

BOROUGH OF MIDLAND PARK – ZONING BOARD OF ADJUSTMENT MINUTES

May 11, 2022

PLEASE TAKE NOTE:

ON WEDNESDAY, MAY 11, 2022, THE ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF MIDLAND PARK HELD A REGULARLY SCHEDULED MEETING IN THE MIDLAND PARK COUNCIL CHAMBERS, 280 GODWIN AVE., MIDLAND PARK, NJ. THE FORMAL MEETING BEGAN AT 7:30 P.M

FORMAL MEETING

READING OF THE OPEN PUBLIC MEETINGS ACT

PLEDGE OF ALLEGIANCE

ROLL CALL:

Mr. Les Andersen	present	Mr. Nick Papapietro	present
Mr. David Zuidema	present	Mr. Mark Braunius	present
Mr. John Meeks	present	Mr. Mark Divak	present
Mr. Richard Formicola	present	Mr. William Placier, Alt #1	present
		Mr. David Barlow, Alt #2	present

Attendance by Board Professionals: R. Landel, Esq., Attorney and R. Wostbrock, Engineer

Minutes of the 4/13/22 meeting - approved

PUBLIC HEARINGS:

Zubok, Alexandra – 222 Spruce Street – BL 10.21 LT 12 – Alexandra Zubok, owner, sworn in. Applicant proposes to add an entryway addition for the purpose of adding a closet area. Notices are in order. Board reviewed an explanation of a legal hardship. Ms. Zubok described the property; house is a small square and the property is on a diagonal so there is no way to expand the house on the lot the way it is.

Sarah Lieberman, Architect, accepted as expert and sworn in. Ms. Lieberman describes the slope on the driveway side of the property, clarifies that the property line is straight, but the house is set on a diagonal to the property line. Board has concerns that no other homes are protruding other than one home that has an open porch. **Exhibit A1** – BOA Plans 1-4, last revision date 5/9/22. Proposed entryway would be a 10' x 10' area with space to sit down and access a closet. Front yard setback required is 25', existing setback is 30', proposed is 20'. Board discusses options, applicant could go wider and only extend 5' and not need a variance. Meeting opened to the public for questions or comments, with none, meeting closed to the public.

Motion to deny the application based on not meeting the burden of proof by Mr. Meeks; seconded by Mr. Divak. Mr. Meeks, Mr. Braunius, Mr. Divak, and Mr. Andersen voted yes; Mr. Zuidema, Mr. Formicola, and Mr. Papapietro voted no. Application denied.

Alnajjar, Mohammad – 126 Highland Avenue – BL 16 LT 4.04 – Atty. Katie Razin of Wells Jaworski & Leibman on behalf of the applicant for consideration of an appeal of the Zoning Officer's denial and an interpretation of the Zoning Ordinance. Mr. Divak recused for a conflict. Property is a legal non-conforming two-family home at 126 Highland Avenue, applicant has the second-floor unit and has the laundry facilities in the bathroom. Applicant has access to the attic of the home, and first floor neighbor has access to the basement, and the applicant is proposing to use the attic for laundry. Ownership of the property is split between the applicant and the first-floor neighbor; both own 50%. The Zoning Officer determined this was an expansion of a non-conforming use, which was the basis for the denial. Atty Razin suggests the proposed changes do not constitute an expansion due to there being no expansion or modification of the footprint, exterior, or use, no living areas being added and no increase in the number of residents living in the dwelling; simply relocating the washer and dryer within the dwelling that he already uses for storage. Applicant proposes to shell out a space for the washer and dryer and put in flooring. Per Atty Razin, the change is negligible or insubstantial and does not change the intensity of use; no structural changes, changes to load bearing walls, or changes to the roof or exterior walls are proposed. The Board discusses the expansion of the plumbing into the area to accommodate the washer and dryer, which constitutes expanding the use. Board would also like clarification on the ownership of the home.

Mohammad Alnajjar – applicant/owner, sworn in. Mr. Alnajjar owns 50% and neighbor owns 50%, they are co-owners. Nothing in the deed or a contract that specifies that they can't use each other's basement or attic but was mutually agreed upon. Atty Razin advises that the applicant is willing to modify where the walls go, mainly wants to be able to relocate washer and dryer to the space. Walls in the attic are unfinished at present, and applicant is proposing to sheet rock approximately 25% of the attic space for a storage area and the laundry, is not adding any doors. Meeting opened to the public for questions. Mark Divak, 130 Highland Avenue; questions if the applicant has access to the basement from the back stairs. Per Atty Razin, does not constitute access based in the agreement with the first-floor neighbor. Meeting closed to the public. Meeting opened to the public for comments, with none, meeting closed to the public.

Motion to uphold the Zoning Officer's decision made by Mr. Braunius, seconded by Mr. Papapietro; all voted in favor except Mr. Divak who recused.

Alnajjar, Mohammad – 126 Highland Avenue – BL 16 LT 4.04 – Atty. Katie Razin of Wells Jaworski & Leibman on continued on behalf of the applicant for consideration of a use (D2) variance for expansion of a pre-existing non-conforming use. Mr. Divak recused, and notices are in order. Property is a legal non-conforming two-family home. Applicant has the second floor and attic, and first-floor neighbor has the first floor and basement. Applicant's washer and dryer is currently located in the bathroom and proposes to relocate it to the attic to be used for laundry and storage. The first-floor neighbor does not have access to applicant's attic; applicant does not have access to the basement. Applicant is not intending to use the space for any other purpose. **Exhibit A1** – floor plan submitted with the application. Mr. Wostbrock expressed concern that the proposed finishing of the space might allow it to become a habitable space in the future. Per Atty Razin, applicant will not be adding any doors and is open to restricting the walls. Meeting opened to the public for questions of the applicant, with none, meeting closed to the public.

George Williams, Planner, accepted as expert and sworn in. Per Mr. Williams, what is being proposed is not a substantial change in intensification or enlargement of the pre-existing non-conforming use. There will be no visible enlargement, no enlargement to the structure or footprint or height. This will be an interior renovation that will not intensify the two-family home and not exasperate any other non-conforming bulk and area standards. **Exhibit A2** – photographs. Mr. Williams described what each page shows including that there is no change to the character of the neighborhood or structure of the building. There will be no substantial detriment to the neighborhood and no impact to the zone plan. Meeting opened to the public for questions of the planner, with none, meeting closed to the public.

Meeting opened to the public for comments. Mr. Alimam, 126 Highland, is the son of the co-owner that lives on the first floor; supports changes. Describes personal reasons why the agreement was made to restrict basement access. Meeting closed to the public.

Board discussed leaving the walls unfinished, which eliminates some of the concern of turning the space into another room in the future; applicant could finish the walls needed for the laundry space, but have the rest of the attic remain unfinished. Applicant amends the application to only finish the 3'6" x 6' area where the washer and dryer will go and leave the entire rest of the attic unfinished. Applicant to coordinate with the building department regarding maintenance of the floors and/or possible additional non-habitable materials to cover exposed insulation. Motion to deny the application as amended based on the expansion of the non-conforming use made by Mr. Braunius, no second; motion failed. Motion to approve the application as amended for the reasons on the record made by Mr. Zuidema, seconded by Mr. Formicola; Mr. Zuidema, Mr. Meeks, Mr. Formicola, Mr. Papapietro, Mr. Placier, and Mr. Andersen voted yes; Mr. Braunius voted no; Mr. Divak recused. Application approved as amended.

Olivo, Benjamin – 44 Millington Drive – BL 10.19 LT 8 – Benjamin Olivo, applicant/owner, sworn in. Notices are in order. Proposes to add an enclosed entryway to have room for removing coats and shoes, currently front door opens right into the living room. Home has no basement or attic and not a lot of closet space, and applicant would like to separate living space from outside, especially in inclement weather. **Exhibit A1** – Plans submitted with application by Evans Architecture, last revised 5/9/22. Board explains concept of legal hardship, discusses lot which is deficient in size, width and depth. Applicant is also adding an addition off of the kitchen entryway which does not require a variance. For the front entrance applicant proposes a 5' x 5' addition, which needs a 4'4" variance; addition will create a 20.8' front setback where 25' is required. Board discussed established setback line on that street and the homes in the rest of the

neighborhood and discusses the lack of legal hardship. It is suggested applicant could have an open portico without a variance. Meeting opened to the public for questions and comments - James Capalbo – 89 Millington Drive – discusses the size of other properties in the neighborhood, this is a non-conforming lot, feels there would be no detriment and it would enhance the property and neighborhood. Mr. Capalbo supports the application. Meeting closed to the public.

Motion to deny the application based on having ample space on the side with the proposed addition there, that a portico would be permitted, and there is an established setback made by Mr. Divak, seconded by Mr. Meeks; Mr. Meeks, Mr. Papapietro, Mr. Divak, and Mr. Andersen voted yes; Mr. Zuidema, Mr. Formicola, and Mr. Braunius voted no. Application denied.

COMMUNICATIONS:

Return of Unused Escrow – Motion to recommend the release of the following unused escrow to Borough Council by Mr. Braunius, seconded by Mr. Papapietro; all voted in favor.

Gombas, Gregory – 19 Maple Ave – BL 30.02 LT 1.01 – \$36.59
Stanton, John – 264 Park Ave – BL 25.10 LT 40 - \$17.31
Patterson, Tia – 43 Oak Hill Rd – BL 25.10 LT 48.01 - \$11.15
Marrone, Christopher & Mary Ann – 1 Pine St – BL 10.26 LT 6 - \$36.21
Keene, Glen & Susan – 521 Godwin Ave – BL 38 LT 10 - \$13.69
Saadi, Albert – 27 Hiawatha Ct – BL 25.11 LT 9 - \$31.59
Callender, Joseph – 46 Brandon Rd – BL 27.01 LT 10.02 - \$37.00
Cummins, Jimmie & Lisa – 262 Vreeland Ave – BL 11 LT 44 - \$38.99
Gonzales, Steve – 190 Busted Dr – BL 7.05 LT 8 - \$14.29
Sasso, Michael & Theresa – 46 Cross Ave – BL 20.09 LT 14 – \$258.00
Sasso, Michael & Theresa – 46 Cross Ave – BL 20.09 LT 14 – \$32.95
Musacchio, Marie – 127 Highland Ave – BL 15 LT 24 - \$29.03

Meeting Adjourned – 10:02 PM
Jessica Harmon