

GLEN ROCK ZONING BOARD OF ADJUSTMENT
Minutes of the August 13, 2015 Meeting

The regular meeting of the Zoning Board of Adjustment was called to order by Chairman Bruce Beal at 7:30 p.m. In attendance: Diane Herrlett, Denley Chew, Robert Bourne and Al Tarleton. Also in attendance were Spencer Rothwell, Esq., Board Attorney. William Mitchell, Janet Chen, Barbara Schineller and Kay Tuite were absent. The Secretary called the roll and read the Sunshine Statement from the Open Public Meetings Act.

The Board reviewed the minutes of the July 1st work session and July 9th regular meeting. A motion was made by Mrs. Herrlett and seconded by Mr. Bourne and passed unanimously with Mr. Chew abstaining from both meetings.

Old Business

Block 220, Lot 12

19 George Road

Applicant: Sang and Sun Yim

Memorializing resolution to construct one story addition and deck, which will, if constructed, encroach into the required rear yard setback.

A motion to approve the memorializing resolution of Sang and Sung Yim, 19 George Road was made by Mrs. Herrlett and seconded by Mr. Bourne. The voice vote was as follows:

AYES: Mrs. Herrlett, Mr. Bourne, Mr. Beal

NAYS: None

Mr. Chew and Mr. Tarleton abstained from voting. The resolution is attached to these minutes

New Business:

Block 127, Lots 22 and 23

432 Grove Street

Applicant: 432 Grove Sreet LLC

Zoning Officer made a determination that a proposed use of the property does not fall under the use variance granted by a previous owner. Applicant requests relief from that determination.

At the request of the applicant this application will be carried until the September 2015 meeting.

Block 30, Lot 16
412 Ackerman Avenue
Applicant: David and Victoria Robinson

Applicant proposes to expand an existing single family home which does not have a garage, as required by Borough Ordinance §230-18 and any other variances and waivers that are required in connection with this application.

Mr. Tarleton recused himself from this application and left the dais.

David Rutherford, Esq. noted his appearance on behalf of the applicant. Mr. Rutherford stated the applicant is seeking variance relief for something that is not part of their application, which is unusual. The lot is triangular in shape and undersized at 6,555 square feet where 11,200 square feet is required. There is 95' of frontage along Ackerman Avenue and tapers down to a rear yard width of 25'. The homeowner is proposing a very reasonable expansion in order to improve the home's utility and functionality. There is a modest enlargement to the kitchen, a covered porch in the rear and a fourth bedroom and second bath on the second floor. The work that the homeowner is proposing requires no variances; however the property does not, nor has ever, had a garage. Given the shape and size of the property it is the homeowner's position that the property does not properly support a garage and certainly without variance relief. It is a very tight lot with not much room in the rear or side yards.

Mr. Rutherford stated it is their belief that variance relief is justified under the Land Use Law which relates to the shape and size of the property as well as the bettering of the property.

Mr. Rutherford called William Petrone, architect for the applicant. Mr. Rothwell swore in Mr. Petrone. Mr. Petrone is a licensed architect in the State of New Jersey since 1986, which he obtained from Carnegie Mellon. Mr. Petrone has testified before numerous Boards in the State of New Jersey and has been qualified as an expert in the field of architecture.

Mr. Rutherford referred to three photographs which were entered as Exhibits A-1 through A-3. Exhibit A-1 shows the first floor plan which also a proposed rear elevation. Exhibit A-2 shows the second floor plan and Exhibit A-3 which contains two alternate garage scenarios.

Mr. Petrone agreed with Mr. Rutherford in that the property is triangular in shape which tapers to a very narrow dimension in the rear. Mr. Petrone added the rear setback is 30' and the front setback is 50'.

Mr. Petrone described the home as modest. There are currently three bedrooms and a bath on the second floor. The majority of the home is the original construction. The objective is to add a new bathroom, bedroom and small closet. There is no extension out the side or front of the house.

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Mr. Rutherford reiterated that this renovation is 100% compliant with zoning guidelines as well as EGFAR guidelines. Mr. Petrone replied yes.

Mr. Petrone commented the overhang of the existing house currently sits on the property line.

Mr. Rutherford noted that the architect has made an attempt to work within the confines of the existing design of the home.

Mr. Rutherford referred to Exhibit A-3 which shows two alternative plans for a garage, of which neither are optimum.

Mr. Petrone commented that both alternatives would require multiple variances. Additionally, it would require the added rooms to be reduced almost to the point of being unusable.

Mrs. Herrlett asked how wide the drive is in Alternate B. Mr. Petrone replied it is 12' wide with only one foot to the property line. The garage is as far back as possible. Unfortunately, the driveway becomes very long and creates an unsafe condition to pull out of making it impossible to make a two-point turn out of the garage. Alternate B also creates an impervious coverage issue.

Mr. Bourne asked if in Alternate C the expansion were left in place, what the EGFAR variance would be. Mr. Petrone replied it would be approximately 200 sq. ft. over the permitted amount. Alternate C would require an EGFAR, side yard, front yard variance. Additionally, the financial scope of the project is larger than the homeowner would like.

Mrs. Herrlett noted that finances cannot be considered as a hardship; however, the EGFAR variance is much more important.

Mr. Chew questioned how many homes in Glen Rock do not have garages, or have been grandfathered.

Mr. Beal responded there are quite a number of homes.

Mr. Beal asked if there were any comments or questions from anyone in the audience.

Mr. Rutherford commented the applicant certainly acknowledges the purpose of the ordinance in which they seek relief; however, not every property is suitable for a garage and that an appropriate balance needs to be struck between the purpose of requiring off street, enclosed parking and exposed or street parking. Mr. Rutherford reiterated that this property does not reasonably support the construction of a garage, it simply is not large enough, which may be why there is no garage. The construction of a garage will require variance relief as well as the loss of a perfectly usable rear yard. One alternative shows there would be access issues and the other

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alternative sets forth a safety issue. Mr. Rutherford argued that the strict enforcement of the garage requirement, in this scenario, would result in exceptional hardship. Mr. Rutherford reiterated that the proposed addition to the house is 100% compliant.

A motion to approve the application of David and Victoria Robinson, 412 Ackerman Avenue was made by Mrs. Herrlett and seconded by Mr. Chew. The voice vote was as follows:

AYES: Mrs. Herrlett, Mr. Chew, Mr. Bourne, Mr. Beal

NAYS: None

The resolution will be memorialized at next month's meeting.

Block 131, Lot 7

44 East Gramercy Place

Applicant: Robert and Ayeda Rush

Applicant proposes to construct rear yard deck, which will, if constructed, encroach into the required rear yard setback. Applicant seeks relief from Borough Ordinance 230-54(D), where a 30' rear yard is required, 15' is proposed, a difference of 15' and any other variances and waivers that are required in connection with this application.

Mr. Rothwell swore in Robert and Ayeda Rush, 44 E. Gramercy.

Mr. Beal commented the house was enlarged in 2006. The applicant is proposing a rear yard deck, which would not be enclosed. The deck will extend 15' from the house and will encroach 15' into the 30' rear yard. Mr. Beal commented that the purpose of a 30' rear yard setback is to protect the neighbor's behind you; however the applicant backs up to a PSE&G right-of-way so essentially there is no rear neighbor to protect.

There was considerable discussion determining a hardship for a variance. Mr. Rothwell commented that either C-1 or C-2 are valid reasons to grant a variance under the Municipal Land Use Law.

There were no questions or comments from anyone in the audience.

A motion to approve the application of Robert and Ayeda Rush, 44 East Gramercy Place was made by Mr. Chew and seconded by Mr. Bourne. The voice vote was as follows:

AYES: Mrs. Herrlett, Mr. Chew, Mr. Bourne, Mr. Tarleton, Mr. Beal

NAYS: None

The resolution will be memorialized at next month's meeting.

Block 115, Lot 44
792 Maple Avenue
Applicant: Diane and James Litvany

Applicant proposes to reconstruct garage, construct second story addition and roof overhang which will, if constructed, encroach into the required front yard, front side yard, side yard, rear yard and exceed the permitted floor area ratio. Applicant seeks relief from Borough Ordinance 230-54(B) where a 50' front yard is required, 35' (front roof) is proposed, a difference of 15', 230-22(B) where a 37.5' front side yard is required, 23' (A/C), 33' (entry roof), 32.5' (second story addition) are proposed, a difference of 14.5', 4.5' and 5' respectively, 230-54(C) where side yards of 7.4' and 7.5' are required, 6.4' (second story addition), .5' (side steps) and 3.3' (front roof) are proposed, a difference of 1', 7' and 4.7' respectively, 230-54(J) where an Effective Gross Floor Area of 2,955 sq. ft. is proposed, 3,073 sq. ft. is proposed, a difference of 118.40 sq. ft. and any other variances and waivers that are required in connection with this application.

Mr. Beal recused himself from this application. Vice-Chairwoman Herrlett presided over the meeting.

Mr. David L. Rutherford noted his appearance on behalf of the applicant. Mr. Rutherford briefed the Board on the background of this application. In February 2015 there was a fire which destroyed the garage and did significant damage to the balance of the home. This corner lot is irregular in shape and grossly undersized. The east side of the home and garage encroached into the side yard setback. It is the applicant's understanding that permits would have been issued for the reconstruction of the garage exactly as it was prior to the fire. Although the garage was non-conforming, those rights are not lost. The reason the applicant is here tonight is the fire has given them the opportunity to modestly renovate their home making it more functional. All of the proposed work is being done within the existing footprint of the home. There are a number of variances, however, they represent existing conditions.

The applicant is proposing a new roof over the existing masonry platform in the front of the house. There will be an overhang built over the entrance in the rear of the house off of the driveway. Additionally, another bedroom will be built over the garage. Mr. Rutherford stated the setback of the back wall over the garage would be the only new variance, where all the others are pre-existing.

Mr. Rutherford believes variance relief could be given under Section C-1A (shape, size and configuration of lot) and C-1C (existing structures on property).

The EGFAR variance the applicant seeks is for excess coverage of 102.2 square feet, not the 118.4 square feet indicated on the agenda.

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Mr. Rothwell swore in Albert Martoiano. Mr. Martoiano is a licensed architect in the State of New Jersey since 1993. Mr. Martoiano graduated from NJIT with a B.S. in architecture. Mr. Martoiano has previously testified before numerous Boards throughout the State of New Jersey. Mr. Martoiano was accepted as an expert in the field of architecture.

Mr. Rutherford entered the site plan which was marked Exhibit A-1, as well as four photographs which were marked Exhibit A-2 through A-5.

Mr. Martoiano described the home as it currently exists. The house exists of a working kitchen, living room and dining room. There is a small room off of the living room which is 9.5' x 11. There is an existing platform at the front entry, which the applicant is proposing a covered roof be constructed. The first floor square footage is 1,051.

There is a small platform with steps on the east side of the house which would be relocated to the rear entrance of the house.

There is an existing entrance which an overhang is also being proposed.

The proposed garage is in its existing footprint.

Mr. Martoiano stated there are three bedrooms on the second floor; however there is no closet or storage area on this floor. The goal is not to make the bedrooms any smaller than they currently are. There is no master suite on the second floor, nor a family room on the first floor. The applicant is proposing constructing a master bedroom over a portion of the garage with the rear wall cut back 3.5'. They are also proposing two 6' closets.

Mrs. Herrlett asked if the applicant were to remove 102 square feet what would be the dimensions.

Mr. Martoiano replied the room above the garage would need to come in approximately 6.5', which looks odd.

Mr. Martoiano noted that the existing house is 2,030 square feet and with the proposed addition it would be 2,561.

Mr. Martoiano referred to the photographs (Exhibits A-2 through A-5) showing the various elevations and explained any changes to the appearance.

Mr. Martoiano reiterated that the only addition is the bedroom over the garage and the roof over the front stairs.

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Mr. Chew clarified if the applicant were to present an EGFAR compliant plan it most likely would mean there would be no closets in the master suite.

Mr. Martoiano replied that is correct though reminded the Board this house has no existing storage.

There was considerable discussion on different scenarios trying to eliminate square footage to comply with EGFAR.

Mr. Bourne asked what he feels the impact on the neighbors will be if the second story is permitted above the garage.

Mr. Martoiano replied he does not feel it would be that impactful. The neighbor's house is not parallel to the applicant and there is only one small corner that the houses are near each other.

Mr. Martoiano noted the only variance that has not been covered is the addition of a compressor for central air conditioning.

Mrs. Herrlett expressed concern with the EGFAR and noted that the Board historically is very strict with this percentage.

Mr. Bourne commented the only argument for the EGFAR is so the applicant can have a master suite.

Mr. Rutherford reminded the Board that the lot is substantially undersized at 8,019 square feet instead of the required 14,000 for a corner lot. It is actually smaller than the requirement for an interior lot. If the lot were full sized the applicant would be permitted to build an additional 2,100 square feet and still be EGFAR compliant.

Mrs. Herrlett asked if there were any questions from anyone in the audience.

Anastasia Lanouette, 786 S. Maple Avenue - Mr. Rothwell swore in Mrs. Lanouette. Mrs. Lanouette lives directly next door to the applicant. She is concerned that the addition will block natural light on to her property and ultimately affect her property value. Mrs. Lanouette also expressed a concern for safety with the closeness of the homes.

Mrs. Herrlett explained that the applicant's home will not be any closer to Mrs. Lanouette's house than it previously was. Additionally, the second floor addition over the garage does not need a variance.

Mr. Rutherford closed by saying he does not believe granting a variance for this application would be substantially detrimental to the purposes of the EGFAR ordinance.

There were no further comments or questions from anyone in the audience or on the Board.

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A motion to approve the application of Diane and James Litvany, 792 Maple Avenue was made by Mrs. Herrlett and seconded by Mr. Bourne. The voice vote was as follows:

AYES: Mrs. Herrlett, Mr. Bourne

NAYS: Mr. Chew, Mr. Tarleton

The application was denied. The resolution will be memorialized at next month's meeting.

As there were no further residents wishing to be heard, a motion to adjourn the meeting was made by Mrs. Herrlett, seconded by Mr. Chew and passed unanimously. The meeting adjourned at 9:10 p.m.

Respectfully submitted,

Nancy Spiller
Board Secretary