

ZONING BOARD
Minutes of the Meeting
June 28, 2011

The Livingston Zoning Board of Adjustment met for a Conference Meeting at 7:15 p.m. in the Executive Conference Room with a Regular Meeting to follow at 7:30 p.m. in the Court Room of the Livingston Municipal Building located at 357 South Livingston Avenue. Notice of the meeting was published in the West Essex Tribune and posted at the Livingston Municipal Building.

Conference Meeting:

At 7:20 p.m., Secretary Ajay Shah called the Roll:

Present:	Alan Ozarow	Absent:	Kris Boni
	James Hochberg		Michael Silverman
	Susan Atteridge		
	Jack Gillman		
	Shawn Klein		
	Ajay Shah		
	Jill Wishnew		
	Herb Ford, Board Attorney		
	Jackie Coombs-Hollis, Planning Administrator		

1. Minutes. The Minutes of May 26, 2011 were accepted as presented.
2. New Business.
 - a. Oath of Office. Herb Ford, Board Attorney administered the Oath of Office to the new Zoning Board member, Jill Wishnew.
 - b. The Board reviewed a memo from Martin Chiarolanzio, Construction Official regarding batting cages and whether or not they should be interpreted as “sports courts” as per Ordinance 20-2008. The Board unanimously agreed batting cages should be treated as sports courts.
3. Adjournment. The Conference Meeting was adjourned at 7:30 p.m.

Regular Meeting:

At 7:31 p.m., Chairman Ozarow announced that proper notice had been given and Secretary Ajay Shah called the Roll:

Present:	Alan Ozarow	Absent:	Kris Boni
	James Hochberg		Michael Silverman
	Susan Atteridge		
	Jack Gillman		
	Shawn Klein		
	Ajay Shah		
	Jill Wishnew		
	Herb Ford, Board Attorney		
	Jackie Coombs-Hollis, Planning Administrator		

Chairman Ozarow reviewed the request for interpretation from Martin Chiarolanzio, Construction Official regarding batting cages and whether or not they should be interpreted as “sports courts” as per Ordinance 20-2008. Upon motion made by Mr. Ozarow and seconded by Mr. Gillman, the Board unanimously agreed batting cages should be treated as sports courts; a resolution of interpretation will be prepared by the Board Attorney.

Secretary Ajay Shah called the first applicant, Eric & Susan Bernbach.

1. Variance

Block: 301; Lot: 30
14 Cliffside Drive
Application No. 2011-16-V
Eric & Susan Bernbach

R-2 Zone

Applicant proposes to construct an addition to a single family residence. Violation of the following sections:

- 170-97C(2) Front Yard Setback (60' required, 52' proposed; 8' variance requested)
- 170-97C(3) Side Yard Setback (15' required, 11'6" proposed; 3'6" variance requested)

Eric & Susan Bernbach were sworn in to offer testimony.

No testimony or questions were offered by members of the public.

During testimony, the Board found that the hardship is due to the topography of the property, and that the variance requested for the addition is conforming to the neighborhood therefore having no negative impact.

Upon motion made by Mr. Hochberg and seconded by Mr. Shah, the Board approved the application subject to a memorializing resolution by the unanimous votes of Mr. Hochberg, Mr. Shah, Ms. Atteridge, Mr. Klein, Mr. Gillman and Mr. Ozarow; they being all of the Members present and eligible to vote.

Secretary Ajay Shah called the next applicant, David Jasin & Felix Gil.

2. Variance

Block: 4603; Lot: 1
55 Bennington Road
Application No. 2011-20-V
David Jasin & Felix Gil

R-4 Zone

Applicant proposes to construct a second floor addition to a single family residence. Violation of the following section:

- 170-99C(2) Front Yard Setback (40' required, 34.05' proposed; 5.95' variance requested)

David Jasin & Felix Gil were sworn in to offer testimony.

No testimony or questions were offered by members of the public.

During testimony, the Board found that the lot is undersized and irregular shaped for the zone and the variance requested for the second floor addition is conforming to the neighborhood therefore having no negative impact.

Upon motion made by Mr. Gillman and seconded by Ms. Atteridge, the Board approved the application subject to a memorializing resolution by the unanimous votes of Mr. Gillman, Ms. Atteridge, Mr. Klein, Mr. Shah, Ms. Wishnew, Mr. Hochberg and Mr. Ozarow; they being all of the Members present and eligible to vote.

Secretary Ajay Shah called the next applicant, Rajesh & Anju Agarwal.

3. Variance

Block: 3303; Lot: 5
44 North Baums Court
Application No. 2011-21-V
Rajesh & Anju Agarwal

R-3 Zone

Applicant proposes to construct an addition to a single family residence. Violation of the following sections:

- 170-98C(2) Front Yard Setback (50' required, 49.375' proposed; .625' variance requested)
- 170-98C(4) Rear Yard Setback (40' required, 35.85' proposed; 4.15' variance requested)
- 170-87L(1)(C) Side Street / Corner Lot Setback (40' required, 39.75' proposed; .25' variance requested)

Mr. Shah recused himself from the application.

Anju Agarwal was sworn in to offer testimony.

Witnesses testifying under oath for the Applicant that were sworn and qualified:
Robert Hernandez, as architect

Photographs were submitted and marked as Exhibit A-1.

No testimony or questions were offered by members of the public.

During testimony, the Board found that the lot is undersized and irregular shaped for the zone and the variance requested for addition is conforming to the neighborhood therefore having no negative impact.

Upon motion made by Mr. Hochberg and seconded by Ms. Atteridge, the Board approved the application subject to a memorializing resolution by the unanimous votes of Mr. Hochberg, Ms. Atteridge, Mr. Klein, Mr. Gillman, Ms. Wishnew and Mr. Ozarow; they being all of the Members present and eligible to vote.

Secretary Ajay Shah called the next applicant, Shamsher & Romana Dhanoa.

4. Variance

Block: 4400; Lot: 71
50 Bennington Road
Application No. 2011-23-V
Shamsher & Romana Dhanoa

R-4 Zone

Applicant proposes to construct an addition to a single family residence. Violation of the following section:

- 170-99C(3) Side Yard Setback (10' required, 6' proposed; 4' variance requested)

Shamsher & Romana Dhanoa were sworn in to offer testimony.

No testimony or questions were offered by members of the public.

During testimony, the Board found that the lot is undersized for the zone and the variance requested for the addition is conforming to the neighborhood therefore having no negative impact.

Upon motion made by Mr. Shah and seconded by Mr. Hochberg, the Board approved the application subject to a memorializing resolution by the unanimous votes of Mr. Shah, Mr. Hochberg, Ms. Atteridge, Mr. Klein, Mr. Gillman, Ms. Wishnew and Mr. Ozarow; they being all of the Members present and eligible to vote.

Secretary Ajay Shah called the next applicant, Pamela & Michael Cotler.

5. Variance

Block: 7500; Lot: 20

45 Chestnut Street

Application No. 2011-17-V

Pamela & Michael Cotler

R-1 Zone

Applicant proposes to construct a new single family residence. Violation of the following section:

- 170-87CC(1) Habitable Floor Ratio (15% allowed, 17.77% proposed; 2.77% variance requested)

Pamela & Michael Cotler were sworn in to offer testimony.

Witnesses testifying under oath for the Applicant that were sworn and qualified:

Tim Klessi, as architect

Members of the public with questions for the Applicant were:

Paul Gilenites, 43 Chestnut Street

During testimony, the Board found that the lot is undersized for the zone and the variance requested for the new single family residence is conforming to the neighborhood therefore having no negative impact.

Upon motion made by Mr. Klein and seconded by Mr. Gillman, the Board approved the application subject to a memorializing resolution by the unanimous votes of Mr. Klein, Mr. Gillman, Ms. Atteridge, Mr. Shah, Ms. Wishnew, Mr. Hochberg and Mr. Ozarow; they being all of the Members present and eligible to vote.

Secretary Ajay Shah called the next applicant, Peter McPhee on behalf of Michael & Peggy Erb.

6. Variance

Block: 6103; Lot: 6

13 Dickinson Lane

Application No. 2011-18-V

Peter McPhee on behalf of Michael & Peggy Erb

R-1 Zone

Applicant proposes to construct an addition to a single family residence. Violation of the following sections:

- 170-96C(2) Front Yard Setback (75' required, 43' proposed; 32' variance requested)
- 170-96C(3) Side Yard Setback (15' required, 4.4' proposed; 10.6' variance requested)
- 170-96C(4) Rear Yard Setback (75' required, 54.5' proposed; 20.5' variance requested)
- 170-87CC(1) Habitable Floor Ratio (15% allowed, 32.896% proposed; 17.896% variance requested)

Peter McPhee, Michael & Peggy Erb were sworn in to offer testimony.

No testimony or questions were offered by members of the public.

During testimony, the Board found that the lot is undersized for the zone and the variances requested for the addition are conforming to the neighborhood therefore having no negative impact.

Upon motion made by Mr. Gillman and seconded by Mr. Shah, the Board approved the application subject to a memorializing resolution by the unanimous votes of Mr. Gillman, Mr. Shah, Ms. Atteridge, Mr. Klein, Mr. Gillman, Ms. Wishnew, Mr. Hochberg and Mr. Ozarow; they being all of the Members present and eligible to vote.

The Board was in recess from 8:25 pm to 8:34 pm.

Secretary Ajay Shah called the next applicant, Jon & Kip Mandelbaum.

7. Variance

Block: 7402; Lot: 4

7 Brayton Road

Application No. 2011-8-V

Jon & Kip Mandelbaum

R-1 Zone

Applicant proposes to construct a new single family residence. Violation of the following sections:

- 170-87BB(1) Habitable Floor Area (6,200 SF allowed, 6,983 SF proposed; 783 SF variance requested)
- 170-87CC(1) Habitable Floor Ratio (15% allowed, 19.1856% proposed; 4.1856% variance requested)

Mr. Hochberg and Mr. Silverman recused themselves from the application.

Members Peter Klein and Richard Dinar from the Township of Livingston Planning Board were accepted as voting members for the application in order to have enough voting members for a quorum.

Stephen Geffner, Esq. of Schenck, Price, Smith & King appeared as attorney for the applicant. Jon & Kip Mandelbaum were sworn in to offer testimony.

Witnesses testifying under oath for the Applicant that were sworn and qualified:

William Toth, as architect

Richard Keller, as planner and surveyor

A color rendering, aerial photo and photo board were submitted and marked as Exhibits A1-A3.

No testimony or questions were offered by members of the public.

During testimony, the Board found that the variances requested are diminimus and that the new single family residence is conforming to the neighborhood therefore having no negative impact.

Upon motion made by Mr. Ozarow and seconded by Mr. P. Klein, the Board approved the application subject to a memorializing resolution by the unanimous votes of Mr. Ozarow, Mr. P. Klein, Ms. Atteridge, Mr. Gillman, Mr. Shah and Mr. R. Dinar; they being all of the Members present and eligible to vote.

Approval of Memorializing Resolutions. Upon motion made and seconded, the following Resolutions were unanimously approved by the present members of the Board:

Mr. & Mrs. Robert Zimmermann – Application No. 2011-12-V

Matthew Lang – Application No. 2011-19-V

Wigder Chevrolet, Inc. – Application No. 2011-5-PFSPV

Adjournment. The Regular Meeting was adjourned at 10:07 pm.

Respectfully submitted,

Jackie Coombs-Hollis
Planning Administrator