

CHATHAM BOROUGH ZONING BOARD OF ADJUSTMENT
September 13, 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 – arrived at 7:40 p.m.	
Patrick Dwyer, Esq.	X	

Resolution #ZB 2017-14

The minutes of the August 23, 2017 Zoning Bd. of Adjustment meeting were approved as amended.

Resolutions

Attorney Dwyer asked to postpone the Resolution for Application ZB #17-12: Acevedo/Adonis Real Estate, LLC, until the Zoning Officer could answer a question he had on it. This resolution will be presented at the Board's Regular Meeting on September 27th.

Application #17-15

Gerard & Christina Norcia

69 Elmwood Avenue Side Yard/Building Coverage/Lot Coverage

Block 64, Lot 17.01

Attorney Dwyer summarized this application which proposed to demolish an existing house, due to serious termite damage, and rebuild a new home, needing side yard variances, building and lot coverage variances. The Board believed the benefits outweighed the detriments with this application and approved the variances. Mr. Infante made a motion to approve the resolution confirming the Board's approval of these new variances. Mrs. Kecskemety seconded the motion. A roll call vote was taken:

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

At this point in the meeting, Mrs. Kass arrived at the Board table.

Application ZB #17-16

Jed Tuminaro & Meredith Eckert

31 Roosevelt Avenue

Side Yard/Building Coverage

Block 53, Lot 45

Attorney Dwyer summarized this application which proposed improvements to an existing home. Intensification would occur on the left-hand side yard setback and an increase to building coverage. The Board believed these overages were modest and granted the variances. Mr. Infante made a motion to approve the resolution confirming the Board's approval of these variances. Mr. Haeringer 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

Application ZB #17-17

Adam Deters

38 Hedges Avenue

Front Yard/Side Yard

Block 53, Lot 19

Attorney Dwyer summarized this application which proposed improvements to an existing home, constructing a second story addition. Hearing the testimony, the Board decided the proposed location for constructing the addition was the best option and granted the variances. Mr. Infante made a motion to approve this resolution confirming the Board's approval of these variances. Mrs. Kecskemety 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

New and Returned Applications

Application ZB #17-18

Robert & Ellen Schell

11 Myrtle Avenue

Side Yard/Building Coverage/Lot Coverage

Block 124, Lot 19

The following were sworn in to testify:
Bob Schell, the applicant
Phil Brown, the architect for the applicant

Mr. Schell gave an introductory statement. He described the problems of an existing back porch, which is unheated. He and his wife are proposing to rebuild this porch. In doing this, they would like to extend the second story over this porch area, extending a third bedroom.

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

Mr. Brown described the existing side yard setback on the left and on the right. He testified that the existing porch floor is three or four steps lower than the existing house. The kitchen currently opens into that space.

Attorney Dwyer asked whether the stairs were set back 3 feet from the side of the house.

Mr. Brown answered that the steps were set in approximately 3 feet from the house

Regarding the proposed deck, Chrmn. Cifelli pointed out that there must be a minimum off-set of 3 feet from the stairs to the building. Attorney Dwyer noted that the off-set looks more like 2 ½ feet. Mr. Brown agreed that another variance would be needed; however, he is willing to change the steps to meet the Borough requirements.

Mr. Brown reviewed the proposals for the unheated backroom which will become a new sunroom. The floor between the kitchen and sunroom will become the same level. New walls and new windows will be constructed. A deck measuring 10 feet by 10 feet. He will make the steps conform to the required off-set from the house.

Mr. Brown testified that a closet will be added to an existing bedroom. One bedroom will be made into the master bedroom with its own bathroom. The second floor will have a proposed addition of 10 feet by 22 feet. The first floor will be a re-build of what exists on the foundation; however, a cantilever will go out two feet to make the room more functional. The second floor will not have a cantilever.

At this point, Ellen Schell, the other applicant was sworn in to testify.

Mr. Brown testified that the house is already over the existing coverage. The deck and the cantilever are adding to this coverage. Mrs. Kecskemety and Mr. Montague asked that the existing plans with dimensions be given.

Mr. Brown testified that the house doesn't sit square on the property.

Chrmn. Cifelli asked Mr. Brown if he brought the house in 2 ½ feet, what would be the effect on the interior as proposed, on the first floor and the second floor.

Mr. Brown explained what an affect it would be on the second floor.

Chrmn. Cifelli and Mr. Haeringer confirmed with Mr. Brown that currently there is only one bathroom in the house.

Mr. Infante asked for information on the size of the houses in the neighborhood. Also, what is the distance of the applicant's house to the house next door? Mr. Brown answered that the house to the right is more severe to the setback detriment than the applicant's house.

Mr. Infante noted that the setbacks are 9 feet and 12 feet. If the neighborhood homes all have the same footprint, more or less, he wasn't sure if the Board had the latitude to change the requirement with regard to those setbacks.

Chrmn Cifelli pointed out that the homes on Colonial Way, behind the applicant's home, would not be affected by what goes on with the side yard setbacks.

Mrs. Kass asked Mr. Brown and the applicant if what is being proposed would bring the house up to baseline expectations or not.

Mr. Montague felt that the basic problem was that the house, with the proposals, was too big for the lot.

Mr. Brown stated that if the lot is half the size of what it is required to be, and the house, at least closely meets the allowable building coverage, the house is only half the size of what it could be if it was a normal lot.

Mr. Tobia brought up the photos in the applicant's packet, showing the western exposure of the applicant's house. It appears the side of the applicant's house which will have the expansion, a turn-around neighbor's driveway exists. Also, it doesn't look appear the proposed extension will affect the light and air between homes.

Chrmn. Cifelli noted that the FAR is still almost 300 sq. ft. under what is permitted by the Borough. The width of the property is a problem.

There were no further questions from the Board for the witnesses.

The public had no questions for the witnesses.

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

John Barton, 15 Myrtle Ave., was sworn in to testify. Mr. Barton noted that Mr. Schell had reviewed the plans with him. Mr. Barton felt it was "all we (the residents on Myrtle Ave.) can do" to extend the area of their houses. The residents can't expand out. The only option is to expand out the rear of the house. Mr. Barton discussed the side yard measurements in the neighborhood. He fully supported the application.

There were no further comments from the public on the application.

Chrmn. Cifelli asked for comments from the Board. Mrs. Kass felt that the architect gave a good explanation that the addition was made as carefully and modestly as possible on this property to bring the house up to modern standards. Chrmn. Cifelli was in favor of the application. Mr. Montague believed that the side yard was too small. Mrs. Kecskemety noted that the applicant has such a limited area in which to make his house more livable. Mr. Tobia had nothing to add. Mr. Infante stated that the Borough wants to maintain the character of their neighborhoods as much as possible and abide by the zoning regulations. Mr. Haeringer believed that adding the 2 feet in the back makes sense. He supported the application.

Mrs. Kass made a motion to approve Application ZB #17-18: Robert & Ellen Schell – 11 Myrtle Avenue, with the applicant to follow any stipulations from the Borough Engineer regarding stormwater run-off. Mr. Haeringer seconded the motion. A roll call vote was taken:

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

The application was approved.

Application ZB #16-020

REO Development

94 Washington Avenue

Front Yard/Rear Yard/Building Coverage/FAR

Peter Rosen, Esq., attorney for the applicant, gave an introductory statement. He stated that the applicant is proposing to build a new house on the lot. Attorney Rosen noted that three witnesses will be testifying on this application.

Two witnesses were sworn in to testify

Edward S. Deck, the engineer for the applicant

Robert Michaels, the planning for the applicant

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

Mr. Deck testified that where an existing structure is situated on the site, with a driveway running from the front to the back, an existing garage is situated. The existing garage will be demolished and replaced with a new 2 ½ story framed dwelling with a garage included in the garage. Mr. Deck reviewed the 3 variances being sought and their proposed calculations.

Mrs. Kecskemety asked why every variance in this application is extending quite a bit over the allowable. Mr. Deck answered that the planner will be giving testimony to answer that concern.

Mr. Montague asked if the applicant had a streetscape to show what the front setbacks are for the neighborhood.

Mr. Deck answered yes.

Chrmn. Cifelli asked first for testimony about the proposed FAR and building coverage.

The Board and the public had no further questions for Mr. Deck.

Hayk Ekshian, the architect for the applicant, was sworn in to testify. He submitted his educational and professional credentials to the Board. The Board accepted them.

Mr. Ekshian put on the easel the elevation on the streetscape at Washington Ave. He pointed out the proposed building which was situated in the middle of the streetscape.

At Chrmn. Cifelli's request, Mr. Ekshian testified that a garage and a porch are proposed for the first floor. A living room, dining room, and a kitchen will also be on the first floor. The second floor will have three bedrooms, a master suite, and an additional bathroom. The basement will have a rec room and a guest bedroom. A deck is proposed for the rear yard.

Mr. Ekshian presented Sheet A-2, the elevations of the proposed house. Mr. Ekshian testified that he had tried to blend the garage into the porch as much as possible. The front door will be located on the side of the garage. The front door leads directly into the living room. There is not enough room for a foyer. Mr. Ekshian explained that there will be an egress window with a window well in the basement.

Chrmn. Cifelli asked if the proposed deck had been included in the building coverage calculations.

Mr. Ekshian indicated yes.

Mrs. Kass asked what would be behind the proposed house.

Mr. Ekshian answered Washington Ave. School.

Chrmn. Cifelli noted that the proposed house won't be as high as the building to the right.

Chrmn. Cifelli pointed out that if the proposed deck was removed, the plans would be approximately 500 sq. ft. over on building coverage. Why is it necessary from an architectural point of view to be 230 sq. ft. over what is permitted on that piece of property?

Mr. Ekshian explained that the bedroom sizes are average or below average size, forcing the building coverage had to be made a little larger. Mr. Haeringer pointed out that is because 4 bedrooms are being proposed.

Robert Michaels, the planner for the applicant, came forward. He submitted the following:

Exhibit A-1: an aerial photo of the neighborhood property

Exhibit A-2: FAR and building comparisons of the neighborhood properties

Mr. Michaels testified that the applicant's property is in the R-3 zone. Mr. Michaels reviewed the following:

- 1) The existing non-conformities of the property.
- 2) The setbacks of the two adjacent properties.
- 3) The proposed variance calculations

Mr. Michaels pointed out that the proposed building coverage will be lesser than the existing lot coverage. Attorney Dwyer and Board members indicated that the building coverage calculations he was testifying on were not matching those on the denial sheet from the Zoning Officer.

Chrmn. Cifelli suggested a break be taken in the meeting.

At 8:55 p.m. a break was taken in the meeting.

At 9:04 p.m. the meeting resumed.

Attorney Rosen stated that the calculation problem has been figured out. He pointed out that the denial sheet had been prepared by the town. That calculation in question did not come from the applicant. REO disagrees with the calculation on the denial sheet.

Chrmn. Cifelli stated that Board members rely on the calculations on the denial sheet to clarify what exactly they are voting on. He pointed out that the applicant's witness is testifying that the building coverage will be decreasing, when an increase of building coverage will really be happening. Chrmn. Cifelli recommended that the applicant meet with Mr. DeNave, the Zoning Officer, to figure out the correct calculation. Mr. DeNave could either issue an amended denial sheet or something in writing to state the official calculation of this variance is seeking.

On other issues, Chrmn. Cifelli suggested the applicant also be prepared to testify on why four bedrooms are being proposed, and not three.

Mr. Montague asked that the lot coverage calculations be broken down into various components.

Application ZB #16-020: REO Development – 94 Washington Avenue – will be carried to the September 27, 2017 Zoning Bd. of Adjustment meeting.

Application ZB #17-19
Thomas & Kristen Johnson
25 Roosevelt Avenue
Side Yard/Rear Yard/Building Coverage/FAR
Block 53, Lot 42

The following were sworn in to testify:

Kristen Johnson, the applicant

Marjorie Roller, the architect for the applicant

Ms. Roller submitted her educational and professional credentials to the Board. The Board accepted them.

Mrs. Johnson gave an introductory statement. She testified that one of the existing bedrooms was very small and barely functional. Her family has grown, and she and her husband want to make the home more functional.

Ms. Roller testified that the existing basement is only 6 feet high, with pipes and beams running through. It's really just serves as a crawl-space. Also, the existing dining room is being used as a playroom. Ms. Roller testified that the applicant is also proposing to make the kitchen slightly larger. The applicant is proposing an expansion to the existing family room, so the dining room can be reclaimed as an eating area.

Ms. Roller testified that a one-story older addition exists at the rear of the house. The applicant is proposing to make this addition a little bit larger on the first-floor level and then construct a second story to the addition. Ms. Roller discussed the building coverage variance. The existing building coverage is currently over the allowable.

Ms. Roller testified that the current lot is sub-standard. Regarding the side yard variance, Ms. Roller stated that the proposed one-story addition will be 5 ½ feet from the property line.

Chrmn. Cifelli confirmed with Ms. Roller that the FAR variance is seeking 31 sq. ft. beyond what is permitted for the FAR. Ms. Roller testified that the proposed building coverage will be 36 sq. ft. over what is permitted in the Borough. She felt that the detached garage may not have been included in the building coverage. Board members believed the correct calculation for building coverage would be 1283 sq. ft. which is 242 sq. ft. over what would be allowed. Ms. Roller testified that the improved lot coverage will remain in compliance.

Ms. Roller testified that the houses in the neighborhood, look the same. A few of the homes have had similar additions as to what the applicant is seeking. Ms. Roller believed that the homes which have had rear additions constructed probably have the 5 feet setbacks on either side.

Ms. Roller submitted the following:

Exhibit A-1: two photos of 33 Roosevelt Ave. and two photos of 35 Roosevelt Ave.

Exhibit A-2: two photos from the applicant's property

Chrmn. Cifelli asked if a deck was being proposed at the back of the house.

Ms. Roller clarified that an existing deck will be modified in place. It will become smaller because of the addition.

Chrmn. Cifelli asked whether this modification was counted into the building coverage calculation.

Ms. Roller answered no.

Mrs. Kass confirmed with Ms. Roller that the addition is adding an additional 150 sq. ft. Mr. Montague and Ms. Roller discussed the proposed changes to the deck. Mr. Montague expressed serious concerns about a possible impact to the side yard setbacks. Ms. Roller stated she could revise the deck to meet the 5.5 feet setback requirement. Ms. Roller discussed the size of the proposed master bedroom suite.

Ms. Roller distributed copies of Exhibit A-2 to Board members. She pointed out that a substantial hedgerow currently bisects the applicant's property and the next-door neighbor's property. Ms. Roller also testified that the properties behind Roosevelt Ave. belong to Hedges Ave. These Hedges Ave. properties are very long. Therefore, changes made to the rear of the applicant's home will not impact any residences on Hedges Ave. Mr. Infante discussed the light, air, between dwellings, should the application be approved. He confirmed with Ms. Roller that the proposed garage will only be one story.

The Board had no further questions for the witnesses. The public had no questions or comments on the application.

Board discussion began. Chrmn. Cifelli felt that the major focus is the extra proposed room on the second floor, and its relationship to the FAR variance, which is 31 sq. ft. over the allowable. He felt that amount was de minimus. Chrmn. Cifelli believed that the existing house needed an upgrade for a full-sized family. He believed this was not an aggressive application. Mrs. Kecskemety agreed with Chrmn. Cifelli's comments. Mr. Montague had serious concerns about the side yard setbacks. Mr. Infante noted Mr. Montague's concerns; however, the testimony regarding the light and air situation, convinced him to accept the side yard variance. Mrs. Kass was glad that the proposed design has the roofline sloping away from the neighbors. Chrmn. Cifelli made a motion to approve Application ZB #17-19: Thomas & Kristen Johnson – 25 Roosevelt Avenue, with the applicant to follow any stipulations from the Borough Engineer regarding stormwater run-off. Mr. Haeringer seconded the motion. A roll call vote was taken:

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

The application was approved.

Application ZB #17-20
Kevin & Kelley Carney
252 Washington Avenue
Side Yard/Building Coverage/Lot Coverage
Block 1, Lot 6

The following were sworn in to testify:

Kelley Carney, the applicant

Kimberly Tone, architect for the applicant

Ms. Tone submitted her educational and professional credentials to the Board. The Board accepted them.

Chrmn. Cifelli reminded Ms. Tone that the applicant has an over-sized lot. He asked that testimony be given as to why the lot coverage and building coverage are necessary when the lot is over-sized. Chrmn. Cifelli noted that the building coverage variance is 165 sq. ft.

Ms. Tone testified that the applicant bought the house in 2001. At that point, the applicant did a major renovation to the house. The home's existing conditions are a result from this renovation. The applicant had built to the extent of the allowable calculations in the Borough at that time. Ms. Tone stated that a little more space is proposed for the first floor.

Ms. Tone testified that the existing bedroom on the first floor will be expanded towards the back. An additional bathroom is proposed for the second floor, to be constructed towards the back. The FAR for this project conforms with Borough regulations.

At this point in the meeting, Mr. Montague recused himself from the hearing because it was discovered that he lived within 200 feet radius of this application.

Mr. Montague departed from the meeting.

Ms. Tone stated that the additional bathroom and two closets are proposed for the second story.

Chrmn. Cifelli asked if the existing patio at the rear will remain.

Ms. Tone answered yes.

Chrmn. Cifelli asked how does this patio contribute towards the lot coverage. He asked for the square footage of the patio.

Ms. Tone answered that the patio is about 499 sq. ft.

Chrmn. Cifelli asked how much lot coverage was being proposed.

Ms. Tone answered 142 sq. ft. is being proposed.

Chrmn. Cifelli concluded that the focus is no longer on the actual living space in the house, as far as the lot coverage is concerned. He suggested the possibility of reducing the size of the patio. Ms. Tone explained how the function of the patio would become awkward if some of it were removed.

The Board had no further questions for Ms. Tone and the applicant. The public had no questions for them. There were no comments from the public.

Board discussion began. Chrmn. Cifelli felt that the proposals will not have that much of an impact on the light and air between homes. Bulk, from a streetscape point of view, will not be an issue. He found nothing really negative about this application.

Chrmn. Cifelli made a motion to approve Application ZB #17-20: Kevin & Kelley Carney – 252 Washington 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.

Application ZB #17-21

James V. Tino & James V. Tino, Jr.

138 North Hillside Avenue

Side Yard

The following were sworn in to testify:

James V. Tino, Jr., the applicant

Mr. Tino testified that his property is a 50-ft. wide lot. It has a non-conforming existing condition, 60 feet in width is required. The existing house has 1 ½ stories. It has 2 bedrooms and one bathroom. There is no eating area. The existing kitchen is very small. A table cannot really fit in the kitchen. He described the upstairs. No dormers exist on the home.

Mr. Tino testified that he is proposing a second story addition, to extend into the side yards on either side. These side yards currently are in an existing non-conforming condition. The current side yard on the left measures 10.49 feet. Mr. Tino is seeking to keep the left side yard at 10.49 ft., but adding a full second story. The right side yard is currently 9.1 feet. Mr. Tino is

proposing to construct a one story at this 9.1 feet, and construct an addition at the back of the home. It goes out another inch.

Chrmn. Cifelli noted that the plans are under the allowable FAR, lot coverage, building coverage, and height regulations. He confirmed with Mr. Tino that his proposed second story is an inch beyond the allowable because of the way the house is situated. Chrmn. Cifelli and Mr. Tino agreed that a variance is needed for the second story on the left side.

Mr. Tino testified that the existing roof will be removed. The existing home is 26 feet high. The plans have the home going up 29.2 feet. A hip roof will be created. The existing brick and the stairs at the front will remain. The proposed addition will be at the back of the house.

The Board and Mr. Tino discussed the driveway situation. Mr. Tino stated that he had thought about putting the garage under the proposed addition, but that arrangement would not give enough room for a vehicle to make the turn into the garage.

Mr. Haeringer asked Mr. Tino where he would locate the air conditioner compressor. Mr. Tino answered that he will install one underneath the deck, next to where the current compressor is installed.

Chrmn. Cifelli asked Mr. Tino if he knew the distance between his neighboring properties and their property lines on the right and the left.

Mr. Tino believed these distances were almost identical to what exists on his own property.

Mr. Tino and the Board briefly discussed the garage situation.

Mr. Tino closed his application and submitted to the Board for a discussion and a vote.

The Board discussion began. Mrs. Kass felt that the existing house needs updating. Also, the proposed intensification on the left hand side would be de minimus. Mr. Infante pointed out that the housing stock would be improved with these proposals. Chrmn. Cifelli agreed that this house seriously needed upgrading.

Mr. Infante made a motion to approve Application ZB #17-21: James V. Tino & James V. Tino, Jr., 138 North Hillside 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 was approved.

Mr. Tito thanked the Board for holding this extra meeting and allowing his application to be heard tonight.

Chrmn. Cifelli announced all the remaining applications on tonight's agenda, not heard tonight, will carry to the September 27, 2017 Zoning Board of Adjustment meeting.

At 10:22 p.m. the meeting adjourned.

The next Zoning Board of Adjustment meeting will be held on Wednesday, September 27, 2017, 7:30 p.m., in the Council Chambers, Chatham Borough Hall.

Respectfully submitted:

Elizabeth Holler
Recording Secretary