

Township of Millburn  
Minutes of the Zoning Board of Adjustment  
March 15, 2021

A regular meeting of the Township of Millburn Zoning Board of Adjustment was held on **Monday, March 15, 2021** at 7:00 PM via Zoom webinar.

Board Secretary, Eileen Davitt, opened the meeting by reading Section 5 of the Open Public Meetings Act.

The following members were present for the meeting:

Craig Ploetner  
Jyoti Sharma  
Joy Siegel  
Steve Togher  
Wolfgang Tsoutsouris  
Amy Lawrence  
Chandru Harjani  
Joseph Steinberg, Chairman

Also present:

Robert Simon, Board Attorney  
Eric Fishman, Court Reporter  
Eileen Davitt, Zoning Officer/Board Secretary

**APPROVAL OF MINUTES**

A motion to approve the minutes of March 1, 2021 was made by Craig Ploetner, seconded by Wolfgang Tsoutsouris, and carried with a unanimous voice vote.

**APPLICATIONS**

**CAL#3768-20, SPIRO & LAUREN SKOURAS, 10 ALEXANDER LANE, SHORT HILLS**

The matter was carried to April 19, 2021.

**CAL#3781-21, BRYAN SOLPIETRO, 11 CRESCENT PLANE, SHORT HILLS**

Bryan Solpietro appeared and was sworn. The applicant would like to install a generator on his property. Proposal is in violation of:

609.1f1 – Generators shall be located in rear or side yards only

Mr. Solpietro indicated that the proposed location is the most logical location for the generator. He intends to landscape in order to buffer the view of the generator from the street and the neighboring property.

Board members felt the installation of a buffer would adequately screen the unit from the adjacent property owner as well as the street.

Upon a motion made by Craig Ploetner, a second by Joy Siegel, and with a roll-call vote as follows:

Craig Ploetner – yes  
Jyoti Sharma – yes  
Joy Siegel – yes  
Steve Togher – yes  
Wolfgang Tsoutsouris – yes  
Amy Lawrence – yes  
Joseph Steinberg – yes

Cal#3781-21, Bryan Solpietro, 11 Crescent Place, was **APPROVED** with the condition that evergreen trees/bushes be installed at a minimum of 4 feet above the root ball in order to screen the generator.

**CAL#3777-20, DOUGLAS SOLOMON, 401 WYOMING AVENUE, MILLBURN**

Bill Harrison, Attorney for the applicant, stated his appearance. The applicant would like to legitimize a sport court which was installed on his property without the necessary permits. Proposal is in violation of:

606.2e3a – Accessory structure side yard setback  
609.5 – Accessory structure front setback on a corner lot  
609.1c – Maximum accessory coverage

Douglas Solomon appeared and was sworn. He provided background information as to the sport court. He stated that he was unaware that a permit was required in order to install the sport court since they were permeable in nature. Mr. Solomon stated that his corner lot property creates some limits when it comes to installing an accessory structure.

Mr. Solomon stated that his property is located in the Wyoming Historic District and he applied for and received approval from the HPC. As part of the HPC approval, he is required to plant additional Holly trees at a minimum of 4-5 feet in height, spaced 2-3 feet apart along Cypress Street.

Danial Dubinett, Architect, appeared and was sworn. His credentials were presented and accepted by the Board.

Entered as A-1: Google slide presentation (6 slides)

Mr. Dubinett spoke to the variances being requested. He indicated that the sport court was installed 3 feet off the property line where 12 feet is required by ordinance. The applicant brought the sport court forward toward the street which resulted in the structure ending before the neighboring dwelling begins. However, it does not meet the required 80 foot front setback and it is also in the front yard.

Variance relief is also required to permit accessory coverage of 9.5% where 7% is the maximum permitted. Mr. Dubinett indicated that the structure was installed in order to provide some outdoor recreational area for the homeowner while also respecting the surrounding area.

Ryan Schneider, 83 Elm Street, appeared and was sworn. He stated that he grew up in this neighborhood and spent many days outside playing basketball. He feels the court will not pose a detriment to the neighborhood and supports the application.

Natalie Hiott-Levine, 397 Wyoming Avenue, appeared and was sworn. She stated that there is no other location on this property to accommodate this structure. She stated that the Solomons are wonderful neighbors and supports the application.

Matthew Levine, 397 Wyoming Avenue, appeared and was sworn. He stated that the sport court will provide much needed outdoor recreational space for the Solomons and supports their application.

Lori Achitoov, 103 Cypress Street, appeared and was sworn. She stated that she has been in town for 17 years and walks by this house daily. The Solomons are respectful neighbors and the addition of this sport court does not negatively affect the property or surrounding area.

Jean Banks, 115 Cypress Street, appeared and was sworn. She stated that this sport court has been a nuisance since it was installed. She stated that she has endured months of noise due to the installation of the court such a short distance from her bedroom window. She has to listen to the constant bouncing of a basketball as well as loud voices when the structure is being used.

Entered as O-1: video presented by Ms. Banks, 7/16/20 10:51 PM

Ms. Banks stated that her daughter took the video which shows the glaring lights on the sport court and the young people playing basketball at a very late hour. She stated that she had to call the police at 11:30 that night. The police came and made them stop the basketball game. She stated that this happens at all hours of the day and night. She is afraid that the sport court will have a negative effect on her property value and it has caused her to be unable to sleep.

Mr. Harrison, attorney for the applicant, asked Mr. Solomon if he would be willing to accept time limitations on the court use. Mr. Solomon responded affirmatively and added that he does not allow his children to use the sport court after 9 PM. When questioned about the lights, Mr. Solomon stated that the only lights on the property are motion lights.

Overall, Board members had concerns with the installation of the sport court. Several had concerns with the close proximity to the side property line and the extent of variance relief being requested in that regard. They felt that the court is much different than a typical basketball back board that is customarily installed on a garage. Although they appreciated the applicant's willingness to accept a time constraint, they were not convinced that variance relief was warranted for such a huge deviation from the side yard and front yard setback requirements.

Upon a motion to deny made by Steve Togher, seconded by Wolfgang Tsoutsouris, and with the following roll-call vote:

Craig Ploetner – no  
Jyoti Sharma – yes  
Joy Siegel – yes  
Steve Togher – yes  
Wolfgang Tsoutsouris – yes  
Amy Lawrence – yes  
Joseph Steinberg – yes

Cal#3777-20, Douglas Solomon, 401 Wyoming Avenue, was **DENIED**.

**CAL#3779-21, ERICA & JAMES MOFFITT, 19 BAILEY ROAD, MILLBURN**

Ying Li, Architect, and Erica Moffitt, appeared and were sworn. Ying Li's credentials were presented and accepted by the Board. The applicant would like to construct an addition and deck. Proposal is in violation of:

606.2e2b – Lot coverage  
606.2e2d – Floor area ratio  
606.2e3a – Accessory structure side yard setback

Chairman Steinberg questioned the applicant with regard to their request for a deck. He indicated that in some places, it mentions a patio and in other places it mentions a deck. Ying Li indicated that the applicant was undecided initially but has decided on a deck..

Ying Li gave a brief description of the applicants' proposal. She stated that the applicants are proposing to construct an addition at the rear of the dwelling in order to accommodate a new kitchen on the 1<sup>st</sup> floor and a master suite on the second floor. They are also proposing a deck to be constructed at the rear of the house connecting to the new kitchen area.

The home was built in 1926 and has not had any improvements made to it. The current kitchen is small and the circulation plan is poor. There is also no exit to the rear yard at the current time. The addition will provide better circulation and also allow for circulation within the house that is more functional.

The property is located in the R-6 zone district which has a maximum allowable lot coverage of 45% and floor area ratio of 36%. The proposal requires variance relief to permit lot coverage of 48% and floor area ratio of 39%. The existing detached garage at the rear of the property requires a large amount of driveway in order to access it, which accounts for much of the existing lot coverage. There is a large area of patio next to the existing garage which the applicants' will be removing and restoring to a grass area.

There was some confusion with regard to maximum accessory coverage, which was noted on the applicants' attachment E (summary of variances). Ying Li indicated that the plan was modified and attachment E was not updated at that time. Due to the elimination of the existing patio area next to the garage, the accessory coverage is now conforming. However, variance relief is required in order to permit a side yard setback of 9.23 feet for the deck, where 12 feet is required.

It was determined that the copies of the application that the Board received did not note the revisions made to the application. The information contained on several of the documents is in conflict with each other. Based on this conflicting information, and the fact that there is no deck shown on the rear elevation, Board members were not prepared to vote on the matter.

The matter was carried to May 3, 2021 in order for revised documents to be submitted, which accurately reflect the variances being requested. The applicant consented to an extension of time to decide until May 31, 2021.

**CAL#3780-21, AO WU, 28 PARKVIEW DRIVE, MILLBURN**

Ao Wu and Catherine Mueller, P. E., appeared and were sworn. The applicant would like to alter the existing driveway. Proposal is in violation of:

607.3e – Front yard coverage

Catherine Mueller's credentials were presented and accepted by the Board. She stated that there is currently a new dwelling being built on the property with a 2-car front loaded garage. The ordinance restricts front yard coverage to 30% of the front yard area. In order to obtain the required building permits and begin construction on the house, the applicant submitted a conforming front yard proposal of an asphalt driveway with grass strips.

The applicant would like to obtain variance relief to allow him to pave the entire 2-car width of the garage. The proposal will result in front yard coverage of 44.5% where 30% is permitted. Ms. Mueller indicated that they would agree to use pavers instead of asphalt in order allow for a pervious surface.

Susan Guerin, 25 Undercliff Road, asked Ms. Mueller if the applicant was aware that he would be asking for front yard coverage variance relief. Ms. Mueller stated that it is not uncommon to present a conforming application in order to get building permits and seek

variance relief for updates at a later date. She stated that Mr. Wu realized that the driveway proposed initially was not practical.

Alper Ozocak, 27 Undercliff Road, appeared and was sworn. He stated that he is not in favor of the applicant's request. This house does not fit into the neighborhood and the excess coverage in the front yard will negatively affect the street scape.

Sheila Varki, 21 Undercliff Road, appeared and was sworn. She stated that she does not have a problem with the driveway request. She is more upset that the construction was allowed because it is completely out of character with the South Mountain area.

Overall, Board members were disappointed that the applicant submitted conforming plans and came after the fact seeking variance relief. Several opined that they do not want to see 800 SF of asphalt in the front yard. Others felt that this type of house does not work in this area for this specific reason.

Upon a motion to deny made by Wolfgang Tsoutsouris, seconded by Joy Siegel, and with a roll-call vote as follows:

Craig Ploetner – yes  
Jyoti Sharma – yes  
Joy Siegel – yes  
Steve Togher – yes  
Wolfgang Tsoutsouris – yes  
Amy Lawrence – yes  
Joseph Steinberg – yes

Cal#3780-21, Ao Wu, 28 Parkview Drive, was **DENIED**.

**BUSINESS**

There were no members of the public who wished to speak on non-agenda items.

**ADJOURNMENT**

A motion to adjourn was made by Steve Togher, seconded by Joy Siegel, and carried with a unanimous voice vote. (10:24 PM)

Eileen Davitt  
Board Secretary

Motion: AL  
Second: WT  
Date Adopted: 4/19/21