MINUTES OF THE BOARD OF ADJUSTMENT MEETING
Thursday March 9, 2023

Present:

Chairman Dan McGinley
Vice Chairman Scott Weston
Ms. Genevieve Murphy-Bradacs
Ms. Christy DiBartolo
Mr. Paul Mathewson
Mr. Kevin Ryan, Alternate #1
Mr. Robert Gaccionce, Board Attorney
Mr. Michael DeCarlo, Zoning Official
Ms. Marcie Maccarelli, Acting Board Secretary

Meeting called to order at 8:05 P.M. by Chairman McGinley. Open Public Meetings Act Statement is read by Acting Secretary Maccarelli.

Pledge of Allegiance

Approval Minutes

Chairman McGinley asks for a motion to approve minutes from the Regular meetings held on February 9, 2023. Ms. DiBartolo makes the motion, Mr. Mathewson seconds. Mr. Ryan & Ms. Murphy - Bradacs abstain. All others present vote in favor.

Old Business

Chairman McGinley asks for a motion to approve Annual Report 2022. Mr. Mathewson makes the motion, and Vice Chairman Weston seconds. Mr. Ryan opposes, all others vote in favor. Motion passes & the Annual Report is approved.

New Business

Application 2023-01, 48 Mount Prospect Avenue :

Chairman McGinley calls the first application to be heard. Mr. Jose Mercado is applying for a variance because pursuant to 150-7.21A his proposed deck exceeds 20 percent of the building footprint. Applicant is sworn in by Mr. Gaccionce. Mr. Gaccionce advises to applicant that he is to explain what he is looking to do, what the variance is, and why he has a justification for that variance. Mr. Mercado states that he is looking to add a deck onto his home for the purpose of adding outdoor living space and increase its value. Chair McGinley asks Zoning Official DeCarlo for clarification on the reason for the variance. Mr. DeCarlo informs that the applicant's deck is greater than 20% of the square footage of the house. The existing house does not meet the minimum set back requirements for a nonconforming structure, and so the deck falls under a different set of parameters & rules. Chair McGinley asks if Mr. Mercado considered reducing the size of the deck once he was informed that it didn't comply; Mr. Mercado says that he did not. Chair McGinley asks if the yard slopes to the rear, Mr. Mercado says yes. Chair McGinley asks from the deck do you have a view of the street behind you; Mr. Mercado says potentially the top part. Vice Chair Weston asks Mr. DeCarlo for clarification on the percentage that the deck exceeds the allowed size. The existing dwelling is 943 sq. ft. and the proposed deck is 327 sq. ft., which is a ratio of 34.6%. Mr. Ryan asks Mr. DeCarlo what the rationale is for the ratio, he responds he thinks it was to allow residents that have undersized lots to have a deck, but that they didn't want the decks to be so large that it would cover the entire lot. He wasn't a town employee at the time that was established so he can't be sure. Mr. Ryan asks if there is a concern with impervious coverage, Mr. DeCarlo says no. Mr. Ryan asks if the deck has a drainage feature, Mr. Mercado advises that it will be made of Trex and below it is grass. Mrs. DiBartolo asks if that considered impervious under the current code. Mr. DeCarlo says yes. Mrs. DiBartolo asks if it exceeds the allowable coverage, Mr. DeCarlo says not by his calculations. Mr. Mercado states that the property is on a slope and all the water flows to the

back towards the grass. Mrs. DiBartolo asks if how this area deals with water as a whole can be explained. Mr. Mercado states that none of the runoff from his property goes to the street, it goes towards the rear of his property due to the slope and his lot never floods. Mr. Gaccionce explains that the way the ordinance is written, someone with a smaller building is penalized as to what size deck they can put up. It would seem more logical to allow the deck on the size of the lot as opposed to the size of the house. Mr. Ryan asks what the size of the lot is in total, Mr. DeCarlo says 7600 sq. ft., the house is relatively small compared to the lot size. The deck is in keeping with the frame/footprint of the house. Mrs. Murphy-Bradacs asks if Mr. Mercado spoke to the neighbors regarding the deck. Mr. Mercado says that he sent out the letters as required, but didn't hear from anyone. He states that his next-door neighbor has a deck, as do several other homes on the street. His deck will be low while the others are high, which will ensure privacy to everyone. Mrs. Murphy-Bradacs asks if the door pictured is pre-existing, Mr. Mercado states that it was installed in conjunction with the potential deck build. Mr. Gaccionce verifies that proof of service for this matter is in order. Chair McGinley asks if there are any questions or statements from the public regarding this application. There is none. Public portion is closed & Board deliberation begins. Chair McGinley states that the ordinance was to restrict the instance of a tiny house having an unreasonably large deck, an aesthetic concern. Mrs. Murphy-Bradacs would be inclined to grant the variance as the deck doesn't look out of character for the house, property or neighborhood. Mrs. DiBartolo has flooding concerns in regards to this section of town. Mr. Mathewson is in agreement with granting the variance based on the size of the house, deck & the slope of the property. The photos Mr. Mercado submitted to the Board are entered as an exhibit, marked A1. Mr. Ryan asks if he has considered putting plantings around the base of the deck. Mr. Mercado says yes, he intends to do that. Mr. Ryan asks to make that a condition for approval of application. Mr. Ryan asks if Town Council has approved the native plants for landscaping ordinance yet. Mr. DeCarlo says that it hasn't been codified yet. Mr. Ryan makes a motion to approve the variance, with the condition that Mr. Mercado use native plants for landscaping around the base of the deck. Mr. DeCarlo says he can provide Mr. Mercado with the state list of native plants. Mrs. Murphy-Bradacs seconds the motion. Ms. DiBartolo & Chairman McGinley oppose, all others vote in favor. Motion passes and application is approved.

Application 2023-02, 62 Afterglow Avenue :

Chairman McGinley calls for the second Application. Mr. Gaccionce swears in Mr. Noel & Mrs. Dori Sedransk. Their initial application was denied as it is contrary to ordinance 150-7.13 – Mechanical Equipment – Section B – No generator shall be permitted within a side yard, and so they are seeking a variance. Mr. Gaccionce verifies that proof of service for this matter is in order. Mrs. Sedransk advises that in order to place the generator behind the house they would have to destroy mature vegetation, which include two large pine trees. There is also a finished patio & deck behind the house that would make it difficult. They have installed a wood fence that would prevent the neighbors from having to see a generator on the side of the their property. They have spoken to the neighbors on all sides of their property and no one has expressed concern or opposition to it. They have been asked about the potential for noise and they explained that, once a week the generator will run as a test for 10 minutes. It will not be visible from the street and they would be happy to surround it with landscaping as well. Mr. DeCarlo says the ordinance is peculiar as it doesn't allow for side yard placement for generators, but pool pumps and air conditioning condensers are allowed. Mr. & Mrs. Sedransk advise that their electrical panel is on the same side of the house where they'd like to put the generator, so it would be a direct connection. Vice Chair Weston asks when the generator would be tested. Mr. Sedransk says it would be once a week for 10 minutes, and can be scheduled so it would be during the day on either, Tuesday or Thursday at around 11am. It would be the least disruptive to the neighbors that way and so someone is home while it is being tested. Never at night or early in the morning. They have previous experience with this as the home they just moved from had a similar unit. Mr. Ryan asks if it would be a gas-powered generator. Mr. Sedransk says yes & that it is only to be used in emergency when there is no power available from PSE&G. It is a standby full house generator and would make the same amount of noise (or less) when is use as the portable style ones. Chair McGinley asks if there are any questions or statements from the public regarding this application. There is none & the public portion is closed. Board deliberation begins. Mrs. DiBartolo requests a condition is added for approval of application regarding a native plant / vegetation screening around the generator. Mr. Ryan seconds the plants being added as a condition to provide cover so it won't be seen from the street. Mrs. Sedransk states that they would be happy to add plants. Mr. DeCarlo suggests 4 ft. tall vegetation as a cover. Mrs. DiBartolo makes a motion to approve the variance, with the condition that The Sedransks use at least a 4 ft. high vegetative screen of native plants for landscaping around the generator. Mr. Ryan seconds the motion. Board votes unanimously and motion passes. Application is approved.

Application 2023-03, 8 Belleclaire Place :

Chairman McGinley calls for the last application on the agenda to be heard. Mr. Gaccionce swears in Mr. John & Mrs. Jenna Sikes. Mr. Gaccionce verifies that proof of service for this matter is in order. Mr. Thomas Baio, architect for the applicant introduces himself and provides information on his qualifications. The Sikes are applying for a variance as the roofline of the new home that they are constructing exceeds the maximum building height by 13 inches as stated in §150-17.1 E. (6) Exceed maximum Building Height : 30 feet maximum permitted, 31.01 feet proposed. Mr. Baio uses the survey to show the topography of the lot where the house will be built. Referencing Sheet A3 he shows the elevation of the front of the home. The height of the home is measured in 10 ft. increments around the perimeter. If you look at the topographic measurements every 10 feet, you get to a height maximum that exceeds 30 ft., at 31.1ft. All of the floor heights have been reduced to the minimal. The 1st & 2nd floor ceiling heights are 9 ft. and the attic is 7 ft. 6 in at the ridge and it declines from there. Mr. Sikes is tall and they wanted an attic for storage where he would be able to stand easily, although most of the attic is not accessible. Dropping the roofline down would affect the street presence and the steep grade of the pitches. It would drop the gables which are the pronounced architectural features and it would lose the European elegance that the design intends. The roofs are steeply pitched for snow aversion and that depends on having the ridge at a certain height. From the side elevation the roof lines are modest. Dropping it would result in an aesthetic impact that is inconsistent with this neighborhood. The grade of the property, the long nature of the house and the 10 ft. incremental averaging building height, combined with the maximum building height allowance squashes the house. While it is only a difference of 13 inches, it improves the ability for the house to communicate a steeply pitched roof, shed water & snow appropriate to the aesthetic of the neighborhood. As the garage takes up the first 35 ft., the another 10 ft. to the front door, and another 20 ft. to where the ridge height issue is; from the street no one would be able to perceive a 13 inch difference. It renders no public impact but it would effect the pitches. Vice Chair Weston asks how the calculations are done, considering the property has so much of a slope. From the highest point, down to where the grade is and then in 10 ft. increments and then you take the average. Mrs. DiBartolo asks if they considered regrading further, since they are already doing so much regrading on the property, so they wouldn't have to get a variance. Mr. Baio responds that You're not allowed to grade your way out of a variance on height. The Zoning Official would need to use the lower of either the existing grade or created grade, so he can't berm up and hide a height. Mr. DeCarlo clarifies that the code does specifically state the natural grade. Mr. Ryan asks about the pitch, would lowering it to meet the requirement effect the aesthetics and also degrade the ability for the water to runoff the roof. Mr. Baio responds the lower you make your pitch the more standing snow you keep on your roof, the more likely there are issues. The steeper the roof, the better the performance of waterproofing, when it comes to managing snow, water & ice. The roof pitch has no impact on the coverage. Mr. Ryan asks, if the Board says to stick to the ordinance height would you still build the house. Mr. Baio says yes, they would still build and comply with the 30 ft. ordinance. It is both aesthetics & management of runoff that they are concerned with. Mr. Gaccionce states that aesthetics is allowed to be a consideration on a zoning approval. Mrs. Murphy-Bradacs asks what the house would look like if they stuck to the ordinance. Mr. Baio draws on the survey to illustrate the difference. Mrs. DiBartolo asks about the overall height compared to neighboring homes. Mr. Baio advises that many of them are taller, for example the one across the street is 40 ft. higher than this home. Some of the other English Tudor style homes on the block were built prior to the 30 ft. ordinance and range from 35 ft. – 40 ft. This will be the first new build on the block since the 30 ft. ordinance. Chair McGinley asks if there are any questions from the Board for the architect. No more questions. Chair McGinley asks if there are any questions from the public regarding this application.

Richard Griffith, 16 Belleclaire Place: Asks the size of the lot. Mr. Baio responds that it is 20,486 sq. ft. Approximately half an acre. He asks what the width at the street is. Mr. Baio tells him that it is 100.16 ft. and 99.7 at the rear of the property. He points it out on the survey. Mr. Griffith asks if the lot is much smaller than most of the lots on the street. Mr. Baio says yes, it is.

Mr. Ryan asks if they are building over the size that is permitted for a lot this size. Mr. Baio says they are well within the coverage limits, setbacks, etc. Chair McGinley asks if there are any statements from the public regarding this application.

Kevin Smith, 63 Afterglow Avenue: Has concerns regarding water based on the elimination of so many trees with the new construction and the storm drainage systems. He also has concerns as to if there will need to be blasting to put in an in ground pool and how that may effect the neighborhood. Mr. Baio advises that no blasting is necessary as they will be building up and elevating the rear yard where the pool goes with grading. He shows this on the engineering plan

how & where this will be done. Mr. Ryan explains that the engineering review makes sure that the amount of water runoff is unchanged and factored into new builds. There are building codes in place to protect from those sort of problems and it is monitored.

Richard Griffith, 16 Belleclaire Place: Is not concerned about the 13 inch height variance. He is concerned that it is a lot of house for a small property. He also has concerns about the fact that it is a dead end and the construction crews will only have one way to get in and out, which will inconvenience the neighborhood. Mr. Ryan asks if Mr. Griffith voiced any of these concerns when the Master Plan was being worked on. Mr. Gaccionce stated that there is no ordinance that prohibits the owners from building that amount on that lot, we are here to address the 13 inches of the height and you have stated that you are ok with that. Mr. DeCarlo state the minimum lot size requirement for this zone is 12,000 sq. ft. so this lot is close to double the size of what's required by the zone. They have gone right to the limit but not exceeded what is allowable for the building footprint on the property. Mr. Griffith asks about the parking of construction vehicles in front of his house. Mr. DeCarlo advises that nuisance parking and complaints of that nature should be directed to the police department.

The public portion is closed as there are no more questions or comments & Board deliberation begins. Mrs. DiBartolo, Mrs. Murphy-Bradacs and Mr. Ryan agree that they see no problem with the 13 inches that the variance is for. Mr. Mathewson states that he is concerned with the garage roof overhang. Vice Chair Weston asks Mrs. DiBartolo about the steepness of the gables. Mrs. DiBartolo states that it fits with the aesthetic and it fits the character of the neighborhood. Vice Chair Weston says that he is ok with the 13-inch variance. Mrs. Murphy-Bradacs makes a motion to approve with no conditions; Vice Chair Weston seconds the motion. Mr. Mathewson opposes, all others vote in favor. Motion passes and application is approved.

Adjourn

Mr. Ryan makes a motion to adjourn. There was a unanimous agreement to adjourn the meeting at 9:30 PM.

Respectfully submitted,

Marcie Maccarelli
Acting Board of Adjustment Secretary

PLEASE NOTE: Meeting minutes are a summation of the hearing. If you are interested in a verbatim transcript from this or any proceeding, please contact the Board of Adjustment Secretary at 973-857-4777.