

Town of Millbury Board of Appeals

Ken Perro, (Chairman)
Daniel Mezynski, (Vice Chairman)
Robert Simmarano, (Clerk)
Harold Proodian
Michael Georges
Adam Kobel (Alternate Member)



RECEIVED
TOWN CLERK
2021 JUL -1 PM 3:44
MUNICIPAL OFFICE BUILDING
127 ELM STREET
MILLBURY, MA 01527

Meeting Minutes Wednesday, May 26, 2021 7:00 pm

Due to the COVID-19 pandemic and associated State of Emergency, the Municipal Office Building was closed to the public. This meeting was being recorded and streamed by Millbury Public Access Cable Television. This meeting was also available through Zoom.us/download. <https://zoom.us/j/85616002216> - ID# 856 1600 2216 One tap mobile; +13017158592,,85616002216# or +19292056099,,85616002216# Anyone that was interested in participating through Zoom.us/download was informed to state their name and address before speaking.

Board Members Present: Ken Perro (Chair), Daniel Mezynski (Vice Chair), Robert Simmarano (Clerk), Harold Proodian and Adam Kobel (Alternate).

Roll Call: Due to the COVID-19 pandemic and associated State of Emergency this meeting was held through Zoom, For the record a roll call was taken by Chairman Ken Perro asked each member to confirm their presence with an (I); **Robert Simmarano (I), Daniel Mezynski (I), Harold Proodian (I), Adam Kobel (I) and Ken Perro (I).**

7:05 PM: -- Meeting Minutes from Wednesday, April 28th, 2021

Daniel Mezynski made a motion to approve the meeting minutes from Wednesday, April 28th, 2021,
Second by: **Robert Simmarano.**

Roll Call conducted by Chairman Ken Perro:

(With the absence of Daniel Mezynski for the 4/28/2021 meeting he did not take part in the meeting minutes vote).
Adam Kobel (I), Harold Proodian (I), Robert Simmarano (I) and Ken Perro (I) Carried Unanimously 4 – 0.

Quorum:

With the absence of Michael Georges and a conflict of interest, Adam Kobel (Alternate) recused himself. The board had a four (4) member panel resulting in a Quorum. Applicant, Elite Home Builders, LLC was informed by Chairman Ken Perro of their rights and the details of a Quorum; All four (4) members will need to vote in favor to the petition if one (1) member should vote opposed the application would be denied with a (2) two year waiting period to re-apply. The applicants were also informed that they had the right to postpone for a later date when all five (5) members were present. The applicants, Elite Home Builders, LLC asked permission to the four (4) member panel to allow them the opportunity to present their petition if the presentation appears to have a positive reaction then they would like to move forward if not they would like to have the opportunity to postpone for a later date. The board was in agreement.

7:10 PM: – Elite Home Builders, LLC for the property located at 19 Canal Street, Millbury, Ma

Elite Home Builders, LLC is seeking a Dimensional Height Variance for the property located at 19 Canal Street, Millbury, Ma, Map# 45, Lot# 207A in a Business – I District, they are seeking to construct a three (3) story – 59 Unit Multi-family building with four (4) detached garages. Under the Millbury Zoning Bylaws **Section 25.3** maximum allowable building height is 30-feet for residential uses and 40-feet for non-residential uses, Elite Home Builders plan has a building height of 39'-1-1/8" in excess of the 30-feet for residential uses but under the 40-feet for other uses a Dimensional Height Variance will need to be granted by the Millbury Board of Appeals.

Representing Elite Home Builders were John Grenier and Steven Venincasa to explained to the Board of Appeals that the highest elevation of the multiple buildings is with the front turret that measures at 43-feet, 7-inches it is the highest elevation compared to the rest of the roofs to this build, in this B-I Zoning District if this building were a commercial building the height allowance is 40-feet leaving 3-feet, 7-inches over the zoning bylaw, this is a 3-story residential New England style structure similar in fashion to a project Elite Home Builders did over on Howe Ave. where they got the same variance for height. The purpose of the variance is in order to make the building more aesthetically pleasing to have the hip roof styling, the gables and just have it architecturally more attractive, similar to what was done at Cobblestone Village on Howe Ave. they received the same type of variance for that building, it's more for aesthetics and to have it architecturally pleasing. This could have been

accomplished with a flat roof and maintained the zoning type requirements but, in our opinion it wouldn't be nearly as attractive, this is the same variance that was asked for the previous project, if anyone is familiar with it, it is a very attractive project, the buildings are set back off the street similarly to this project, the building heights are very similar, the elevations are similar. We're looking to do a first class architecturally pleasing project that would be an asset to this part of town and as asset to Millbury and really keeping with other projects that Elite Home Builders has done in the past. This property has sat vacant for a number of years we think this will be an improvement to the property it will bring in tax revenue to the Town of Millbury it will be something that will be attractive and a better for the neighborhood.

For the record: From the front, which is the westerly elevation, the majority of the height of that main section, which is detailed on the plans that were submitted, that main section has a height of 42-foot, 3-inches, that's the roof line for the main section of the building. If you are looking at the end of the building that shows a turret which is on the southerly side, that turret is a little bit higher than the rest of the building.

Ken Perro questioned when looking at the plans the height indicates 43-feet, 7-inches however it does not measure to the actual peak of the roof.

Under the zoning you don't measure to the peak of the roof you measure it on a hip roof or on a gable roof it's measured to the midpoint, to the mean.

Paul Frederick, Architect; to comment on the rest of the building height, hips and gables need to meet to the mean the midpoint of that and flat roofs need to be up to the highest point of the flat roof; 42'3" is to the top of the flat roof but that flat roof appears all the way around to be a hip so it's flat only in the middle so there could be roof top equipment hidden, etc... but when you look at all of the elevation that hip roof that raps all the way around the building we were considering that a hip roof you would take that from the grade to the mean of that hip just to have that 42'3" where it says flat that hip is entirely all the way around the building is 35 to 36-feet so the bulk of the building looks like 35 to 36-feet above the ground and the gable is just a little higher.

Abutter: Mark Mercadante of Mercadante Properties LLC for 20A-D Canal Street which is located directly across from the proposed development on the corner of church and Canal; in general Mr. Mercadante is not opposed to the development nor is he opposed to the height of the building, however from his location is a four family structure that he rents all four units in the building, his concern is visibility and traffic to his tenants, in the case of height which is the only thing that can be discussed at this present hearing, his question was what type of landscaping will you have at the front of the development, Ken Perro reminded Mr. Mercadante that question would be up to the planning board and to reserve that question for the next planning board meeting in regards to this development. The developers offered to discuss the landscaping plans in a private call.

Q&A's from Board Members for the record and highlighted concerns:

Robert Simmarano:

Q). What is inside the turret attic and do you have access to it?

A). There's nothing inside the turret attic and there is no access to it.

Q). The entrance and exit to the property is a one way in and a one way out?

A). Yes, two separate drives for going in and for going out.

Harold Proodian: Has concerns for the height, it's greater than if it were commercial and it's greater than residential and the building exceeds the limit. His thought is the height standard was a cause for the fire team's ability to reach the peaks.

Q). The addition to the south-side turret peak section is concerning, does that have to be like that?

Q). While the rest of the building looks like a 3-story building this particular section looks like a 4-story building, why does it have to be like that?

A). The tower could look like the same flat roof and not pop up at all and just have a door or a window, we were only trying to do that, no one is living in it there's no attic space over that, there's no living space over that 30-foot eave line it's basically roof stuff that dresses up the building to try to make the building more of a commercial building type of scale so it's not a flat squatty space, it can go away I don't think the building looks as good but it can go away there's nothing up there, there's no people up there, there's no floor up there and there's no living space. Just for clarification; the high point of the flat roof elevation is 42'3" it's still 2'3" in excess of what would be a commercial building at 40-feet. (Just to note this isn't a commercial building it is a residential with a bylaw of 30-feet so even with a flat roof it's still 12'3" over).

The tower is what causes concerns, each time we push the limit a little higher, a little higher and a little higher and then the next guy will be 50-feet or 40 and he's just going to put a higher lot roof line.

Is there a way that it didn't have to be a part of it so when we gave that error of dimensional height variance it didn't have to reach the height your giving, I just don't want to go that far beyond the limits of what bylaws require especially in a residential.

Q). Is there a way that you can convince me? You can do what you want and the board can vote the way they want, it's just that each time we're adding a little bit more to the roof and making the limits break through the records.

A). If we took the hat off that hip roof and just make it flat or we could easily bring the stair down so that wasn't the deciding factor but that's only the one piece 10' x 12' area outside that lobby and nothing was happening near there and that's the only reason why we popped it down but it could easily come down, it could be flat there, we could just have a door inside that building, anyway you all decide, nothing is in that tower that needs to drive it we were just trying to emphasize it like a spire or a roof over an entry just for that reason but it can come down.

Ken Perro:

Q). That top section, when you're looking at the right side elevation at the eight windows, above the roof line, what is in that section, what is in that roof?

A). To give it some verticality to emphasize it that was a stair, that was vertical transportation that was our stair etc... there is nothing above that those would be either blanked out windows or we could have in the stair we could raise the top level of the stair to be able to have those windows as clear story lighting, once you're standing on that same story elevation you'll see that the floor line, the first floor line 100, the second floor dotted line and once you're standing at the third floor line there is nothing above you except either open space or ceiling or fake windows so that's why I'm saying that could come down, not a problem, nothing is up there except that we're trying to emphasize it.

Paul Stringham: To add to the debate; when the bylaws were first filed the fire department trucks were all ladder trucks the fire department now has a boom that goes over 75-feet, the plan for higher is in part of the discussions for modifications in the zoning bylaws regarding those heights, just for informational purposes that's why those are in there limitations for the fire department back when the bylaws were created and the fire chief has already sat in on a pre-construction meeting, pre-application meeting and he seemed pretty happy with the set up and access point for emergency purposes.

For Clarification purposes: The building has a full sprinkler system.

Harold Proodian Request: Is there anyway and just for the record if the fire department was O.K. and could signed off on it could the board get a letter just for the record that states on that tower. After a response from Paul Stringham Harold Proodian would still like for the record; We're going to go through ten firemen in the next 10 years who knows on fire chiefs, everybody has their own opinion, I just want something in the record at this time, I know and we all know what's going on but when things change even we may even leave the board and we won't know what might happen 10 or 5 years from now can I request from the applicant a letter that says the height of that tower doesn't impede on its ability to put anything out there.

John Grenier agreed that they could do that.

Harold Proodian cont. Just a simple letter and I know it will be on record but I want to see it on our, (the Millbury Board of Appeals) record, if you could do that I would be satisfied, just something in the record that shows the Millbury Board of Appeals agrees to keep the height that they want to feel satisfied knowing the fire department would be O.K. with it as well, that's all I ask.

John Grenier agreed to call the fire department.

Harold Proodian cont. I understand what Mr. Stringham says and he's right but long after I'm gone and nobody's to say who talked to who and who O.K.'d it and without searching through every record in town I'd like them to be able to just look in our files and say when we approved that height that the fire department didn't have a problem with it.

John Grenier agreed, "We can take care of that.

Steven Venincasa: The consensus is there the HPA designed a very attractive building the design feature is the turret on the end I think it's going to look really sharp on the building but again if that's an issue with the board and they don't think they could vote plausibly we would be willing to modify that but I would ask that they would consider going with the architectural plate as drawn, it's a beautiful looking building, it'll be an asset to the community and I would ask the board's vote on this project.

Ken Perro: That answers your question from earlier of the consensus that you were considering about moving forward, you don't want to ask for a continuance for a next meeting because of a four member quorum tonight, you want to move forward?

Mr. Steven Veninasa agreed to move forward.

Chairman Ken Perro entertained the motion to close the public hearing;

Harold Proodian made the motion to close the public hearing second by **Robert Simmarano** all members were in favor and voted unanimously 4 – 0.

Roll Call to close the public hearing: Harold Proodian (I), Robert Simmarano (I), Daniel Mezynski (I) and Ken Perro (I) Carried Unanimously 4 – 0.

Chairman Ken Perro: entertained a motion;

A Motion to approve a **Dimensional Height Variance** to **Elite Home Builders, LLC** of **Westborough, MA 01581 @ P.O. Box 1205** for the property located at **19 Canal St., Millbury, Ma, Map# 45, Lot# 207A, Business – I Zoning District** Duly Recorded with the **Worcester County Registry of Deeds Book# 64812, Page# 312** with the **Millbury Zoning Bylaws Section 25.3.**

To allow the Dimensional Height Variance for the needed and no more than the allowed 13-feet, 7-inches of building height that exceeds higher than the maximum 30-feet for residential uses under the Millbury Zoning Bylaw **Section 25.3.**

For the record a documented sign-off letter will need to be provided to the Millbury Board of Appeals stating that the Millbury Fire Department is in agreement that all safety measurements and precautions are in place with the approved building height.

The **Dimensional Height Variance** has been **Approved** by the **Millbury Board of Appeals under MGL Chapter 40a under the Millbury Zoning Bylaws to/for the property at 19 Canal Street, Millbury, Ma Map# 45, Lot# 207A, Business – I Zoning District, Duly Recorded in the Worcester County Registry of Deeds in Book# 64812, Page# 312.**

Roll Call Initiated by (Chairman) Ken Perro;

Harold Proodian (I), Daniel Mezynski (I), Robert Simaranno (I) and Ken Perro (I);

Carried Unanimously 4 – 0.

8:10 PM: – Anastasia & Brian Corey for the property located at 12 Carlstrom Lane, Millbury, Ma

Anastasia & Brian Corey are seeking a Dimensional Variance for the property located at 12 Carlstrom Lane, Millbury, Map# 60, Lot# 53, Suburban – I District duly recorded with the Worcester County Registry of Deeds in Book# 60083, Page# 112; the applicants are seeking to build an “L” shaped 12’x 48’x 12’x 24’ back deck. This property is located in an S – 1 district with a side yard setback of 10-feet under Section 23.31, a portion of the applicants proposed plan exceeds the 10-foot requirement and is seeking relief of +/- 4.7-feet in accordance with the provisions of Section 13.22 Variance.

The Corey’s explained to the board they are seeking a variance for a deck to go on the side of their house our circumstances is that our land is unique and that the frontage on Carlstrom Lane is pretty narrow and our lot goes pretty far back from the road and the house is build in a long way from the street and to add a deck to the back of our house we would be encroaching on the property line, there’s only about 10-feet from the rear of our house to the property line even though we’re on 1.17 acres it’s just the way it was built in order to overcome that, that’s why we’re seeking this variance. There is a deck there now, original to the house that is about 12’x12’ in its existing position.

Ken Perro: It says you’re looking for a dimensional variance for about 4.7’you’re going to encroach into the setback line, the corner where the 5.5-feet is would you cut that back and 45 that as part of the way the deck is built, instead of making it a square with a 90 degree, clip it and get that 4.7-feet out of there and you wouldn’t have to be here.

The applicant agreed it is possible to do that, it’s more of a practical and usage kind of thing looking at it from the street for the fact that it’s not a 90 degree corner, obviously it’s still a deck and we’d still be able to replace the deck that is there now the only reservation is the visual aspect and that it would be relatively small.

The only abutter present was Anastasia Corey’s mother Mrs. Girourd whom lives on the property that the 90 degree angle of the deck will be encroaching on and she had no issues with the variance.

Chairman Ken Perro then asked board members if they had any questions or comments for the applicants. All members had no issues with the plan and were prepared to move forward.

Chairman Ken Perro entertained the motion to close the public hearing;

Daniel Mezynski made the motion to close the public hearing second by **Robert Simmarano** all members were in favor and voted unanimously 5 – 0.

Roll Call to close the public hearing: Adam Kobel (I), Harold Proodian, Daniel Mezynski (I), Robert Simmarano and Ken Perro (I) carried unanimously 5 – 0.

Chairman Ken Perro entertained a motion;

Motion: Daniel Mezynski made a motion second by Adam Kobel to approve a Dimensional Variance to the applicant Annastasia Corey of 12 Carlstrom Lane, Millbury for the property located at 12 Carlstrom Lane, Millbury Map# 60, Lot# 53, Suburban – I Zoning District Duly Recorded with the Worcester Country Registry of Deeds Book# 60083, Page# 112 to construct an “L” Shaped 12’x 48’x12’x 24-foot back deck based on the Millbury Zoning bylaws in a Suburban – I District, the side yard setback under Section 23.31 is 10-feet a Dimensional Variance +/- 4.7-feet in accordance with provisions of Section 13.22 Variances needs to be granted by the Millbury Zoning Bylaws under MGL Chapter 40a under the Millbury Zoning Bylaws.

Roll Call Initiated by (Chairman) Ken Perro;

Robert Simaranno (I), Daniel Mezynski (I), Harold Proodian (I), Adam Kobel (I) and Ken Perro (I); Carried Unanimously 5 – 0.

8:25 PM: – Continued discussion in regards to the reorganization:

Discussion of Reorganization was agreed to be discussed at the next scheduled Board of Appeals meeting.

Harold Proodian made the motion to adjourn second by **Daniel Mezynski**

Roll call initiated by Chairman Ken Perro to adjourn:

Adam Kobel (I), Robert Simmarano (I), Harold Proodian (I), Daniel Mezynski (I) and Ken Perro (I) Carried unanimously 5 – 0.

8:30 PM: – Adjournment

Chairman Ken Perro entertained a motion to adjourn;

Adam Kobel made the motion to adjourn second by **Daniel Mezynski**

Roll call initiated by Chairman Ken Perro to adjourn:

Daniel Mezynski (I), Adam Kobel (I), Harold Proodian (I), Robert Simmarano (I) and Ken Perro (I) Carried unanimously 5 – 0.

Next Scheduled Meeting: Wednesday, June 30th, 2021 @ 7:00pm

7:05 – David Alexander for the property located at 13 Harris Ave., Millbury, MA

Respectfully submitted by Nancy Young and submitted to Town Clerk.

**Town of Millbury
Board of Appeals**

Ken Perro, Chairman
Daniel Mezynski, Vice Chairman
Robert Simmarano, Clerk
Harold Proodian
Michael Georges
Alternate member



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**Board of Appeals Approval Signatures
(VOTED ON WEDNESDAY, JUNE 30TH, 2021)**

Approval Electronic Signatures for the Meeting Minutes from Wednesday, May 26th, 2021


Ken Perro, Chairman (FAVOR / OPPOSED / ABSTAIN)


Daniel Mezynski, Vice Chairman (FAVOR / OPPOSED / ABSTAIN)

Robert Simmarano, Clerk (FAVOR / OPPOSED / ABSTAIN)


Harold Proodian (FAVOR / OPPOSED / ABSTAIN)


Michael Georges (FAVOR / OPPOSED / ABSTAIN)

Alternate (FAVOR / OPPOSED / ABSTAIN)

WEDNESDAY, JUNE 30, 2021