

**\*\*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, May 18, 2010, at 8:00 pm in the Council Chambers of the Municipal Building.

**PLEDGE OF ALLEGIANCE TO THE FLAG:**

**ROLL CALL:** Mr. Capilli, Mr. Walker, Dr. von der Lieth, Mr. Hoskins,  
Mr. Raman, Mr. Sandler, Mr. Flaherty

Absent: Mr. Brennan, Mr. Martin,

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

**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 19, 2010, setting forth a schedule of regular meetings by mailing of said schedule to The Ridgewood News and The Record on January 22, 2010, 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.

**NEW CASES:**

<b><u>CASE:</u></b> 10-05 <b><u>Block:</u></b> 2204 <b><u>Lot:</u></b> 9	Application of <b><u>Stephen and Andrea Jobst</u></b> , 72 De Groff Place for rear yard variance to construct a replacement retaining wall for existing house in an R-15 residential zone.
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FLAHERTY: Would you come on up please?

TEN HOEVE: Before you have a seat, just 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?

JOBST: I do.

TEN HOEVE: Please state your name and address.

JOBST: Steve Jobst, 72 De Groff Place.

TEN HOEVE: Thank you.

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

- Item 1 is the application dated 4/21/10.
- Item 2 is certification of service dated 4/21/10.
- Item 3 is legal notification dated 4/30/10.
- Item 4 is proof of payment of taxes dated 4/23/10.
- Item 5 is the deed dated 11/21/06.
- Item 6 is the site plan dated 4/14/10.
- Item 7 is a set of 9 undated photographs.

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

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FLAHERTY: Okay, thank you Mr. Walker. Mr. Jobst, sorry about that pronunciation. You are looking at a retaining wall on your rear property. Can you just take us through your application?

JOBST: Sure, you all have a copy of the plan. The back part of the property, as you see the front, you can kind of get your perspective, it is a walkway with a concrete wall, then there is a deck. That is the backyard right there.

Currently, the backyard has one small retaining wall right by the back of the deck there. Then, there are stairs that walk down to a slanted portion of the property. You are aware of where I am speaking on the plans?

The goal there is a short retaining wall that is right on the property line, it kind of crosses both property lines, mine and my neighbor's house. We would like to rip out that retaining wall and move the whole retaining wall towards our property about a foot, and then raise it about to the maximum of about 4 foot. The hope is to gain more usable space in our backyard.

FLAHERTY: A foot closer to your yard, you say?

JOBST: Yes. So, then I would take full ownership of the current wall. Where it is right now, it kind of varies. I already spoke to my neighbor and obviously he is aware of this meeting. He is actually all for it, because then I will take responsibility of the wall and I will also add a foot more space to his property.

That is what I would like to do, and I believe that the ordinance is 10 feet for where I live, to have the retaining wall no closer than 10 feet to the property line. That is why we are here today.

I have a family, a couple of kids, and I would like to try to have more area in the backyard to play. We love where we live and would like to try to stay there.

FLAHERTY: So, as you said, the ordinance is 10 feet from the line. So how far of the line will you be?

JOBST: About a foot. That is the goal.

FLAHERTY: Because the fence, what you have there now is right on the line?

JOBST: Yes, so if you could picture the property where it kind of goes like this, and then there is about a foot and a half high wall there, right on the property line, where is kind of catches the rest of the hill as it comes down. The hope is to rip that wall out, which is actually railroad ties that are rotting. There are some pictures, I believe, in the application.

We would clean it up and pull it back about a foot towards our property, so I would take ownership of the entire structure. At max height, it will be 4 feet in the corner of the property, which is... I am not sure here.....

RAMAN: It says 5 feet.

JOBST: Oh, it says 5 feet. Pardon me, 5 feet, I misread that one spot. There is a topography survey done, showing the various elevations. So, the max spot, I guess, excuse me, would be 5 feet and then it would taper down as the property kind of has a different slant towards the driveway side of the property.

HOSKINS: Is that line that you are talking about, on top of that or the bottom of that? Where does your property line go there?

JOBST: Um.....

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HOSKINS: In other words, that wall is going to be at the bottom where it pitches down or on the top?

JOBST: Oh, it is going to be at the bottom

HOSKINS: At the bottom where that descends?

JOBST: Yes, at the bottom where it descends, bring the property in a little bit and then put a wall up and then fill in a little bit above it, to level off the property.

HOSKINS: Is it going to be interlocking block?

JOBST: Oh, yes, absolute code. It is going to have an aesthetic value also, rather than a structure that can disappear.

FLAHERTY: Sid, where did you see the 5 foot high? Is that 5 feet off of the line?

RAMAN: No, no, here. At the bottom of the...it says top of wall 188.25, bottom of wall, BW is bottom of wall.

FLAHERTY: So, after you construct the wall, how are you going to fill that in? What are you going to use there?

JOBST: Well you have the standard fill for a retaining wall, which has a certain aggregate and to provide the proper drainage and then on top of that would be topsoil and there would be grass, shrubs and on the plan it also explains how we will put a short fence so that it is not a hazard, and nobody can fall from it.

FLAHERTY: So you will have bring soil in to back fill it?

JOBST: Yes.

TEN HOEVE: We have a couple of questions. The current wall, you say, is railroad ties?

JOBST: Yes, railroad ties.

TEN HOEVE: What is the maximum height of the current wall?

JOBST: It is approximately 2 feet.

TEN HOEVE: So you are going to be significantly raising the level of the property?

JOBST: On one side, yes.

TEN HOEVE: Have you done any calculations with regard to how much fill you are going to need?

JOBST: I don't have it in front of me. I apologize, I can't speak to it.

WALKER: 61 cubic feet.

TEN HOEVE: Okay.

JOBST: I had all of these guys do this work. I am sorry.

TEN HOEVE: Okay so that is the maximum amount of dirt that you are going to be bringing in, even though you are raising it from 2 feet at its current maximum height, to 5 feet?

JOBST: Yes, like I said, there is a pitch there but it is not like, it is a gradual pitch down.

TEN HOEVE: So you are not going to be, what I am trying to find out is whether you are going to be making any significant change to the grade that is on the property right now?

JOBST: In relation to the total property.....

TEN HOEVE: Mostly in relation to the neighboring property.

JOBST: I am not going to effect the grade of the neighboring property.

TEN HOEVE: No, I understand that. I am just trying to determine whether there is going to be any impact on the flow of water on either property.

JOBST: Currently, I live on the top of the hill, and my neighbor already has flow that comes off .....

TEN HOEVE: Off of your property and on to his and it keeps going then?

JOBST: It keeps going down.

FLAHERTY: It almost seems that we are going to have less pitch.

JOBST: Yes, I am going to actually level the property and decrease the pitch. I am not going to add anymore additional water to any area that is..... It is already kind of set up because I am at the top of the hill already.

TEN HOEVE: Actually it looks like it is more than 2 feet in some of the photos now.

JOBST: Yes, I didn't actually measure it. I just took an approximate. It may be up to 3. I am not quite 100% sure. There are a couple of people further down the block that have had water issues, just because they live at the bottom of the hill.

I know a couple of people who have already put in gravel in the back of their yard because they have had drainage into their basements and stuff like that. That is just a function of the way that the neighborhood is set up.

TEN HOEVE: Just one other comment, I know that you have mentioned that your neighbor is happy because it gives him a bigger yard. It really doesn't become his. It is still yours. The fact that you move the wall over doesn't mean that you still don't own the property between.

JOBST: True, but it does vary because it does come across onto his property, the current structure. So, he will gain that back.

TEN HOEVE: I see that on the existing survey, that the existing wall, especially on the northerly end, tapers off onto his property.

RAMAN: Is your neighbor here today?

JOBST: No. He is aware though.

FLAHERTY: He was notified though?

JOBST: Sure. I tried to everything by the book for you guys. This is actually very important to my wife and my family.

FLAHERTY: I am sure that the members had the chance to look at the property as well, and I can see with a little more definition as to whether the property would be a

more useable land. I think that it is important that you are not going to effect your neighbor, below you, negatively. Does anyone else from the Board have any other questions of the applicant, or comments on this application?

TEN HOEVE: Just a couple of more comments. There are 2 variances that are required. The ordinance provides, not only does the wall have to be 10 feet off of the line, which is principally done for new constructions to keep people from creating problems with drainage on the other side. Also, a retaining wall can not exceed 4 feet in height. So this will be one foot higher than the maximum permitted by the zoning ordinance as well.

JOBST: I have to apologize, pardon the interruption, I was led to believe that it was 6 feet, or I would have done that properly.

TEN HOEVE: Is there a reason that it needs to be 5 feet rather than 4 feet, or are you asking us to give you the variance for the 5 feet?

JOBST: No, if it is easier to do it at 4 feet, I will just have it graded down to the top of the wall at that point and then I will live with it.

FLAHERTY: Where did you get the information that it was 6 feet?

JOBST: I don't know who specifically told me that, but I had that number in my head. It might have been from the engineer, who kind of pulled the number out of his head. I know we tried to keep it so that I wouldn't have to get 2 variances.

BEER: Fences can be 6 foot high in the rear, not walls.

TEN HOEVE: The Board can discuss that.

SANDLER: Lyn, what was that, I am sorry?

BEER: Fences can be 6 foot high in the rear of the property, but not walls, just fences.

CAPILLI: Do you know if it is that important or not to have it 5 feet or 4? Are you not sure? Because, if it really is, maybe you should go for it.

JOBST: I would absolutely accommodate it to make it less complicated. To have it 4 feet, I would still gain a significant amount.

CAPILLI: You would be okay if it was at 4 feet?

JOBST: Yes.

TEN HOEVE: How much of that length is going to be at 5 feet? It is not the whole wall, it is only a small portion, right?

JOBST: I am only estimating at this point, but from the edge of the deck, not on the short side of the property, but from the edge of the deck next to that patio there, over. At most that would be .....

FLAHERTY: That would be the back of your neighbor's home?

JOBST: Yes. There is a tree there that is kind of on both properties and we have already agreed to split the cost of having it removed.

FLAHERTY: It has to come down?

JOBST: Yes, because it is kind of leaning into the current wall.

WALKER: I read somewhere on some plan, has your neighbor agreed to allow construction equipment on his property?

JOBST: Yes. He is 100% for this. I think he is eager to... he thinks this is going to provide an advantage to him. That is the impression that I get.

TEN HOEVE: It will look better than it does now.

HOSKINS: I think that your neighbor is going to benefit from the aesthetic look.

WALKER: What type of wall is that? I didn't see it.

JOBST: It is going to be interlocking block wall.

WALKER: Similar to the block wall that exists further up on the property?

JOBST: Yes. Probably a different style, but a nicer look. Technology has advanced since that was built.

FLAHERTY: Is there anyone in the audience that wishes to speak to this application? Any other questions from the Board?

SANDLER: John, as a legal matter, should you have something in writing from the neighbor with regard to this?

TEN HOEVE: No, absolutely not.

SANDLER: With regard to the use of construction equipment on his property?

TEN HOEVE: Oh, I can put that in the resolution. I thought you meant in terms of .....

SANDLER: No, if he was noticed and didn't object, that is fine.

TEN HOEVE: He is not allowed to go on their property without technically having a construction easement to do that.

FLAHERTY: Okay, thanks for your time tonight. The Board will take it under consideration and you can call Mrs. Beer in the morning.

JOBST: Okay, I appreciate your time and if you have any further questions, please let me know. I would like to answer any questions in your minds. Thank you for your time.

<b>CASE:</b> 09-10 Lot: 5 Block: 1702	Application of <u><b>Richard and Lynn Bosi</b></u> , 108 East Avenue for an Appeal of the Zoning Officer's decision with regard to property owned by Jean Cleary, 21 Pascack Road, Lot: 2 in Block: 1702. Hearing held April 20, 2010. Determination forthcoming this evening.
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**WHEREAS, RICHARD and LYNN BOSI** (hereinafter referred to as "Applicant"), being the owner and occupant of premises known as 108 East Avenue, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also known as Lot 5 of Block 1702 on the Tax Assessment Map for the Borough of Park Ridge, has applied to the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE seeking to appeal the determination of the Zoning Officer of the Borough of Park Ridge dated on or about September 21, 2009, granting a building permit to Jean Cleary, owner of premises known as 21 Pascack Road, Park Ridge, New Jersey, to construct a fence on the Cleary property; and

WHEREAS, a hearing was held in connection with Applicant's appeal before the ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF PARK RIDGE, duly convened on April 21, 2010, upon due notice as required by law; and

WHEREAS, the BOARD has carefully considered the application and all testimony and evidence submitted in connection therewith;

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE that the BOARD hereby makes the following findings of fact:

1. Applicant is the owner of premises known as 108 East Avenue in the Borough of Park Ridge. Said property fronts on East Avenue. Jean Cleary, (hereinafter referred to as “Cleary”), is the owner of 21 Pascack Road in the Borough of Park Ridge. The Cleary property has frontage on Pascack Road. A portion of the Cleary property also fronts on East Avenue. The Cleary property is adjacent to the Applicant’s property.
2. As testified to by several witnesses at the BOARD’S April 20, 2010 hearing, a long and complex history exists with regard to a dispute between two neighbors, the Applicant and Cleary, with regard to the parking of vehicles on the Cleary property in the portion of the Cleary property that abuts East Avenue. This history, while not complete, appears to include the following:
  - a. The filing of complaints by the Applicant with Mary Rathgeb, a prior Zoning Officer of the Borough of Park Ridge alleging that the parking of vehicles violated Section 101-24(C) of the Zoning Ordinance of the Borough of Park Ridge.
  - b. The filing of a complaint against Cleary by Mary Rathgeb alleging that the parking of vehicles violated Section 101-24(C) of the Zoning Ordinance.
  - c. A notice of violation (not complaint) with regard to the storage of a truck on the Cleary premises by Nick Saluzzi, the current Zoning Officer of Park Ridge.
  - d. A hearing before the Municipal Court of the Borough of Park Ridge wherein the Borough Prosecutor and an Attorney for Cleary appeared. The Borough Prosecutor and the Attorney for Cleary apparently entered into an agreement at the time of this hearing wherein Cleary agreed to “put up a fence or natural screening” in the area where vehicles are parked, after which time the complaint against Cleary would be dismissed.
  - e. The issuance of a permit to Cleary by the current Zoning Officer allowing Cleary to install a fence.
  - f. The erection of a fence by Cleary in the area where the vehicles are parked.
  - g. The filing of the instant appeal from the Zoning Officer’s determination challenging the issuance of said permit.
3. While testimony and evidence at the aforementioned hearing involved several issues, claims and demands, the heart of the challenge to the Zoning Officer’s determination focuses on the provisions of Section 101-24 of the Zoning Ordinance of the Borough of Park Ridge. A copy of said Ordinance is attached hereto as Exhibit “A”. Section 101-24 (A) provides that certain described vehicles “shall not be permitted to be parked” in certain areas of residential properties. Section 101-24 (C) provides that certain vehicles may not be “stored” in certain areas of residential properties unless appropriately screened in accordance with provisions of the section, defining screening as consisting only of “evergreen landscape material.”

4. The Applicant contends that the Cleary parking of vehicles on the property is in violation of Section 101-24 (C) and that the parking of vehicles may only be permitted if Cleary provides appropriate screening consisting of evergreen landscape material as required by the Ordinance. Cleary contends that the parking of vehicles is not prohibited by Section 101-24 (C) of the Ordinance alleging that the Section prohibits only the “storage” of vehicles and that the Section applies only to “boats, boat trailers and recreation trailers or vehicles.”
5. Applicant provided testimony from both Richard Bosi and Michael J. Hubschman, Licensed Engineer and Planner of the state of New Jersey. Mr. Bosi described the history of the dispute and the nature of his objections to the parking of vehicles. Mr. Hubschman provided testimony as to the application of Section 101-24 (C). Specifically, Mr. Hubschman testified that the Section applied not only to boats, trailers and recreational vehicles, but that the section was intended to apply also to registered cars and vehicles. Mr. Hubschman further testified that the use of the terms “parking” and “stored” were interchangeable and had no different meanings. In essence, Mr. Hubschman argued that Section 101-24 (C) prevented the parking of vehicles on property unless evergreen landscaped material screened vehicles from view.
6. The BOARD also heard the testimony of the Borough Planner, Brigitte Bogart of Burgis Associates. Ms. Bogart interpreted the Ordinance very differently. Ms. Bogart testified that the terms “park” and “store” were not interchangeable, but had very different meanings. Ms. Bogart testified that while Section 101-24 (A) governed parking of vehicles on premises, Section 101-24 (C) was not intended to regulate parking of registered vehicles. Ms. Bogart provided specific examples of the differences between the terms and specifically disagreed with the testimony of Mr. Hubschman.
7. Ms. Bogart also testified that the provisions of Section 101-24 (C) were not intended to apply to cars or trucks in any case. She stated that the Section was intended to apply only to recreational types of vehicles, specifically indicating that the use of the term “vehicles” must be read in conjunction with the prior terms “recreational trailers or vehicles”. In essence, Ms. Bogart indicated that the Section was intended to govern “recreational vehicles”, not any vehicles.
8. Finally, Ms Bogart indicated that the Cleary lot is a through lot, since a portion of the lot fronts on East Avenue. Ms. Bogart stated that the off-street parking of vehicles is permitted in front yards, however, noted that the parking must be on a driveway area.
9. Witnesses on behalf of Cleary, specifically Ms. Cleary’s daughters, testified that vehicles had been parked in the area for at least 25 years. They further noted that the vehicles parked in the area in question were generally owned by visitors to the home. They also testified that it was difficult, if not impossible, to exit from the Pascack Road driveway of the Cleary property without backing out onto Pascack Road, creating a dangerous condition. They further stated that they had erected a fence to shield views of the parked vehicles in an effort to resolve the dispute that was taking place between the two neighboring families. Finally, they noted that parking was permitted on East Avenue and that they could park directly in front of the Applicant’s home on East Avenue where parking is permitted, however, that the applicant had complained to the Borough Police Department when they parked in front of the Applicant’s home.
10. Nick Saluzzi, current Zoning Officer of the Borough of Park Ridge also testified. Mr. Saluzzi testified that he had contacted Cleary when a complaint had been lodged with regard to the storage of a vehicle on the premises, and that he had advised that the storage of vehicles on the site was not permitted by Section 101-24 (C). Mr. Saluzzi indicated that he had never filed a complaint against Cleary and that, similar to the opinion of the Borough Planner, he believed that Section 101-24 (C) of the Zoning Ordinance did not

prohibit the parking of vehicles in the area in question. He further testified that he issued a fence permit for the construction of the fence since the fence was permitted under the Zoning Ordinance (not required), and because he was aware of an agreement reached in the Park Ridge Municipal Court permitting the erection of the fence.

11. The BOARD finds and concludes that the long history of the matter is both unfortunate and may have involved decisions by others that may have been uninformed or incorrect. Nevertheless, the BOARD finds that it is charged with rendering a determination solely upon one issue, specifically, the validity of the decision of the Zoning Officer to issue a permit for the erection of a fence. The Applicant's essential challenge to the Zoning Officer's decision can be summarized as follows:

- a) the parking of any vehicle in the area in question is prohibited by Section 101-24 (C) of the Zoning Ordinance unless appropriate vegetative screening is provided;
- b) the erection of a fence does not constitute appropriate screening under Section 101-24 (C);
- b) neither the Municipal Court nor the Zoning Officer has the authority to violate the provisions of 101-24 (C) by permitting the erection of a fence in lieu of vegetative plantings.

12. The BOARD finds and determines that the decisions of the Zoning Officer was not incorrect and affirms said decision. The BOARD specifically finds that Section 101-24 (C), the only provision relied upon by the Applicant, does not prohibit the parking of cars, but applies only to the storage of recreational vehicles. The BOARD accepts the testimony of the Borough Planner both with regard to the distinction that exists between the parking of vehicles and the storage of vehicles. The BOARD finds that Cleary and visitors to the Cleary residence are not "storing" vehicles on the premises, but are simply parking vehicles when visiting. The BOARD further finds that the vehicles parked in the area are not recreational vehicles, nor vehicles prohibited under Section 101-24 (A) of the Ordinance. Accordingly, the determination or settlement reached in the Municipal Court is irrelevant. The construction of a fence, not required since Section 101-24(C) does not apply, is not in issue. There is thus no requirement for vegetative plantings.

13. The BOARD does note, however, that while the parking of vehicles is not prohibited by Section 101-24 (C), other provisions of the Zoning Ordinance may apply. Specifically, Cleary may be required to provide a paved driveway area on the site in order to park vehicles off of East Avenue. This observation is provided to preclude any inference that the BOARD, by affirming the Zoning Officer's determination, is approving any violations of other provisions by the Zoning Ordinance that may apply.

The resolution was offered by Mr. Sandler and seconded by Mr. Hoskins.

**ROLL CALL:**

**Ayes:** Mr. Sandler, Mr. Raman, Mr. Walker, Dr. von der Lieth, Mr. Hoskins,

**Abstain:** Mr. Flaherty, Mr. Capilli

<b>CASE:</b> 10-03 Lot: 3 Block: 905	Application of <b><i>Craig and Maryann DeGeorge</i></b> , 19 Pine Drive for front yard setback variance to construct second floor addition and front porch to an existing house in an R-20 residential zone. Hearing held April 20-2010. Determination forthcoming this evening.
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**WHEREAS, CRAIG DeGEORGE**, (hereinafter referred to as “Applicant”), being the owner of premises known as 19 Pine drive, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also known as Lot 3 of Block 905 on the Tax Assessment Map for the Borough of Park Ridge, has applied to the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE, seeking a front yard variance from the provisions of the Zoning Ordinance of the Borough of Park Ridge to permit the construction of a second floor addition and new front porch; and

WHEREAS, the premises are located in an R-20 Zoning District as same is defined by the Zoning Ordinance of the Borough of Park Ridge; and

WHEREAS, Applicant has submitted a survey of the premises prepared by Chris Lantelme, Licensed Surveyor of the State of New Jersey, dated March 17, 2010, together with architectural renderings prepared by Joseph Bruno, Licensed Architect of the State of New Jersey dated February 20, 2010; and

WHEREAS, a hearing was held before the ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF PARK RIDGE duly convened on April 20, 2010, upon due notice as required by law; and

WHEREAS, the BOARD has carefully considered the application and all testimony and evidence submitted in connection therewith;

WHEREAS, no person appeared in opposition to the requested variances;

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE that the BOARD hereby makes the following findings of fact:

1. Applicant is the owner of a single-family home located at 19 Pine Drive in the Borough of Park Ridge. Applicant’s home currently encroaches slightly into the required 40 foot front setback, being 39.8 feet from the front lot line.
2. Applicant seeks to construct a second story addition to the existing home and to construct a new, covered but open porch in the front of the home. The second floor addition will extend slightly nearer to the front lot line being 37.7 feet from the front lot line at its closest point. The front porch, which will be covered, but open on all three sides, will be 33.8 feet from the front lot line at its closest point.
3. Applicant and Applicant’s architect testified that the proposed additions to the home will significantly enhance the dwelling from an aesthetic perspective and will bring the home more in line with other homes in the neighborhood. Applicant’s architect specifically testified that the dwelling will be no closer to the front lot line than other homes in the immediate vicinity, but that other homes extend closer to the lot line than the Applicant’s dwelling.
4. As noted on the plans, the proposed second floor addition will not significantly extend the existing encroachment. In essence, the second floor overhang will be two feet nearer to the front lot line than the current dwelling. The proposed front porch will encroach into the required front yard however, the impact of the encroachment is minimal in light of the fact that the structure is an open porch, with the encroachment essentially consisting of the roof of the porch.
5. As noted by the Applicant’s architect, the covered porch will provide a safer means of ingress and egress to the premises. The roof over the entranceway will prevent the accumulation of snow and ice. The roof will also make it easier to enter the home during inclement weather.

6. The BOARD finds that while it would be possible to expand the second floor of the home without extending slightly nearer to the front lot line, such an expansion would not result in an attractive design. The Applicant's proposal results in a far more appealing structure from an aesthetic perspective, and will have no negative impact on the neighborhood.
7. The BOARD finds that the location of the existing dwelling on the lot, creates a hardship as defined by the Municipal Land Use Law by virtue of the fact that the dwelling currently slightly encroaches into the front yard. The BOARD further finds and concludes that there will be no negative impact whatsoever resulting from the proposed improvements, nor the granting of the requested front yard variance.
8. Finally, the BOARD also finds and concludes that the proposed improvements will not result in any substantial detriment to the public good, nor will same impair the intent and purpose of the zone plan or Zoning Ordinance of the Borough of Park Ridge in any way.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE, by virtue of the foregoing, and pursuant to the authority of N.J.S.A. 40:55D-70, that the BOARD does hereby grant the Applicant's requested front yard variance to permit the construction of the proposed addition and front porch subject to the following conditions:

- A. That Applicant construct the proposed improvements as set forth on all final plans submitted to the BOARD and that same not be constructed in such a fashion so as to exceed the scope and extent of the improvement set forth on all final documents submitted and described in all testimony presented to the BOARD.
- B. That Applicant comply with all Borough Ordinances and State Statutes with regard to the application for building permits and that the construction of the proposed improvements be in compliance with all applicable codes with all required approvals to be rendered by appropriate officials. Nothing contained herein shall be construed to represent an approval of the specific building plans submitted by the Applicant, said approval to be granted by appropriate Borough Officials.

The Resolution was offered by Mr. Sandler and seconded by Mr. Raman.

**ROLL CALL:**

**Ayes:** Mr. Sandler, Mr. Raman, Mr. Walker, Dr. von der Lieth, Mr. Hoskins, Mr. Flaherty

**Abstain** Mr. Capilli

<b>CASE:</b> 10-04 Lot: 24 Block: 2003	Application of <u>Michael McCoy</u> , 4 John Court for front, side and Floor Area Ratio variances to construct addition to existing house in an R-15 residential zone. Hearing held April 20, 2010. Determination forthcoming this evening.
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**WHEREAS, MICHAEL MC COY**, (hereinafter referred to as "Applicant"), being the owner of premises known as 4 John Court, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also known as Lot 24 of Block 2003 on the Tax Assessment Map for the Borough of Park Ridge, has applied to the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE seeking front yard, side yard, and floor area ratio variances from the terms and provisions of the Zoning Ordinance of the Borough of Park Ridge to permit the construction of an additions to the existing dwelling; and

WHEREAS, the premises are located in an R-15 Zoning District as same is defined by the Zoning Ordinance of the Borough of Park Ridge; and

WHEREAS, Applicant has submitted a survey of the premises prepared by Chris Lantelme, Licensed Surveyor of the State of New Jersey dated January 26, 2010, together with architectural renderings prepared by Joseph Bruno, licensed Architect of the State of New Jersey, dated December 12, 2009; and

WHEREAS, a hearing was held before the ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF PARK RIDGE duly convened on April 20, 2010, upon due notice as required by law; and

WHEREAS, the BOARD has carefully considered the application and all testimony and evidence submitted in connection therewith;

WHEREAS, no person appeared in opposition to the requested variances;

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF PARK RIDGE that the BOARD hereby makes the following findings of fact:

1. Applicant is the owner of a single-family home located at 4 John Court in the Borough of Park Ridge. Applicant's home is located on a substantially oversized lot, having lot area of 21, 825 square feet, 6,825 square feet greater than the 15,000 square feet required in the R-15 residential Zoning District.
2. Applicant seeks to construct a second story addition, rear addition and front porch addition to the existing home. The front addition to the dwelling consists of a long covered porch. The porch will be located 25.4 feet from the front lot line, rather than the 30 feet required by the Zoning Ordinance. The addition will also encroach slightly into the required side yard, being 17.4 feet from the side lot line at its closest point rather than the 18 feet required by the Zoning Ordinance. The additions will also result in a total square footage for the home of 5,293 square feet, an area larger than the maximum square footage permitted in the R-15 Zoning District of 4,250 square feet.
3. As indicated, Applicant's lot is substantially oversized. While the proposed additions will result in a floor area ratio of less than the 25% maximum permitted in the R-15 Zoning District, the total area will exceed the 4,250 square foot maximum permitted by the recently amended floor area ratio ordinance.
4. Applicant and Applicant's architect testified that the proposed additions to the home will significantly enhance the dwelling from an aesthetic perspective and will bring the home more in line with other homes in the neighborhood. Applicant's architect specifically testified that the proposed new front porch will dramatically enhance the appearance of the dwelling from an aesthetic perspective. Applicant's architect noted that the proposed additions to the home will take a dwelling that is essentially a box and convert same into an attractive, colonial home.
5. As noted on the plans, the proposed porch will not significantly encroach into the required side yard. While a portion of the porch will be but 17.4 feet from the side lot line, the lot line angles away from the dwelling so that the encroachment impacts only a small triangle of land. In essence, the second floor overhang will be two feet nearer to the front lot line than the current dwelling. The BOARD further finds that the proposed front porch and front façade changes will dramatically improve the appearance of the dwelling and constitute a benefit to the entire neighborhood and zone.

6. The BOARD also finds that the Applicant's requested floor area ratio variance is justified. The BOARD is cognizant of the fact that the maximum floor area number included in the ordinance is intended to prevent the construction of dwellings on oversized lots that are not in conformity with other homes in the neighborhood. The BOARD specifically finds, as noted in the testimony of the Applicant's architect, that the improved structure will not be out of line with other dwellings located on John Street, in fact, the dwelling will be smaller than a recently improved, very large home that is close to the Applicant's lot. The BOARD also specifically finds that the goals and objectives of the floor area limitation will not be violated by the grant of a variance for a floor area ratio variance and that special reasons exist to justify the grant of the variance.
7. The BOARD finds that the location of the existing dwelling on the lot also creates a hardship as defined by the Municipal Land Use Law by virtue of the fact that the dwelling cannot be aesthetically improved without the grant of a the front yard and side yard variances. The BOARD further finds and concludes that there will be no negative impact whatsoever resulting from the proposed improvements, nor the granting of the requested front yard, side yard or floor area ratio variances.
8. Finally, the BOARD also finds and concludes that the proposed improvement will not result in any substantial detriment to the public good, nor will same impair the intent and purpose of the zone plan or Zoning Ordinance of the Borough of Park Ridge in any way.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE, by virtue of the foregoing, and pursuant to the authority of N.J.S.A. 40:55D-70, that the BOARD does hereby grant the Applicant's requested front yard, side yard and floor area ratio variances to permit the construction of the proposed additions and front porch subject to the following conditions:

- A. That Applicant construct the proposed improvements as set forth on all final plans submitted to the BOARD and that same not be constructed in such a fashion so as to exceed the scope and extent of the improvement set forth on all final documents submitted and described in all testimony presented to the BOARD.
- B. That Applicant comply with all Borough Ordinances and State Statutes with regard to the application for building permits and that the construction of the proposed improvements be in compliance with all applicable codes with all required approvals to be rendered by appropriate officials. Nothing contained herein shall be construed to represent an approval of the specific building plans submitted by the Applicant, said approval to be granted by appropriate Borough Officials.

The resolution was offered by Mr. Sandler, and seconded by Mr. Hoskins.

**ROLL CALL:**

**Ayes:** Mr. Raman, Mr. Sandler, Mr. Walker, Dr. von der Lieth, Mr. Hoskins, Mr. Flaherty

**Abstain:** Mr. Capilli

**NEW BUSINESS:**

None

**CORRESPONDENCE:**

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**APPROVAL OF MINUTES:**

None

**APPROVAL OF MINUTES:**

None

**APPROVAL OF VOUCHERS:**

None

**DISCUSSION OF APPLICATIONS:**

The Board discussed the application of Stephen and Andrea Jobst. The members felt that they would leave it up to the Borough Engineer to decide if a soil moving permit would be needed. It was the general consensus that the variance could be granted. All felt that a fence would be needed at the top of the wall to prevent accidents.

**ANYONE PRESENT WISHING TO BE HEARD:**

TEN HOEVE: Just identify yourself please.

BOSI: Rich Bosi, 108 East Avenue, Park Ridge, NJ. Since it is now deemed a parking issue as opposed to a storage issue, am I correct in that point?

TEN HOEVE: All that this Board determined was whether, the only thing this Board could determine, was whether or not the interpretation of the Zoning Officer was accurate or not. That is all that this Board determines. We don't give advisory opinions. We are not permitted to direct that any action be taken. It is like a court. All that this Board can do is decide whether Mr. Saluzzi's determination was correct or incorrect. That is all that we can do.

We don't decide what type of issue it is or what other claims might exist or any other questions that you might have.

BOSI: I am looking for confirmation on the Zoning Ordinance. Can you provide me with that?

TEN HOEVE: We can not give, are you asking about the resolution? Or are you asking about Mr. Saluzzi's interpretation with regard to the fence?

BOSI: No, nothing to do with the fence. I just would like clarification. The resolution says, if I read this correctly, it says that it is a parking issue not a storage issue.

TEN HOEVE: No, what it is saying is that the ordinance that was the basis for the challenge to Mr. Saluzzi's decision, doesn't apply, because that ordinance is intended to apply to recreational vehicles and other items that are mentioned in that ordinance.

BOSI: I think we are just going around in circles. I am just going to get to the crux of my question and then I will be done because I have had enough already. Okay, if it is offsite parking issue, ordinance 87-43 8-D is very specific on what is allowed to be parked back there. None of those meet the qualifications. Brigitte pointed that out at the last meeting. All off street parking shall be graded and drained so as to disperse of all surface water in a manner as to not unreasonably impair the surroundings. That is not happening.

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All off street parking areas, isles and driveways, shall be surfaced with asphalt or cement pavement. That is not there. Lastly, all parking areas and access drives shall be edged by concrete curb or Belgian Block, not exceeding 6 inches above the paved surface or ground level. There is nothing there. So, in my eyes, a car parked there is in clear violation of this ordinance.

That is all that I am looking for is a determination, yes, or no, and I know what you are going to say and you can't give me that.

TEN HOEVE: Okay. I am going to give you the only answer that is legal for me to give you. That issue was raised at the time of the hearing as well, whether or not it needs to be paved, is in essence what you are asking. That issue was raised and that is a separate issue from the issue that was before the Board.

We aren't authorized to make a determination on that issue. That issue certainly wasn't addressed and that may or may not be an issue and a problem. The Board isn't telling you yes or no that it is not.

BOSI: So, I am back to square one, is where I am.

TEN HOEVE: Well it is a different, you are raising a different complaint and a different issue. You are not asking to apply a specific ordinance that you thought would have restricted the creation of that fence and the parking of the vehicle there, at all. You are now saying you believe that it is improper because it is not paved pursuant to another provision of the zoning ordinance, which may be correct. It might have to be paved.

BOSI: Please don't take this the wrong way, and I don't mean this to come out incorrectly, who can give me an answer?

TEN HOEVE: The Zoning Officer.

BOSI: Okay, okay.

TEN HOEVE: That is where you have to start always. Just like you did the last time.

BOSI: Yes, that was 3 ½ years ago.

TEN HOEVE: I am well aware of that.

BOSI: I have no further questions, thank you.

**ADJOURN:**

There being no further business to come before the Board, by motion of Mr. Walker and seconded by Mr. Sandler, the meeting was adjourned at 8:30 pm.

Respectfully submitted,

Margot Hamlin,  
Transcriber