

Minutes of the Park Ridge Zoning Board of Adjustment
Meeting of August 17, 2010 – Page 1

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, August 17, 2010, at 8:00 pm in the Council Chambers of the Municipal Building.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL: Mr. Martin, Mr. Capilli, Mr. Sandler, Mr. Walker,
Dr. von der Lieth, Mr. Hoskins, Mr. Brennan, Mr. Flaherty

Absent: Mr. Raman

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

COMPLIANCE STATEMENT:

The Notice for this meeting required by Section 3(d) of the Open Public Meetings Act has been provided by the adoption of a resolution by the Park Ridge Zoning Board of Adjustment of January 19, 2010, setting forth a schedule of regular meetings by mailing of said schedule to The Ridgewood News and The Record on January 22, 2010, and by the posting of said schedule on the Municipal Bulletin Board and the continuous maintenance thereof and by filing the said schedule in the office of the Borough Clerk.

PENDING CASES:

<u>CASE:</u> 10-06 Block: 1110 Lot: 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-10 residential zone. Hearing begun June 15, 2010 carried to July 20, 2010 for F.A.R. testimony. Determination forthcoming this evening, subject to receipt of revised survey.
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WALKER: I have a few items to be added into evidence for this application.

- Item 16 is Board secretary's letter dated 7/21/2010.
- Item 17 is a revised survey dated 7/29/2010.
- Item 18 the Board Engineer's letter dated 8/04/2010.
- Item 19 is Board secretary's letter dated 8/09/2010.
- Item 20 is another revised survey dated 8/10/2010.

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

FLAHERTY: Thank you Mr. Secretary. We have a resolution in the affirmative for this application.

WHEREAS, L. C. DEVELOPERS, A Limited Liability Company of the State of New Jersey (hereinafter referred to as "Applicant"), being the contract purchaser of premises known as 14 Lakeview Avenue in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also known as Lot 11 of Block 1110 on the Tax Assessment Map for the Borough of Park Ridge, has applied to the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE seeking a floor area ratio variance from the terms and provisions of the Zoning Ordinance of the Borough of Park Ridge, together with a soil moving permit to allow for the proposed demolition of an existing home and the construction of a new dwelling on the site; and

WHEREAS, the premises are located in an R-10 Zoning District as same is defined by the Zoning Ordinance of the Borough of Park Ridge; and

WHEREAS, Applicant has submitted plans and drawings describing the project, including architectural renderings prepared by Albert Dattoli, a licensed architect of the State of New Jersey dated May 7, 2010 and a Plot Plan and Soil Moving Plan prepared by R. L. Engineering, Inc., dated May 18, 2010; and

WHEREAS, hearings were held before the ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF PARK RIDGE duly convened on June 15, 2010 and on July 20, 2010 upon due notice as required by law; and

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

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 contract purchaser of premises known as 14 Lakeview Avenue in the Borough of Park Ridge. The property is currently improved with an old, dated residence. There is also a nonconforming detached garage located on the site. The Applicant plans to demolish the existing residence as well as the nonconforming detached garage and to construct a new residence on the site, a dwelling that will contain an attached garage.
2. The property is located in the R-10 residential zoning district as defined by the Zoning Ordinance of the Borough of Park Ridge. The bulk restrictions applicable in the district require, among other conditions, a minimum lot area of 10,000 square feet. The subject lot is substantially oversized having a lot area of 18,321 square feet, nearly double the minimum lot area required in the district.
3. As shown on the plans provided to the BOARD, Applicant seeks approval to construct a dwelling having a floor area of 3,953 square feet. Bulk regulations in the R-10 zoning district provide that a dwelling may not have a floor area ratio in excess of 30%. The floor area limitations further provide that a dwelling may not have a gross floor area in excess of 3,333 square feet. Applicant's proposed dwelling complies with the 30% limitation, however, exceeds the maximum permitted floor area triggering a need for a floor area ratio variance. Applicant's proposal also requires the movement of approximately 605 cubic yards of soil on the site thus necessitating a soil moving permit pursuant to the soil movement ordinance of the Borough.
4. Applicant presented professional engineering testimony both with regard to the proposed construction and soil movement on the site. Applicant's engineer indicated that there would be 460 cubic yards of soil excavated from the site and that 145 cubic yards of fill would be required. The Applicant's engineer further stated that the current drainage flow on the site would continue but that drainage on the site would actually be reduced by virtue of the installation of a 1,000 gallon seepage pit.
5. Applicant's engineer, in response to questions raised by the Borough Engineer, testified that swale would be constructed on the site. Both the Applicant and the Applicant's Engineer also responded to questions raised by the Borough Engineer with regard to a drainage pipe running through the property to accommodate water flow from adjacent properties. Applicant testified that the pipe has existed for many years, that he had recently cleaned the pipe to remove obstructions to water flow, and that the Applicant understood that the drainage pipe would have to be maintained by future owners of the property. The Borough Engineer recommended that an easement be provided to insure continued existence and maintenance of the pipe.
6. Applicant also introduced the testimony of David Karlebach, a Licensed Planner of the State of New Jersey. Mr. Karlebach testified as to the reasons why the Applicant should be granted a floor area ratio variance. Mr. Karlebach indicated

that the proposed improvements satisfied statutory special reasons requirement by achieving several goals and objectives of the Municipal Lane Use Law. He stated that the development application would represent an appropriate use of the property thereby promoting the general welfare. He noted that the proposed dwelling was consistent with modern day construction standards and would result in a home that was not out of character with other homes in the neighborhood. He presented photographs of other homes in the neighborhood that were of comparable floor area to that of the proposed new home.

7. Mr. Karlebach further noted that the proposal would remove several nonconforming and unsightly conditions on the property. A dated dwelling will be removed and replaced with a new home having enhanced visual qualities. A nonconforming garage will also be removed. Several nonconforming sheds on the property will be removed. An existing lengthy driveway will be removed. Impervious surface coverage on the site will be reduced. Mr. Karlebach concluded that all of these substantial benefits would be accomplished with no negative impact.
8. The BOARD finds that the Applicant has satisfied the statutory criteria required for the grant of the requested floor area ratio variance. The BOARD finds that the Applicant's Planner has presented testimony, as summarized hereinabove, to establish that the proposed development satisfied the positive criteria required for the grant of the Floor Area Ratio variance. The BOARD further finds that the goals and objectives of the floor area ratio limitation will be achieved by a grant of the variance by virtue of the fact that the resulting dwelling will not be excessively large, will not overpower other homes in the area, and will result in the removal of several nonconforming conditions. The BOARD also finds that the grant of the floor area ratio variance will not result in any substantial detriment nor have any negative impact whatsoever.
9. The BOARD finds and concludes that the proposal satisfies the positive criteria required by the Municipal Lane Use Law. The BOARD also finds and concludes that the proposed improvements will not result in any substantial detriment to the public good, nor will same impair the intent and purpose of the Zoning Ordinance of the Borough of Park Ridge in any way.
10. The BOARD did receive testimony from both the Applicant and from a neighboring property owner with regard to discrepancies between the survey submitted by the Applicant and various surveys in the possession of the adjacent property owner. The Applicant testified that it will accept the property delineations set forth on the neighbor's surveys and submit a revised survey/plan to the BOARD revising the previously submitted survey so as to confirm that the fence in the rear of the subject property is located on the neighbor's land and not on the property to be purchased by the Applicant and revising the location of the existing boundary line.

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 floor area ratio variance and soil moving permit subject to the following conditions:

- A. The Applicant construct the proposed improvements as set forth on the final plans submitted to the BOARD dated _____ 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 documents submitted and described in all testimony presented to the BOARD. The variances granted herein shall not exceed the dimensions, distances and percentages.
- 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. Applicants receipt of soil moving permit is specifically subject to the following conditions.
- 1 The Applicant shall not move any soil to or from the site without first submitting to the Borough Engineer and the Borough Police Chief, a written plan detailing the manner in which soil will be removed from the site or brought to the site, the destination of all soil to be removed from the site or brought the site, the dates of removal or movement to the site, and the routes to be taken by vehicles removing the soil or bringing soil to the site. No soil shall be moved to or from the site unless and until the Applicant receives approval from the Borough Engineer and the Police Chief for the Borough of Park Ridge with respect to said plan.
 - 2 Applicant shall also comply with any and all conditions or requirements imposed by the Borough Engineer with respect to erosion control, truck cleaning, or any other soil movement requirement she may deem necessary. These requirements may include specific conditions with regard to the maintenance of the tracking pad on the site and with respect to the cleaning of Borough streets, if required by the Borough Engineer.
 - 3 Applicant shall also move soil to or from the site in trucks filled to such weight as is deemed appropriate after consultation with the Borough Engineer. If the Borough Engineer determines that delivery vehicles should not be filled to capacity so as to minimize the possibility of damage to Borough Streets, Applicant shall comply with said requests. In the event Applicant causes any damage to the street, Applicant shall provide repairs to same or compensate the Borough for the costs of any repairs.
 - 4 Applicant shall not move more soil to or from the site than described during soil movement hearings and as set forth in reports issued to the Borough Engineer. In the event Applicant requires the movement of additional soil, Applicant shall return to the BOARD for subsequent hearings.
 - 5 Applicant shall specifically comply with all soil movement and soil control requirements set forth on the plans reviewed by the Borough Engineer and described at the aforementioned hearing.
 - 6 Applicant shall be required to return to the BOARD for an additional soil moving permit should the Applicant be required to remove more than the amounts described in the Applicant's soil moving permit application and described during the aforementioned hearings.
 - 7 Applicant shall pay all required soil moving fees and post required bonds.
- D. Applicant shall be required to prepare and record a Deed of Easement for the maintenance of the drainage pipe running near the eastern property line of the subject premises. Said easement shall be ten feet in width and run along the entire eastern property line. Said easement shall be for the benefit of he owners of properties known as Lots 7 and 13 of Block 1110, or other contiguous properties to the north of the Applicant's property. Said easement shall require the Applicant and future owners of the property to maintain the drainage pipe for the benefit of said property

owners. The form and extent of said Deed of Easement shall be subject to the review and approval of the Borough Engineer and the Board Attorney. The within approval is expressly subject to the Applicant's compliance with the within Paragraph and no building permit nor demolition permit shall issue prior to the creation and recordation of said Deed of Easement.

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

ROLL CALL:

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

Abstain: Mr. Brennan, Mr. Capilli, Mr. Sandler

CASE: 10-07 Block: 503 Lots: 8,9	Application of <u><i>Lollipop Day Nursery School</i></u> , 67 Spring Valley Road for modification of prior approval to construct patio adjacent to garage, move sign and change trash enclosure fence in an R-20 residential zone. Hearing began June 15, 2010, continued July 20, 2010 for corrections to submitted map.
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FLAHERTY: We have a resolution of approval for this application.

WHEREAS, LOLLIPOP DAY NURSERY SCHOOL (hereinafter referred to as "Applicant"), being the owner and occupant of premises known as 67 Spring Valley Road, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also known as Lots 8 and 9 of Block 503 on the Tax Assessment Map for the Borough of Park Ridge (Applicant having now also acquired Lot 7 of Block 503), has applied to the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE seeking a variance to permit the minor amendment to a recently approved site plan and Resolution of the Board dated August 19, 2008; and

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

WHEREAS Applicant submitted various plans and sketches to the BOARD including Site Plan entitled "Site Plan, Schedules and Notes, Addition to Lollipop Day Nursery School", prepared by Piazza Engineering dated April 19, 2006", with a last revision date of June 17, 2010; and

WHEREAS, hearings were held before the ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF PARK RIDGE duly convened on June 15, 2010 and July 20, 2010; and

WHEREAS, various objectors appeared before the BOARD with regard to the current application; and

WHEREAS, the BOARD had carefully considered the application and all testimony and evidence submitted both in support of the application and against the application; and

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

1. Applicant is the owner and operator of a nursery school located at 57 Spring Valley Road in the Borough of Park Ridge. The nursery school began as a small operation in a single-family home servicing a few children. It has now expanded over the years, mostly without securing municipal approvals. The school now consists of a large structure servicing 108 students and having many employees. The school also operates a summer camp.

2. The nursery school has been the subject of several prior applications before the BOARD as well as extensive litigation in the Superior Court of New Jersey. Applicant's most recent appearance before the BOARD resulted in the grant of site plan approval and related variances, all as set forth in a Resolution of the BOARD dated August 19, 2008.
3. Applicant now returns to the BOARD seeking a variance to allow three, minor modifications to the aforementioned Resolution and Site Plan Approval. Specifically, Applicant seeks to modify the Resolution and Site Plan as follows:
 - a) Applicant seeks to relocate the sign in the front of the existing nursery school to comply with a request by the County of Bergen.
 - b) Applicant seeks to modify the enclosure around the dumpster area, constructing the enclosure out of board-on-board fencing rather than brick.
 - c) Applicant seeks to provide a 372 square foot paved area immediately adjacent to the existing garage.
4. Applicant provided testimony from Andrea Piazza, licensed Engineer of the State of New Jersey, the Engineer who had prepared the previously approved Site Plan and the Engineer who had testified at the time of the Applicant's most recent hearings. Ms. Piazza testified that the County of Bergen had asked that the existing Lollipop sign be moved out of an existing Bergen County Easement. The Applicant requests permission to move the sign, currently located so that the sign is perpendicular to the Spring Valley Road, and to place the sign on the Applicant's property in a manner so that the sign will be parallel to Spring Valley Road. Ms. Piazza indicated that the sign would essentially be located in the same area, and the movement was but a few feet from the sign's current location. She further testified that the sign would not interfere with sign triangles and would have no impact on traffic along Spring Valley Road.
5. Ms. Piazza further indicated that the requested change in the fencing surrounding the dumpster was being made for aesthetic reasons and that applicant considered board-on-board fencing more attractive than brick fencing.
6. Finally, Ms. Piazza stated that the proposed new paved area to the north of the new garage was required to provide an area for the accumulation of plowed snow without utilizing existing parking spaces. She specifically noted that there was no other area on the site, other than existing parking spaces, on which snow could be placed after plowing. She further noted that the new paved area would prevent snow from interfering with vehicles entering and exiting the site.
7. Ms. Piazza further testified that the new paved area would be used as a staging area for the delivery of supplies, but that no supplies would be left on the paved area overnight.
8. An issue also arose during the hearings with regard to the Applicant's movement of a shed that had existed on the Applicant's property to a residential lot adjacent to the Lollipop School. The August 19, 2008 Resolution had required the Applicant to remove all sheds from the Lollipop premises and had required the adjacent parcel to remain residential and not to be used in any way for Lollipop purposes. Mr. Angelillo, owner of the school, specifically testified that the shed placed on Lot 7 would not be utilized for Lollipop. The BOARD is also cognizant of the fact that the shed may have been constructed in violation of existing zoning requirements or in violation

of the intent of the BOARD'S prior Resolution, however, the BOARD has been advised by the Borough Attorney that all issues concerning the location of the shed on adjacent Lot 7 will be addressed by the Zoning Officer and Borough Administration. The BOARD notes that its approval of the minor site plan modifications contained herein shall not be construed in any way to constitute an approval of acquiescence in the Applicant's relocation of the aforementioned shed.

9. The BOARD finds that substantial reasons exist to justify the three minor modifications requested by the Applicant to the August 2008 Resolution and Site Plan. The BOARD specifically notes that all of its findings as place in its 2008 Resolution apply to the minor modifications requested by the Applicant. In addition to said reasons, the BOARD finds that the relocation of the sign is required y the County of Bergen and will have no impact whatsoever in light of the fact that the same sign will be utilized and that the sign will be moved but a few feet from its current location. The BOARD further finds that the modification of the material enclosing the dumpster are will result in an aesthetic benefit and have no negative impact whatsoever. The BOARD finally concludes that e construction of a small, paved area for the accumulation of snow and loading of materials will result in a benefit by preventing the obstruction of existing parking spaces and traffic aisles on the site.
10. The BOARD finds and concludes that the proposal satisfies the positive criteria required by the Municipal Land Use Law. The BOARD also finds and concludes that the proposed improvements will not result in any substantial detriment to the public good, nor will same impair the intent and purpose of the zone plan or Zoning Ordinance of he 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 Applicant's request use variance and Site Plan modifications subject to the following conditions:

- A. Except as expressly modified herein, nothing in the within Resolution shall be deemed to modify or replace the provisions of the August 19, 2008 Resolution of this BOARD. All of the terms and conditions of said Resolution shall remain in full force and effect.
- B. All improvements to be completed in connection herewith shall be in accordance with all development application proceedings and evidence submitted to the Zoning Board of Adjustment and in compliance with the requirements of all Borough Ordinances and other requirements as may be imposed by the Borough Engineer.
- C. Nothing contained herein shall be deemed to constitute any approval by this BOARD as to the Applicant's relocation of the shed previously existing on the subject property and subsequently moved to the adjacent Lot 7.

The resolution was offered by Dr. von der Lieth and seconded by Mr. Hoskins.

ROLL CALL:

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

Abstain: Mr. Brennan, Mr. Capilli, Mr. Sandler

NEW CASES:

CASE: 10-08 Block: 1003 Lot: 2	Application of <i>Ron Dema</i> , 94 Lafayette Avenue for 6' fence along Helvetia Street in the required front yard in an R-15 residential zone. Hearing was scheduled for July 20, 2010, due to notification problem, hearing to be held August 17, 2010.
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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 7/06/2010.
- Item 2 is certification of service dated 7/08/2010 and 7/22/2010.
- Item 3 is legal notification dated 7/09/2010.
- Item 4 is proof of payment of taxes dated 7/06/2010.
- Item 5 is the deed dated 2/03/2010.
- Item 6 is the survey dated 12/23/2009.
- Item 7 is the Board secretary's letter dated 7/12/2010.
- Item 8 is a fence location survey—undated.

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

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

DEMA: I do.

TEN HOEVE: Please state your name and address.

DEMA: Ron Dema, 94 Lafayette Avenue, Park Ridge.

TEN HOEVE: Thank you.

FLAHERTY: Okay, Mr. Dema, we have a drawing in front of us. Would you take us through the application please, and tell us what you are looking to accomplish?

DEMA: Okay, the two sections that I am looking to get a variance on, is the 6 foot section along Helvetia, where it comes from the back corner of my property and it stops by the well on the drawing in the survey. That is where I am going to stop the 6 foot section and try to connect my fence, along where it is coming to the back, the front back of the house. I wasn't go all the way up Helvetia onto Lafayette where it would obstruct my neighbor from coming up her driveway and turning left or right on to Lafayette. So, I am stopping pretty far back on my property, just to get privacy and keep my kids secure and the deer out of my back yard.

FLAHERTY: Okay, so as I understand it, you are looking for 2 variances. One is that the fence exceeds 4 feet in height, and one is that the fence is within 30 feet of the property's edge.

DEMA: Right.

FLAHERTY: So, if we can break it down, lets take one at a time.

DEMA: The first one that I just explained, is at the corner where I am looking for 6 feet from the back side of Helvetia coming straight out towards Lafayette. I am stopping there at the well. That is the first one, and the second one is on the other side of the property, where you see Lafayette going from left to right. On that side of the property I am coming all the way up to the stoop, where I share that boundary with my neighbor.

So, it is the front yard of my house. I want to come all the way up to the street.

FLAHERTY: You want to run the fence between, that would be the north side of your property, all the way to Lafayette at 6 feet in height?

DEMA: Right.

FLAHERTY: So, is this one here on the north side, does that require the 2 variances because it is 6 feet? Does that require a variance over there? Or, is it 6 feet just on the south side?

TEN HOEVE: Any portion of the fence that is going to be running here is still considered to be in the front yard, because this is all front yard.

FLAHERTY: Does this here require a variance?

TEN HOEVE: No.

FLAHERTY: So, only along Helvetia, are we talking about tonight?

BEER: It can only be 4 feet in the front yard and 6 feet in the rear yard.

DEMA: But, I am doing 6 feet all around, just so I can be clear.

TEN HOEVE: He does need a variance for here and for here, but not for here.

FLAHERTY: What he needs a variance here is for height, and he needs a variance here for height and the fact that he is within 30 feet.

TEN HOEVE: He could have a 4 foot fence there.

FLAHERTY: Did you consider a 4 foot fence?

DEMA: Well, when I bought it for the back part of my property, I bought 6 foot just to get a little privacy and then on the sides, he didn't have 4 foot in stock, so I went with 6 foot all around, not thinking that it would be a problem. To make it look better aesthetically, and also to keep deer out of the yard, it was more convenient to go 6 feet.

FLAHERTY: Okay.

BRENNAN: What about the left side or the right side of your house going 6 foot, what purpose would that serve?

DEMA: Just privacy.

FLAHERTY: But that is not what we are talking about tonight, am I right about that or not?

TEN HOEVE: No, he was asking about this portion here.

FLAHERTY: Is that what you were talking about Mr. Brennan?

BRENNAN: All the way to the street?

TEN HOEVE: Right, house to Helvetia.

FLAHERTY: I haven't had a chance to go on the road. Did any other Board members get a chance to go and check out the property? Do we have any other questions or comments on that? What is the end of that Helvetia like? Where does that

DEMA: It is a dead end. It is an easement. What happens is, Helvetia runs north to south, and it just ends on both ends of the street. There are sewer mains at the end of that street.

FLAHERTY: Is there a house in that corner back there, at the end of Helvetia?

DEMA: It is me right here, and then Helvetia runs through and my neighbor is right here. Her driveway comes out into Helvetia and she drives up and then turns left or right onto Lafayette.

FLAHERTY: So, your neighbor that lives across Helvetia, does that house face your home?

DEMA: No, it faces Lafayette. She just has her driveway facing Helvetia.

FLAHERTY: Okay.

TEN HOEVE: What is directly behind you?

DEMA: I have a neighbor directly behind me.

TEN HOEVE: And they front on

DEMA: Circle Drive, I believe.

TEN HOEVE: Okay.

MARTIN: Is that Lot 7 or Lot 6?

DEMA: Lot 7 and 6, they are both on Circle.

FLAHERTY: At what point did you—your original plan had the fence running all the way out to Lafayette on that side, or no?

DEMA: No.

WALKER: What is the height of the hedges on the northern side of the property? They don't provide a sufficient buffer?

DEMA: You mean the shrubbery that is there?

WALKER: Yes.

DEMA: It is just a bunch of trees. Are you talking about Helvetia?

WALKER: No, I am talking about between you and the neighbor on Lot 1.

DEMA: It is just a bunch of trees and some debris there.

VON DER LIETH: Mr. Dema, do you have a fence running on the opposite side of your house to the hedge row?

DEMA: Yes.

VON DER LIETH: You do, and that is 6 feet also?

DEMA: That is 6 feet. I was told that wasn't a problem to install that. The only problem was when I run past the front of my house towards Lafayette, that is where I need to get an okay for the 6 feet.

BRENNAN: If he had 4 feet in stock, would you have put it in?

DEMA: I really didn't want to go to 4 feet, just for the reason of privacy. We used to live in Harrington Park and the deer used to jump into my yard all of the time.

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WALKER: They can jump 6 feet as well as 4 feet. One went over my car the other day. He kicked the antennae.

TEN HOEVE: Is there a reason that you are seeking to enclose the rear yard? Is there a safety hazard or children or.....

DEMA: The safety reason is yes. Like I said I don't want deer jumping in and exposing them to the deer ticks and God forbid they get bit by one.

WALKER: What type of fence is it?

DEMA: It is a white vinyl fence.

FLAHERTY: So, your neighbors were informed of this meeting?

DEMA: Yes.

MARTIN: You said it is a white vinyl. There is a lot of white vinyl out there. Are we talking about picket style, stockade style? What style are we talking about?

DEMA: Solid, no gaps.

SANDLER: Does your neighbor like it?

DEMA: He hasn't complained about it.

SANDLER: Have they seen it?

DEMA: Yes. Actually all sections are up except the ones that I need a variance for.

SANDLER: And everyone says it is okay.

DEMA: Yes, no one is complaining.

WALKER: Is your property level with Lafayette and Helvetia or is it higher than or

DEMA: When you get toward Lafayette, yes it goes higher. At the back portion of Helvetia, yes, it is flat.

FLAHERTY: Okay, and again, you did alert your neighbors and just for the record, there are no one else here in the room tonight to comment on this case.

DEMA: They were all notified by Certified Mail.

BRENNAN: Let me ask you a question. The 6 foot going all the way to Lafayette, though, you think that would—it is quite high for going all the way to the street, is it not?

DEMA: I just wanted it more for privacy on that side of my property.

SANDLER: You use the front yard then?

DEMA: At times, not to much.

SANDLER: So, a 4 foot would work in that section?

DEMA: I wanted to try and find a nicer way to say it, but you know, my upkeep is a little nicer on my side of the property than my neighbor.

WALKER: The neighbor on Lot 1, where is there driveway?

DEMA: It is on the right of his house, if we were facing Lafayette. So on the left side of his house, which my house would be here and his house would be here, he doesn't share a driveway within the fence boundary.

TEN HOEVE: The fence on the south side, that is perpendicular to Lafayette, doesn't come all the way out to the street, right? It stops at the rear building line?

DEMA: Yes.

TEN HOEVE: Neither fence comes out to Lafayette?

DEMA: No.

BRENNAN: The one on the right side of his house does.

TEN HOEVE: No it is going to stop at the rear building line of the house, where it says well.

BRENNAN: So it stops right here?

DEMA: No, you are thinking about the other side of Helvetia. The well is on the Helvetia side.

BRENNAN: The other side is going all the way to the street.

DEMA: Right.

TEN HOEVE: Oh, it is going all the way to the street on the south side? I thought I just asked you that and you said it stopped at the rear building line.

DEMA: I am sorry, I thought you were talking about the Helvetia side. It is going a solid 6 feet all the way to the street.

TEN HOEVE: I think a variance is required for that as well.

WALKER: Does that make sense go all the way to the street? I mean you he is backing or front the car out of the driveway and there is a fence all the way to the street. People won't see him coming or you won't see people coming.

TEN HOEVE: Is that fence up already?

DEMA: No.

TEN HOEVE: You would need a variance for that as well. It has to stop at the building line just as you are proposing on the Helvetia side.

DEMA: Right, I haven't done anything.

HOSKINS: Is the property on lot 6 and 7 in the back of you, does that slope down or is that level with yours?

DEMA: Mine is, well we share a retaining wall back there, which is a bunch of rocks, so I think the property is level. It is hard to tell. There are big rock piles that separate our properties.

HOSKINS: If they slope down, the illusion of the fence would even be higher to look at.

DEMA: I set it in front of the rock wall instead of behind it.

FLAHERTY: Mr. Dema, if you run the fence along the north part of your property, all the way to Lafayette, at 6 foot height, are you concerned about visibility when you back out of the driveway?

DEMA: No. I mean I have a 3 car garage, so when I am coming out, I am pretty much coming face out, so I don't think that the fence is going to cause an obstruction.

CAPILLI: What is distance between the edge of the driveway and the fence line?

FLAHERTY: It looks like 18 feet.

TEN HOEVE: No, that is the width. It is probably 10 feet. Most easements, most right-of-ways are around 10 feet.

SANDLER: If somebody was visiting you, wouldn't they have to back out, depending on how many cars were visiting?

DEMA: It depends on how they come into the driveway.

BRENNAN: How long have you been in the house?

DEMA: About 5 or 6 months.

BRENNAN: There are no other fences are on that side of the property now, the driveway side, right now?

DEMA: I ran it all the way until the back side of my property.

BRENNAN: I am talking about the front of the house, the driveway side, that we are talking about now?

DEMA: No, I haven't put anything up. Anything that I need a variance for, I haven't put up yet.

WALKER: So there is just overgrowth between the 2 houses?

DEMA: Yes.

SANDLER: For privacy purposes, wouldn't your privacy purpose be served by having the fence up to the building line? Because, you couldn't look out your window past the building because the window isn't past your building?

DEMA: I have a window really facing that side.

SANDLER: Okay, so then it is not really privacy when you are in the house? It is privacy when you are in the driveway or anywhere else?

DEMA: Right.

WALKER: How wide is Helvetia? Lafayette is only 25 feet, so how wide is Helvetia?

BEER: It is narrow.

WALKER: It is narrow, so there is probably, his property, the illusion is that it is going to the street, but there is probably a buffer there.

TEN HOEVE: It shows that. It shows where you see edge of pavement, and the property line. If you are looking at the same survey that I am looking at. It looks like it is somewhere around 10 feet, which is the usual. That appears to be his property, and what usually happens, is people just have lawn right up to the edge of the pavement or the

asphalt curb, so even though it is not his property, it looks like it is his property and it looks like he is pulling out right at the curb line.

DEMA: Right.

SANDLER: You have hedges there now, where you would, you know next to your driveway, where I see hedge row here. On the left side, looking at the picture, Lafayette, it says hedge row here. Do the hedges come up to right here?

DEMA: Yes.

SANDLER: Could you continue that hedge row, or some sort of a tree over here instead of taking the fence out to Lafayette?

DEMA: I don't know how it is going to look. There are some oversized trees there, so I don't know how easy that would be to install.

SANDLER: Well, putting some other trees there?

DEMA: It is not something that I prefer to do but it is an option.

SANDLER: Well if you needed privacy in that area, would trees serve that purpose?

DEMA: Yes, probably.

BRENNAN: If you were to put the fence in, how much stuff has to be removed for the fence to be put in?

DEMA: Nothing.

BRENNAN: So nothing is on your property line.

DEMA: No, we just have to run it up, that is all.

TEN HOEVE: Just so you understand the reason that the Board is asking you all of these questions, the Ordinance prohibits some of the things that you are trying to do.

DEMA: I understand.

TEN HOEVE: In order to get permission to do that, under the Municipal Land Use Law, you have to show some unique condition or some special condition, some reason why your property should be treated differently from everybody else's property in the Borough. I think that they are struggling because you haven't given them a reason why you are different from anybody else who would be in the circumstance of living on a corner street.

DEMA: So, if we put aside that one, the south side where we are running up to the street, are we okay on the other?

TEN HOEVE: The north one, where you are running up to the street, I was wrong, I didn't look at the north, south sign, yes that one is a whole different issue. But, for any of these, you need to give the Board some reason why they should do this, why should they permit you to do this?

I think one reason that you have said before, it deals with the fact that Helvetia is apparently, while a street, not much of a street because it stops at the end and it doesn't go anywhere. No one will ever be driving on that street with the exception of the property owner across the street from you.

So, there is some argument that you can make with regard to the fact that there is a limited impact for granting a variance to permit this because it is not going to be as if

you did it on Pascack Road, where thousands of people are driving by everyday and seeing a big ugly 6 foot fence right on the street line. But, in terms of bringing it out to Lafayette, on both sides, I think.....

DEMA: No, I just want to do it on one side.

TEN HOEVE: Well on one side even.

DEMA: Well if I don't bring it on the one side to Lafayette, would it be okay on the Helvetia side?

TEN HOEVE: I don't speak for the Board. I am just commenting to help you understand what is going on.

FLAHERTY: Okay, thank you John. I think that you made some good points. The Board is going to discuss this amongst ourselves and I am inclined to think that there is.....I am inclined to agree with you on the Helvetia side, but I really do struggle with having a 6 foot fence run to Lafayette. I think that there might be some concerns there.

HOSKINS: The other thing that bothers me if that fence ran to the street here, do you have children? If they ride their bikes, the little tots in the driveway and they go out suddenly, and a car is coming on Lafayette this way and you have a 6 foot fence, almost to where they enter the street. I don't know that is.....

DEMA: I will make the concession on that. I will drop that.

HOSKINS: I can just picture a little child coming on a 3-wheeler or whatever running out of the driveway and before you know it. He is in the street and the person coming out only sees the fence to a certain point. That would bother me.

DEMA: Okay.

FLAHERTY: Does the Board have any further comments or questions for the applicant? We thank you for your time, and we will discuss it tonight and you can call Mrs. Beer in the morning.

DEMA: Okay, thank you.

NEW BUSINESS:

None

CORRESPONDENCE:

None

APPROVAL OF MINUTES:

The Chairman entertained a motion that the June 15, 2010, minutes be approved as submitted. So moved by Mr. Martin and seconded by Mr. Sandler.

ROLL CALL:

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

Abstain: Mr. Capilli, Mr. Brennan

APPROVAL OF VOUCHERS:

None

DISCUSSION OF APPLICATIONS:

The Board discussed the application of Ron Dema. The members felt that they couldn't go along with having a 6 foot fence out to Lafayette. The applicant agreed to withdraw that part of the application at the meeting. The Board felt that they could approve the rest of the variance. Attorney was advised to draw a resolution of approval for the next meeting.

ADJOURN:

There being no further business to come before the Board, by motion of Mr. Walker and seconded by Mr. Hoskins, the meeting was adjourned at 8:35 pm

Respectfully submitted,

Margot Hamlin,
Transcriber