

METUCHEN BOARD OF ADJUSTMENT

RESOLUTION OF MEMORIALIZATION GRANTING
C VARIANCES
TO
ERIC EDWERS
20 CHARLES STREET
BLOCK 211; LOT 40
APPLICATION NO. 23-1355 E

WHEREAS, Eric Edwers, hereinafter referred to as “the Applicant,” is the owner of Block 211, Lot 40, as shown on the official Tax Map of the Borough of Metuchen, said property being located at 20 Charles Street, Borough of Metuchen, County of Middlesex, State of New Jersey; and

WHEREAS, the Applicant applied to the Metuchen Board of Adjustment for C variance approval(s); and

WHEREAS, the Metuchen Board of Adjustment held a public hearing on said application on September 14, 2023, after compliance with the notice, service and publication requirements of N.J.S.A. 40:55D-12; and

WHEREAS, at said hearing the Zoning Board considered the following documents:

1. Zoning Permit Application, dated May 25, 2023 and consisting of one (1) page;
2. Zoning Coverage Checklist, dated May 25, 2023 and consisting of one (1) page;
3. Letter from Borough of Metuchen, dated May 31, 2023 and consisting of one (1) page;
4. Application for Development, dated August 7, 2023 and consisting of six (6) pages;
5. Narrative of Proposal, undated and consisting of one (1) page;
6. Photographs, undated and consisting of four (4) photographs on four (4) pages;

7. Survey entitled "Survey of Property for Lot 40 in Block 211", prepared by Leo A. Kalieta & Co., under seal of Leo A. Kalieta, PLS, NJPLS License No. 31268, dated February 27, 2023, last revised February 27, 2023, and consisting of one (1) sheet;
8. Architectural Plans, prepared by MDM Architecture LLC, under seal of Michael D'Innocenzi, RA, NJRA License No. 11695, dated February 27, 2023, last revised August 9, 2023 and consisting of seven (7) sheets; and
9. "Review Memorandum" prepared by Chris S. Cosenza, AICP, PP, LEED AP, of LRK, dated September 12, 2023.

WHEREAS, the Applicant was represented by Lawrence Sachs, Esq.;

WHEREAS, the subject property is located in the R-2 Residential District. The property is non-conforming with respect to lot area and lot width, and presently contains a single-family detached dwelling, a permitted principal use in the R-2 Zone, but has pre-existing non-conforming front yard and side yard setbacks as well as building and impervious coverage conditions. The property is a mid-block lot located on the south side of Charles Street, distant 237.83 feet from Main Street (Middlesex County Road 531). The property is rectangular in shape, approximately 3,435.3 square feet (0.079 acres) in area, with 30 feet of frontage along Charles Street and having an average depth of 114.51 feet; and

WHEREAS, the property presently contains a 2-story frame dwelling with a detached one-car garage, together with a driveway, porch, walkway, and shrubs in the front yard area as well as steps and a patio in the rear yard area. There are generally no trees located along the front of the property.; and

WHEREAS, Applicant is seeking C variance approvals to expand the existing single-family detached dwelling: to construct a two-story addition to the existing one-story portion of the home at the rear and to add a third floor to the existing two-story portion of the home where the third floor will be a half story such that the home will have the appearance of a 2 ½- story structure.; and

WHEREAS, the Applicant requires the following C bulk variances:

§110-64, minimum lot area – 7,500 square feet required, 3,431 existing and proposed,

§110-64, minimum lot width – 62.5 feet required, 30 feet existing and proposed;

§110-64, minimum front yard setback – 25 feet required, 14.7 feet existing and proposed;

§110-64, minimum side yard setback (left) – 8 feet required, 2.5 feet existing and proposed;

§110-64, minimum side yard setback (combined) – 18 feet required, 11.3 feet existing, proposed;

§110-64, maximum building coverage – 30% required, 34% existing and proposed;

§110-64, maximum impervious coverage – 50% required, 63% existing and proposed;

WHEREAS, the Applicant requires relief from the following supplementary regulation:

§110-112.7.G., front yard tree plantings. Shade tree and flowering trees are required within the front yard of the property;

WHEREAS, the Board of Adjustment heard and received testimony and evidence as follows:

1. Applicant's attorney, Lawrence Sachs, gave a brief opening statement. Mr. Sachs stated that the Applicant is proposing a modest 2nd floor addition, along with an interior renovation, while also removing the existing porch and replacing it. Mr. Sachs stated that the

property pre-exists current zoning laws and that the requested variances apply to pre-existing non-conformities and that most surrounding lots are similarly small in size.

2. Applicant, Eric Nathan Edwers, was sworn in and gave testimony. He stated that he resides at 20 Charles Street with his wife and two children. Members of his family have owned this home for three generations. Applicant described the home as the 1st floor having one bedroom, while the 2nd floor has two. His proposal would include relocating the 1st floor bedroom to the 2nd floor. In the process he will also finish the basement to use as a recreation area for his children. The plans also include finishing the attic to serve as a home office. 741 square feet will be added to the structure, with 299 square feet being added to the second floor.

3. Mr. Edwers stated that in order to comply with recommendations from the Board Planner's memo, an existing chain-link fence would be removed. He also stated in reply to questions included in said memo that an air compressor would be located on the left rear of the house, while trash and recycling is stored on the side of the home which would continue.

4. Mike D'Innocenzi, Architect, was sworn in, qualified, and gave testimony. Presenting an aerial photo of the property's surrounding neighborhood and a streetscape view, Mr. D'Innocenzi stated that many of the additions being proposed by the Applicant have already been completed on other houses in the area. Displaying architectural plans, Mr. D'Innocenzi stated that the Applicant proposes adding to the rear of the property. The existing house is older, with dangerous steps leading to the basement and a number of features not up to today's code. The plans include enlargement of existing stairs with a renovating of the basement. A 1st floor office will be moved upstairs, creating additional living room space. The main focus of the proposal is to bring existing bedrooms from the 1st to 2nd floor. Since a staircase is located on the right side of the building, the planned addition will be centered in the structure. On the 2nd floor

the addition will allow for three decent sized bedrooms including a master bedroom to the front of the property with two equal sized bedrooms to the rear, along with two bathrooms and a laundry area. The attic will feature office space and a play area so children can be monitored while working from home.

5. In response to the Board Planner's memo, Mr. D'Innocenzi stated that one window is proposed on the left side of the 2nd floor with two windows proposed along the dining room on the 1st floor. The Board Planner noted that the Board may want to weigh in as to how critical additional windows are to the plan, but does not think it is necessary. Mr. D'Innocenzi stated that the subject property is probably more than 10 feet from the adjacent property across the driveway along the right side of the house. The Board Planner agreed; however, he noted that the exterior wall and, therefore, the proposed windows are three feet or less from the property line which, under the construction code, may be required to be fire-rated which is costly and may not be a practical expense to the Applicant. Mr. D'Innocenzi stated that he will review with his client.

6. Mr. D'Innocenzi stated an additional shade tree would be planted in the front of the property where there is a currently existing gap in the landscaping. The property already features shrubbery. In response to the Board Planner's memo, he stated that he is satisfied there is currently enough parking space sufficient for the proposed plans, and that if any foundation landscaping is removed during construction they will be replaced. In reply to a comment about stormwater management, Mr. D'Innocenzi clarified that the existing plan is to run gutters to the driveway but if it becomes necessary to go under the curb they will do so.

7. In response to questions from the Board, Mr. D'Innocenzi stated that the new porch would have the same distance from the street as the existing porch, that the rear of the

house is the best place to situate an air compressor and that it would be kept close to the property. In response to a question from the Board Planner, it was noted that the air compressor will comply with the accessory structure setback requirements contained in the Land Development Chapter.

8. Mr. Topping noted that the subject lot is one of the narrowest in the area, and suggested since the attic dormer is large and only set back 2 feet, it should be addressed by the architect. Mr. D’Innocenzi agreed to do so.

9. Ms. Sielski asked if there is an existing sump pump, Mr. Sachs stated there was not.

10. The Board Planner asked if any trees were being removed, Mr. Sachs stated there were not. Applicant proposes to install a street tree along Charles Street; however, with respect to the required front yard shade and flowering trees, The Board Planner added that granting of a variance for front yard planting requirements (and the alternative payment in lieu) would be appropriate due to lot size.

11. Mr. Sachs also noted that regarding the variances, there is no space on either side of the property to abate, but that the proposal would not be a detriment to the community while the benefit of a modernized house would be realized.

WHEREAS, the Metuchen Board of Adjustment, after hearing the testimony on behalf of the application, no member of the public appearing, and considering the recommendations of the Board Planner, has made the following findings of fact and has drawn the following conclusions of law:

1. The Board of Adjustment of the Borough of Metuchen has proper jurisdiction to hear the within matter.

2. The property is designated as Block 211, Lot 40, as shown on the official Tax Map of the Borough of Metuchen, County of Middlesex and State of New Jersey and more commonly known as 20 Charles Street. The property is located in the R-2 Residential District.

3. The property is a mid-block lot, located on the south side of Charles Street, distant 237.83 feet from Main Street (Middlesex County Road 531). The property is rectangular in shape, approximately 3,435.3 square feet (0.079 acres) in area, with 30 feet of frontage along Charles Street and having an average depth of 114.51 feet.

4. The property presently contains a 2-story frame dwelling with a detached one-car garage, together with a driveway, porch, walkway, and shrubs in the front yard area as well as steps and a patio in the rear yard area. There are generally no trees located along the front of the property.

5. The subject property will be expanded by way of a two-story addition to the existing one-story portion of the home at the rear, and to add a third floor to the existing two-story portion of the home. Ultimately, the third floor will be a half story, and the home will have the appearance of a 2 ½- story structure. The existing home has three (3) bedrooms, with one (1) on the first floor and two (2) on the second floor and the proposed scope of work will open up the first floor and have all three (3) bedrooms on the larger second floor. The basement will contain a renovated recreation area and the attic level will contain a home office and play area. A total of 741 square will be added to the home, with 299 square feet added to the second floor and 442 square feet of attic space above. The additions do not increase the existing building footprint.

6. The Board finds that the requested relief may be granted because Applicant has demonstrated that due to the extraordinary and exceptional situation uniquely affecting the

Applicant's property, namely the narrowness, and the location of the preexisting structures lawfully thereon, the strict application of §110-64 and §110-112.7.G would result in particular and exceptional practical difficulties and exceptional and undue hardship to the Applicant.

7. The Board further finds that the relief requested may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and the zoning ordinance, due to the nature of surrounding properties and the variances granted are relatively minor, particularly considering the preexisting conditions.

8. The Board further finds that the relief requested may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and the zoning ordinance, for the reasons set forth above.

9. The Board further finds that the granting of the application for C variances should be conditioned on the Applicant's agreement to comply with the conditions contained in this resolution.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Borough of Metuchen that the application of Eric Edwers, for C variances, be and is hereby granted, subject to and conditioned upon the following:

A. Publication by the Applicant of a notice of this decision in an official newspaper of the Borough of Metuchen and return of proof of said publication to the Secretary of the Board of Adjustment.

B. The Applicant furnishing proof to the Secretary of the Board of Adjustment that

no fees, taxes, escrows or assessments for local improvements are due or delinquent on the property in question. No permits, if any, shall be issued until all fees, taxes and escrows are paid in full.

C. Any and all outstanding escrow fees shall be paid in full and the escrow account shall be replenished to the level required by ordinance within 30 days of the adoption of a resolution, within 30 days of written notice that a deficiency exists in the escrow account, prior to signing the site plan and/or subdivision plat, prior to the issuance of a zoning permit, prior to the issuance of construction permits and prior to the issuance of a temporary and/or permanent certificate of occupancy, completion or compliance (whichever is applicable).

D. The application is subject to the following outside agency approvals or letters of no jurisdiction:

1. County of Middlesex Planning Board;
2. Freehold Soil Conservation District;
3. Borough of Metuchen Fire Department;
4. Metuchen County Utilities Authority;
5. Middlesex Water Company.

E. The Applicant shall reimburse the Metuchen Board of Adjustment and/or the Borough of Metuchen for professional fees associated with this application.

F. The Applicant shall comply with the Borough Affordable Housing ordinance and shall pay any fees, if applicable.

G. The granting of the application is expressly made subject to and dependent upon

the Applicant's compliance with all of the applicable rules, regulations and ordinances of the Borough of Metuchen, County of Middlesex and State of New Jersey. No further deviations from the zoning ordinance or subdivision regulations shall be permitted.

H. The Applicant shall construct the proposed improvements in strict compliance with the documentary and testimonial evidence submitted to the board, including, but not limited to, any plans submitted or presented as part of the application, any exhibits introduced into evidence, and any statements made during the course of the hearing, with the exception being the proposed windows on the left side of the dwelling which may be removed at the option of the Applicant.

I. The Applicant shall ensure that the property remains orderly during and after construction (i.e., building materials are appropriately stored, construction debris is timely removed).

J. Any conditions of approval stipulated to by the Applicant are incorporated herein even if not specifically stated.

K. Approval of the variance applied for shall expire one year from the date of this resolution if construction has not commenced within that time period, provided, however, that the Board may extend the time period of such approval for one period of one year in accordance with §110-41 of the Land Development Chapter.

L. The aforementioned approval shall be subject to all requirements, conditions, restrictions and limitations set forth in all prior governmental approvals, to the extent same are not inconsistent with the terms and conditions set forth herein.

BE IT FURTHER RESOLVED that the Applicant understands and acknowledges that all of the conditions contained in this resolution and the record of proceedings in this matter

including any agreements made or plans submitted by the Applicant were essential to the Board's decision to grant the approval set forth herein. Breach of any such conditions or the failure of the Applicant to adhere to the terms of any agreement or condition may result in revocation of the within approval and may terminate the right of the Applicant to obtain any further permits or any other governmental authorizations necessary in order to effectuate the purpose of this resolution. The Applicant has been advised by this resolution that all conditions contained in this resolution are to be complied with and that breach of any of the conditions shall be rectified before the issuance of any certificate of occupancy.

BE IT FURTHER RESOLVED that if any of the above-stated conditions are found to be illegal by a court of competent jurisdiction or conditions similar to the above are deemed to be illegal by a court of competent jurisdiction or any action of the Legislature, then in that event, the approval rendered in this resolution shall be deemed null and void based upon these changed circumstances.

BE IT FURTHER RESOLVED that nothing herein shall be interpreted to excuse compliance by the Applicant with any and all other requirements of this municipality or any other governmental subdivisions as set forth in any laws, ordinances or regulations.

BE IT FURTHER RESOLVED that this resolution shall serve as one of memorialization of the action taken by this Board at its meeting of September 14, 2023, and effective as of that date.

BE IT FURTHER RESOLVED that a copy of this Resolution, certified by the Secretary of the Board of Adjustment to be a true copy, be forwarded to the Zoning Officer, the Borough Clerk, Borough Planner, Borough Engineer, Borough Attorney, Borough Construction Official and the Applicant herein within ten (10) days of the date hereof.

BE IT FURTHER RESOLVED that the Chairman and Secretary be and are hereby authorized to sign any and all documents necessary to effectuate the purpose of this resolution, provided the Applicant has complied with the above-stated conditions.



Kim Kirk, Secretary

Dated: *October 12*, 2023