	yes
Mr. Infante	-	yes
Mrs. Kecskemety	-	yes
Mrs. Kass	-	yes
Chrmn. Cifelli	-	yes

The application was approved.

Chrmn. Cifelli announced that any open applications from tonight's meeting will be heard at the Zoning Board of Adjustment Special Meeting on September 13, 2017.

At 9:58 the meeting adjourned.

The next Zoning Board of Adjustment Meeting will be held on Wednesday, September 13, 2017, 7:30 p.m., in the Council Chambers, Upper Level, Chatham Borough Hall.

Respectfully submitted:

Elizabeth Holler
Recording Secretary

