

****These minutes have not been approved and are subject to change by the public at its next meeting.****

The regular meeting of the Park Ridge Zoning Board of Adjustment has been called for Tuesday, January 19, 2010, at 8:00 pm in the Council Chambers of the Municipal Building.

ROLL CALL: Mr. Capelli, Ms. Eisen, Mr. Walker, Mr. Hoskins, Mr. Flaherty, Mr. Martin

Absent: Dr. von der Lieth, Mr. Raman, Mr. Brennan

Also Present: John Ten Hoeve, Jr., Board Attorney
Brigette Bogart, Professional Planner
Lyn Beer, Secretary to the Zoning Board

PLEDGE OF ALLEGIANCE:

COMPLIANCE STATEMENT:

The Notice for this meeting required by Section 3(d) of the Open Public Meetings Act has been provided by the adoption of a resolution by the Park Ridge Zoning Board of Adjustment of January 20, 2009, setting forth a schedule of regular meetings by mailing of said schedule to the Record and The Ridgewood News, on January 21, 2009, and by the posting of said schedule on the Municipal Bulletin Board and the continuous maintenance thereof and by filing the said schedule in the office of the Borough Clerk.

OATH OF OFFICE:

FLAHERTY: We have a new member joining the Board tonight. I am just going to take a moment to swear the new member in.

TEN HOEVE: Left hand on the bible and raise your right hand.

SANDLER: I Gil Sandler do solemnly swear that I will support the constitution of the United States and I will support the constitution of the State of New Jersey. I will bear true faith and allegiance to the same and to the government of the United States and to the State of the Government established in the United States under the authority of the people, and that I will faithfully and impartially and justly perform all the duties of the office of a Board of Adjustment member, according to the best of my ability, so help me God.

BEER: Before you come up, would both of you sign it, please, both copies.

FLAHERTY: Okay, just for the record, if anyone here is from the public because of the case of Richard and Lynn Bosi, at 108 East Avenue, Case 09-10, Lot 5, Block 1702, that case will not be heard this evening. It will be heard at next month's meeting, February 16th.

INTRODUCTION OF NEW BOARD MEMBERS:

Jake Flaherty – reappointed Board Member for 4 year term
said term to expire December 31, 2013

Thomas Hoskins – reappointed Board member for 4 year term
said term to expire December 31, 2013

Matthew Capilli – reappointed Board member to fill unexpired term – said term
to expire December 31, 2011

Gil Sandler - newly appointed Alternate II Board member for 2 year term- said
to expire December 31, 2011.

REORGANIZATION MEETING:

CAPILLI: Mr. Chairman I make a motion that we suspend the regular business in order to reorganize for the year 2010. Seconded by Mr. Walker. Carried unanimously

FLAHERTY: So moved

CAPILLI: Mr. Chairman, I make a motion that the meeting be opened for nominations to elect officers for this year. Seconded by Walker. Carried unanimously.

FLAHERTY: May I have a nomination for Chairman of the Board.

CAPILLI: Mr. Chairman, I would like to nominate Jake Flaherty, for Chairman of the Board for 2010. Seconded by Mr. Walker.

WALKER: I would like to make a motion that the nominations be closed, and that Mr. Flaherty be elected as Chairman of the Board for the year 2010. Seconded by Mr. Hoskins. Carried unanimously.

FLAHERTY: Thank you very much everyone. May I have nominations for Vice Chairman of the Board for the year 2010?

MARTIN: Mr. Chairman I nominate Dr. Eric von der Lieth, for Vice-Chairman of the Board for the year 2010. Seconded by Mr. Hoskins.

FLAHERTY: Are there any other nominations for Vice-Chairman of the Board?

MARTIN: Mr. Chairman, I make a motion that we nominations for Vice-Chairman be closed and that Dr. von der Lieth be appointed Vice-Chairman of the Board for the year 2010. Seconded by Mr. Capilli Carried unanimously

FLAHERTY: May I have nominations for Secretary of the Board.

HOSKINS: I would like to nominate Bill Walker for Board Secretary. Seconded by Mr. Martin.

FLAHERTY: Are there any other nominations for Secretary to the Board?

MARTIN: I make a motion that nominations be closed and that Bill Walker be appointed Secretary to the Board for the year 2010. Seconded by Mr. Hoskins. Carried unanimously.

BOARD APPOINTMENTS:

FLAHERTY: We have a few Board appointments to make. Can I have a motion that John Ten Hoeve, Jr., be appointed Counsel to the Zoning Board for the year 2008.

MARTIN: I make a motion that John Ten Hoeve, Jr., be appointed Zoning Board Attorney for the year 2008. The motion was seconded by Mr. Capilli and carried unanimously.

WHEREAS, the Zoning Board requires the professional service of an attorney to serve as Board Attorney; and

WHEREAS, the Zoning Board wishes to appoint John E. Ten Hoeve, Jr., Esq., as Board Attorney for the year 2010; and

WHEREAS, the appointment and the contract are exempted from the competitive bidding requirements of the Local Public Contracts Law, (NJSA 40A:11-1 et seq.) as “Professional Services,” pursuant to the NJSA 40A:11-5 (1)(a); and

WHEREAS, the Zoning Board has chosen not to award this contract as a fair and open contract pursuant to eh provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, The Borough Administrator has determined and certified in writing that the value of the Attorney’s services will potentially in the aggregate exceed \$17,500; and

WHEREAS, the term of this contract is 1 year; and

WHEREAS, appropriations shall be included in the 2010 Municipal Budget for such services; and

WHEREAS, John E. Ten Hoeve, Jr., Esq., has completed and submitted a Business Entity Disclosure Certification which certifies that John E. Ten Hoeve, Jr., Esq., has not made any reportable contribution to a political or candidate committee in the Borough of Park Ridge pursuant to the N.J.S.A. 19:44A-1 et seq., and that the contract will prohibit John E. Ten Hoeve, Jr., Esq., from making any reportable contributions pursuant to N.J.S.A. 19:44A-et seq., through the term of the contract; and

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of the Borough of Park Ridge that the appointment of John E. Ten Hoeve, Jr., Esq., is hereby ratified and confirmed; and

BE IT FURTHER RESOLVED that the Zoning Board is authorized to sign an agreement approved as to form and substance by the Borough Attorney with John E. Ten Hoeve, Jr., Esq.; and

BE IT FURTHER RESOLVED, that the business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution; and

BE IT FURTHER RESOLVED, that Notice of this action shall be published in the newspaper, the Ridgewood News, within ten (10) days of adoption.

****Business disclosure certification at end of minutes****

HOSKINS: I make a motion that Burgis Associates be appointed Planners to the Zoning Board of Adjustment for the year 2010. The motion was seconded by Mr. Martin. Carried unanimously.

WHEREAS, the Zoning Board requires the professional service of a Planning Consultant to serve as Board Planner; and

WHEREAS, the Zoning Board wishes to appoint Burgis Associates,, as Board Planner for the year 2010; and

WHEREAS, the appointment and the contract are exempted from the competitive bidding requirements of the Local Public Contracts Law, (NJSA 40A:11-1 et seq.) as “Professional Services,” pursuant to the NJSA 40A:11-5 (1)(a); and

WHEREAS, the Zoning Board has chosen not to award this contract as a fair and open contract pursuant to eh provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, The Borough Administrator has determined and certified in writing that the value of the Planner’s services will potentially in the aggregate exceed \$17,500; and

WHEREAS, the term of this contract is 1 year; and

WHEREAS, appropriations shall be included in the 2010 Municipal Budget for such services; and

WHEREAS, Burgis Associates., has completed and submitted a Business Entity Disclosure Certification which certifies that Burgis Associates., has not made any reportable contribution to a political or candidate committee in the Borough of Park Ridge pursuant to the N.J.S.A. 19:44A-1 et seq., and that the contract will prohibit Burgis Associates, from making any reportable contributions pursuant to N.J.S.A. 19:44A-et seq., through the term of the contract; and

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of the Borough of Park Ridge that the appointment of Burgis Associates, is hereby ratified and confirmed; and

BE IT FURTHER RESOLVED that the Zoning Board is authorized to sign an agreement approved as to form and substance by the Borough Attorney with Burgis Associates

BE IT FURTHER RESOLVED, that the business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution; and

BE IT FURTHER RESOLVED, that Notice of this action shall be published in the newspaper, the Ridgewood News, within ten (10) days of adoption.

****Business disclosure certification at end of minutes****

MARTIN: I make a motion the Brooker Engineering be appointed Engineers to the Zoning Board of Adjustment for the year 2010. The motion was seconded by Mr. Walker. Carried unanimously.

WHEREAS, the Zoning Board requires the professional service of a Engineer to serve as Board Engineer; and

WHEREAS, the Zoning Board wishes to appoint Brooker Engineering, as Board Engineer for the year 2010; and

WHEREAS, the appointment and the contract are exempted from the competitive bidding requirements of the Local Public Contracts Law, (N.J.S.A 40A:11-1 et seq.) as “Professional Services,” pursuant to the N.J.S.A 40A:11-5 (1)(a); and

WHEREAS, the Zoning Board has chosen not to award this contract as a fair and open contract pursuant to eh provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, The Borough Administrator has determined and certified in writing that the value of the Engineer’s services will potentially in the aggregate exceed \$17,500; and

WHEREAS, the term of this contract is 1 year; and

WHEREAS, appropriations shall be included in the 2010 Municipal Budget for such services; and

WHEREAS, Brooker Engineering, has completed and submitted a Business Entity Disclosure Certification which certifies that Brooker Engineering, has not made any reportable contribution to a political or candidate committee in the Borough of Park Ridge pursuant to the N.J.S.A. 19:44A-1 et seq., and that the contract will prohibit Brooker Engineering from making any reportable contributions pursuant to N.J.S.A. 19:44A-et seq., through the term of the contract; and

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of the Borough of Park Ridge that the appointment of Brooker Engineering, is hereby ratified and confirmed; and

BE IT FURTHER RESOLVED that the Zoning Board is authorized to sign an agreement approved as to form and substance by the Borough Attorney with Broker Engineering.

BE IT FURTHER RESOLVED, that the business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution; and

BE IT FURTHER RESOLVED, that Notice of this action shall be published in the newspaper, the Ridgewood News, within ten (10) days of adoption.

****Business disclosure certification at end of minutes****

HOSKINS: I make a motion that Helyn N. Beer be appointed as secretary to the Board of Adjustment for the year 2010. The motion was seconded by Mr. Martin. Carried unanimously.

MARTIN: I make a motion that Margot Hamlin be appointed Transcriber Secretary to the Zoning Board of adjustment for the year 2010. The motion was seconded by Mr. Hoskins and carried unanimously.

DESIGNATION OF REGULAR MEETING NIGHTS, OFFICIAL PUBLICATION & FEES

MARTIN: Mr. Chairman I would like to offer a resolution to confirm that the third Tuesday of each month as regular meeting nights and to designate the Review and the Record as official publications and to recommend annual fee for mailings. The resolution was seconded by Mr. Hoskins. Carried unanimously..

**SCHEDULE A – ZONING BOARD OF ADJUSTMENT
PARK RIDGE, NEW JERSEY**

<u>Meeting Dates</u>
<u>2010</u>
February 16
March 16
April 20
May 18
June 15
July 20
August 17
September 20
October 19
November 16
December 21
January 18, 2011

All Meetings are held in the Council Chambers of the Municipal Building

Work Session – 7:30 pm Hearings – 8:00 pm

COMMITTEE APPOINTMENTS:

FLAHERTY: We are going to set up one committee, the Site Plan Committee.

Site Plan Committee: Mr. Matt Capilli, Mr. Robert Brennan, with
Mr. Tom Hoskins as Chairman.

(additional committees may be formed at discretion of Chairman)

MOTION TO RESUME REGULAR ORDER OF BUSINESS:

The Chairman entertained a motion that the regular order of business be resumed.
So moved by Mr. Walker and seconded by Mr. Martin. Carried unanimously.

CASE: 09-11	Application of <i>Nicholas and Rosanne Maselli</i> , 57 Braemar Drive for
Lot: 9	rear yard and Floor Area Ratio variances to construct addition to
Block: 1206	existing house in a n R-10 residential zone.

WALKER: Mr. Chairman, I have the following items to be marked into evidence
in regard to this application.

- Item 1 is the application dated 11/25/09.
- Item 2 is certification of service dated 12/03/09 and 12/11/09.
- Item 3 is legal notification dated 12/04/09.
- Item 4 is proof of payment of taxes dated 1/12/10.
- Item 5 is the deed dated 07/28/95.
- Item 6 is the survey dated 07/24/95.
- Item 7 is the elevations dated 11/23/09.
- Item 8 is 2 pages of photographs that are undated.
- Item 9 is Board secretary letter dated 12/09/09.

FLAHERTY: Thank you, Mr. Walker.

TEN HOEVE: Would anyone who is testifying please raise your right hand? Do
you swear that the testimony that you are about to give is the truth, the whole truth, and
nothing but the truth, so help you God?

N. MASELLI: I do.

R. MASELLI: I do.

MARTIN: I do.

TEN HOEVE: Please state your names and addresses please?

R. MASELLI: Rosanne Maselli, 57 Braemar Drive, Park Ridge, NJ.

N. MASELLI: Nick Maselli, 57 Braemar Drive, Park Ridge, NJ.

MARTIN: William J. Martin, Architect, Professional Planner, 25 Boulevard,
Westwood, NJ, 07675.

BEER: Mr. Martin, if you are going to be doing the questioning, you will need to
use the black microphone. That one is only for recording, but it doesn't project. It comes
off quite easily.

MARTIN: Oh, okay, does it have a long cord? Alright, that is very good.

FLAHERTY: Okay, so we are looking for a rear yard, and floor area ratio
variances. Would someone like to take us through the application?

MARTIN: Yes, I will start to do so. Mr. Ten Hoeve, I have appeared before this Board.....

TEN HOEVE: You do not need to qualify yourself.

MARTIN: Thank you. First I would like to just describe just for the record, the documents that were submitted. They were the documents that I have mounted here, which were submitted with the application. I have also prepared this enlargement of the Zoning Map, that shows the property location in red and shows the zone and the surrounding zones.

I also have some additional photos that I would like to submit as well, but I have extra copies if I could.

TEN HOEVE: Obviously, the plan has been marked, but I guess you haven't submitted the other documents yet?

MARTIN: Right. I wasn't planning on submitting this, I was just using it as display.

TEN HOEVE: Okay, then just mark the photos as whatever the next exhibit happens to be.

MARTIN: I have one color copy but there are additional copies in black and white. Same thing with this one. There are 2 sets of sheets there in red and then the same dated as to the date of the photos.

WALKER: I will mark that as item 10.

MARTIN: The project is at 57 Braemar Drive, which is at the corner of Braemar Drive and Leach Avenue. Like I said, it is a corner property. It has somewhat of a noticeable slope down towards the South. The high side of it is at what I would call the North end, and then it slopes down Braemar towards Leach. So, it is higher on the side opposite Leach and lower on the Leach side.

What we are proposing, if you look at drawing SP-1, is a modest addition to the rear of the property, which will encroach slightly in the rear yard, in order to expand the kitchen. The basement space as well, and then above it the second floor, there is an expansion for a master bath and some closets. The upstairs area does not follow the exact footprint of the lower level. The upstairs is smaller in square footage than the first floor, section.

We are also proposing, in fact, let me just flip through these as I describe it. Here you see on drawing A-0, dimensions, the basement level with the garage, the existing basement and then our expansion towards the back of the house.

Drawing A-1 dimensions, here you see the addition across the back connecting in—connecting to expanded kitchen area, create a family eating area and a little desk area adjacent to the pantry and such.

Drawing A-2 the dimensions, you see that the addition at the upper level is smaller than it is at the lower level, connecting in between the master bedroom, which exists now, and expanding to create a master bathroom above our addition below. In addition to that, I have drawings, also, of the front elevation and the left side elevation. You will notice on the front elevation, which is the Braemar side of the property, the addition is entirely concealed behind the house.

Here at the left side addition, you see the addition, which comes out in this area, this is our addition here. This is our existing house. Then on the next sheet by the other 2 elevation views. Here you see the right side elevation, which is the Leach Avenue side, and here you see the rear elevation. This is our addition here. In terms of the right side

elevation from Leach Avenue, this part of the addition, which you see in the elevation, is further back on the drawing. It is right here.

The neighborhood itself, is a pleasant neighborhood. The homes in the neighborhood have a variety of styles, mostly colonial or contemporary colonial or colonial Dutch, such as features that this house has.

What we are proposing will blend in aesthetically with the house, and in the neighborhood, creating an enhancement to the neighborhood. The addition is designed to pick up on the Dutch styling of the roof of the existing house, which you can see on the photographs. That is how we end up with this shape in the rear. When we are done, if it is approved, and we are allowed to do this, it would blend back in to the house and create a unified design which will enhance the, and create a desirable visual environment.

In terms of the variances that we are looking at, the first one that I will discuss is the rear yard. We have a front along Braemar and our rear yard is opposite. We have a front on Leach, which has a side yard opposite. In 2007, 2½ years ago, the zone was modified. This is a corner lot, but the zoning used to say that the shorter frontage, regardless of the house, the rear yard was opposite that shorter line. In this case, and since the change, the change has said that if the house fronts on the street than the opposite of that frontage is the rear yard requirement. That is why we are here in front of you now. It is a 45 foot required rear yard setback, which is along the narrower side of the property. The house itself, is already set back further than the front yard setback requirement. This further exaggerates us trying to fit within that envelope.

The proposed addition as we have it here, encroaches 7 feet into the required setback. The required is 35, and the house as it exists about 40 feet back and our addition is a modest 12 feet, so we actually cross the line and we are encroaching about 7 feet in that area. The addition is only large enough to accommodate the modest space increase inside the house. We are expanding the kitchen, but we are not going out 20 feet, we are only going out 12, because we are going to incorporate some of the existing kitchen space that is already in the house into our expansion. So, when we decided to create the addition here we did it for reasons that relate back to the existing structures location and the existing functions within the existing structure.

The other variance that we are looking at, is a Floor Area Ratio variance, for exceeding the floor area ratio. It is a D-4 variance. Just a little background in terms of the ordinance. You have a new ordinance now, which I just got a copy of just recently, which changed some of the aspects of the floor area ratio. Previously, basements were included in the floor area ratio, this ordinance has removed basements from the floor area ratio. So, what I did was, I looked at the new ordinance in relationship to the property and determined what the average grade was, because in the new ordinance, any floor area that has a floor level greater than 3 feet below the average grade is not counted in the floor area ratio.

The basement floor in this structure, is 5 foot ½ inches below the average grade. So, the basement level doesn't count towards the floor area ratio. The question that I have, and Ms. Beer and I discussed this, is that the ordinance makes reference to a detached garage not being associated with the floor area ratio. It doesn't talk about attached garages. So, in my reading—I am sorry, Mr. Ten Hoeve.

TEN HOEVE: The intent was that attached garages would be considered. I think the ordinance, I don't have it in front of me right now, but defines it as being the principle structure.

MARTIN: I can read it if you would like. "Floor Area Ratio, the gross floor area of all principle buildings and structures on a lot divided by the total lot area".

TEN HOEVE: Right, principle buildings and structures, meaning it wasn't going to include accessory structures with the exception of a detached garage.

MARTIN: Understood. We don't have a detached garage. We have a garage in at this lower.....

TEN HOEVE: As part of the principle structure, which is why it would be included. Is this a basement level?

MARTIN: The garage is at the basement level. If you look at the photos, and also look at the.....

TEN HOEVE: I believe it is the intent to still include it.

MARTIN: You see the right side elevation?

TEN HOEVE: Again, my understanding is that it was intended to include garage areas. Just to give you some background information, the problem that the town was encountering with the old FAR variance definition, is that, people, the prior definition did not include basements, I am sorry, the prior definition DID include basements, but people were playing games with basement areas so as to avoid the restrictions of FAR, even to the point of filling in existing basements, when they were enlarging structures. That resulted in a box, lets say, that was the same size that you would have had whether the basement was there or not and avoiding the intent and purpose of the FAR limitation. So, my understanding is that the Mayor and Council amended that to eliminate that problem by not counting the basement area. But, the clear intent was for garages to be included. What I ask the Land Use Administrator just to get me the old numbers as well. I don't know if you have those there. Do you have the maximum limitation for a house in the R-10, before the change?

MARTIN: I am not sure.

TEN HOEVE: She will get that and have that, but I think the point, just bare with me a second, yes, the prior R-10 would have been 40% up to 4,400 square feet. So, I am not sure what your calculations would come out to. I will do that while you are presenting some of the other evidence.

MARTIN: Actually, I have a question for you. Based on reading this definition for floor area ratio, it continues, it says "the gross floor area of all principle buildings and structures excludes any floor area where the finished floor level is greater than 3 feet below the average grade, measured 6 feet from the structure, and any floor area associated with a detached garage". This attached garage, this garage that is part of the structure, has a floor level that is more than 3 feet below the average grade.

TEN HOEVE: Oh, okay, so you are arguing then that shouldn't be included based upon the

MARTIN: I am reading the definition and I am saying, that was my question, and that was the question that Ms. Beer had suggested that I ask, because it doesn't specifically say---it says detached garages are not included. It doesn't say attached garages are but it says floor area more that 3 feet below average grade.

TEN HOEVE: Right, I understand your question then. The answer to the first is that garages were clearly intended to be included, but the exclusion of a garage that would be at the same level as a basement that is excluded, I would have to give that some thought. I understand your argument and I think it might very well be excluded. Your testimony is that it all is below the

MARTIN: It is more than 3 feet below the average grade.

FLAHERTY: So then you don't have to apply for an FAR variance?

MARTIN: No, no.

TEN HOEVE: No, he would still need it because.....

MARTIN: No, that is not what I am getting at. What I would like to just point out is that the zoning table that is on the plan includes the garage at the basement level in the calculation. I did that because I didn't want to make an application of notice for a variance and then have the magnitude of that variance changed. So my question to Mr. Ten Hoeve is, if he agrees that because the garage floor level is more than 3 feet below the average grade, that it should not be included, I have figures to amend these figures on the zoning table that I can go over with you.

We would still need a Floor Area Ratio variance, but it is an extremely small one. Assuming that the garage floor area, because of its location is not included in the FAR, I have a first floor of 1,669 square feet existing. I have a second floor of 1,150 square feet existing. Our proposed first floor addition is 338 square feet. Our proposed second floor addition is 236 square feet. That totals 3,394 square feet, or 28.2% lot area. Now, we are limited to 30% in terms of lot area, but that is not the only restriction that we have. We also have a fixed limit on floor area of 3,333 square feet, based on the new restriction.

So, that means what we are proposing would be 61 square feet, just slightly, 61 square feet over the limit, roughly the area of 6 x 10. That represents .5% over the FAR limit. Again, we are under in terms of the percentage as it relates to lot area, but we are slightly over in terms of the fixed limit.

TEN HOEVE: It is something like 50 square feet?

MARTIN: Yes, 61 is what I calculated. It is very small overage. Those are the 2 variances that were identified that we had to address and I would suggest that in terms of purposes of the Act being advanced to the Municipal Land Use Law. Letter A under purposes of the Act, health, safety, general welfare is advanced by this modest expansion allowing for an updating of the interior and exterior of the structure and also with the design blending the house in with the addition in a manner that creates a desirable visual environment, which advances the purpose of the zoning.

TEN HOEVE: One quick question while you are on it. If I agree with your interpretation, and I think that I am going to be inclined to do that, wouldn't it be simple for you to eliminate 61 square feet, so you didn't need an FAR "D" variance?

MARTIN: If I could have done that, so easily, I would have done that. The relationship of the interior of the house to the exterior of the house as it relates to where the addition goes, with the shape of the lot, makes it difficult to take that square footage out of the plan.

TEN HOEVE: 61 square feet?

MARTIN: Yes. If I make it shorter, remember it is only 12 foot wide, so if I am trying to fit in a table with some chairs around it, if I take a couple of feet out of it, it is now no longer wide enough for the table and chairs. If I shorten it, by bringing it in on the side, I run into alignment issues between where the kitchen used to be and where it will be.

TEN HOEVE: Just looking at the survey that you submitted, the one that is attached to your plan, it shows the addition jutting out a little bit from the existing house line.

MARTIN: Are you talking about this plan?

TEN HOEVE: That plan, on the left side, looking at it on the left side.

MARTIN: On the left, on this side, that is a 1 ½ by 8 inch bay window, essentially.

TEN HOEVE: 1 ½ inch?

MARTIN: No, feet. I can tell you exactly. It is 2 foot by 8 feet. I mean I could trim a little off of here and a little off of there, but if you look at the plan, you will see why it is important in creating a little nook area and if I take footage off of here, and footage off of here, all I am suggesting is that because of constraints of the existing structure; its location on the property, and trying to tie in, in a manner that makes sense, that 61 square feet becomes important. It is a diminimous amount.

TEN HOEVE: Well, I am asking just because you know how difficult the “D” variance is to get as opposed to a simple “C” bulk variance.

MARTIN: That is true. We are looking at a “D4” variance, in which case, we are not facing a *Use* variance. I understand we still need 5 affirmative votes, but under “D4” we are required, because the use is only permitted in the zone, we are required to show how we are mitigating the additional square footage. The additional square footage is so small, I would suggest that, that mitigation is the fact that you don’t see it from the front. The house visually from Braemar doesn’t look any bulkier than it did before and the additional bulk that we are adding is up and away from Leach, and is designed to blend, so that we have, you know, with floor area ratio you try to control the “McMansions”, these large block, out of scale houses from going on properties.

What we have done with this design is not going to result in that in any way. We are talking about a very small addition over the FAR.

FLAHERTY: So that is with regard: to the FAR. How about if we just focus on the rear yard. Can you just tell us how you considered every other option in terms of where you could expand and not have to incur or not have to ask for the variance? Where there any other options on that lot?

MARTIN: I don’t think so. If you look at the layout of the house, and again, its location on the property, we are talking about a modest 12 feet, which is just enough space to accomplish what we need to accomplish in order to upgrade and update the house. This house dates from the early 70’s. Back then there was a much different attitude towards houses and their layouts. The kitchens were very small. In this particular case, this kitchen also has a very low ceiling. We want to add enough space to be able to bring it up to date to what would make any family comfortable, not just my own clients family, but anyone who would want to be in this house.

This is why we didn’t go out 14 feet. We didn’t to go out 15, 16, 18, or whatever. We are going out only what we need to do, to go out to accomplish the upgrade of the structure that just about anyone would want to do and would want to see in a house in 2010.

FLAHERTY: Do any other members of the Board have any questions for the applicant?

MARTIN: I am just trying to picture, the new addition will impact the existing deck out back?

BILL MARTIN: The existing deck will be removed.

MARTIN: Will it be replaced with something smaller.

BILL MARTIN: There was a small 8 ft 10 by 8 ft deck which will go on to the rear of the house, so that we have a double French Door, essentially it is a large landing, from there we go down to a patio. So, from the standpoint of decks on the back of the house, this is a much smaller deck and the outdoor living is going to take place on an expanded patio area on ground level, which has much less of an impact visually.

MARTIN: John, is the deck

TEN HOEVE: No at 20 feet there is no variance required for that.

MARTIN: Even with the rear yard setback?

TEN HOEVE: Yes, as long as it is 20 ft from the property line.

MARTIN: Okay.

FLAHERTY: Could you just talk a little bit about the property line off of the home? Is that heavily, it looks like, I did have a chance to drive by there today, and it looks like there are some thick bushes there and how high those bushes are?

BILL MARTIN: My recollection is that they are 20 feet plus in height. They straddle the property line between my clients house and the neighboring house, which I have identified here in terms of distance, which is 40 feet away from that property line. Then there is another 28 feet to our proposed addition, so about 68 feet between structures at the closest point.

FLAHERTY: So, 20 foot evergreen business?

WALKER: What part of the neighbor's house is it? Is it a side yard, or a backyard?

BILL MARTIN: This is a side yard for the neighbor's house. In fact, you can see the neighbor's house in some of the photos. In fact, on the 6th photo array, if you look at that page, you will see that on the right side in the center of the page, that is the neighbor's house to the East. We are up against his side yard.

FLAHERTY: Would anyone in the public like to comment on this application? Any other questions or comments from the Board?

TEN HOEVE: I do believe that the interpretation to exclude the garage is appropriate. So, it would still be an FAR, if it is 61 square feet, as he testified, it would be for that.

FLAHERTY: Okay. Would you like to add anything else to your application?

BILL MARTIN: I would just respectfully request that the Board consider these variances and I would be happy to answer any additional questions that you might have about any aspect of the project. We have worked very hard to blend this in a manner that would make this a unified structure. This is very important to my clients to have a nice looking house. They very much love the town. They love that location and they love their home, but they happen to be on a corner lot, with the house pushed back a little bit. It makes it very difficult for this modest expansion. So, we respectfully request that you consider this.

FLAHERTY: Okay. Thank you for your time and we will discuss the application tonight after all of the other applications and you can call Ms. Beer in the morning for our determination.

BILL MARTIN: Would it be okay if we stayed?

FLAHERTY: Sure, if you would like to.

CASE: 09-12	Application of <u>Martina Sherwood</u> , 66 Colony Avenue, for two side
Lot: 18	yard variances to construct addition to existing house in a R-15
Block: 1001	residential zone.

WALKER: Mr. Chairman, I have the following items to be marked into evidence in regard to this application.

- Item 1 is the application dated 12/29/09.
- Item 2 is certification of service dated 12/7/09.
- Item 3 is legal notification dated 1/08/10.
- Item 4 is proof of payment of taxes dated 10/22/09.
- Item 5 is the deed dated 09/13/95.
- Item 6 is the survey dated 11/11/09.
- Item 7 is elevations dated 9/11/09.
- Item 8 is 2 photographs.

That is all I have at this time, Mr. Chairman.

TEN HOEVE: Would you raise your right hand please? Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

SHERWOOD: I do.

TEN HOEVE: State your name and address please.

SHERWOOD: Martina Sherwood, 66 Colony Avenue, Park Ridge, NJ.

FLAHERTY: It looks like you would like to get a variance to build out the back of your home. Could you take us through your application?

SHERWOOD: It is pretty much a 2-story addition on the back of the house, for a family room on the back and a deck. Upstairs would be to put a bathroom, there is no bathroom upstairs, and enlarge one of the bedrooms.

FLAHERTY: I had a chance to look at the home today. Are you removing part of what is there today? I guess I was a little confused on that.

SHERWOOD: No, it is going straight back on the side.

FLAHERTY: It is a unique lot, obviously a long narrow lot. Your only option is to build going back. So now on both sides of your home, you are continuing the line, the same line that you have in terms of how far off of the property line you are?

SHERWOOD: Correct.

FLAHERTY: Okay, a 2-story addition. Have any of the other Board members had a chance to see this application, to see this property? Tom, did you get there today?

HOSKINS: Yes I rode by today. The house on your left, looking from the house, how much lower is that than your house? In other words the addition is going to be the same height as the existing roof line is now? It won't go any higher?

SHERWOOD: No, I don't think so.

HOSKINS: Because the other house to the left is going to be lower? It is a little lower but I am just concerned that the house isn't going to be any higher.

SHERWOOD: Not that I know of.

HOSKINS: Okay.

TEN HOEVE: Based upon the nature of your lot, it is impossible to put an addition anywhere that wouldn't violate your side yard requirements, isn't that correct?

SHERWOOD: Right, that is correct.

TEN HOEVE: You are actually setting it back a little more than the house on the southerly side and keeping it basically in line with the house on the northerly side, right?

SHERWOOD: Correct.

FLAHERTY: Is there anyone in the public that is here to comment on this application? Again, it is a very unique piece of land and it is not the first time we have seen this type of land in town, so we will have discuss this after tonight's meeting and you can call Mrs. Beer in the morning.

SHERWOOD: Okay.

TEN HOEVE: I just have one quick question, there is a shed in the back. Do you actually use that shed?

SHERWOOD: Yes. I do.

TEN HOEVE: Your property, it looks like it is about 250 by 50.

SHERWOOD: Yes that is correct.

TEN HOEVE: That is it. I have no other questions.

FLAHERTY: Thank you.

CASE: 09-13 Lot: 28 Block: 902	Application of <u>W. Gregory and JoAnn Schack</u> , 2 Spring Valley Road for rear yard variance to construct addition to existing house in an R-40 residential zone.
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WALKER: Mr. Chairman, I have the following items to be marked into evidence in regard to this application.

- Item 1 is the application dated 12/29/09.
- Item 2 is certification of service dated 1/06/10.
- Item 3 is legal notification dated 1/08/10.
- Item 4 is proof of payment of taxes dated 1/12/10.
- Item 5 is the deed dated 12/03/02.
- Item 6 is elevations dated 10/06/09.
- Item 7 is 3 copies of the location plan dated 11/15/02.

That is all I have at this time, Mr. Chairman.

TEN HOEVE: Would you raise your right hands please? Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

G. SCHACK: I do.

J. SCHACK: I do.

TEN HOEVE: Please state your names and addresses.

J. SCHACK: JoAnn Schack, 2 Spring Valley Road, Park Ridge.

G. SCHACK: Gregory Schack, 2 Spring Valley Road, Park Ridge.

FLAHERTY: Okay, again, rear yard, do you want to take us through your application?

G. SCHACK: As, probably, some of the Board members know, we built this house in 2002 and the rear zone, I think, at that time was 30 feet. Since we moved into the house, even though it is a fairly large house, we have always had what we thought was an undersized kitchen. Everybody gathers there and we are always running into each

other, so over the last 4 or 5 years, we have been discussing putting an addition on and blowing out the kitchen. We were going to put the kitchen where our existing deck is, which is 15 feet straight back from the existing kitchen and then move the deck, wrapping it around the side of the house to take advantage of the view of the river.

So, as you can see, based on the rear zoning changing from the 30 feet to, I believe, it is 60 feet now, our whole house, whole rear house, is in violation of the new variance. Our lot is 40 some thousand square feet with 37 thousand being in Park Ridge and 8 thousand plus being in Woodcliff Lake. That is why I included the survey, because I think there was a possible misunderstanding with the lot to our left, as you look at the front, was included in that survey, because that is Lot 1 of, I believe whatever our block is, but Lot 1 that is included in the deed is actually the Woodcliff Lake portion of our property. So that is on the site plan and the survey.

So we are looking to just make a bigger kitchen. There is no second floor and to put a new deck in. The new deck is not in violation of any variances, is my understanding. That is all that I have to say.

WALKER: The existing carport on the plan, is that yours?

G. SCHACK: No, that is Mr. Braun's in the back. Mrs. Beer asked me to add that on there, because that is the closest structure to our property. That is about 25 feet off of the back of our property. If you ask me if it is a side or rear, it is impossible to tell with our properties. It is possible the side of his property there. I don't know, his driveway runs all along the side of our property and then wraps around the back of our property.

WALKER: So, the existing house is 37.15 feet from the property line. That already exists. The addition would just be another 2 ¼ feet closer that what the existing house is?

G. SCHACK: That is correct. But, it does violate the new variance which, I am not sure when it was put in, but sometime between 2002 and now.

FLAHERTY: It is another interesting... we have seen some intriguing lots before us tonight. Does anyone have a question or comment to make to the applicant?

BEEER: This was a totally conforming house, it was a subdivision and they were both totally conforming, and it is an R-40 zone and we changed it about a year ago the distances.

WALKER: Were the neighbors in Woodcliff Lake noticed for this?

G. SCHACK: Yes, they were.

WALKER: Are they in the room this evening?

FLAHERTY: Anyone here from the public to discuss this?

TEN HOEVE: Why don't you come forward so you can identify yourself and ... were you going to testify as well as ask questions?

JOSEPH: I just have some questions.

TEN HOEVE: Okay, just state your name and address.

JOSEPH: Denise Joseph, 248 Glen Road in Woodcliff Lake. I also own property in Park Ridge, which is Block 501 Lot 8.

FLAHERTY: What is the address of that?

TEN HOEVE: Where are you in relation to the subject property?

JOSEPH: I thought... are you in one of the new houses?

G. SCHACK: Yes, the one all the way in the back.

JOSEPH: Oh, it is a beautiful home. I thought you were the house that used to be Vetterline.

G. SCHACK: No, we are across the street from that.

JOSEPH: Okay.

G. SCHACK: That house is under construction right now.

JOSEPH: I know, that is what I thought this was about, because I have some issues.

G. SCHACK: No, we are across the street.

JOSEPH: My only concern would be encroachment on the stream.

G. SCHACK: We are not going anywhere near that, no closer to the stream whatsoever.

FLAHERTY: Tell us where the stream is.

G. SCHACK: If you look at the survey, you can see the stream runs on our southerly side. You can see the 50.07 feet to the stream, that is their property line and the stream runs across that. This is where our deck is right now and that is where we are proposing to move it. We are not going any closer to the stream than we presently are.

JOSEPH: Than I don't have any issue with this.

FLAHERTY: Thank you for coming in. Are there any further questions or comments. It does require a variance because of the way the rules have been rewritten a year ago. We appreciate your coming in. We will discuss it tonight and you can call Mrs. Beer in the morning for the determination. Thank you.

NEW BUSINESS:

37 Park Ridge, LLC – 37 Park Avenue – Performance Bond reduction
Engineer reviewed, applicant submitted Hold Harmless Agreement bond
for retaining wall can now be released.

A motion for a resolution to release the Bond can now be released was made by Mr. Martin and seconded by Mr. Hoskins.

ROLL CALL:

Ayes: Mr. Sandler, Mr. Martin, Mr. Walker, Mr. Hoskins, Mr. Capilli,
Mr. Flaherty

Abstain: None

PENDING CASES:

CASE: 09-9 Lot 16 Block: 1201	Application of <u>Gail and Gerry Matthews</u> , 41 Fourth Street for variances to widen driveway to residential house in an R-15 residential zone. Application to be withdrawn... applicant asked to send a letter so notifying... applicant has been written to twice with no response.
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TEN HOEVE: To refresh the Board's recollection, that is the applicant who had come in and there were many suggestions made to the applicant about modifying the plan. The understanding of the Board, I think, was that the applicant was going to either modify the plan or withdraw the application. Lyn has notified them both by phone and twice in writing, to tell them that they have to do something or that the application was going to be dismissed. They haven't responded. So, my suggestion would be that we make a motion to deny the application without prejudice, so that if they wish to renew it at some time in the future, they could do that.

FLAHERTY: We all agree with that.

A motion to dismiss the application was made by Mr. Hoskins and seconded by Mr. Capilli.

ROLL CALL:

Ayes: Mr. Sandler, Mr. Martin, Mr. Walker, Mr. Hoskins, Mr. Capilli,
Mr. Flaherty

Abstain: None

OLD BUSINESS:

None

CORRESPONDENCE:

League of Municipalities re: January 2010 – distributed
N. J. Planner re: Dec/Jan - distributed

APPROVAL OF MINUTES:

The Chairman entertained a motion that the October 20, 2009 be approved as submitted. So moved by Mr. Martin and seconded by Mr. Hoskins. Carried unanimously

APPROVAL OF VOUCHERS:

None.

ANYONE PRESENT WISHING TO BE HEARD:

There was no one in the audience wishing to be heard.

DISCUSSION OF APPLICATIONS:

The Board discussed the application of *Nicholas and Rosanne Maselli*; 57 Braemar Drive. The asked the Architect a couple of questions regarding square footage. The attorney advised the Board that under the new ordinance, the extend of the violation is much less than under the old ordinance.

The members felt that there is a substantial line of shrubs an that none of the neighbors came in to disagree. They felt that it was small violation and that the variance could be granted. Attorney to draw resolution of approval for the next meeting.

The Board then discussed the application of *Martina Sherwood*, 66 Colony Avenue. The members felt that since she wasn't going any higher it was acceptable. The members felt since it was one continuous roof line there wouldn't be a problem. The Board felt that this was a hardship due to the unique shape of the property. The attorney was advised to draw a resolution of approval for the next meeting.

The application of *W. Gregory and JoAnn Schack*, 2 Spring Valley Road was then discussed by the Board. The members felt that it was only a minute encroachment

to the line and felt that since there was so tremendous amount of space there and didn't feel that it would be a detriment to anything to grant the application. There are preexisting nonconformities that don't require variances. The attorney was advised to draw a resolution of approval for the next meeting.

ADJOURN:

There being no further business to come before the Board, by motion of Mr. Hoskins and seconded by Mr. Capilli, the meeting was adjourned at 9:05 pm.

Respectfully Submitted,

Margot Hamlin,
Transcriber