

****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, June 15, 2010, at 8:00 pm in the Council Chambers of the Municipal Building.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL: Mr. Martin, Mr. Walker, Dr. von der Lieth, Mr. Hoskins, Mr. Raman, Mr. Flaherty, Mr. Sandler, (8:21 pm)

Absent: Mr. Brennan, Mr. Capilli

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

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 thereat and by filing the said schedule in the office of the Borough Clerk.

NEW CASES:

FLAHERTY: We have two new cases to hear tonight.

<u>CASE:</u> 10-06 <u>Block:</u> 1110 <u>Lot:</u> 11	Application of <u>L.C.Developers, LLC</u> , 14 Lakeview Avenue for Floor Area Ratio variance and Soil Moving Permit to construct replacement house in an R-20 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 5/18/10.
- Item 2 is certification of service dated 6/03/10.
- Item 3 is legal notification dated 6/04/10.
- Item 4 is proof of payment of taxes dated 4/26/10.
- Item 5 is a commitment rather than a deed dated 3/01/10.
- Item 6 is the plot plan dated 5/18/10.
- Item 7 is elevations dated 5/07/10..
- Item 8 is drainage calculations dated 5/05/10.
- Item 9 is soil application dated 5/25/10.
- Item 10 is Engineer's review dated 6/11/10.
- Item 11 is Board secretary's letter dated 6/08/10.
- Item 12 is the Planners report.

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

FLAHERTY: Thank you Mr. Walker.

DEXTER: Good evening. I am Bruce H. Dexter, here for L. C. Developers. This is an application for Floor Area Ratio. The Applicant is a local builder, who is the contract purchaser, first of all, for 14 Lakeview Avenue, and his desires of demolishing

the existing 1 ½ story dwelling located on the property and constructing a new 1-family dwelling house. He presently has a contract for the neighbor to build this new proposed house.

FLAHERTY: Excuse me, is that neighbor going to buy that house?

DEXTER: Yes.

FLAHERTY: Okay.

DEXTER: Yes, he proposes to build a custom house for the neighbor, who is present tonight, I believe. May I have Louis Chiellini the builder who will testify as to the proposed dwelling to be constructed, and also I have the Engineer who prepared the plot plan, to present before the Board this evening.

TEN HOEVE: Would you have them both raise their right hands and be sworn in? 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?

CHIELLINI: I do.

GLEASSEY: I do.

CHIELLINI: Louis Chiellini, 22 Ruth Place, Park Ridge, NJ.

GLEASSEY: David Gleassey, R. L Engineering, 24 Wampum Road, Park Ridge, NJ.

DEXTER: Mr. Chiellini, Mr. Ten Hoeve, I have some photographs and some proposed architectural plans, which I would like to mark into evidence.

TEN HOEVE: Just give them to the Board Secretary, to mark them in. How many photos are there? You could mark them as one exhibit if you would like.

WALKER: Item 12 would be 10 photos. The elevations have already been marked in.

DEXTER: Mr. Chiellini, could you describe for the Board, please, the proposed project that is before the Board tonight?

CHIELLINI: We have a existing dwelling quite old. A long time resident has been in the house and I am now the contract purchaser of the dwelling. The lot is an oversized lot for the zoning. I have a 120 foot frontage and 150 on one side and 160 on the other side in depth on the lot.

The pictures that you have up there, I built a house in town on North Avenue. It is on a 100 by 150 lot. It is nice in the neighborhood up there is a similar size. The only difference is on North Avenue, it is a side mount garage, the Moran's who live next door, are going for a front mount garage. It will actually look not as wide.

The plan is to demolish the old home and build a new dwelling for the neighbor.

DEXTER: You took the photographs? When were they taken?

CHIELLINI: My son did. They were taken last weekend, I believe.

DEXTER: That is the house that you plan to build on this lot, is that correct?

CHIELLINI: That is correct.

DEXTER: Is that house also depicted on the architectural plans, drawn by Albert Dattoli?

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CHIELLINI: Yes.

FLAHERTY: This property is actually wider than the North Avenue property?

CHIELLINI: Yes, 20 feet wider.

FLAHERTY: So, why don't you have the side garage?

CHIELLINI: It is a matter of cost and what the customer wanted. That is the compromise that we came to, to come straight on with the driveway. This way he sees his garage doors. He wants nice garage doors.

FLAHERTY: I guess he has more of side yard and more grass then, on the side of the house?

CHIELLINI: They more have side. This property, the topo from the left to the right, slopes off and he is looking for some bigger windows on the lower right side, that faces his existing house. So, he will get like a 3 foot by 3 foot windows, versus the conventional 19 inch basement window.

FLAHERTY: Oh, I see. Is the basement under the garage?

CHIELLINI: No, the garage is on the up side. The basement is on the down side. The property goes like this, and you go around, and the windows are on this side here. The lowest side of the property. So, it is not feeling like a basement. The windows get a little more air down there and it is a little nicer.

FLAHERTY: Okay. So is the North Avenue house, is that an R-10? Does anyone know? I am just trying to find it. That won't require a variance?

CHIELLINI: No, going to knock down a old 2-family there.

FLAHERTY: Okay.

DEXTER: I would like to call the engineer at this time, Mr. Chairman.

BEER: Mr. Dexter, would you have the engineer spell his last name?

DEXTER: That is just what I asked him.

GLEASSEY: G-L-E-A-S-S-E-Y.

TEN HOEVE: Before you get started, Mr. Dexter, one of the Board members has some questions about the.....

DEXTER: I am sorry.

WALKER: You have property owners listed within 200 feet. You have a Colony Avenue address here. You have Block 1103, which I don't see listed on your map.

TEN HOEVE: Where is Block 1103 on the map?

CHIELLINI: I got this from the Borough. Yes, Colony is not here.

WALKER: The location that they have listed, appears to be the actual address of the property owner, rather than the address of the property that should have been noticed. I am not sure if it is an error.

FLAHERTY: The house that you are going to knock down is Lot: 11?

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TEN HOEVE: Yes, this is more of a notice issue than where it is. Everyone can identify that lot. Is it possible that the property on the south side of Lakeview is 1103?

DEXTER: It is possible. It is just not shown on the map.

TEN HOEVE: Because you show 18 as a lot, 20 as a lot, 19 as a lot, and

WALKER: That may be possible.

TEN HOEVE: Just to check to make sure that we don't have a notice problem. That is my guess. My guess is that the block that extends from Pascack and Lakeview, is 1103, a little bit north of Block 1104. That is what I am thinking and I just want to find out.

BEER: Which one?

TEN HOEVE: 1103, directly south of Lakeview.

DEXTER: Yes, that has to be it, Lot 16, Lot 17, Lot 18.

CHIELLINI: Yes, that is John Lang that lives up that street. On that side of the street, 1104 is below.

TEN HOEVE: Okay. It makes no difference in any case, then, because we are obligated to continue the hearing even if they Tax Assessor made a mistake and gave you incorrect information. We will check it out.

DEXTER: Mr. Gleassey, you are an engineer, is that correct?

GLEASSEY: Yes, sir, I am a Professional Engineer.

DEXTER: Are you employed by the office of R.L. Engineering, Inc.?

GLEASSEY: That is correct.

DEXTER: You have offices in Park Ridge, is that correct?

GLEASSEY: Yes, we do.

DEXTER: Have you appeared before this Board as an expert before?

GLEASSEY: I believe once.

DEXTER: Do you want me to go through his qualifications?

TEN HOEVE: As an Engineer?

DEXTER: Yes, as an Engineer.

TEN HOEVE: I don't think that it is necessary. You are a licensed Engineer of the State of New Jersey?

GLEASSEY: A professional Engineer, Licensed, yes.

DEXTER: Thank you sir. You are familiar with the plot plan that is before the Board this evening?

GLEASSEY: Yes, I am. It was developed under my guidance.

DEXTER: It was. Can you briefly explain the proposed development, for the members of the Board, with specific reference to the zoning, and any variances that may be required?

BEER: Mr. Gleassey, would you take the black microphone off of the holder, and bring it over with you?

GLEASSEY: The proposal is to demolish the existing dwelling and detached garage on site and construct a new single family dwelling. It is on the property. The dwelling meets all bulk requirements, side yard, rear yard coverages, and impervious coverage and so forth.

The only variance that is requested is for maximum building floor area. There is a maximum threshold of 3,333 feet. The application proposes some 3,953 square feet, hence the various request.

Also, I believe we are on the docket for soil movement. We are over the threshold for some 300 cubic yards. We propose to excavate for the basement of the new dwelling and to utilize some of the excavation in the rear yard to level it. In this case, creating some 460 cubic yards of excavation and some 145 cubic yards of fill in various places, particularly in the back yard.

The layout of the lot indicates that we will maintain the current drain flow patterns on site although there will be, although the new house is a slightly different location, the drainage will basically operate as it does now. It will flow from the west, actually the northwest corner is the high point of the lot. The southeast corner near the road, is the lowest point of the lot. Obviously, the drainage flows in that direction, and we will create some swales along the property line on the east side, in order to keep the drainage on the property and we will direct it towards Lakeview Avenue, the street in the front.

We will also reduce, for drainage, one 1,000 gallon seepage pit which will store the maximum roof runoff from underground and will promote seepage into the ground as well as an over flow into the drainage system on Lakeview. That is about it.

DEXTER: Did you have an opportunity, Mr. Gleassey, to review the Board Engineer's comments dated June 11th?

GLEASSEY: Yes, I have.

DEXTER: Can you comment on each of those items for the benefit of the members of the Board?

GLEASSEY: Certainly. The first comment is with regard to New Jersey DEP. We are within the 300 foot buffer of a C-1 stream.

TEN HOEVE: Excuse me, for the record, Mr. Sandler has arrived (8:21 pm),

GLEASSEY: As the Board Engineer indicates, this is permit by rule, meaning that we do not need to petition the DEP for a permit. It is being handled by the Borough. Although, as the Borough Engineer indicates, written notification will need to be provided to the DEP by the contractor.

The second comment is "existing grades on site indicate a drainage pattern that allowed storm water runoff from the higher west elevation, travel down the driveway towards Lakeview Avenue. We recommend the pattern to be maintained, and drainage swale be introduced within the west side yard of proposed dwelling to allow storm water to continue to flow to Lakeview Avenue."

We have provided such a swale. We will, as I stated before, maintain the existing drainage patterns on the site.

The third comment is "It appears the location grading of the new driveway is immediately over the extensive root system of the existing 24" Ash Tree, which is located at the curb line towards the western portion of the lot. This will cause damage

and eventually over time, death of the tree. Consideration should be given to modifying the location of driveway.”

Although a modification of the house and driveway, is certainly up to the owner, the excavation in that area is minimal. Although it will effect the tree, as the Engineer said, we feel that with proper attention by an arborist, it could be maintained for certain length of time.

The fourth item states, “There appears to be an open grate east of the 10” Magnolia Tree. This should be further evaluated and the disposition of the system addressed.”

I will let Mr. Chiellini address that item, because his knowledge of that, he has information with regards to that drainage system.

The fifth item states, “To the north of the 10” Maple, there is a pipe labeled “cleanout”. This should be further evaluated to insure that it is not an existing well.”

Again, Mr. Chiellini has first hand knowledge of this and I will certainly let him answer that question.

The sixth item is, “We are in receipt of drainage calculations indicating seepage pit storm water management system will be constructed and overflow is shown from the pit to the catch basin. This is acceptable.”

We concur there.

Number seven, “Soil movement cross section indicates there is an export of soil from the site. This quantity is derived from a volume of a total of 460 cubic yards to fill of 145 cubic yards, thus the difference in volume is 315 cubic yards of soil to be exported from the site. The majority of the count in material is due to the excavation of the new basement. A soil moving permit is required.”

That is why we are here in front of the Board for.

“Soil moving erosion control measures, shown on the plan shall be implemented to insure that no adverse impact upon adjoining properties during construction. Additional measures shall be taken to prevent tracking of soil onto the road. These measures shall be routinely maintained and remain in place until all disturbed areas are stabilized.”

We concur.

“The Building Department and Police should be notified prior to any onsite trucking of materials to determine the number of trucks and routes that will be taken.”

That will be the responsibility of the contractor.

“There are large mature trees along Lakeview Avenue, we recommend that every effort be taken to protect the trees. The trees to remain on site should be protected with construction fence along the drip line.”

I believe those details are shown on the plans.

DEXTER: Mr. Chiellini, can you comment for this Board, as per the Engineer’s comments?

CHIELLINI: Yes, in reference to the proposed cleanout, it is not a cleanout. I met with the owner tonight. He is here at the meeting. That is a flagpole, an old flagpole. It is a metal casing that the pole is in. On the middle right side of the property, there is a another little cleanout and that cleanout, we went to the town and the future owner next door, went to the town and there must have been some prior agreement from

the existing owner from years ago, that pipe is a cleanout and it continues on and it goes down into the catch basin.

Everybody, I don't know how many people, but from the side street up above, seem to have an overflow on their seepage pits and it comes down and comes through this property and out to this catch basin. It is not a recorded pipe. Myself, the present owner, and the new owner have no problem with it. We do not want it shut off or close that down. We are not interested in doing that. For quite a few years, that cleanout overflowed on to Mr. Moran's driveway. He never complained about it, but it was a little bit of a problem and what ended up happening, was that the Oak Tree roots had grown through it. He put a snake through it and repaired the pipe and it flows relatively properly now.

It is kind of an aid to help all the neighbors. We are not sure, actually, we know of one guy that definitely flows to that, but we are not sure of how many other neighbors. It runs all of the time, so it is an overflow. It could be from the driveways. It could be from anybody on the upper side street. Like I said, all 3 parties don't have a problem with it.

DEXTER: Thank you. Are there any questions?

WALKER: One question. How come you didn't center the house on the property? Why is it all the way up against.....?

CHIELLINI: We wanted it more lower side yard, again, with the windows. I thought this house was in the R-20 zone. I didn't know it was in the R-10 zone. So, I had the house set up with 22 side lines and complied with everything in the R-20 zone. So, that is all. If I had more space from what is existing, we could go that way, but again, he was just looking for a rear and more of a side yard.

TEN HOEVE: I have a question, since we are on the topic. Do you have a position or a recommendation with regard to Mr. Chiellini's testimony with regard to that cleanout issue?

MANCUSO: With regard to the first issue, that I thought it was potentially a well, it is interesting that the metal sleeve is a flag pole, so that is fine. With the second issue on the cleanout, I would suggest that we maybe dye test some of the properties behind it to see what flow is coming through the pipe and grant the appropriate easement for it, so it is not eliminated.

TEN HOEVE: So that you can find out, in essence, whose property is being served by it and also create an easement so that it would be binding upon the future property owners to continue to maintain that easement.

MANCUSO: Correct.

SANDLER: Mr. Chiellini, I just wanted to ask the difference in the Floor Area Ratio is roughly, it is not very much, it is what 620 feet.

CHIELLINI: It is the garage.

SANDLER: So I was going to ask you the difference, if you had built the house like, this house in the photo, with the garage on the side, you wouldn't even be asking?

CHIELLINI: No, it is the same thing, if the garage were a side mount or.....

SANDLER: I am just curious, would there be a structure over the garage?

CHIELLINI: Yes, there is master bedroom over the garage. It didn't make a difference. It is just the width of the garage. It has a set of stairs that go from the garage to the basement and there is an inside of stairs in this house.

SANDLER: So it didn't make a difference whether the garage is side facing or front facing, the FAR would have been the same.

TEN HOEVE: Did you intend to present testimony with regard to reasons why the Board should grant the FAR variance?

DEXTER: I do not have an expert this evening, Mr. Ten Hoeve. In the event that the Board is looking for that testimony, I would reserve my right to present one at the next meeting.

TEN HOEVE: It is difficult for the Board to grant an FAR variance, which requires 5 votes, without any testimony as to why the Board should ignore the zoning ordinance and grant the variance.

DEXTER: In that case, I would ask to return with a Planner to present that evidence to the Board.

FLAHERTY: Okay. Are there any other questions tonight, for the Planner or the builder, the applicant, from the Board, or from our Professionals?

MANCUSO: The only item that really remains to be addressed is regarding the tree. You have the very large tree in the front that perhaps, the shade tree committee, could also look at. The applicant stated that he would have an arborist look at the tree, to see if the placement of the driveway over a part of the root system would damage it, or perhaps they could just grind down the roots a bit, and that should be sufficient. But, if an arborist would look at it and submit a report, that should answer the remaining questions.

HOSKINS: I think the tree that you are talking about is a big red Maple. The tree that is in the front.

MANCUSO: I thought it was a big Ash on the left hand side.

HOSKINS: Yes, there is also a big red maple there.

CHIELLINI: That big Ash, the gas was able to be disconnected already. The water, the actual shut off valve for the water is inside the tree. So, we have another issue there, because it is a town tree and they don't know if they can shut the water off for me to do the demo.

FLAHERTY: Did the tree grow around it?

CHIELLINI: It grew around it, so they never had it shut off. Is that the town's responsibility to take that tree down, so they can provide me with a shut off?

FLAHERTY: I can safely say that is the first time we have had that question. So, I don't know the answer.

CHIELLINI: They dug down 6 inches already and they didn't hit it. The metal detector picked it up, but they didn't get down in there. The other option, which even I had spoken on, is probably going to have to come out into the street to do a disconnect there in the street, but they like to disconnect them at the main, and at the same time, put the tap in for the new house, to get the spur, you know, on the inside of the curb and you can do that all in one shot. Gas came behind the curb, went in, even though that was right through the tree, and then they did the disconnect already. So, we are preparing for the process.

FLAHERTY: Mrs. Beer, did you have any comments on the water situation?

BEER: No, but I will check on it.

FLAHERTY: Okay. Can we talk about the soil tonight? Should we continue on?

TEN HOEVE: I think that he is done with his testimony.

FLAHERTY: Okay. Are there, is there anyone from the public who wants to comment on this. Please come on up and you can go first.

BEER: Mr. Dexter, would you let them get to the black microphone, so it gets picked up.

TEN HOEVE: Each one will have to be sworn in and then state your name and address for the record and then you can ask any questions of the people who have testified or say whatever you would like to say.

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?

CUSHMAN: I do. My name is Megan Cushman and I live in Rocky Hope, Connecticut at 197 Woodhill Crossing. My nana is in the gallery and she is at 154 Pascack Road. She is 86 years old.

FLAHERTY: Where is that in relation to the application?

CUSHMAN: I believe that the lot is 11 and she is number 7. She has this little piece of property that is adjacent to the back corner of the property. After speaking to many people today, and looking at her surveys, it was suggested to me that I come and let the Board know that there may a boundary discrepancy between this particular lot and her lot. It looks like there is a boundary discrepancy based on her surveys from somewhere between 2 and 4 feet, from what she believed.

There is a fence in the new current survey, which she believed is on her property, which they are saying at this point, that it is on their property. Unfortunately, I drove down from Connecticut yesterday, saw the information for the first time and was told that you can't get copies of anything in New Jersey for 7 days, so I do apologize for not being aware that Connecticut and New Jersey are not the same, but we would ask for more time to look in to where the boundaries are and how that does effect my nana's property in terms of the water flow and the drainage because that is a really swampy, messy problem back there by the fence.

TEN HOEVE: First of all, this will be continued to next month's hearing because they are going to have additional witnesses testify, so you will have an opportunity to come in and present additional evidence or testimony at the next meeting, which will be held on July 20th, at 8 o'clock.

CUSHMAN: Okay.

TEN HOEVE: If I understand you correctly, you are saying that you think the information contained on the survey that was submitted, is incorrect?

CUSHMAN: That is correct. I do have copies. I don't have enough for everyone, but I do have a copy of her 3 surveys. One was done in 1951, and one was done in 1972, I believe, and one was done in 1994. The original survey does match the original warranty deed that my nana received. So, there might be a discrepancy of, it looks like somewhere in range of, from wherever their property ends, my nana thought she had a little property on the other side of the fence, and when the surveyed, they put the posts on the opposite side of the fence. So, 2 to 4 feet is my guess. I am not a surveyor by any means, I am just the granddaughter who got involved.

FLAHERTY: Okay, 2 or 4 feet back, and is this kind of this part jutting out, 2 or 4 feet back and how wide?

CUSHMAN: The entire width of that piece, which isn't even on her survey, so I don't know how wide it is, because her survey is the straight back map that you see here.

So it is, I would guess, about 12 feet or somewhere in there, that whole back piece that is on that survey.

FLAHERTY: It looks like it is about 30 feet, or just shy of 29 feet.

CUSHMAN: About 29.98 according to their records.

RAMAN: That metal shed is there right now?

CUSHMAN: There is a metal fence.

RAMAN: The shed is on the neighbor's property, I believe.

CHIELLINI: Who is the engineer on your

TEN HOEVE: You are saying that the whole section.....let me ask you the question. I thought that you said that your survey shows it as being a straight line across and that piece of property that looks like it is about 12 feet by 29 feet is shown on your grandmother's survey as being her property?

CUSHMAN: The straight line back, according to what my grandmother believes the survey says, is that it is a straight line all the way up the property, that includes on her property, the fence.

TEN HOEVE: Did you understand my question?

CUSHMAN: I did, and I am not sure that I can clearly answer it at this point in time other than to tell you that the 2 feet of property between the fence and this is a straight line back. So, I don't believe that it goes all the way, if that is what you are asking me at this point in time. I believe that it only goes to the opposite side of the fence. Is that clear?

TEN HOEVE: I think I understand what you are saying. The bottom line is that, well, I can't give you legal advise, but some suggestions would be to try and have a surveyor do a survey to show what the current condition is and or, to perhaps have your surveyor speak to the engineer for the applicant and see if they can address the dispute that exists. That might be the best way to resolve it quickly. You have a month to do that.

CUSHMAN: Right.

CHIELLINI: I don't know if your surveyor was Azzolina and Feury, but they already spoke with Azzolina and Feury because the area was very messed up. Everything that was pulled from Pascack Road up, made things work, but when they had to tie in the entire block, to make everything work, we had to work everything out with Azzolina and Feury for us to get the proper map. So, I don't know who the surveyor was.

CUSHMAN: The surveyor on the most current map, is Robert Reitsemals, Licensed Land Surveyor, dated July 10, 1994.

TEN HOEVE: This is a problem that, obviously, you need to correct as well, because you will never be able to purchase the property and build a house on it and sell the house, because if there is a title defect, it is not going to be insured, particularly when you know, now, that this problem exists.

DEXTER: If there is a problem, which we dispute.

TEN HOEVE: Well, there is an allegation that there is a problem, so I am saying that it is in everyone's interest.

CHIELLINI: She should get her own surveyor and introduce her surveyor to our surveyor and let them talk.

TEN HOEVE: I am just making suggestions. I am certainly not telling you to do that. The Board is not telling you to do that. I am just trying to work out the quickest and easiest way to address the problem. I think that if all the experts speak to one another, that is the best way to do it.

CUSHMAN: Absolutely. Thank you for your time.

FLAHERTY: Thank you Ms. Cushman. Is there anyone else from the public?
Sir.

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?

COOK: I do

TEN HOEVE: State your name and address please.

COOK: Edward Cook, Jr., 7 Lakeview Avenue, Park Ridge. I believe that I am Lot: 1103, on your plan.

TEN HOEVE: Block: 1103.

COOK: Block: 1103. I guess my only concern is, I mean I have lived in this address since 1978. I remember this issue with this catch basin on the south corner of the property. To my knowledge, there is some sort of an underground spring in the back property. I think maybe where this young lady was speaking about. I recall that it has been piped into that catch basin and that thing runs all of the time. Before that was done, the water used to come across Lakeview Avenue and almost go into my driveway, which is a little bit further south. The water used to go in there and freeze in the winter time and there was some work done with regard to piping this thing into this catch basin. I just want to make sure that the drainage situation isn't going to change as to what it is today.

FLAHERTY: So as far as you are concerned, it is working.

COOK: Right now it is fine. When I hear that you are going to remove a lot dirt and play around with catch basins, it get me, you know, I have a bit of a concern.

CHIELLINI: Yes, they want us to manage all of our water on site. We are going to have the same overflow into that catch basin. The Moran's and I have already repaired the tree that broke that pipe, because for years that same water that you are talking about has been going down his driveway and causing the icing, but he never complained.

So, I found it, dug it all open and repaired it and a neighbor from up top, his seepage pit is coming down through there. From what he gathers, he has seepage pits, but there is never any water but that could be leeching into your valley that you are talking about and your grandma's property and then there could be something out in there that we don't know that is feeding it. So, we are trying to be neighborly and keep it open.

TEN HOEVE: Mr. Chiellini, I think you heard the Borough Engineer's recommendation is that certain testing be done to make sure what properties are being serviced by that and then that an easement be prepared so that any owner of the property from this time forward would be obligated to maintain that current system.

R. L. Engineering has significant expertise with regard to drainage issues and I am sure that they will be able to look into that. Is that correct Eve?

MANCUSO: Yes.

COOK: One other comment for a point of information, and I think that George Mehm will understand what I am talking about, there is some real heavy duty 26 KB

lines that run up that street, that you have to be real careful with those, if you start playing around with big trucks in there. I think that George will testify to that also.

FLAHERTY: These are power lines above.

COOK: Yes, yes, 26 KB. They go up, right up Lakeview.

FLAHERTY: Your concern would be like a dump truck or something.

COOK: Well, yes, I mean we have already had some cables get knocked down from Cable TV. It is a big cable that probably services a lot of homes up in that area, so it is something that you want to be conscious of.

FLAHERTY: Thank you Mr. Cook. Is there anyone else in the audience. White shirt please.

AUDIENCE MEMBER: Bear with me, I am slow. I am 86 years old. I need help to get up. I just want to say something. That road and that property on that lot effect an awful lot of people and there has over the years repeatedly been water problems and I have had to pay for them. I can show you checks you wouldn't believe. I would just say that right now we all get along. We have no problems. To me, I don't, my neighbors haven't told me. I was surprised. I got your letter and I couldn't believe. No one ever said a word to me. So, what do you do if people don't talk to you? Okay this is it, bye, bye.

FLAHERTY: Thank you.

TEN HOEVE: 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?

HANSEN: I do

TEN HOEVE: Name and address please.

HANSEN: Larry Hansen, 18 Lakeview Avenue, the next house up from 14. I have 2 concerns. I have a fieldstone wall in the driveway right now, where the driveway is. When they dig up the driveway and the curb, I am worried about any damage being done to the fieldstone wall. So, that is my one concern for that.

The other concern is that I am not sure what is going to happen when the garage comes out for that section because the wall sort of stops there and the garage is down about 2 or 3 feet from there.

CHIELLINI: There will have to be some retaining there.

FLAHERTY: You are next door? I was there today and I did see that rock about 2 or 3 foot high wall.

HANSEN: It is higher in the front and it gets lower towards the back. Before it meets the garage, it is like a foot high.

FLAHERTY: Is that your wall?

HANSEN: I believe that it is yes.

DEXTER: Mr. Chairman, the plan reflects a low landscaped retaining type wall, pretty much mimicking where the back wall of that existing garage is, to maintain slope so that there will be no runoff or no sloping of the soil on to property and so forth. We tend to maintain that grade back there after the removal of the garage.

TEN HOEVE: Mr. Hansen, if any damage is done to your property as a result of construction, the fact that the Board gave him approval to demolish it or put up a new

house, doesn't relieve them of any obligation to pay for any damage that they cause. They are responsible if they do anything.

HANSEN: Very good, thank you.

FLAHERTY: Is there anyone else from the public. Okay.

TEN HOEVE: 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?

RAINE: I do.

TEN HOEVE: Your name and address.

RAINE: Patrick Raine, 8 Lakeview Avenue. I can share any information you want about that one pipe that seems to be quite a concern for me and then for others here. As to the wall, and I am sure that Mr. Chiellini would attest to, I said I wanted to try to keep the wall. It runs almost the length of the block, or half the block, across 2 or 3 properties and I thought it made a nice, it made the block look nice from an aesthetic character point of view. So, I said if possible, I think we should try to keep the wall in tact, not only for what it does functionally, but just from an aesthetic point of view.

Clearly, I have a vested interest. I am going to eventually being selling my current home to what will be my new neighbor. The other thing, as far as the lot difference is, I learned, as well, when Mr. Chiellini first bought the property and had a surveyor come in, he told me in one afternoon, basically, I lost 2 feet from my current home, but is gaining 2 ½ half in the potential new home. The surveyor came back and said that basically the whole block seems to be a little bit out of sorts.

So, I can understand what 154 Pascack said when there might have been some discrepancy. The house that I am in now, I bought in 2002, so there was a survey done in 2002, and it didn't match up to the most recent survey that was just done 3 months ago.

As to the pipe, in April of '07, when we had those bad storms, I ended up taking about 500 gallons of water out of my basement because as the block sits, I am down hill from this pipe, so it poured down my driveway and then it continued towards my house and into my basement. I went to the DPW to try to get a handle on this pipe, because they said that there is a heck of a lot of water coming my way. He looked on every grade chart that he said he could find, and it didn't appear.

The best that he could do, is he gave me was he dropped a sump pump down this pipe. He went to the Fire Department and we got like a 50 foot length of hose and attached it to this pump. It pumped for 6 straight days. The hose was fully extended the full 50 feet down into the catch basin at the end of the driveway. That was the amount of water that was coming out through this pipe. I could not believe that this pipe was only taking water from one house.

I don't know what it is hooked up to. There are rumors that there is an underground spring. I once walked around the whole neighborhood to see if I could find another storm drain that somehow could have been bringing water into it. I didn't find anything and I know that Mr. Chiellini did the same tour and he couldn't find anything. I don't know what it is but there is a lot of water coming down. Again, whether I am in 8 Lakeview or 14 Lakeview, I clearly have vested interest in making sure that the drainage of the entire block gets taken care of properly.

FLAHERTY: Okay, it is an interesting situation in that you are moving next door and you would want to maintain neighborly relations with your new, the person who buys your home. You are comfortable with what the plan is, with the result of what is going to happen to your old home?

RAINE: How did I get here, again, my wife said "I would like an extra bedroom, a pantry and enlarge the bath upstairs, and I want to live on the West side of Park Ridge".

So, not looking for a lot and the next thing you know, another friend of mine in town calls and says, "Hey my neighbor is a builder and I think he just bought the property next to you. You should give him a call."

We met, he showed me the house, and he said look, there are 6 more houses around town just like it. I said well it is a nice looking home. It doesn't seem extreme relative to the size of the lot. The lot I will be buying is a little bit bigger now, and I said, you know, this sounds great. What can go wrong? It seems like there is all kinds of stories, with this property.

I don't think, from what I understood from the builder, that by going to the side with the driveway, versus a pull in, was a cause of the problem. If it was, I would fix that in a second. I would say, no big deal, we could just pull in. What ever makes everybody comfortable and happy, I am fine with. I just want to do what is best for everyone.

FLAHERTY: Thank you. Questions or comments from anyone?

MARTIN: Mr. Chiellini, you said that you did some maintenance on this pipe. Can you go a little more in detail about that.

CHIELLINI: Yes, we did snake to find why the water was bubbling up out of that cleanout, so obviously there is a blockage somewhere. So, we sent the snake in and measured how far the snake was in, and they couldn't go any further. We dug it open at that spot, the pipe is only down like 8 inches, and sure enough when I opened it up, the tree roots had grown right through over a period of years. The dirt fell into it. It was still letting a little bit of water out, but most of the water since 2007, was coming out of that across his lawn and coming down his driveway and in one afternoon I cleared that whole problem up for him. Now, if you go there, it doesn't flow all the time.

FLAHERTY: When was that when you cleaned it.

CHIELLINI: About 2 months ago.

FLAHERTY: We have had some rain recently, has there been any problems.

RAINE: There hasn't been any issues. The woman who had the house, she was very old, and the last thing that I want to do go to some elderly woman and try to explain, hey you got some pipe on your lawn that is causing me a nightmare. It was fine. So, then Lou said lets figure this out. He repaired it and for the past 3 or 4 months with all the rains, we didn't get a drop of water in our basement and no trickle down the driveway.

FLAHERTY: Okay. Thank you for your time. Are there any other questions? Is there anyone else from the audience tonight? Okay, thank you.

CASE: 10-07 Block: 503 Lots: 8,9	Application of <u>Lollipop Day Nursery School</u> , 67 Spring Valley Road for modification of prior approval to enlarge garage, move sign and change trash enclosure fence in an R-20 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 5/11/10.
- Item 2 is certification of service dated 6/02/10.
- Item 3 is legal notification dated 6/04/10
- Item 4 .
- Item 5 is the site plan dated 4/22/10.
- Item 6 is the Planner's review dated 6/11/10.

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

FLAHERTY: Thank you, Mr. Walker.

URDANG: Mr. Flaherty and members of the Board, Elliott Urdang, representing the applicant. This is essentially an application for amended site plan approval that has 3 aspects.

One concerns the existing sign that has been in place since 1998. The County now requires that it be removed from the right-of-way, as is their right, so what we are doing, is taking that existing sign and moving it out of the right-of-way and turning it so that it is parallel to Spring Valley Road rather than perpendicular to Spring Valley Road.

The second aspect is a change in the nature of the enclosure around the dumpster. We are changing it with the Board's permission from brick to board on board. There is a detail of that board on board fencing. The dumpster area is in the same locations. It is not being enlarged and it will be adequately shielded by a board on board fence.

The third part of the application deals with the addition of a 370 (I think) square foot area, paved area, immediately to the north of the garage. Mr. Chairman, what you read is what this applicant is about, is a little bit in error. There is no change to the garage, except that it is being made smaller. There is a paved area being added just to the north of the garage. I think that it is 372 square feet. That is what this application is about.

I don't think it makes any sense for me to go into it any further. We will have one witness, and that will be Andrea Piazza, who is our Engineer. Unless the Board has any procedural questions, I will proceed.

FLAHERTY: Again, just for background. I am sorry I don't remember, there was a paved area by the garage approved?

URDANG: No. We are adding it. That is why we are coming back.

FLAHERTY: So, you are not just enlarging a previous one, you are trying to get one approved?

URDANG: We are enlarging the paved area, so essentially, we are amending the site plan. It wasn't shown on the prior site plan. I was simply correcting the statement that we were enlarging the garage. We are NOT, in fact, the garage is being made slightly smaller.

ANGELILLO: The professional will clarify why it is necessary.

TEN HOEVE: What is the purpose?

URDANG: The purpose of it is twofold. One is to provide an area so that snow, accumulated snow can be pushed off. The circulation pattern is different from what it used to be. There is now a drop-off/pick-up lane, and the parking, I think that there was a slight variance for parking, but, essentially what we are trying to do is to move it out of that circulation pattern and not use up parking spaces. So we are trying to push the snow off of it.

The other purpose of it, would be if every once and a while, there is a large delivery. It would be a place where it could be dropped out of circulation, and right next to the garage, where the supplies would be stored. Whatever pallet or anything that was dropped of would be cleared up that same day. It is not going to stay there. It is at least as far away from the rear property line, which is heavily landscaped, as is the garage. Of course, being just paved surface, it is a flat plain and there is no height to the structure.

All of this will be gone into by Ms. Piazza. Are there any procedural questions, or should I just proceed with her?

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TEN HOEVE: Would you 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?

PIAZZA: I do.

TEN HOEVE: Please state your name and professional address?

PIAZZA: Andrea Piazza, 214 Fair Lawn Avenue, Fair Lawn, New Jersey.

TEN HOEVE: Thank you.

URDANG: Ms. Piazza, are you a licensed Engineer in the State of New Jersey?

PIAZZA: Yes.

URDANG: Have you previously testified before this Board and been accepted as an engineering expert?

PIAZZA: Yes.

URDANG: You are familiar with the site environs?

PIAZZA: Yes.

URDANG: You prepared the site plan which is presently before the Board?

PIAZZA: I did.

URDANG: Let us talk first about the sign. Can you tell us what is being proposed with regard to that sign?

PIAZZA: Yes, as part of the County approval, Bergen County Planning and Economic Development asked us to move the sign out of the County easement area. So, we are simply relocating the sign. It is currently perpendicular to Spring Valley Road, and we are going to make it parallel and pull it out of the right of way. The approved sign was a building mounted sign. Originally we planned to remove the sign from the ground completely and mount it on the building and now we have decided to turn the sign instead of removing it to place it on the building.

I do have pictures of the sign.

URDANG: I take it that there is no change in the existing sign and that you are simply moving and turning the existing sign.

PIAZZA: On the plan we are moving it and turning it parallel. That is correct.

URDANG: We do have a picture of the sign. We offer this as A-1.

TEN HOEVE: I think that there have been some documents marked already. So the next one.....

WALKER: Item 7.

URDANG: Do you want me to mark it?

TEN HOEVE: Just give it to the secretary.

SANDLER: Ms. Piazza, when you were talking about the sign, originally, on the plan was supposed to be on the building itself? Wouldn't that be parallel as well?

PIAZZA: It would be. But, we plan to actually mount it on the building, as opposed to leaving it on the ground. So, we didn't show it on the site plan because it was going to be building mounted, as opposed to a ground sign.

We decided that instead of mounting this sign on the building, that we would prefer to just leave it on the ground. But, we can't leave it where it is because the County wants it out of the right of way. So, we are going to turn it parallel to the County right of way and just move it just outside of that easement area.

SANDLER: That would just be for, obviously, better visibility from the street for people to know?

PIAZZA: That is correct. It is basically in the same location on the site, but we have to get it out of the County easement area, so we are turning it and pulling it back just a few feet. It is a minor change, but it is enough of a deviation that we felt that the Board should have the opportunity to review that change instead of dealing with it in an "as built" survey situation.

URDANG: Have you examined the sight distances?

PIAZZA: Yes, the sight triangles are shown on the plans. The sign is outside of the required sight triangle.

URDANG: The enclosure around the trash area, can you tell us what is involved in that?

PIAZZA: Yes, we are simply just changing it from a brick enclosure to a board on board fence enclosure. I am not even sure if that would require Board approval, but it is just something, we didn't want to make changes to the approved site plan without coming back to the Board.

TEN HOEVE: Why is that being changed?

PIAZZA: It is just an aesthetic difference. It is just a difference in material. It is the same height, same location, same size, just instead of brick, we are going to board on board. Some people think brick is more aesthetically pleasing. Some people think wood blends into the environment. It was just a change in the aesthetic, but we felt that the Board should be aware of that, rather than build it board on board and then have that come forward.

URDANG: Actually that is what the Board originally proposed. The Board proposed board on board and we contemplated brick, but we are going back to board on board. Is there a detail of that shown on the detail sheet?

PIAZZA: Yes. Sheet C-6 has a detail of the board on board fence.

URDANG: I just have one question. Is there any illumination on the sign at night? There is no spotlights or anything on the sign is there?

PIAZZA: No, it is not illuminated and we propose it to be non-illuminated.

URDANG: This is actually the sign that the Board required way back when in the midst of time. Mr. Angelillo had proposed retaining the original sign in the shape of a lollipop. The Board said that it wanted a monument sign. That was really a result of that.

Let's turn to the third aspect, the paved area to the north of the garage. Can you describe that please?

PIAZZA: Yes, again, we are proposing a small paved area 12 feet wide by approximately 20 feet deep, immediately adjacent to the garage area, to allow us to have an area for snow accumulation. You know, we have had some rather severe storms this

past winter and we felt that we should have an area on the site that is not on the grass, that we can pile the snow and not take up a parking space. Again, this is something that could have been shown on an “as built” survey, but since we received a variance for coverage, and it is just a half of a percent. It is actually .45% increase, so it doesn't change it even by a percent, but I had, when we requested the variance, I had asked for a variance for 46.7% instead of 47%, so rounding it up, so just with rounding, it would be the same if we had asked for the 47% variance. We want it to be clear and we don't want to have a situation where we submit an “as built” survey with coverage 372 square feet more than what was approved. So, we wanted to come back to the Board and show the difference since it is 372 square feet more than it was shown on the original site plan.

URDANG: Right, but the difference between what was previously approved and what is being sought now, the 372 square feet translates to 4/10 of one percent.

PIAZZA: It is less than a half of a percent.

URDANG: Can you tell us how far from the rear of that paved area to the rear property line?

PIAZZA: It is about 90 feet from the rear of the paved area to the rear property line.

URDANG: Can you characterize the foliage that is on the rear property line?

PIAZZA: Currently we have dense evergreens throughout the property and with the approved landscape plan, we will have even more plantings throughout the property to provide screening to the neighbors.

URDANG: Now, with respect to, you had said before, I believe, that this was an appropriate place to put this paved area. If you didn't put it there, would it interfere with either the circulation pattern or with the parking with the amount of parking spaces?

PIAZZA: If we have a large accumulation of snow, we would have to either put it in a grassy area, which could be a nuisance or we would have to take parking spaces up. If snow is allowed to accumulate within the drive aisle, that would prohibit vehicles from easily maneuvering, which was the whole purpose of this plan, to provide queuing and maneuvering, so that cars don't back up onto Spring Valley Road.

URDANG: Would you point out to the Board what you mean by the queuing line?

PIAZZA: Yes, as you enter the site from Spring Valley Road, we have long drive that curves to the west and around the back of the parking area and there is a drop-off area along the side of the existing school building.

URDANG: If that queuing drive were interfered with, would it have any impact on Spring Valley Road?

PIAZZA: Yes, if we had to pile snow, obviously, in the driveway, then you would eliminate that queuing, which is the benefit of this plan. So, we wouldn't want to have any piles of snow interfere with that drive line.

URDANG: Is it intended that the same paved area would be used for the dropping of larger supplies?

PIAZZA: Yes, there are supplies that are delivered and this would give us a staging area. Nothing would be left there overnight. It would just be a staging area during the school day so that supplies could be left without interfering with the parking or the drive aisle until it is moved into the garage, which is used for storage.

URDANG: Can you give us an idea of how often, how many times, a week or a month, there would be that type of delivery where it would have to be left on a paved area?

PIAZZA: I am not totally familiar with the functioning of the school, but through the testimony preparation for this application, I was told that it is infrequent deliveries and they are never left over night. It is just a matter of a couple of hours.

URDANG: I have no further questions.

PIAZZA: I am in receipt of a memorandum from Burgis Associates dated June 11th, 2010. I just wanted to comment. There are 5 items on page 2 under Section 2, Proposed Development. Item A, I stated the 372 square feet and we agree. That is 372 square feet, but I believe that there is a typo, it says 4.6%, it should be 0.45 percent. 372 square feet is less than a half of a percent

TEN HOEVE: Ms. Piazza, how do you get the 372 square feet? You testified that it is about 12 by 20, the area. Is it because it swings out there and there is a little larger area?

PIAZZA: Yes, it is an irregular area. There are a few changes, the garage, when the working drawings came in from the architect, for the garage, that was actually made slightly smaller. So, that went from, the approved plan was 1001 square feet of floor area for the garage, and we are proposing 988, so that is a slight change. There is a 6 foot by 9 foot generator pad, adjacent to the garage, that is 54 square feet.

TEN HOEVE: Oh, okay, that is included in the impervious coverage?

PIAZZA: That is included in the impervious coverage. Again, that was something that a permit was issued for, but I wanted to include it on the plan so that it was clear and not have the areas.....

TEN HOEVE: Okay, I understand.

PIAZZA: Item B, regarding the sign it is outside of the sight triangle, as I mentioned. I do have the sight triangle indicated on my plans. Fifteen feet back from the driveway there is a diagonal line indicating the site triangle that is required.

Item C, the generator pad, I have to apologize, I made a drafting error and I would like to blame it on someone else, but I did this revision myself. I will remove that, it is a drafting error. There is a generator pad, shown in the play equipment area and that is just my mistake. So, I apologize to the Board.

URDANG: There is one generator pad and it is not in the play area.

PIAZZA: It is not in the play area. Again, I apologize. Section D, the trash enclosure, I do have a detail on sheet C-6, number 12. I indicated that earlier in my testimony. That is the detail of the trash enclosure board on board fence. It is labeled dumpster enclosure detail. That was added to this plan.

I think that is it. There is no comment on Section E. That is all.

URDANG: I have no further questions.

FLAHERTY: Are there any questions from the Board members?

MARTIN: I have a couple of question for Ms. Piazza. You may not have this knowledge, but as to the sign in its current position, why was it placed in the County right of way to begin with?

PIAZZA: That is exactly what the attorney asked me. I wasn't part of the application in the 90's, so I can't answer that.

URDANG: I can. The same application that was submitted for site plan approval here showed the location of that sign, was submitted to the County. The County at that time, raised no objection to it. It was put in, I believe, in 1998. Why are they raising it now? I don't know, but it is certainly their right to raise it, so we are simply complying with their requirement.

MARTIN: Was there a specific reason why the decision was made to not put it on the building and to go back to a monument sign?

PIAZZA: I don't recall the rationale or even the conversations that led up to that. How it went from the ground to the building and then back to the ground....

URDANG: It was because the building is further back, and they were using the same size, so it was felt that it was a better visibility by keeping it closer to the road. That is all that indicated that.

MARTIN: As far as the trash enclosure, is there something wrong with the existing trash enclosure, that is warranting its replacement? I mean, me, I would ask the basic question if it ain't broke, why fix it?

PIAZZA: It doesn't exist right now, we are going to build a new trash enclosure. We are not changing the location. This is site plan that was approved. It hasn't been fully constructed. Some of the work is under way. But, we felt that these few modifications should be brought to the Board's attention prior to construction for approval.

MARTIN: My last question with regard to this little area where you are proposing to accumulate plowed snow, has any attention been paid to what happens when that snow begins to melt, where that water is going to go?

PIAZZA: Yes, we have an inlet right in front of the garage, on the proposed drive. So, it will melt right into the paved area and then it will go down into the drainage system.

MARTIN: A moderate to severe snow fall, you are telling us that the snow is going to fit there.

PIAZZA: We originally had it larger. We made a few revisions to the plans, 2 or 3 revisions to the plans. We had a large paved area around the time of the snow, and then you know, Spring comes, and you think maybe we don't need all of this area, lets make it smaller. It would have been nice to balance it completely, so that we didn't have any change in the impervious coverage, so we tried to minimize the area, so that we would have less increase in coverage, but still have an area to provide snow storage and material storage just for staging.

SANDLER: It is a supplement to what you would be doing normally, right?

PIAZZA: Right.

SANDLER: You are still going to have to move snow on the grass, but you just don't want to have to ruin the turn around for the people coming in and out?

PIAZZA: That is correct. We would like to be able to get the snow out of the parking area to a paved surface, for most of the snow storms. I mean, of course, we are not designing it for a blizzard. We would like to have an area to store the snow outside of the parking and drive aisles.

RAMAN: Have you considered using grass pavers. I don't know exactly what the term is, but you actually plant grass within a modular concrete block, so it kind of gives you some aesthetics. I don't think it counts as impervious.

URDANG: Doesn't it count as impervious?

MANCUSO: Not all of it, you get a percentage.

PIAZZA: It doesn't take well to plowing though. You normally need to have it sprinklered, if you want the grass to survive. If you look in many area that are used with any frequency, you will see that the grass pavers and there is dirt or gravel in between, they are terrific for fire lanes, that aren't used very frequently, because the grass is allowed to grow. But, if you see anyone in a driveway or a drive aisle that has them, if there is anything placed on it for any length of time....

TEN HOEVE: I thought that this was going to be used only when there was a snowfall.

PIAZZA: Right, it is for snowfall and it is also for staging of material.

TEN HOEVE: Is that a frequent activity?

URDANG: No. The testimony was that it wasn't.

TEN HOEVE: That is my question. That is what I don't understand, you said pavers work fine as long as it is not an area that gets heavy use. So, if it only.....

URDANG: She said that it is difficult to plow. When there is snow or when there are supplies there.

PIAZZA: From an engineering point of view, I don't think it is a good application of it. We try to use pavers, I am not a huge fan of the grass pavers, because I rarely see grass pavers that look good. You usually see them because there is not grass in them. So, it is very difficult to be successful with grass pavers in this area and the climate that we have.

If they are fully sprinklered and nobody is plowing on them, maybe. But the intention is to plow the snow up on to this area, so, the plows will be scraping along the top.

FLAHERTY: I am just curious, are we even able to see this spot from the street and or see the property adjacent and see the landscaping that is right behind it there?

PIAZZA: I think that it is really an insignificant increase. I mean it is less than a half a percent. If I had originally put the zoning schedule at 47%, instead of 46.7%, we wouldn't even be here. I felt that my advise to my client was that we should

FLAHERTY: Is it something that would be, all I am saying....can you see it from the street? Is it an eyesore?

PIAZZA: It is not an eyesore. It is on grade level. It is not something that you can, you would even pick up. You probably wouldn't even know that we did it if it was done. We just wanted to be forthcoming and have the numbers match when we do the "as built" survey.

URDANG: How many feet is it from the front property line?

PIAZZA: I have to get my scale, but it is at least 150 and maybe 180 feet. I can give you an exact dimension. But, we are talking about quite a distance from the front, It is a very small area.

URDANG: And it is at least 90 feet from the rear property line?

PIAZZA: That is correct.

FLAHERTY: Okay, any other questions from the Board or the Professionals?
Okay.

BOGART: About the impervious coverage, you had mentioned that there was a typo in my memo, but I was following the resolution of approval that I have, and on page 7 it says that you were approved for impervious coverage of 42.7%.

PIAZZA: 42.5% is the coverage on Lot 9, 46.7% is the impervious for the entire property. We are not changing the coverage on Lot 9. That remains at 42.5%.

BOGART: The resolution does not differentiate.

PIAZZA: I brought a set of the plans from January 3rd, 2008, because I thought that it might be good to have the actual approved plan. There were 2 revisions since then. Both required by the County. One for the sidewalk on Spring Valley and one for some changes to the one-way and do not enter sign.

BOGART: I don't see where the resolution differentiates between the lots.

TEN HOEVE: Which paragraph?

BOGART: Paragraph B of page 7.

PIAZZA: This is the revised plan.

TEN HOEVE: It could be just an error in the resolution if that is referred to one of the lots, and not the overall.

PIAZZA: I did bring a signed and sealed set of the approved plans with the zoning schedule as it was presented.

BOGART: I just want to make sure that we have the correct numbers.

PIAZZA: I can give you this set if you need to have it to check it with the resolution.

BOGART: With regard to the dumpster enclosure, can you just add language to the plan that says that it will be 4 sided.

PIAZZA: Certainly. That was our intention. We don't try to be tricky.

BOGART: I understand that. We have had applications like that.

PIAZZA: I only do generator pads in play areas, I don't do one sided enclosures.

BOGART: In regards to the sign, I was wondering why you were turning it parallel to the road.

PIAZZA: Oh, just so that it is not so far from the road. It can be closer if it is parallel, because we have to get out of the easement area.

BOGART: It just seems like it would be more visible perpendicular to the road. The second part of that question is, do you know if there was a variance granted for the original sign? The ordinance requires a 10 foot setback.

URDANG: The original sign was actually required by the Board. As I said before, originally we wanted to keep the sign that was shaped like a lollipop. The Board wanted a monument sign, so that was the sign that was approved at that time. I don't know if it required a variance, but a part of the site plan process was that was what the Board wanted.

BOGART: Right, I think, technically, if removing the sign, it is on the property line at this point, the variance would still be required.

TEN HOEVE: Unless there was one that was granted previously. I don't know that either.

BOGART: Okay. Just for your clarification, Section 101-37H, which requires a 10 foot setback.

URDANG: Well, if a variance is required, I would ask that it be included in this application. There was sufficient language in the notice that we furnished, the implementation of the plans, such variances as may be required.

BOGART: Those were my only comments. I still think that it may be more appropriate to have the sign perpendicular to the road. But, if the applicant wants it parallel.....thank you.

FLAHERTY: Is there anyone else on the Board have any questions or comments? Okay, is there anyone from the public with a question or comment?

TEN HOEVE: 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?

CORNELL: I do.

TEN HOEVE: Thank you. Please state your name and address.

CORNELL: Ed Cornell, 60 Spring Valley Road, Park Ridge, NJ. I won't take much of your time, but, I had sent another letter to Nick Saluzzi, back on April 15th. I don't know whether he shared it with you or not. We met with him at that time.

TEN HOEVE: No.

CORNELL: I will leave a copy of it with you. But, I am going to address the titles of what we questioned.

TEN HOEVE: We wouldn't accept letters anyway, because the applicant has no opportunity to cross-examine someone who sent a letter.

CORNELL: We are not really criticizing except for just a couple of items that we believe need your attention.

TEN HOEVE: Why don't you highlight those?

CORNELL: I will highlight. First of all, the sign, since that is what we are really here for. We have no problem with that. As a matter of fact, it was one of the items here where we said it should be turned. It beats that lollipop.

TEN HOEVE: It is probably better than a sign on the building.

CORNELL: That smiles at me every time I go home. One of the biggest problems to me, 60%, but to my neighbor across the street facing it, she sees this huge storage bin, storage shed on the back of Angelillo's property, Lot 7.

Now, it was moved on the date that the crane first arrived on the site to do the parking lot. It was picked up with a crane from Lollipop's property and put on Angelillo's mother's property, and she doesn't even live there anymore. We believe that she doesn't live there anymore. The people that moved in the little red house are living there now.

We see them come out with the lawn mower everything and they are not using this huge shed. We believe that it is being used for the Lollipop. That sounds to me, a little experience I have had with Zoning Boards, and what have you, it is an expanded use of the variance. If he stores anything there it is not within his rights.

We are mainly concerned, that is the biggest thing right there, we want that off there. It is a huge thing. It is about, you could park 2 cars in it, I am sure. The other main thing, I am going to such on some of things, the drainage is of concern. We saw that he has a magnificent system on the lot and drainage, I guess, to the sewer that is right in the front. However, there is a lot of water, and I am not so certain it is Lollipop's fault, that runs down to the west end of his property and over to the electric property and it leaves a lake and every time cars pass, the water splashes all the way on my property and all the way on to the electric. I am not sure of it, but we asked him to look into it, that is all.

We are concerned, also, that with this parking lot, we are going to wind up with overnight parking busses and what have you. He built this garage, and we thought it was for busses, it is a magnificent looking garage, as usual, Mr. Angelillo does a fine job when he builds something and sooner or later it is going to wind up storage if you take away that shed. And, we thing that the shed has to go.

TEN HOEVE: In over 22 years of hearings before this Board, that is the most complimentary objector testimony that we have ever heard in connection with your application.

URDANG: I think we have worn him down.

TEN HOEVE: I think so too.

CORNELL: Well not really, I was going to mention that I haven't seen you people since New Year's, and I was going say Happy New Year.

TEN HOEVE: Can I ask a question? Is the shed you are talking about the one that is on the adjacent property?

CORNELL: Yes.

URDANG: That is a permit issue for that.

TEN HOEVE: Yes, but there was a condition in the original resolution that all shed had to be removed. I am just trying to find out if they were.

CORNELL: That is right.

URDANG: The shed was removed.

TEN HOEVE: But was it removed and put on the other property?

CORNELL: It was put on the other property.

URDANG: He put it on Lot 7.

CORNELL: He has his hoses and everything hanging on the outside of the shed and it is up on a pedestal.

TEN HOEVE: Was a permit obtained to do that?

URDANG: Yes.

CORNELL: Our main concern is that it is being used for Lollipop service.

TEN HOEVE: Is that the case?

URDANG: No.

CORNELL: We have seen the stuff go in. The woman across the street from me does a lot of looking at it because she sees it from her bedroom and everything and she is not to happy that she bought the house in the first place.

TEN HOEVE: Are you going to present testimony with regard to that?

URDANG: It is not part of this application is what I said.

CORNELL: You remove a shed like that, pick it up and put it on the neighbor's property?

URDANG: Yes and a permit was issued for it. It is not part of this application. If Mr. Cornell has a problem and Mr. Saluzzi has a problem, we will address it with Mr. Saluzzi.

CORNELL: Okay. I sent the letter raising the question and I thought that the Board should know.

FLAHERTY: This shed can fit 2 cars, is this the one that you are talking about?

CORNELL: It is about 25 or 30 feet, I would guess. It is huge, it is not something you find on an R-20 zone.

FLAHERTY: It was picked up with a crane and moved?

CORNELL: It was picked up with the crane the first day that the crane go on the property. I watched the whole thing.

TEN HOEVE: I question whether the Board realized, when the application was heard, that, that was the applicant's intent. To remove the shed and put it 4 feet from the property. Is it 4 feet from the property line?

URDANG: A residential property, which Lot 7 is, is entitled to have a shed. Apparently it conformed with the ordinance, because a permit was issued for it. Whether it was moved by a crane or moved by a wheelbarrow.

TEN HOEVE: That is not what I am talking about, Mr. Urdang. What I am talking about is if the application that was presented and the public perception was that certain improvements were going to be made and certain items on the property were going to be removed, and then it is moved so it is 4 feet from the property line on an adjacent property that is controlled by the applicant, and perhaps being used for the same purpose as before, I wonder if that is frustrating the intent of the condition in the resolution. That is my comment.

URDANG: I don't think that it is, But, if you are concerned about it, why don't you simply say in this resolution that the shed on Lot 7 won't be used in conjunction with the schools purposes.

I mean you are coming in here with something that is extraneous to this application.

TEN HOEVE: I don't think that it is, because I don't think the public or the Board understood that was what was going to happen with the sheds that were going to be removed, that you put it on the adjacent property and only 4 feet from the property line, especially if it is being used for the same purpose.

URDANG: But it is not being used for the same purpose.

TEN HOEVE: I don't know. I have only heard testimony that it is. I have heard no testimony that it is not.

URDANG: It was Mr. Cornell's conjecture. But, if you are talking about what was the understanding of the Board, the Board made it very clear that Lots 8 and 9 were the school and Lot 7 was the residence, to the point where we could not consolidate the 3 lots. We could only consolidate Lots 8 and 9.

TEN HOEVE: That is my point.

URDANG: Well, I understand that, but you are entitled to have the structure there whether it is 4 feet from the property line or not, you are entitled to have the structure there and a permit was issued for it.

CORNELL: Isn't there a size limitation to the shed on residential property?

URDANG: Presumably not if the permit was issued.

TEN HOEVE: There are. There definitely are size limitations, and there are distance limitations and it is obviously not something that was looked into in connection with this application, so I can't answer those questions. I don't even know how big the shed is.

VON DER LIETH: The gist of it was that though that I think the Board was under the impression the shed was going to be gone—gone.

CORNELL: There was a tiny shed removed.

VON DER LIETH: I know removed from the property itself, but I mean like dismantled and gone—done. That is what I think everyone was getting at.

CORNELL: Well, I am just bringing it to your attention.

TEN HOEVE: Can your engineer testify as to how big that shed is?

URDANG: I don't think so. It is not a part of this application.

TEN HOEVE: It is something that the Board is concerned with and the Board may want to look into it. I don't know. The Board will discuss this and ask whether it wants additional information.

URDANG: But, it is not a part of this application, Mr. Ten Hoeve.

TEN HOEVE: You can challenge the determination. I don't know what the Board will determine and if you don't like it, you can appeal to the Superior Court. You know that Mr. Urdang.

URDANG: I understand that, but it is letting the tail wag the dog, essentially that is what is happening here.

TEN HOEVE: If indeed, the Board's understanding was that the sheds were going to be removed and your client took a shed and put the same shed 4 feet from the property line and continues to use it for purposes that the Board didn't contemplate, I think that there is a strong argument that it can be something that frustrates the intent of that resolution.

URDANG: You are suggesting, is that I can appeal to Superior Court, the Board can also institute an action if it feels that its intentions are not being followed. I don't understand this, I really don't. Mr. Cornell comes up with something that is extraneous to this application.....

TEN HOEVE: Are you respond to it or are you going to say, no, I am not. I don't have to and we are not going to present any evidence.

CORNELL: They are going to say no.....

TEN HOEVE: You are entitled to present no evidence in response to that, do you wish to do that?

URDANG: Because it is extraneous to this application.

TEN HOEVE: You are entitled to take that position.

URDANG: And your position is?

TEN HOEVE: I don't know. I don't know what the Board's intent was.

URDANG: I didn't ask what the Board's position. I asked what your position was.

TEN HOEVE: I don't know what the Board's intent was when that was adopted. I think the Board is going have to discuss that. I don't know what it was. I don't know.

URDANG: If the Board should discuss it and feel that it was part of their intent, to the point where it requires additional testimony....

TEN HOEVE: Yes, that is what I am suggesting. You might have to come back and present that.

URDANG: Well, we may have to if the Board takes that attitude. We may say that the Board has overstepped its bounds, that it is not part of this application.

TEN HOEVE: You can take either position.

CORNELL: Do you know my position.

FLAHERTY: Is there anything else Mr. Cornell?

CORNELL: No, that is it.

FLAHERTY: Is there anyone else from the public, question or comment? Okay, I think that we have heard all that we can tonight and, of course, you know the drill. You can call Mrs. Beer in the morning.

URDANG: If you refer to the shed 4 feet from the property line, I don't think that is the shed that we are talking about.

TEN HOEVE: I tried to find that out. I couldn't get answer.

PIAZZA: Could I provide testimony for that? There is a shed indicated on my plan and it is 4.29 feet from the property line. That is an existing shed. That was existing at the time of the application that I presented to the Board and.....

SANDLER: That was not the one moved with the crane?

PIAZZA: No, that is an existing shed.

TEN HOEVE: Is the one that was moved shown on your plan?

PIAZZA: I don't have any information about a relocated shed on Lot 7 and I am not trying to be wise. I don't show it on my plan because I don't

URDANG: That is what I am saying. The application only involved Lots 8 an 9.

PIAZZA: But I want it to be clear that the shed that is shown 4.29 feet from the property on Lot 7, I have overlap. That shed was always shown on Lot 7 in the location that is on the survey.

SANDLER: He thought that was the one moved by the crane.

TEN HOEVE: I raise the question, because it didn't look big enough on your plan to be the one that they are talking about.

WALKER: Has the shed been moved, the one that is was 4.29 feet?

URDANG: Yes.

PIAZZA: I can't testify to that. I am just telling you that the shed that is on 4.29 offset is

TEN HOEVE: Perhaps it might be just a good idea, rather than prolog this, to see what the Board's position is with regard to whether they would like to find out if this shed has been moved, if there is another shed, what the size of that shed is, or not.

URDANG: You know what, lets look at this. I am going to bring Mr. Angelillo on and let him testify as to what the use of that shed is. Is that alright?

PIAZZA: I do have the demolition plan which shows the sheds that were scheduled to be removed and they are dimensionally correct on my plan. That demolition plan is unchanged from the original application.

TEN HOEVE: You can tell us what the size of that shed that was moved then?

PIAZZA: I can tell you what the size of the sheds were that were that were on the site at the date of the survey that was done to prepare the site plan for this application when it was approved January 2008.

TEN HOEVE: Do you know which one was moved?

PIAZZA: They were both removed.

TEN HOEVE: Are they both on that property?

PIAZZA: I don't know where they went.

TEN HOEVE: Well, Mr. Angelillo could tell you that. If you ask him the question, he will tell you. I was just going to let her tell us which shed was moved and how big it is.

PIAZZA: Okay, I am referring to my demolition plan dated April 19th, '06, with revision number 5, July '09, for the sidewalk on Spring Valley. There are 2 sheds to be removed, indicated pretty much on the center of the site and then there is a third shed toward the rear of the property.

I can give you the dimensions on those from this scale. One of them is actually dimensioned 24.3 feet long and it is 14 feet wide. There is another shed that is also 14 feet.....

TEN HOEVE: Was only one of them moved? I can swear you in. 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?

ANGELILLO: Yes I do.

TEN HOEVE: Your name and address please.

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ANGELILLO: Jim Angelillo, 229 East Crescent Avenue, Mahwah, NJ.

TEN HOEVE: Thank you.

URDANG: Can you tell us, on the plan that is early up on the easel, can you tell us what sheds are there on Lots 8 or 9?

ANGELILLO: Right now, there is only one shed that remains. The one shed that in the back hasn't been removed yet, because the garage has to be done before I can empty it. The first shed that Andrea has her finger on, that has already been emptied and dismantled. The shed behind it, right there, number 2, that I moved over to my other piece of property, the residence.

TEN HOEVE: Which one was that?

ANGELILLO: The second shed, 14 by 28.

TEN HOEVE: Is that the one that you described?

ANGELILLO: Yes, 14 by 28, I moved that behind the house that is not involved with the Lollipop.

TEN HOEVE: What happened to the other one that was removed?

PIAZZA: What did you do with the front shed?

ANGELILLO: This shed here was dismantled and removed.

TEN HOEVE: And the third one you plan to dismantle and remove?

ANGELILLO: When the project is done. When the garage is done, I will be able to empty that shed, put everything in the garage and that shed will be removed.

TEN HOEVE: And where did the 14 by 28 foot shed go?

ANGELILLO: That went over to this property here, which is legal.

TEN HOEVE: Do you know where it went on that property?

ANGELILLO: It is in the back here. It is 20 feet, at least 20 feet from the side line and I believe that it is about 30 feet from the back line. This property has a slope. See how this slopes. This continues to slope. It took 20 feet off the shortest distance and ran it across. It is 20 feet from both the back and the side.

URDANG: Was a permit issued for this shed?

ANGELILLO: Yes, it was.

URDANG: Okay, and is this shed to be used in connection, at all, with the operations of the school on Lots 8 and 9?

ANGELILLO: Not when the project is done.

TEN HOEVE: Is it being so used now?

ANGELILLO: I do have the supplies in there, yes.

URDANG: Till the garage is complete.

ANGELILLO: Just like the shed in the back, it is going to be removed when the garage is completed. I can take those things out and put them into the garage. It is the same thing with this other shed.

FLAHERTY: So, let affirm, the 14 by 28, after the garage is done, what are you going to do with the 14, by 28?

ANGELILLO: I am going to leave it there. I am going to leave it on the property. That 14 by 28 shed is on a separate piece of property that really has nothing to do with Lollipop. I own it but it is a permissible use. You are allowed to have a detached building garage or whatever on the property and it doesn't exceed the square footage and it is within the setbacks that are complying.

URDANG: Is it your testimony that once the garage is built, that this isn't going to be used in any way with the operation of the Lollipop Nursery School?

ANGELILLO: Right, there won't be any supplies in there for Lollipop.

TEN HOEVE: What do you intend to use it for?

ANGELILLO: I have wheelbarrows in there, tools and stuff like that.

TEN HOEVE: Wheelbarrows and tools for use by whom?

ANGELILLO: For me whenever, if I need them, at home or wherever. I might use the wheelbarrow from there. My things are going to be in there. The everyday supplies for Lollipop will not be in that shed.

TEN HOEVE: But you don't live on that property. Do you rent it out?

ANGELILLO: I do.

TEN HOEVE: When you say your things, are going to be in there, what do you mean?

ANGELILLO: Any materials that I have, tools basically. I am going to keep tools in there. Lollipop supplies will not be in that shed.

TEN HOEVE: Tools that you use at your home?

ANGELILLO: At home, I could use it at the home. I could use it anywhere. I might have a wheelbarrow in there that I might bring over to Lollipop and use. I mean I am going to have tools and equipment like that in there, not everyday material, that is going to be used at Lollipop.

I mean I have things home in my garage that I use at Lollipop also. It is not going to be storage for Lollipop materials. That is what the garage is for. It is a legal move, or I wouldn't have done it. I got a permit for it and it is permitted. That lot with that house is completely separate from Lollipop.

TEN HOEVE: I have no other questions.

FLAHERTY: Are there any other questions from the Board for Mr. Angelillo? Okay, one more time, anyone from the public, anything else?

CORNELL: Mrs. Shandley, the one that has been pushing this, has pictures that she turned over to Mr. Saluzzi.

TEN HOEVE: If you want us to see them, first you have to show them to Mr. Urdang and see if he has any objections.

CORNELL: I will send him a letter. I don't know where you live anymore.

TEN HOEVE: No, I mean now, you would have to show them to him.

CORNELL: I don't have them here. She was supposed to come tonight, but her son has a fever.

TEN HOEVE: Obviously if the hearing is closed tonight, we can't take any more evidence. I don't know if the Board is going to do it or not.

CORNELL: It is alright, I just wanted to let you know that pictures were taken.

ANGELILLO: I just want to say one more thing. When this project is done, the shed, the fence is going to be replaced. Currently, the fence between Lollipop here, and this piece of property, this fence is down right now, because of the construction. This had to come down so that they could slope this. There is no wall here and when they put the parking lot in, and this whole project is done, this 6 foot fence goes back up. They are not even going to be able to see that shed, once that fence goes back up. It is a shed way in the back. It is 300 feet from Spring Valley Road. So, now it is visible because, I would say 100 feet of this fence is down because of the construction. At the end of this project, that 6 foot fence, a brand new 6 foot fence goes up. It is not even going to be visible back there.

CORNELL: It is sitting way up on a hill.

ANGELILLO: It is my position that it will not, it will be barely visible from Spring Valley Road, when that 6 foot fence is up. You would have to get on your roof and look.

TEN HOEVE: 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?

CREIGHTON: I do.

TEN HOEVE: Please state your name and address.

CREIGHTON: Don Creighton, 99 Greenbrook Place. Just a question or 2 for clarification. 1 or 2 quick questions. The sign, is it the same sign that is just being twisted and it is not a different sign?

ANGELILLO: Absolutely.

CREIGHTON: Okay. The other thing is the shed, the garage, I keep hearing that is for storage. Is it for busses or storage? I thought busses were going to be parked there.

ANGELILLO: I can park a bus in there. I don't have to park the busses in there from what I remember from the original approval. I have commercial shelving that is going to go in there. It is going to be mostly storage.

CREIGHTON: Where are the busses going?

ANGELILLO: I don't have to park them in the garage.

CREIGHTON: The other question that I have while we are here. That platform that they are building now, that theoretically could be a parking place for busses or something. It is like 20 feet long. You could put a couple of cars, busses or something else there. Is that permitted?

ANGELILLO: I am not going to but the busses there.

CREIGHTON: That is all.

FLAHERTY: Thank you Mr. Creighton. Is there anyone else from the public? Questions or comments? Okay. John, we need some direction then in terms of what the procedure is from here.

TEN HOEVE: The Board can do several things. They could check to see if the permit was issued for that and find out if it complies with the size, and find out if it complies with the location, look at it and continue the hearing and not continue the hearing; make some decision as to what the original understanding was.

FLAHERTY: Okay, how about some feedback from the Board members? Would you like to take.....

URDANG: Am I going to get an opportunity at some point to sum it up? Either before the.....

TEN HOEVE: If they decide that it is not going to be the conclusion, then if the hearing is going to be continued.....

URDANG: I would also like to be heard. I will wait until the Board comments and comment on that.

FLAHERTY: I was going to say that he should do it now.

URDANG: Okay, well let me just address, then, this procedural question. With all respect, I know that we have had a little back and forth here. But, I would like to ask the Board to focus on what this application is. This is an application that involves Lots 8 and 9. Whatever issues you may have with the utilization of that shed on Lot 7 is an entirely different question. That goes back to the variance that was granted concerning the use.

What was the use of the property? My recollection, and I didn't look at it prior to tonight, because I didn't think it was germane, was that the Board's intent was to make it very clear that Lots 8 and 9 were the school property and Lot 7 was completely different. It was a residential property. It would essentially serve as a buffer to the school. In fact, the Board went so far as to say that we could not consolidate all three lots. We could only consolidate Lots 8 and 9, clearly saying that the school is on one and the residential use on 7 will remain a residential use.

Whatever questions you may have with respect to the use of the shed on Lot 7, is an entirely separate issue from what is before you tonight. I am not opposed to your investigating. You can ask Mr. Saluzzi about the issuance of the permit. We have made it clear that we are not using it in conjunction with the school. If you want to impose a condition on that or something of that nature.

I would ask you to please focus and if possible give us a decision with respect to the issue that is before you, which is the amended site plan for Lots 8 and 9. I ask you to separate the 2 issues and if you could come to a conclusion tonight, because we are in the course of construction, we would like to be able to do so.

RAMAN: I have a question. I thought the sign whether it was a variance granted to put in its present location, is something that we have to look into anyway. You can't really come to a conclusion tonight.

VON DER LIETH: But we can decide whether or not Mr. Urdang's request it being a separate situation be agreed upon, which I happen to agree. That is my opinion. They did not come here tonight, you know, the shed was brought up as an incidental comment. They are here before us... I understand why the Board was starting to ask questions about it, but technically you are right, you are here for things that are laid out before us.

RAMAN: I said you can't close the hearing today.

URDANG: I have asked, I am sorry, I didn't mean to interrupt, there is a provision in the notice that asks for any other variance necessary to effectuate the plans presented. This is kind of a catch all provision and it is designed for situations like this.

There is nobody who called out in all of the review, that I can recall, and I might be wrong, Brigitte, but I don't recall it being called out anything regarding the sign and if you bear in mind, that sign has been in that location since 1998, and was approved, not only by this Board, but by the County.

Now, the County is entitled, I suppose, to change its mind, and it did. So we are complying with the order of the County to move it out of the County's right of way. Clearly, if the sign is going to have any function, it should be as close to the road as it can be. If you move it back further, it is going to interfere with other stuff, so I think that there were adequate reasons for the variance, but there is nothing untoward about modifying our request for relief here.

TEN HOEVE: I agree with Mr. Urdang on the sign issue. I think that it is either a preexisting nonconforming condition or it exists by virtue of a variance that was granted by the Board. It is being moved in such a fashion so it will actually be put in a position that more complies with the requirements of the Zoning Ordinance, so that if the Board wanted to grant that variance, it could do that.

I am much less concerned with the sign issue than the shed issue. It is difficult, I don't fully recall all of the testimony at this point, I know what the resolution provides. I have a vague recollection that the Board took into consideration when granting the variances to allow for the improvements that were allowed, including the garage, that it was relying upon that all sheds were going to be removed. As Mr. Urdang admits, the concept here is that the adjacent residential lot would be used only for that lots adjacent residential purposes and not for any school purposes. The Board will have to make it determination from Mr. Angelillo's testimony as to whether his testimony, tonight, was that it was only going to be used for the purposes of that residential lot or whether it is being used for school purposes, either now or at some time in the future.

I don't know if the Board would want to review minutes from the testimony that was provided that led to the removal of the shed issue.

URDANG: I am sorry. If I could just be heard for a second. I understand what you are saying and I am not saying that it isn't you know, perhaps, a legitimate inquiry for the Board. All I am saying is that is something that is being initiated by the Board about a question that has nothing to do with this application. Procedurally, it doesn't.....

TEN HOEVE: Well it does. You are seeking to amend this resolution of approval.

URDANG: No, I am seeking to amend a site plan as to Lots 8 and 9. That is not.....

TEN HOEVE: A site plan that was created by virtue of the approval granted in that resolution. That is what you are seeking to do.

URDANG: You know, John, this is just not.....

TEN HOEVE: If it is compliance or noncompliance, with the provisions of that resolution, I think it has some impact. Certainly it is something that the Board should at least be able to know.

URDANG: I am not disputing the fact that the Board is entitled to know and make whatever investigation that it wants to, but you are talking about something that pertains to use, and I am talking about something that pertains to site plan. The legality of that shed on Lot 7 is a legal use. It was issued a permit.

TEN HOEVE: If it is being used and in the future is going to be used for school purposes.

URDANG: He already said that it is not going to be used. Do you want to put a condition that it won't be used for school purposes?

TEN HOEVE: That was not your client's testimony a few minutes ago.

URDANG: What, that he might take a wheelbarrow and then move it over there?

TEN HOEVE: Well, he has a 28 by 14 foot shed that is not being used the occupants of the property, that he wants to use for his stuff to use at least in part for the school, that is an arguable interpretation of his testimony.

URDANG: It still has nothing to do with the relief being sought tonight. It is a different question. It is being initiated by the Board. The Board is now questioning something that came up collaterally in this application. It has nothing to do with this.

TEN HOEVE: My suggestion to the Board would be that it check into the information, find out if a permit was granted, find out where the shed is located, perhaps individually take a look at the site and that it be carried to the next meeting.

FLAHERTY: Okay, so I am trying to gauge certain feedback from the other Board members. Do the other members of the Board think that the attorney's suggestion is something that we should follow? What do you guys think? Should we put it off until next month?

RAMAN: Unfortunately I wasn't here when the original variances were granted, and if it was a condition precedent and there is any change that it might be used, I don't know the legalities but it seems like, I know that they are under construction right now, but it seems that they are not going to move that quickly within a month. That is just my opinion and that it may not be such a bad idea to look into it before this is granted.

VON DER LIETH: Again, can we decide tonight to say okay, what they came before us with, can we decide on that tonight and still move ahead with an investigation into the shed issue?

TEN HOEVE: No, you can't do that. You have no authority to conduct investigations. This Board can't do that.

VON DER LIETH: Well, no, I mean discuss it, not investigate it, but discuss it as a separate issue aside from what they came with before us tonight?

TEN HOEVE: This Board can not do that. When Mr. Urdang said if there is non-compliance with the resolution the Mayor and Council could institute a prerogative action or some other type of action against the applicant for noncompliance. That is not this Board that would make that determination.

URDANG: You just asked the Board to investigate with Mr. Saluzzi.

TEN HOEVE: Prior to making a determination on this application.

URDANG: But that is the whole point. I think what Dr. von der Lieth is saying is you have 2 separate issues here.

TEN HOEVE: If you approve this without doing that investigation and you find out that there has been gross noncompliance with the provisions of the resolution, what would you then suggest the Board do?

URDANG: I would suggest that you would send a letter to me and say come back before this Board, we want and make an application, either abandon what you perceive it to be as an ancillary use, or come back and ask for permission to do it. It has nothing to do with this....

TEN HOEVE: Why would it make more sense to do that in another application with another public notice and another hearing, rather than address it while everyone is here now. Why would that be.....

URDANG: But you are not going to address it while everyone is here now, because you are talking about putting it off for a month, when we are in the middle of construction.

TEN HOEVE: But it would be far more than a middle of a month if you are going to have to make an entirely new application. It would be much longer than one month, plus this resolution was August of '08. This is not, I mean you are coming before us now complaining that there a time issue when nothing has been done for 2 years.

URDANG: John, well there is an issue here, it is the use of a shed on Lot 7. That is not going to go away. The issue before the Board tonight is a site plan on Lots 8 and 9. They are not related.

TEN HOEVE: I believe that they are distinctly related by virtue of the resolution that was adopted and what you have asked to me modified. I believe that it is very related.

URDANG: But the resolution had 2 aspects to it. It has a use aspect and it had a site plan aspect. And the resolution made it very clear that the school use and the residential use were different.

TEN HOEVE: The site plan also involved the removal of all of the sheds.

URDANG: Yes.

TEN HOEVE: Which, may have been an integral part of the grant of other site plan conditions, other site plan approvals.

URDANG: Well, how are we going to resolve that when the composition of the Board isn't even the same as it was in 2008.

TEN HOEVE: I mentioned that before. I haven't reviewed the minutes of that hearing and I haven't looked to see what was discussed. I don't have all of that information at my disposal now. I can't answer those questions now without doing that.

URDANG: Alright, but why is there something that precludes the Board from acting tonight when it is..... (Both talking at the same time)

TEN HOEVE: My recommendation is that the Board do as I suggested. The Board can do whatever it wishes to do. They have heard form you and they have heard their attorney and they can decide to do whatever they wish to do.

VON DER LIETH: In regards to the sign, we can all agree upon one thing, is that you guys were basically told by the County that you don't have a choice, and the residents are okay, according to the testimony, with the sign being what they propose. So I just want to make that clear so it will make it a little easier for us to discuss that aspect of it. That is it.

FLAHERTY: Mr. Hoskins do you have any feedback?

HOSKINS: I have to think about that shed thing.

FLAHERTY: With all of the struggling, I think we can, when you break it down to a 12 by 20 patio or it seems that it should be simple for us but it seems like some members of the Board are struggling, because of the other issues that have come up.

MARTIN: Granted, I was not part of this body with the original application. I do have to disagree with Mr. Urdang's conclusion. I think it is related, because if part of the original resolution discussed removal of those sheds, and the removal, the origin of that shed was on whatever block it was on, Lot 8 or 9 and it is now on 7, I believe that it is directly related and I think we need to discuss it further and we need to look into what

Mr. Ten Hoeve is suggesting with respect to the permitting and location and the purpose and what its current use is intended.

FLAHERTY: Okay, so you are thinking the other way, Gil?

SANDLER: Oh no, I have to go with Mr. Ten Hoeve, he is the professional. I am by far not even qualified to, you know, I have been here to listen to the testimony, but according to what has been going on, I absolutely deferring to Mr. Ten Hoeve.

FLAHERTY: I wish it was as simple as us approving 12 by 20 but it doesn't appear as it is. I have to say that I think that the Board would rather take the month to look into it further.

URDANG: Is there anything that the Board wishes us to do in that month. Or, is the Board going to conduct its own investigation?

FLAHERTY: I don't think that the Board is going to conduct an investigation.

URDANG: Well, you see, I am trying to figure out what is going to happen between now and then.

TEN HOEVE: I think that we will ask Mrs. Beer to check and find out what permits were obtained for the removal of that shed and the replacement of that shed.

BEER: I knew that was going to happen.

TEN HOEVE: I think we will check to see what the size is. I think we might look at the minutes of the hearings, the transcripts of the hearings that were held, and find out how that became a condition.

URDANG: May I ask that those, I don't know if I still have them, will they be made available to me as well?

BEER: I will check. I think that the 2008 might be on the website. I know I have all of the 2009 and 2010 on and I will check for the 2008. Yes, if you want a copy, I will certainly send them to you.

URDANG: Thank you.

TEN HOEVE: Anything I get, I will give to you as well.

URDANG: I appreciate that. So this will be continued when.

HOSKINS: July 20th.

URDANG: Thank you for your time.

PENDING CASES:

CASE: 10-05 Block: 2204 Lot: 9	Application of <u>Stephen and Andrea Jobst</u> , 72 DeGroff Place for rear yard variance to construct a replacement retaining wall for existing house in an R-15 residential zone. Hearing held May 18, 2010. Determination forthcoming this evening
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FLAHERTY: We have a resolution in the affirmative for this application.

WHEREAS, STEPHEN & ANDREA JOBST, (hereinafter referred to as "Applicant"), being the owner of premises known as 72 DeGroff Place in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also known as Lot 9 of Block 2204 on the Tax Assessment Map for the Borough of Park Ridge, has supplied to the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE

seeking variances from the terms and provisions of the Zoning Ordinance of the Borough of Park Ridge to permit the construction of a retaining wall on the premises; 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 R.L. Engineering, Inc., Licensed Engineers of the State of New Jersey and dated March 11, 2010; and

WHEREAS, a hearing was held before the ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF PARK RIDGE duly convened on May 18, 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 72 DeGroff Place in the Borough of Park Ridge. The Applicant's lot is improved with a single family home. The topography of the lot slopes in a west to east direction, and there is currently a railroad tie retaining wall located near the easterly property line.
2. Applicant seeks to replace the existing railroad tie retaining wall with an interlocking block retaining wall. Applicant testified that the existing retaining wall is in severely dilapidated condition, and that the wall is currently unsightly and poorly maintained. Applicant further stated that the existing wall encroaches onto the property directly to the east of the Applicant's lot. Applicant proposes to build a new, interlocking block wall in compliance with all building codes, and to construct the wall so that same will be located solely on the Applicant's lot, specifically one (1) foot from the easterly property line. Applicant thus seeks to both remove an existing encroachment onto a neighboring property and to replace an unsightly condition with a much more aesthetically pleasing wall.
3. In 2008, the Borough of Park Ridge adopted Section 101-21(a)(11) of the Park Ridge Zoning Ordinance. Said Section provides that retaining walls be located no less than ten (10) feet from rear or side property lines and further limits the height of retaining walls to no more than four (4) feet. Applicant proposes to construct the replacement wall one(1) foot from the easterly property line. Applicant further testified that some portions of the proposed wall would have a height of approximately five (5) feet, one foot higher than the permitted maximum height.
4. Applicant testified that the proposed construction would enable him to provide a more level yard area. Applicant further testified that a fence would be constructed along the newly constructed wall in compliance with all zoning ordinance requirements and building code provisions. Applicant further testified that he had discussed the proposal with the owner of the property immediately to the east and that the owner both supported the construction of the new wall and agreed to permit access to the neighboring property for purposes of constructing the new wall. Finally, Applicant testified that there would be a minimal amount of soil movement on the site, specifically only 61 cubic yards, and that no soil moving permit was thus required.

5. The BOARD finds that the Applicant faces a unique condition with regard to the topography on the site and the existence of a non-conforming and encroaching railroad tie retaining wall. Applicant will be removing an encroachment onto neighboring property. Applicant will be constructing a retaining wall that is not in compliance with the requirements of the Zoning Ordinance, but more conforming than the existing condition.
6. The BOARD further finds that there will be substantial benefits resulting from the construction of the proposed new retaining wall. The new wall will be an attractive improvement as opposed to an existing unsightly condition. The proposed structure will enhance the appearance of both the Applicant's lot and the neighboring property.
7. The BOARD further finds and concludes that there will be no negative impact whatsoever resulting from the proposed new wall, nor will the granting of the requested wall location and height variances. The BOARD specifically finds that the purposes of the Municipal Lane Use Law (N.J.S.A. 40:55D-1, et seq.) will be advanced by a deviation from the requirements of the Zoning Ordinance of the Borough of Park Ridge in that the new wall will result in an aesthetic improvement to the entire neighborhood. The BOARD specifically finds that the Applicant's proposed improvement will constitute a substantial benefit to the neighborhood in general.
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 wall location variance and height variance to permit the construction of the proposed new wall 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.
- C. That Applicant's proposal be submitted to the Borough Engineer to confirm that there will be no soil movement on the site requiring a soil moving permit.
- D. Applicant shall not enter the neighboring property to construct without securing specific permission and/or a construction easement from the neighboring property owner.
- E. No portion of the wall shall exceed five (5) feet in height as testified by the Applicant.

- F. Applicant shall construct a fence along the new wall I compliance with the requirements of the Zoning Ordinance and all applicable building codes.

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

ROLL CALL:

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

Abstain: Mr. Martin

NEW BUSINESS:

Wai Yip International Corporation – 83 Broadway
Release of remainder of Cash Performance Bond

A motion was made by Mr. Martin and seconded by Mr. Hoskins.

WHEREAS, WAI YIP INTERNATIONAL CORPORATION, 83 Broadway, known as Lot 7 of Block 1902, on the Tax Map of the Borough of Park Ridge, had posted a Cash Performance Bond in the amount of \$5,000.00 for completion of landscaping; and

WHEREAS, the cash Performance bond was reduced to \$3,486.25 in order to pay outstanding professional vouchers of \$1,513.75; and

WHEREAS, The cash Performance bond of \$3,486.25 was released on February 9, 2010; and

WHEREAS, there remains interest, accruing since 2003 plus some escrow in the amount of \$1,151.26; and

WHEREAS, the project has long since been completed and all other funds have been returned.

NOW, THEREFORE, BE IT RESOLVED by the **ZONING BOARD OF THE BOROUGH OF PARK RIDGE** that the Cash Performance Bond of \$1,151.26 be returned to the applicant, Wai Yip International Corporation.

ROLL CALL:

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

Abstain: None

Julianne & Philip Iacono – 28 Wield Court
Approval of modified Landscape Plan.

A motion was made by Dr. von der Lieth and seconded by Mr. Sanders, to accept the modified landscape plan.

WHEREAS, JULIANNE & PHILIP IACONO, (hereinafter referred to as “Applicant”), being the owner of premises known as 28 Wield Court, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also known as Lot 6 of Block 2006 on the Tax Assessment Map for the Borough of Park Ridge, having been granted an approval for rear yard variance and building coverage variance on April 10, 2010 by the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE; and

WHEREAS, a condition of the granting of those two variances was a requirement that the Applicant plant staggered plantings along the rear property line from

the northeast corner of the property to a point shown on the Applicant's survey as "proposed pvc"; and

WHEREAS, the plantings were to be selected by the Applicant from a Schedule of Plantings prepared by a Landscape Architect for the Board; and

WHEREAS, a further review and site visit by the Landscape Architect has determined that plantings were only required along the rear property line; and

WHEREAS, this determination has been submitted to the BOARD by way of a letter dated May 21, 2010.

NOW, THEREFORE, BE IT RESOLVED by the **ZONING BOARD OF ADJUSTMENT** that the letter of May 21, 2010 be approved as the accepted Landscape Plan for the Applicant's property and attached thereto.

Lollipop Day Nursery School – 67 Spring Valley Road
Authorization to sign Developers Agreement.

A motion was made for the Chairman to sign the Developer's Agreement was made by Mr. Martin and seconded by Mr. Raman. Carried unanimously.

ROLL CALL:

Ayes: Mr. Martin, Mr. Raman, Mr. Walker, Dr. von der Lieth, Mr. Hoskins,
Mr. Sandler, Mr. Flaherty
Abstain: None

VOUCHERS:

None

CORRESPONDENCE:

League of Municipalities re: June 2010 – distributed

APPROVAL OF MINUTES:

The Chairman entertained a motion that the April 20, 2010 minutes be approved as submitted. So moved by Mr. Martin and seconded by Mr. Hoskins. Carried unanimously.

DISCUSSION OF APPLICATIONS:

There was no further discussion of the applications.

ADJOURN:

There being no further business to come before the Board, by motion of Mr. Raman and seconded by Mr. Martin, the meeting was adjourned at 10:20 pm.

Respectfully submitted,

Margot Hamlin,
Transcriber