

**Township of Edison
Zoning Board of Adjustment
Special Meeting Minutes
December 15, 2015**

Chairman Sendelsky called the meeting of the Zoning Board of Adjustment to order at 7:00 PM.

Adequate notice of this meeting, as required by the Open Public Meetings Act of 1975, has been provided by the Annual Notice published in The Home News & Tribune on November 22, 2014 and has been posted in the Main Lobby of the Municipal Complex on January 2, 2015.

The Chair called for the Pledge of Allegiance to the Flag.

Roll Call

Board Members present were Sendelsky, Dave, Shah, Errico, Skibar, Feterik, Reeves, Taglianetti and Comba. Also present were Messers P. Bradshaw, M. Carr, H. Bignell, S. Lombardi and L. Buckley. Absent was Board Member: Reeves.

Chairman Sendelsky states that **Z 74-2015, Brian Pickett, 57 Cherry Street**, has been postponed until January 26, 2016; No further notice required. **Case # Z 33-2015. Paul Buglioli, 3 Reynolds Court** has been postponed until February 23, 2016; No further notice required. Mr. Buglioli will submit a new plan for drainage to the Township Engineer for review. Also, **Case # Z 40-2015. Bank of America**, has been postponed until January 26, 2016, no further notice required.

Ms. Feterik states that she would like everyone to know that this will be our Chairman's last meeting, he will be going to Council. Thank you for your service. Chairman Sendelsky thanks everyone and the professionals; he truly enjoyed working with everyone. There is a wonderful Board here and they will continue to do the good works for the people of the Township of Edison; he will be serving in a different way.

Old Business:

Case # Z 22-2015. Nabil Bader, 63 Melbourne Street, Edison, NJ 08817.

Section 37-13.1. Use variance sought to permit continued use of a property as a two-family residence. Required, single family home, proposed, two-family home. Affected property is located in the RB Zone at 63 Melbourne Street, designated as Block # 356, Lot # 18 on the Edison Township Tax Map. All paperwork is in order.

Jeffrey Kantowitz, attorney, is here to represent the applicant. This is a continuation from the last hearing; their Planner is here if needed. At the time they were told to get some information, they did an opra request through the Town and were provided with more information. There are three units there, they will turn it back into two units, physical changes to the home and facade. Chairman Sendelsky asks Mr. Lombardi if it's true that the records going back show it's always been a two family. Mr. Lombardi states not legally; there were permits issued for the dwelling and addition in September 27, 2000 and the application/permits given were for an addition for a single family home only. If something was done after that that no one was aware of, obviously without permits, then it wasn't lawful. The house was being assessed as a two family, because they were assessing the home in accordance with it's use when they went out there, they didn't question the lawfulness at the time. The tax assessor did not check to see if it was lawful, they would've been told it was not. Prior to 2000, it was assessed as a single family.

Mr. Kantowitz would like the date on the permit issued. Mr. Lombardi states that it is permit number 2003-367, the date is 9/27/2000. The permit was issued 10/27/2000; the contractor was Celik. The zoning department send two notices of violation out; one was for parking cars on the lawn of the property which is not permitted and the other notice was for unlawful conversion of the existing single family dwelling into a multiple dwelling structure. Ms. Feterik asks Mr. Bradshaw the request is for a use variance to permit continued use of a two

family dwelling; the property isn't legally a two family dwelling so how can we permit a use that is illegal. Mr. Bradshaw states it would just be like permitting any use variance, it currently doesn't exist. If the Board grants it they can use it. Mr. Lombardi states that he contacted Mr. Morely in the Fire Department; he inspected the site and stated that there were two non-working smoke detectors and one carbon monoxide detector should have been replaced. Other than that, he (Mr. Morely) said he didn't find any other fire violations at that time. The health inspector did also go to the side; she had issued violations to the owner for excessive garbage that was in the yard and it should be cleaned up and there were tenants moved into the structure without approval from the Health Department. The Health inspector was not aware that it was unlawful to have the tenants.

Mr. Kantowitz would like to ask Mr. Lombardi some questions. The date of his conversation with Mr. Morely; Mr. Lombardi states the first was the day after our last meeting which was November 18th and today, on December 15, 2015. Mr. Devendra states that the Board asked at the last meeting if the home owner could be present. Mr. Kantowitz states he will present his case; they thought the home owner was coming but he is out of town. A-1 was given in; a letter from the Clerks' office for the opra. ZBA-1 is the permit from 2000. ZBA-2 is the other permit.

Mr. Creigh Rahencamp, Planner, is sworn in to testify; his qualifications are accepted. He has had an opportunity to go to the property and he was present last month at the beginning of the hearing in November. Mr. Rahencamp states that one of the things that he found very significant (from the opra request) is that the 1963 reevaluation states that it was a two family home as they heard from one of the neighbors testimony last month that his mother or grandmother lived in the apartment in this house. There are two ways for a use to be legal, one of which is to be permitted, the other is to be a pre-existing non-conforming use. The zoning has been in place since the 1950's but the first record was from 1963. At least from 1963 we know that there was an accessory apartment upstairs in the home; so we have some history on that.

When you go to the home today, there is a first floor unit and a second floor unit in the original first structure. They know that the use was expanded in 2000 horizontally adding essentially a single family house attached to the side of the original structure. As Mr. Lombardi testified to the Board, there was explicitly a notation in that building permit that they didn't want this to become a two-family dwelling. That permit doesn't necessarily say anything about what was in the existing structure it was talking about what was being added to it.

The back round story that went with that was that the gentleman that purchased the property was purchasing it for extended family that was immigrating to the country. He was bringing them to this property to live here once they got established and employed, they would move off to their own home. During that time, there were lots of family living in this structure; all of the issues, beds, improvements, etc., all happened at that time. That gentleman's family has transitioned through this house so whatever violations there were, whatever history there was during that period is what they are trying to address and fix.

Mr. Bader's desire, he came as a tenant to this facility a little more than two years ago. He then wanted to do some improvements to the part he was living in and that is what triggered him separating it from the adjoining use and triggered the permits that led to the violation being identified. Mr. Bader would like to purchase the property, eliminate the accessory apartment that was the original second use, and essentially have two dwelling units at this property as there has been historically; but move the division. He would like to do improvements to the home; landscaping, driveways and fix the problems that this property has been creating for the neighborhood. This is an opportunity to take what was historically true, take what was a pre-existing, non-conforming use and for two residents at this property, covert that through this use variance regularize it and put it in the system in a rational and legal way. Having two dwellings on this property divided in the right place, for two dwellings to occur. One to the left and one to the right; they will both have their own driveways.

There is no external impact except to clean it up; there will not be any expansion of what it there now. Chairman Sendelsky asks Mr. Lombardi if any of this, to his understanding, was the way this lot was. Mr. Lombardi states that he has no knowledge of the accessory apartment being located in that home in 1963. His

best guess to that would be as the objector testified to that an elderly family member possibly lived there. However, as of the year of 2000, the application was submitted to the construction department. The application was submitted to expand a existing one family home. The owner at that time was representing that this structure is or was a one family home and they wanted to expand it. If they at that time represented that it was a two family home, the two family use would not have been a permitted use in that zone. Therefore, the expansion of it, even for one of the unit, it would've been considered an expansion of a non-conforming use which would have triggered a use variance in front of this Board. The only knowledge Mr. Lombardi has was to expand a one family home; that is what was on the building department permit.

Mr. Dave asks how many kitchens are in the apartment. Mr. Bader is sworn in to testify. He states that there are two kitchens; one to the right and one to the left. Mr. Dave states one in the old and one in the new; the second kitchen was done after 2000 when the addition was done. If it was a two-family house, both kitchens would have been in the original part of the home, not the new. Mr. Bader states that he came in almost three years ago and this is how. Mr. Rahencamp states he would like to amend the answer. There are three kitchens in the home; there is another one in the accessory apartment upstairs of the original home.

Mr. Kantowitz states that he would like to introduce A-2; 1963 Edison Township evaluation. Also, A-3, list of applications. Mr. Bader is prepared as part of an approval to refashion the façade of the current structure to compliment the house like the one across the street of the property. The home across the street has two doorways fronting the street. Mr. Taglianetti stated A-1, dated 12-10-14, which basically shows the existing condition of the interior of the property. In the dwelling unit on the left, how many electric meters are there? Mr. Bader states just one meter for the entire property, one gas meter, one water meter. The left side of the home has a furnace, the right side has forced air heating and cooling. The right is the new section.

Mr. Taglianetti asks what is driving that forced air heating and cooling in the new section. Mr. Bader states a separate one in the attic; it is not shown on the drawings. Mr. Taglianetti asks if there were permits for this; Mr. Bader states that he came after it was there already. He believes there is only one chimney in the house. Is the wall a fire rated wall? There are not sure. Mr. Bader states that if they allow him to make it a two family, he will make sure it is fire rated if it is not already. Mr. Rahencamp states that they are here for the use. If he is approved, he will make all necessary repairs and changes needed to code.

Chairman Sendelsky states that they wanted to property owner to attend this meeting. Mr. Kantowitz stated that he was told he would be here but he is not. Chairman Sendelsky states that they can't cross examine someone that is not here. Mr. Bader states that he is the buyer under contract; three family, two family, one family, he is buying the property. He will fix all violations no matter what. Mr. Lombardi states the current plans in the file state that the second floor plan says two existing bedroom, there is no kitchen drawn on the second floor plan. Drawn by T & T design plan that what was given in as part of the application. It was drawn by an architect and says existing bedrooms, doesn't say existing kitchen; it says it on the first floor on both sides of lower level.

Mr. Rahencamp states that the plans are inaccurate. Mr. Taglianetti states that the owner signed off and allowed him (Mr. Bader) to report and comment, but he doesn't have all of the answers; how are we supposed to know what is really going on out there. Mr. Bradshaw states that that is their application; it's their burden of proof. If they don't provide you enough, that is the answer. Chairman Sendelsky opens it up to the public for comment.

Within 200' radius:

1. James Rice , 68 Melbourne, is sworn in to testify. He states that it is a single family home and he doesn't think the neighborhood really wants it. He has been living there his entire life; his family has been there since 1914.
2. Ken Smith, 66 Melbourne Street, is sworn in to testify. He states that it is a single family home and he has seen how it has been run as a two family for 13 years and it hasn't been pleasant.

3. Frank M. Rice, 68 Melbourne Street, is sworn in to testify. He states that he is 88 years old and has lived there all of his life. He was a firefighter for 24 years, ex-chief, and states that the home is a fire trap. Upstairs is only one way down, the back is only one way out, and the cellar he doesn't know how they get out. There are a lot of violations there.

4. Ben Toro, 59 Melbourne Street, is sworn in to testify. He states that he said the whole thing is shady; they said enough at the last meeting if they can't see it. They need it to stay a single family neighborhood.

5. Jo Ellen Toro, 59 Melbourne Street, is sworn in to testify. She states that since Mr. Shahs ownership in 2010, his intention were clear; he immediate used the home as three, sometimes four family rental property. Over the years since his ownership they have had to endure overflowing garbage cans, garbage bags laying around by the can. Tenants moving in and out all hours of the night; piles of trash, mattresses and furniture for days and sometimes weeks when tenants move out on a poorly maintained property. Approval of the variance to change this into a two family home will only help them continue to use it as a three or four family rental property. Mr. Shah has suffered no consequences for these illegal activities and as of today the house is still divided into three separate units, possibly four if you count the basement. Approximately six adults and nine children living in the home. The upstairs apartment that has two adults, she now sees two young boys coming down in the morning to leave. Finally after five years, the neighborhood is able to voice their concerns about this property. Please do the right thing and shut down this illegal rental property and give us back our single family neighborhood.

Outside 200' radius:

1. Louise Wolke, Peak Road, Edison. She states that she listens what was said tonight and the previous hearing, and she doesn't know who exactly is responsible, but whoever is has flaunted the law over and over again. They took no responsibility for the ascetics and the property. They still don't know how many kitchens, how many kids, there are so many unanswered questions. She doesn't put any credibility into what she is hearing tonight. It's a one family zone, it's a two family house, it is cut and dry and should be denied.

Mr. Bader would like to say one more thing. He said when he came to buy the house the only reason he applied for this application was because they (Township) said they couldn't close. He really didn't want to go through this; one family, two family, it didn't matter. His neighbor has bricks, covered stuff etc., but he doesn't want to complain. He came here to solve it, he is the one who is trying to clean this. He said he took like two or three dumpsters of garbage out of the home when he moved in. The only reason he is here is because there were violations and he wants to fix them. He said 60% of the homes in the neighborhood have two entrances.

Whereas objectors appeared, a motion was made by Ms. Feterik to **deny the application, there were objectors, and feels this would be a detriment to the neighborhood.** Motion seconded by Mr. Errico. **AYES:** Sendelsky, Dave, Shah, Feterik, Errico, Taglianetti and Skibar. **NAYS:** None

New Business:

Case # Z 31-2015. Kumar Neeraj, 786 Old Raritan Road, Edison, NJ 08820.

Section 37-4.3f.1. Bulk variance sought to construct a 6' privacy fence on a corner lot of an existing single family home. Front yard setback required 17.5 feet, proposed, 0 feet. Affected property is located in the RA Zone at 786 Old Raritan Road, designated as Bock # 408, Lot # 7.G on the Edison Township Tax Map. All paperwork is in order.

Kumar Neeraj, the applicant, is sworn in to testify on his own behalf. He states that he would like to put a 6 foot fence on his property. He has three children and is on a corner so he would like to put a fence even with the house. He states it will not block the corner. Chairman Sendelsky asks how high the fence will be. Mr. Neeraj states it will be six feet. Ms. Feterik asks if he received a copy of the Engineer's report. He will comply.

Within 200' radius: none

Outside 200' radius: none

Condition(s) for approval: Eng. report

Whereas no objectors appeared, a motion was made by Mr. Errico to **approve the application, there were no objectors, and feels this would not be a detriment to the neighborhood.** Motion seconded by Mr. Dave. **AYES:** Sendelsky, Dave, Shah, Feterik, Errico, Taglianetti and Skibar. **NAYS:** None

Case # Z 62-2015. Jeffrey Fung, 1 Elmwood Terrace, Edison, NJ 08817.

Section 37-63.1(4). Bulk variance sought to replace an existing six foot fence and existing above ground pool on a corner lot. Front yard setback for fence required 12.5 feet, proposed 1 foot. Pool setback to rear property line required 6 feet, existing, 4 feet. Pool setback line to side street required 25 feet, existing, 4 feet. Affected property is located in the RB Zone at 1 Elmwood Terrace, designated as Block # 105, Lot # 31 on the Edison Township Tax Map. All paperwork is in order.

Jeffrey Fung, the applicant, is sworn in to testify on his own behalf. Mr. Fung states that he would like to replace the existing 6 foot fence. The pool was there when he purchased the property. He will replace the existing fence with vinyl.

Within 200' radius: none

Outside 200' radius: none

Condition(s) for approval: Eng. report

Whereas no objectors appeared, a motion was made by Mr. Errico to **approve the application, there were no objectors, and feels this would not be a detriment to the neighborhood.** Motion seconded by Ms. Shah. **AYES:** Sendelsky, Dave, Shah, Feterik, Errico, Taglianetti and Skibar. **NAYS:** None

Case # Z 69-2015, Thavasimuthu Prasad, 31 Fairmount Avenue, Edison, NJ 08820.

Section 37-63.1(7). Bulk variance sought to construct a deck in the rear yard of a single family home. Rear yard setback required 30 feet, proposed, 25.16 feet. Affected property is located in the RBB Zone at 31 Fairmount Avenue, designated as Block # 545.I, Lot #'s 1-4 on the Edison Township Tax Map. All paperwork is in order.

Mr. Prasad, the applicant, is sworn in to testify on his own behalf. He states he would like to build a deck in his rear yard. It's 12 x 23, but it's 5 feet off the required 30 feet. He has two kids and would like to play out there. The deck will be professionally done; the plans have already been done by the architect.

Within 200' radius: none

Outside 200' radius: none

Condition(s) for approval: Eng. report

Whereas no objectors appeared, a motion was made by Ms. Feterik to **approve the application, there were no objectors, and feels this would not be a detriment to the neighborhood.** Motion seconded by Ms. Shah. **AYES:** Sendelsky, Dave, Shah, Feterik, Errico, Taglianetti and Skibar. **NAYS:** None

Case # Z 75-2015. Lorne & Debbie Schachter, 233 Highland Avenue, Edison, NJ 08817.

Section 39-7.3a.1. Appeal of Zoning Officer's decision to add a second kitchen in the basement of a single family home for Passover preparation. Affected property is located in the RB Zone at 233 Highland Avenue, designated as Block # 63, Lot #'s 27-29 on the Edison Township Tax Map.

Mr. & Mrs. Schachter, the applicants, are sworn in to testify on their own behalf. Mr. Schachter states that they now have an unfinished basement and would like to finish it. They would like to put in a game room for their children and a kitchen. They have family and friends over often and would like the room. Mrs. Schachter states that they will put in an egress window so if anyone is sleeping downstairs. Ms. Shah asks if they would be willing to have a deed restriction that it can only be used as a single family home; they agree. Mrs. Schachter states that you have to go through the home to get to the basement so it would be very difficult for someone to make it into a two family.

Within 200' radius: none

Outside 200' radius: none

Condition(s) for approval: Eng. report

Whereas no objectors appeared, a motion was made by Ms. Feterik to **approve the application, there were no objectors, and feels this would not be a detriment to the neighborhood.** Motion seconded by Mr. Dave. **AYES:** Sendelsky, Dave, Shah, Feterik, Errico, Taglianetti and Skibar. **NAYS:** None

Case # Z 71-2015. Vinod Patel, 262 Garfield Street, Edison, NJ 08820.

Section 37-63.1(2)(4)(7)(9)(17). Bulk variances sought to construct a new single family home on a corner lot. Minimum lot area required 10,000 square feet, existing, 9,222 square feet. Front yard setback required 25 feet, proposed, 10 feet (Garfield) and 9.69 feet (Kingsbridge). Rear yard setback required 15.5 feet, proposed, 10 feet. Accessory rear yard setback required 5 feet, proposed, 4.33 feet. Lot depth required 100 feet, existing, 52.02 feet. Affected property is located in the RBB Zone at 262 Garfield Street, designated as Block # 928, Lot #'s 3.C & 4 on the Edison Township Tax Map. All paperwork is in order.

Bhavini Shah has to recuse herself from this application. John Wiley, attorney, is here to represent the applicant. He states that this application involves somewhat an odd shape lot; it's actually an "L" shape lot. There is an existing dwelling on there now which fronts onto Garfield Street, Kingsbridge Drive and Beatrice Parkway. The proposal is to demolish the existing home and to construct a new one. The new home would front Kingsbridge Drive; there would be a new garage also fronting on Kingsbridge Drive with a driveway; removal of the driveway on Garfield. They need some variances and will be reducing some of the non-conformities and he would also like to note that he has received the engineer's board review and dated November 23, 2015 and will comply.

Mr. Wiley would like to have Mr. Ali sworn in. Sharif Ali, professional engineer, is sworn in to testify. He has been in front of the Board before; he is accepted. Mr. Ali states that this is lots 3.C & 4, block 928, and is shown on the official tax map sheet 92. This is an L shape lot, Lot 3.C has double frontages on Beatrice parkway and Garfield; lot 4 has frontage on Kingsbridge and Garfield. In the RBB zone, 10,000 square feet is required, they have 9,222 square feet, so they are a little bit shy of lot area. The home that is there now is 2400 square feet, the new home would be, with garage, is about 2900 square feet. The foundation of the house would be further back. The foundation of the house now is 5.2 feet, the footprint of the new house would be 9.69 feet; however, the house has steps with an overhang.

The house will have four bedrooms and two ½ baths. The existing house has four bedrooms now. Mr. Wiley states he has floor plans to submit; A-1. Ms. Feterik asks Mr. Lombardi if they so approve, what happens to the street address since the home will now be facing Kingsbridge Drive. Mr. Lombardi states that they can apply for a new address through the Post Office. They would have to speak to the Township, Engineer's department and Emergency services. The applicant would like the address to be on Kingsbridge.

Mr. Ali states that they meet the lot width requirements, the lot depth is 52 feet and 100 is required; this is what is triggering the variances. The existing is 5.2 foot, required is 25 feet and proposed is 9.69 feet for the front yard. The rear yard is 30 required, 15 is there now, they are proposing 10 feet. Impervious coverage right now is close to 56 %, they will be reducing it to 27%, required is 40%. The shed will remain where it is.

Chairman Sendelsky asks the applicant where they will be putting the seepage pit. Mr. Ali states that since they will be reducing the coverage by almost half. Chairman Sendelsky states that it is a requirement and is in the Engineer's report. It will be discussed with the Township Engineer when the engineering permit is submitted.

Within 200' radius: none

Outside 200' radius: none

Condition(s) for approval: Eng. report

Whereas no objectors appeared, a motion was made by Ms. Feterik to **approve the application, there were no objectors, and feels this would not be a detriment to the neighborhood.** Motion seconded by Mr. Comba. **AYES:** Sendelsky, Dave, Shah, Feterik, Errico, Reeves and Skibar. **NAYS:** None

Case # Z 70-2015. Electric Guard Dog, LLC, 121 Executive Center Drive, Columbia, SC 29210.

Section 37-4f.2. Bulk variance sought to construct an electric fence at an industrial property. No fence shall be constructed of any material or manner which may be dangerous to persons or animals. Affected property is located in the LI Zone at 178 Talmadge Road, designated as Block # 22, Lot #'s 4.Q2 & 17 on the Edison Township Tax Map. All paperwork is in order.

Eric Goldberg, attorney, is here to represent the applicant. Court stenographer present; transcripts will be on file in the zoning office. The Board would like to have them come back with a site plan considering they do not have a CO yet to be in there. A date has not been given; they will notice when they are coming back in front of the Board.

Case # Z 65-2015, India Heritage Foundation, Inc. 2505 Forest Haven Blvd, Edison, 08817.

Section 37-33.1. Use variance sought to permit use of existing property as a House of Worship. Use, not permitted. Affected property is located in the LI Zone at 7 Kilmer Court, designated as Block # 3.B, Lot # 9.A on the Edison Township Tax Map. All paperwork is in order.

Jeffrey Kantowitz, attorney, is here to represent the applicant. Court stenographer present; transcripts will be on file in the zoning office.

Whereas no objectors appeared, a motion was made by Mr. Errico to **approve the application, there were no objectors, and feels this would not be a detriment to the neighborhood.** Motion seconded by Mr. Dave. **AYES:** Sendelsky, Dave, Shah, Feterik, Errico, Reeves and Skibar. **NAYS:** None

Resolutions to be Adopted:

<u>Case No.</u>	<u>Applicant</u>	<u>Denied/Granted/Date</u>	
Z 39-2015	NY SMSA Verizon Wireless	Approved	September 29, 2015
Z 46-2015	T-Mobile Northeast, LLC	Approved	October 27, 2015
Z 63-2015	DePasca	Approved	November 17, 2015
Z 66-2015	Marria	Approved	November 17, 2015
Z 67-2015	Linde	Approved	November 17, 2015
Z 68-2015	Elichko	Approved	November 17, 2015

Acceptance of Minutes: None

Miscellaneous: None

A motion was made by Mr. Errico to **approve the above resolutions;** motion seconded by Mr. Comba. **AYES:** Sendelsky, Feterik, Dave, Errico, Skibar, Reeves and Shah. **NAYS:** None

A motion was made by Mr. Comba to **adjourn the meeting;** motion seconded by Mr. Errico. **AYES:** Sendelsky, Feterik, Dave, Errico, Skibar, Reeves and Shah. **NAYS:** None

The meeting was adjourned at 11:29 pm.

Minutes were taken during the meeting by Laura A. Buckley, Secretary.