

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

The regular meeting of the Park Ridge Zoning Board of Adjustment has been called for Tuesday, January 18, 2011, at 8:00 pm in the Council Chambers of the Municipal Building.

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

Absent: Mr. Raman

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

**PLEDGE OF ALLEGIANCE:**

**COMPLIANCE STATEMENT:**

The Notice for this meeting required by Section 3(d) of the Open Public Meetings Act has been provided by the adoption of a resolution by the Park Ridge Zoning Board of Adjustment of January 19, 2010, setting forth a schedule of regular meetings by mailing of said schedule to the Record and The Ridgewood News, 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.

**OATH OF OFFICE:**

FLAHERTY: We have a new member joining the Board tonight, It is Scott Galdi

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

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

FLAHERTY: Congratulations, we will need your signature right here.

**INTRODUCTION OF NEW BOARD MEMBERS:**

**Robert Brennan** – reappointed Board Member for 4 year term  
said term to expire December 31, 2014

**Scott Galdi** - newly appointed Alternate I Board member for 2 year term- said  
to expire December 31, 2012.

**REORGANIZATION MEETING:**

WALKER: Mr. Chairman I make a motion that we suspend the regular business in order to reorganize for the year 2011. Seconded by Mr. Hoskins. Carried unanimously

FLAHERTY: So moved

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

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

CAPILLI: Mr. Chairman, I would like to nominate Eric von der Lieth, for Chairman of the Board for 2011. Seconded by Mr. Walker.

BRENNAN: I would like to make a motion that the nominations be closed, and that Dr. von der Lieth be elected as Chairman of the Board for the year 2011. Seconded by Mr. Hoskins. Carried unanimously.

FLAHERTY: Thank you very much everyone. I would like to thank the members of the Board, as I step down, members of the Board and Professionals for helping to run the Board for the past few years, and wish the best of luck to Dr. von der Lieth, as he takes over

VON DER LIETH: Thank you very much, Jake, you did a great job. It was a great pleasure sharing with you. I appreciate it. I guess the first order for me, officially, is to call for a nomination for Vice-Chairman of the Board.

HOSKINS: Mr. Chairman I nominate Matt Capilli, for Vice-Chairman of the Board for the year 2011. Seconded by Mr. Brennan.

BRENNAN: Mr. Chairman, I make a motion that nominations for Vice-Chairman be closed and that Mr. Capilli be appointed Vice-Chairman of the Board for the year 2011. Seconded by Mr. Walker. Carried unanimously

VON DER LIETH Congratulations, Mr. Capilli. It is great to have you here. May I have nominations for Secretary of the Board.

BRENNAN: I would like to nominate Bill Walker for Board Secretary. Seconded by Mr. Hoskins.

CAPILLI: I make a motion that nominations be closed and that Bill Walker be appointed Secretary to the Board for the year 2011. Seconded by Mr. Hoskins. Carried unanimously.

**BOARD APPOINTMENTS:**

WALKER: I make a motion that John Ten Hoeve, Jr., be appointed Zoning Board Attorney for the year 2011. The motion was seconded by Mr. Hoskins and carried unanimously.

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

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

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

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

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

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

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

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

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

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

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

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

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

VON DER LIETH: I make a motion that Burgis Associates be appointed Planners to the Zoning Board of Adjustment for the year 2011. The motion was seconded by Mr. Brennan. Carried unanimously.

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

**WHEREAS**, the Zoning Board wishes to appoint Burgis Associates., as Board Planner for the year 2011; and

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

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

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

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

**WHEREAS**, appropriations shall be included in the 2011 Municipal Budget for such services; and

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

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

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

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

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

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

VON DER LIETH: I make a motion the Brooker Engineering be appointed Engineers to the Zoning Board of Adjustment for the year 2011. The motion was seconded by Mr. Brennan. Carried unanimously.

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

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

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

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

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

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

**WHEREAS**, appropriations shall be included in the 2011 Municipal Budget for such services; and

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

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

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

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

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

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

FLAHERTY: I make a motion that Helyn N. Beer be appointed as secretary to the Board of Adjustment for the year 2011. The motion was seconded by Mr. Hoskins. Carried unanimously.

VON DER LIETH: I make a motion that Margot Hamlin be appointed Transcriber Secretary to the Zoning Board of adjustment for the year 2011. The motion was seconded by Mr. Brennan and carried unanimously.

**DESIGNATION OF REGULAR MEETING NIGHTS, OFFICIAL PUBLICATION & FEES**

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

BEER: The third Tuesday in April is the first day of Passover, and I believe that it is also when the children are home from school.

WALKER: You are right, the public schools are closed that week and I think it might be in the best interest of the Board to choose another week, as a lot of the Board members and Professionals might be out of town that week.

VON DER LIETH: Do we know what weeks are available?

BEER: We can have the 26<sup>th</sup>, the following Tuesday, the 27<sup>th</sup> is occupied by the Planning Board. You can have Thursday the 28<sup>th</sup>, I believe. That is about it.

CAPILLI: Is there school that week of the 26<sup>th</sup>?

WALKER: Yes.

FLAHERTY: I would say the 26<sup>th</sup> is a week later, and we could do it then. Does the Chairman agree with that.

HOSKINS: I make a motion to approve April 26<sup>th</sup> to be the meeting date for that month. The motion was seconded by Mr. Walker. Carried unanimously.

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

**Meeting Dates**

**2011**

February 16

March 16

April 26

May 18

June 15

July 20

August 17

September 21

October 19  
November 16  
December 21  
January 18, 2012

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

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

**COMMITTEE APPOINTMENTS:**

VON DER LIETH: We are going to set up committee appointments at the next meeting on February 16, 2011. (Committees may be formed at discretion of Chairman)

**MOTION TO RESUME REGULAR ORDER OF BUSINESS:**

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

<b><u>CASE:</u></b> 10-15 Block: 708 Lot: 2	Application of <u>David Alvarez</u> , 145 North Avenue for Floor Area Ratio, front, side, and rear yard variances to construct additions to existing house in an R-20 residential neighborhood. Hearing begun December 21, 2010, continued to January 18, 2011 for possible revision of plans.
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WALKER: I have a few items to be added to the record, Mr. Chairman.

Item 9 is the Board secretary letter dated 12/22/2010.

Item 10 is revised plans dated 1/06/2011.

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

VON DER LIETH: Mr. Alvarez, would you please come up? I see that you brought someone here with you tonight. Would you please introduce him.

ALVAREZ: Yes, he is the Architect listed on the plans. He is very knowledgeable with your suggestions from the previous meeting.

TEN HOEVE: Will he be testifying tonight?

ALVAREZ: Yes.

TEN HOEVE: You were previously sworn in, so you are still under oath.

If you would just raise your right hand? Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

DEPIPPA: It is Robert Depippa.

TEN HOEVE: What is your professional address?

DEPIPPA: 57 Hoffman Avenue, Little Ferry, New Jersey.

TEN HOEVE: You are a licensed Architect of the State of New Jersey?

DEPIPPA: Yes.

TEN HOEVE: Thank you.

VON DER LIETH: Okay, Mr. Alvarez, we heard your presentation last month and you have made some changes. Do you want to take us through some of the changes that you have made, or some of the alterations to your plans.

ALVAREZ: Sure. I think Robert, you could do that?

VON DER LIETH: Please do that.

DEPIPPA: The changes that we have tried to address are mainly the concerns that I was told by the Board. Basically it was the size of the garage, and the setback for the garage, which we had originally had expanded it closer to the property line, and we have decided to bring it off the property line and align it with the existing and reduce the size of the garage so that it would be more of a standard 2-car garage size, which is approximately 22 feet wide by 21 feet deep.

VON DER LIETH: Could you just state for some of the Board members who weren't here, last month when you, you weren't here, but obviously, Mr. Alvarez was here, we were concerned about the addition of the garage, keeping it in the spot where it was and in doing so, obviously, it was abnormal size, as opposed to a normal garage. So, as we are looking at the plans, I am just trying to explain what has changed.

DEPIPPA: I understand. Well, we originally had the garage pushed a lot deeper and it was a lot closer to the house. It was actually about almost 30 feet deep and we reduced it back. We only actually increase the size of the garage by about 2 feet.

The inside of the garage the mentioned was only about 19 feet, which is a little bit small for cars today. We increased that up to 21 foot 8 inches. Then the width, it was originally only 16 feet wide, and we just increased it to 22 feet wide, so we can fit the 2 cars in there. So we reduced the square footage significantly down to a standard 2-car garage size.

TEN HOEVE: Can I ask you a couple of questions? Just so I can understand the plan. It is currently a detached garage, correct?

DEPIPPA: Yes.

TEN HOEVE: What you are showing is making it an attached garage?

DEPIPPA: Yes, so that, basically we added a little breezeway so we can attach it to the house, so that it would be more convenient in weather like today. If someone had to bring in packages and bring in the children, they can come directly into the house rather than walking completely around. It is a small breezeway.

TEN HOEVE: You understand that the distance that a detached garage must be from a property line is significantly less than that which an attached garage needs to be?

DEPIPPA: Yes.

TEN HOEVE: So, if I understand the plan correctly, this will remain 2.8 feet off of the property line?

DEPIPPA: That is the existing setback.

TEN HOEVE: Right. The driveway, is the driveway that shown here, the current driveway?

DEPIPPA: Yes, the is the front driveway going back.

TEN HOEVE: Does it come around and come all the way out again, to North Avenue. Are there 2 curb cuts on North Avenue?

DEPIPPA: Yes.

TEN HOEVE: What is the purpose of that?

DEPIPPA: We they had, originally it was just, it makes it easier so that they don't have to back out. They can come in and turn.

TEN HOEVE: I understand that.

DEPIPPA: That is existing, we didn't add that.

TEN HOEVE: Okay. Those are the only questions that I have for now.

VON DER LIETH: Refresh my memory, Mr. Ten Hoeve. We had, last month, I know we had some issues and Mr. Alvarez had some issues about not wanting to move the garage to the other side, due to safety issued with the kids. However, if he had kind of gone in and worked with that plan a little bit, we might have been able to eliminate maybe 2 or 3 of the variances, Mr. Ten Hoeve?

TEN HOEVE: Well, yes, there is a lot of property on the other side and the Board had raised questions about, wouldn't it be more appropriate to simply have the garage located on that side? Then you could have a truly attached garage, with access to the house. I am not sure what the interior layout was.

DEPIPPA: Unfortunately the interior on that side is where the living space is going to be. It is not as convenient as the other side. It is going to be a main dining room and family room, and it would be difficult to line that up. Then, also, the way the property also does drop down slightly over there, so it would make it a little harder to line everything up and to get into his house correctly. You would either enter at the basement level or you would be entering at midlevel and up into the dining room and family room.

TEN HOEVE: Or have it so that you couldn't enter the house from the garage as you currently have? You could have a walkway or, you can't enter the house from the current detached garage?

DEPIPPA: Currently no, that is why we were adding the breezeway. We were trying to minimize the size of it.

WALKER: You say that there is an existing drive in the front of the house?

DEPIPPA: Yes, there is an existing U-shaped drive in the front of the house. It is not covered it is just an open, it is actually just an open driveway.

WALKER: It is actually a driveway? It is not just gravel?

DEPIPPA: It is actually gravel.

WALKER: And there is a second curb cut? I don't see it on the picture here.

DEPIPPA: There is no sidewalk there, so it just goes right out into the street. There is no sidewalk that you are crossing, so the gravel just... that is the way that it is currently.

TEN HOEVE: Mr. Alvarez, do you know when that driveway was put in?

ALVAREZ: I am not sure. It was probably the previous owner, that we purchased the house from.

TEN HOEVE: Because gravel drives are not permitted in the Borough either.

ALVAREZ: I am not sure when it was done, but our intention is to pave it.

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DEPIPPA: I did include that in the coverage in case you did want it to be paved. Even though it is currently gravel, I opt that it is going to be paved. The impervious coverage would still be okay. It was calculated in.

CAPILLI: I was just looking at this one picture. It just looks like the railroad ties kind of separated the driveway from that gravel. Do you park a car in the front of the house on the gravel?

ALVAREZ: Yes, we do. When my wife and I are in the house, one of us parks there so we don't block each other.

TEN HOEVE: One other question that I have was, there was no way to design any of this so that you didn't require an FAR variance, which is a more difficult variance to obtain. You need 5 votes from the Board. It is "D" variance rather than a "C" variance.

DEPIPPA: Right, I understand that, we tried to minimize the size of the addition. One of the things, of course, was the lot size. It is a 15,000 square foot lot. The FAR is based on a 20,000 square foot minimum. It is not a conforming lot. So, percentage wise, we tried to keep it as little as possible. We only, actually, added a 28 by 25 extension to the house. Then, of course, the garage was included in the FAR.

So we tried to reduce it. We reduced it significantly by reducing the garage, but the addition was almost, if we decided to do that, it would have made the house, less useful. He has a little disadvantage because of the 15,000 square foot property.

VON DER LIETH: What we are really talking about, keeping it, I mean lets look at it from a practical standpoint. We are looking at where the garage is right now, we want to try, or Mr. Alvarez wants to try and keep it there, you don't want to break the bank, so to speak. I mean would it break the bank if there were other. I just thought that maybe you might have like an alternate drawing or some other idea that might be presented, that might make it easier for Mr. Alvarez, to get this okayed. Like Mr. Ten Hoeve stated, you know, the FAR is much harder to obtain. That is all.

You certainly don't want the safety issue. I totally understand where you are coming from, Mr. Alvarez. I understand that.

FLAHERTY: John, could you explain what is the difference, the attached garage? What effect does that have on the... I didn't follow that.

TEN HOEVE: Well, if you, detached garages are accessory structures under the zoning ordinance. The distances that they can be from a property line are significantly closer or significantly shorter. If you give me a second, I will find that exact dimension.

FLAHERTY: You are saying that it is shorted if it is detached?

TEN HOEVE: Yes, if you have an attached garage, you have to meet the full side yard setback, which in this case would be 22 feet. So, if it is attached to the house, the garage is supposed to be 22 feet off of the property line. This is 2.8 feet. If you are detached garage, which is permitted, it is .....

BEER: It ranges from 10 to 15 feet depending on the size.

HOSKINS: I just have one question in the interim.

TEN HOEVE: Detached garages that are greater than 150 feet or less than 325, have to be 10 feet off of the line. If they are more than 325, they need to be set back 20 feet off of the property line. I don't know what the square footage of this one is. Okay, it is 425, it would still be 20 feet that would be required.

DEPIPPA: Even if we tried to cut it back, the driveway would be unusable. You wouldn't be able to get to the back of the house.

TEN HOEVE: What is the current garage.

DEPIPPA: The current garage is 16 by 20, so it is about 320 square feet.

TEN HOEVE: So, it is less than—it is the 10 foot requirement.

DEPIPPA: Right.

TEN HOEVE: When you enlarge it, it becomes the 20 foot requirement.

DEPIPPA: Right and because it was attached, I did show it as 22.

TEN HOEVE: Right.

WALKER: I think at the last meeting, we made it pretty clear that it is difficult to approve a structure, an addition to an existing structure less than 3 feet from the property line. Next month, someone else will be in and they are going to want a little bit bigger structure, 2.5 feet from the property line. That is the way that these things tend to work. So, what you are asking the Board to do is, in my opinion, impossible.

VON DER LIETH: I agree, 3 feet is just very small.

WALKER: I thought that we made it pretty clear that was a real issue. If you just leave the detached garage the way it is, it is a pre-existing condition, and that is not a problem. To attach a breezeway, or however you are trying to circumvent what we told you last month, it is really not possible in my mind to make any changes to that structure. The best thing is really to take it down and build the right house that belongs on that property, which you have plenty of property to build on.

You have the luxury there. You have a lovely piece of property. The house is positioned in the right place.

ALVAREZ: I agree with you. We do have a beautiful property. It comes down to money. By leveling the garage and doing what you are suggesting you are looking in excess of \$100,000.00 to \$150,000.00. Now, for the record, the neighbor, if you are standing in front of the house, the neighbor to the left of me, their driveway is exactly, maybe even closer to my property line. It is just the way those houses are.

Going back in the history of those 4 properties, supposedly they were all by the same person, and so they were built that way. If you look at them, they are all similar. It is not, the house doesn't look odd, even if.....

WALKER: Have people made improvements to their garages that are 3 feet from the property? Has anyone added a second floor or tried to attach it to the existing house?

ALVAREZ: If you.....

WALKER: I believe that they are all 2 or 3 feet.

ALVAREZ: If you go to the end of the cul-de-sac, the average house is 4,000 square feet.

WALKER: Yes, new homes, new construction.

ALVAREZ: I am on a 100 by 100 foot lot, so it is a tough one to...

TEN HOEVE: Are you saying that the driveway on the lot, if you are looking at your house, to the right, is also very close to the property line?

ALVAREZ: That is exactly where it is.

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TEN HOEVE: Does that go to a detached garage, as well?

ALVAREZ: They don't have a garage. It is just a driveway.

TEN HOEVE: I think that the point that Mr. Walker is trying to make, if they have a driveway there, if they wanted to put a garage or an accessory structure there, they could put it 20 feet off of the line, or even 10 feet off of the line, if it were under the 325 square feet, and you would have 12 feet between your structure and his structure.

ALVAREZ: Right, but what happens, is the way that the houses are laid out, to the right of each lot, so, even if he put the garage really on my property line, my wall, my existing wall, would be 90 feet from their property.

TEN HOEVE: Yes, but what I am saying is their house must be laid out differently if the driveway is on the opposite side of the lot.

ALVAREZ: No, it is to the right of the lot. My house is to the right of the lot and their house is to the right of the lot.

TEN HOEVE: Then why would they have a driveway that is right next to your property line? I don't understand that.

ALVAREZ: It is still rectangular lots, so their property, their house is, if you could visualize....

TEN HOEVE: Maybe your architect could explain it?

ALVAREZ: If you could visualize his plan here....

DEPIPPA: I think what he is trying to say is this is house and then just to the left of it, you put the exact same, it won't be close to his house, it is close to his property line. I think that is what he is trying to explain.

CAPILLI: I have a question because if you were walking out from the basement, is that truly walking out to a level yard, or are you coming up steps like.....

DEPIPPA: Actually, no, this will walk out to a level yard.

CAPILLI: Because, the property, I mean I can't tell from here, only I mean there is no topography to show the elevations, except for your one drawing here, but I can't see by looking at the property, it being that dramatic that you are going to have a 10 foot drop that would allow for a walkout basement, unless you excavate a lot.

DEPIPPA: What we do, is just on this side of the door, we created a little retaining wall walkout. It is there. The basement is still, if you look at the side elevations, the left side.

CAPILLI: There is still going to be a lot of excavation.

DEPIPPA: Just at the door. What we do is just do a retaining wall and just drop down where the door is.

CAPILLI: Have you calculated how much soil you have to move?

DEPIPPA: It is a very small area that we are digging out. It is only about 7 feet wide. The rest of it is.....

CAPILLI: So, where the windows are, that is going to be 2 feet off of the ground?

DEPIPPA: Right. About 30 inches from what it currently is. It is just a small area where the door is, maybe 7 by 10.

VON DER LIETH: Will you have steps into the yard then?

DEPIPPA: No, it is actually going to walk out to the yard in a flat area. Maybe one step, the way it works out with the grading. It will have a flat area first. It is not a significant excavation though.

VON DER LIETH: Will it be a basement, or is it going into crawl space for the addition?

DEPIPPA: No, the addition is going to have a basement.

BRENNAN: So you are going to have to excavate for that?

DEPIPPA: Yes, that will be some excavation for the basement.

BRENNAN: At what point do we have to consider soil moving?

BEER: 300 cubic yards.

BRENNAN: How do we tell if this is 300 cubic yards?

BEER: That is his job to tell us how much soil is being moved. 300 cubic yards requires a public hearing.

VON DER LIETH: Mr. Hoskins, did you have a question. I am sorry you were.....

HOSKINS: It was answered.

VON DER LIETH: You are okay. Alright.

SANDLER: I have a question. Both the architect and the applicant, do either of you have some kind of cost estimate of the cost of putting the garage on the other side, where you have a lot of space? You mentioned \$100,000.00 to \$150,000.00, and that seems like a lot for 420 square feet. I am not sure where that number comes from.

DEPIPPA: What happens is, you basically, the cost comes from eliminating what is already existing. I mean, you are throwing the garage away, then you are rebuilding.

SANDLER: Sir, what is the true cost of demolishing that garage and building the other garage?

ALVAREZ: You mean as the house? I would say a couple of 100.

WALKER: A couple of 100 thousand for 400 square feet?

ALVAREZ: I am familiar with commercial. I don't know much about the residential. It is going to cost money. I mean if it cost \$50,000.00, I think it is too much.

VON DER LIETH: Aside from that though, getting back to the soil moving, you will have to do the calculations to see that. Then, what you are also going to have to do, is now, you have a height requirement, because now, if you have that walk out, that point is going to be measured and you are going to be in violation of the height restrictions that are imposed in the town. So, it raises a whole other slue of issues with this structure.

DEPIPPA: I did take the averages around the house.

VON DER LIETH: The highest point, I believe, can't be more than 38.9 or whatever it is.

HOSKINS: It is 32.

BEER: 32.

DEPIPPA: I think we are in compliance with that.

VON DER LIETH: I mean you have to take the average, and then there is also another calculation. If you are looking from where that door is, the middle to the height, I am sure that exceeds the requirements of the town.

DEPIPPA: So if you are taking an average first, and no point can ever be over 32, so really, what is the point of the average? I mean if you are calculating average and then you have a high point, then.

BEER: With no one side being higher than 32, that is what is in the Ordinance.

VON DER LIETH: Honestly, that is because you have a lot of people here that would have walk out basements and what they did was, on 2 corners of the property they back filled it and they stacked the deck and the calculation calculated, but you had 2 corners of the house that well exceeded the height requirement, so this Ordinance corrected that.

DEPIPPA: Yes, but if the highest point can't be more than 32, than there is really no sense of taking the average because it will always be ....

VON DER LIETH: What they are saying is that everything has to be, you might have one that is 32 and one that is 20 and than one that is 15, but nothing can be higher than 32.

DEPIPPA: Just have to think about that one. Let me go home tonight?

WALKER: If you go down Morningside Avenue and look at a house that has been backfilled and they put in 7 or 8 feet of dirt and that house is 40 feet above the street. The entire street is level and the top of that house is 40 feet above the street because of that walkout garages, is what we are trying to tell you.

DEPIPPA: I understand what you are saying but..... There is no sense of doing a calculation if the highest point can not exceed 32.

VON DER LIETH: That is a very good point. I don't know why they have that, it should just be 32.

DEPIPPA: We only made one point that was a little bit higher, but the average of that elevation is still under 32. I mean we did try, we didn't want to create this huge, 40 foot high. It is 34 feet and the 2 edges are 6 or 7 feet, which averages it down to 31.7, and that is what I thought the intent of this Ordinance was. That seemed to be it.

CAPILLI: I think we are all sympathetic to what you are trying to do, and we understand it, but it just seems like right now, in what you are presenting, as Mr. Walker said, it is virtually impossible and now Mr. Brennan just brought up some more points, you know, the soil moving, it just seems like we are just getting deeper and deeper in the other direction.

It might be worth going back and trying to come up with another design or way to do this.

ALVAREZ: I mean, the garage, it is either, if it doesn't get approved, I will just keep it the way that it is. I am not going to jeopardize basically putting the garage on the other side. I am not going to do that. My wife is a physician. She is a Nephrologist at Hackensack. I am a restaurateur. We are not developers. This is our home and we are going to live in it for the next 20 or 30 years.

The garage is only an issue to my wife, because she walks into the house, by going around and she would like to have it attached. So we didn't break the rules too much, we had a breezeway so that she could go right through it. The gravel is an issue for her, now, because her shoes get ruined with the heels going right through the gravel. So, we have to pave it.

There are a lot of little issues that come down to comfort and quality of life that I think any citizen of this town deserves. So, we are trying to improve our quality of life, by reconfiguring the house and redoing it. So, that is the whole purpose. We are not builders and we are not trying to be cute. So that is my stance. If the garage doesn't get approved, I will keep it exactly the way that it is.

The house we can compromise on it, but at the end of the day, we have to be uniform with the block, with the entire 3 mile radius of my house. I mean I don't know if any of you has driven by my street, again, I can't stress this enough, the average house is over 4,000 square feet, on a 100 by 100 lot. How did they accomplish that? I mean going back to the height, I mean the houses is in compliance with the height alone.

Just across the street to the side of me, you are talking close to 40 feet, that house.

CAPILLI: Your personal preference, the last thing that the Board would want to do is to tell you how to build the house. I am curious about the houses around. I know you are concerned about the kids with the driveways. Are there any houses in the immediate area that have the driveway setup close to where kids....my point being is that my house, my driveway, my kids do play on the driveway. There is not a lot of traffic coming in and out on the driveway. I am not saying that you don't have concerns. I know people whose kids get hit all the time in the driveway, people aren't looking and you would rather not have kids playing in the driveway, but if it is not a very high volume kind of thing, I was curious if any of the homes in your immediate vicinity had the setups where the kids playground area was very close to the proximity of the driveway?

ALVAREZ: No, most of the houses, even though they are 100 by 100 lots, their playground is in the back. I don't have that luxury because my rear wall, which is the existing condition of the house—how many feet am I to the rear?

TEN HOEVE: 40 feet.

ALVAREZ: 39 feet, so it calculable by not too comfortable. We decided that we were going to have a lot of traffic in the front, so we wanted to take advantage of that.

BRENNAN: Regardless with what you do with the garage, we still have issues with the fact that there is no soil movement on here and you have the height restrictions, which you are going to have to abide by, because that is regulations. There are certain things here, it is almost a complete application once again, so we are just trying now to advise you that you really have to go back and put your ducks in a row and figure out. You have a pretty level property considering that Park Ridge is 99% on a hill. You have a lot of room to work with and you are saying that the backyard, 39 feet isn't—I have to tell you, that it is probably deeper than a lot of the yards in Park Ridge, so in total if you want to go the average, you have a couple of homes that are bigger piece of property, but for the majority, you have a big backyard, you have the side yard, you have a big backyard. You have a room to work, is what I am trying to say.

We are not trying to give you a hard time, but you do have to abide by the ordinances. It is what it is. That is why they pass them.

VON DER LIETH: I hate to tell, look, the ordinances are there for a reason. The Zoning Board of Adjustment, their job isn't to tell people how to build their homes, it is to give them a blueprint or constraint within which they can build their homes. There is just certain limits that we can't—I mean 3 feet. I will ask the rest of the Board what their opinions are, but it would be very difficult. Does anyone have any comments?

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TEN HOEVE: I think a suggestion, I think that the Board might, just so that we could have some direction, if the detached garage were not touched at all, would the Board look favorably upon the proposed 2-story addition?

BRENNAN: I am just curious about how much soil would be moved and all of that.

TEN HOEVE: You are absolutely correct. You would only get to that issue if the Board was inclined to look favorably upon the other variances. You don't need to do any soil calculations or anything else, if the Board is going to deny the application. If the Board is inclined to, would be inclined to consider the application, without any addition to the garage, leaving the detached garage as it is, what is the Board's opinion with regard to the balance of the addition and understand that, you know, the driveway issue—you have no idea how that came into existence, because that could not have been done with the approval of any Board. The Board would not have approved the second curb cut, because it is generally not done in towns. The Board would not have approved the gravel driveway, because it is illegal and they never permit that.

You don't know when that happened?

ALVAREZ: I purchased the house in 2006, and with me being in the restaurant business, I had to bring some of the floor mats from the kitchen and put them there and the reason why we haven't spent the money is because we haven't really known what to do with the house. It has been there since the beginning for us.

CAPILLI: What is the age of the house?

ALVAREZ: 1950's.

DEPIPPA: No one would say that someone just came and dumped a load of gravel. It definitely has been there for awhile, just by the condition of it. It is matted down. It has been there for years. I have only been on the property since November, and it was there when I looked at it. There hasn't been anything done.

BRENNAN: Do you need that turn around in the front?

ALVAREZ: I don't think so, because, I mean the turn around in the front is never even needed. You only need it now, because we only have a 1-car garage and she uses it. If I am in there before she is, I have to park to the side of the house, so she has access to the garage. Once we build a 2-car garage, there would be no need for the curve in front of the house.

GALDI: Is there a difference between macadam and pavers as far as the impervious?

TEN HOEVE: Yes, for pavers, generally pavers do not count as impervious, and they are satisfactory, obviously, just as macadam would be. Gravel is not permitted, but pavers are certainly permitted.

BRENNAN: I don't have a problem with the pavers going around a circular driveway. I think that aesthetically they look nice. I don't have a problem with that.

VON DER LIETH: I don't think that anyone would.

FLAHERTY: The only issue that we have to be clear on is the 2 curb cuts. They way that they are positioned, with that 20 foot minimum. Is that what is required?

TEN HOEVE: It is a pre-existing condition. You can approve that. Again, the issue that I think the Board has to focus on, is whether it would grant the variances if the garage was left alone, not touched, driveway left alone at its current location, just paved or pavers, asphalt or pavers. Then the only other variances that are required are, I assume the FAR variance. (everyone speaks at once) If you loose that, then you don't have the

FAR variance. You do have an additional rear yard variance, but that is not extending it any closer to the rear yard than the existing dwelling. That is the question that I think for the Board.

CAPILLI: John, what is the height issue now? Are we off on the height?

TEN HOEVE: I don't, was it your testimony that some portions would exceed the 32 feet?

DEPIPPA: Basically the testimony is that I tried to reduce the area, because when I read average, I presumed that it was an average. You know if you can never be above that average, it is always below the average.

TEN HOEVE: Did you look at the sketch attached to the...

DEPIPPA: Yes, and I took the .6 away and it averages below 32 on every elevation. I did see where you did have the 32 max, but it didn't make sense.

TEN HOEVE: Right, did you look at the elevation view section, where it says max, the sketch on the back of the Zoning Ordinance? Okay, that again provides, again, if you look at the sketch that is attached. I don't know if you have one in front of you, if you look at that sketch, you will see that there are clearly or apparently to me, it looks like there are sections of that sketch that would exceed the 32 feet.

DEPIPPA: It didn't look like that. That is why when I did that calculation, I presumed that as long as that entire elevation was below 32 as an average, because that is why you are taking an average. There is no sense in taking an average.

TEN HOEVE: If you take a look at this, it is interesting, because if this is a maximum of 32 feet here, and this, where it steps down is a maximum of 32 feet, this dimension, to me, looks like it would have to exceed 32 feet, correct? It has to. If they are saying that is 32, that would have to. 32 from this step down portion and from here are both 32. This dimension could not possibly be 32, it would have to exceed. That is what my suggestion would have to be.

The Planner, unfortunately, isn't here tonight, but we can clarify that issue.

DEPIPPA: If every point was below 32, the average would be 32.

TEN HOEVE: You are absolutely right.

CAPILLI: The way that the property lies, though, that height, the highest point, is on a hill overlooking the property to your left, so it actually appears even greater than 32 feet even it was 32. So, it magnifies the issue of dominance over the people lower on that hill.

DEPIPPA: I understand what you are saying, but the way that it is written, I guess it will need clarification. There is no sense of every doing an average. The reason to do an average is if one is higher and one is lower, and you take the average.

VON DER LIETH: We will get clarification.

TEN HOEVE: Again, my suggestion to the Board, is that it at least make a preliminary determination tonight as to whether it would grant the other variances and we can deal with the height issue then and we can deal with the soil movement issue at the subsequent hearing, when the Planner will be here.

FLAHERTY: The only variance that we are talking about then is height and soil and rear yard.

TEN HOEVE: He needs a rear yard variance because he has—there is a 50 foot rear yard in the Zone and he is going to be 39 feet extending that addition. The entire

new proposed addition will still be, well it is line with the building line of the house, it is still an additional variance because it is extending that encroachment.

DEPIPPA: Is there a requirement for notification if there is soil movement that would be required?

TEN HOEVE: There is a separate hearing that has to be held. So, if he calculated the amount and it turns out he would have time to give a notice if he had to. The FAR will probably go away because of the garage.

DEPIPPA: Either way you are back next month, right?

TEN HOEVE: If the Board is willing to grant those variances, I am suggesting, don't make him do all the additional work unless they are likely to look on those favorably. That is all that I am suggesting.

VON DER LIETH: John, is your question assuming that he would be willing to comply with the 32 foot height limit?

TEN HOEVE: Well, I think that needs some investigation, before we make that request.

DEPIPPA: I have a question then. Assuming that we are inclined to forget the garage and keep it the way that it is, if the requirement is the that it is a strict 32, are you opposed to (everyone talking at the same time, again).

TEN HOEVE: We can find a way for a compromise.

CAPILLI: I would like to quickly let the Board know that I have no problem with that if we take care of the garage aspect of it and get rid of the FAR.

HOSKINS: I have no problem with that either.

VON DER LIETH: If no one else has a problem with that, we will save you a lot of work.

DEPIPPA: How soon could I get a clarification on the height?

TEN HOEVE: By the end of the week.

DEPIPPA: Okay.

VON DER LIETH: Is there anyone else here that would like to speak on this case? No, okay.

TEN HOEVE: Take down my phone number. You can call me, because I will make sure that I speak to the Planner and move forward. (announced phone # to DEPIPPA).

VON DER LIETH: You have Mr. Ten Hoeve's phone number.

DEPIPPA: I will do the soil moving calculation so that when you are ready, I am ready for that phase.

TEN HOEVE: Yes, just let us know. If you don't need it....

DEPIPPA: 300 cubic yards?

TEN HOEVE: It is not off or on, it is any movement total.

VON DER LIETH: Okay, Mr. Alvarez, thank you very much.

<b>CASE:</b> 10-14 <b>Block:</b> 1103 <b>Lot:</b> 10	Application of <u><i>Felix Rizo</i></u> , 33 Midland Avenue for Floor Area Ratio, two front yard, rear yard and building coverage variances for constructing addition to existing house in an R-15 residential zone – construction done without permits. Hearing rescheduled from December due to improper Notification.
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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 11/11/2010.
- Item 2 is certification of service dated 12/22, 12/30/2010, 1/06/2011.
- Item 3 is legal notification dated 12/10/2010.
- Item 4 is proof of payment of taxes dated 12/15/2010.
- Item 5 is the deed dated 6/23/2003.
- Item 6 is the survey dated 6/11/2003.
- Item 7 is floor plan, unsigned and dated 9/20/2010.
- Item 8 is notice of violation dated 9/07/2010.
- Item 9 is illegal construction letter dated 10/04/2010.
- Item 10 is designed service agreement dated 3/10/2009.
- Item 11 is a letter of denial dated 10/04/2010.
- Item 12 is another notice of violation dated 12/23/2010.
- Item 13 is Board Secretary letter dated 12/28/2010.
- Item 14 is Board Secretary letter dated 1/03/2011.

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?

RIZO: I do.

TEN HOEVE: Please state your name and address?

RIZO: Felix Rizo, 33 Midland Avenue, Park Ridge, NJ.

TEN HOEVE: Thank you. The documents that were read into evidence, if I could just summarize them based upon the statement that was provided with the application from the Land Use Administrator, and the October 4, 2010 letter from the Zoning Officer. According to the information that the Board received, you had come to the Building Office to discuss variances and then after having discussed those, you went ahead and did construct an addition, specifically a bedroom on an existing deck, without getting any building permits or any variances.

The Construction Code Official, has provided a notice of violation indicating that the addition that was constructed, if you had made an application, would have required several variances, including a side yard variance, a rear yard variance, a floor area ratio variance, impervious coverage variance and maximum building coverage variance. So, had you made an application, for it, you would have required 5 variances. And, in addition, apparently, the structure was built on an existing deck. The Construction Code Official, whether appropriate footings were provided for the construction, as well.

That is the information that the Board has received so far.

VON DER LIETH: That may have been the only meeting that I missed last year, so, I was hoping that you could fill me in on what was going on. I know you just did a great job.

TEN HOEVE: No, there was one scheduled, but the applicant did not appear. Okay, Mr. Rizzo, could you just take us through what you would like done, or what you had done, and what happened, and try to explain to the Board.

RIZZO: Well, the house is rather small. I was living at 123 Maple Avenue. I adopted my first child and later on, I wanted to adopt another child. So, I got the house at 33 Midland, and I adopted my second child from Russia. Then the house we had 2 bedrooms and I thought it was good to adopt another child, so I went and got the approval from the State of New Jersey and adopted a 3<sup>rd</sup> child.

The child came with many problems. He was born in Texas. The other 2 children are international. The state approved for 3 healthy boys. One of the boys, they thought was healthy and he turned out to be a little more problems. He needed more space. I am a teacher, single man and that is the way I survive. I have my 3 kids, so I tried to see if I could build another room to give the little boy a little more space health wise, and there were so many different situations and I apologize for what I did. I am not saying that I did something right.

It was foolish of me. But, at the time, my dad comes out with a very bad disease and I had to take him in to. He is 85 years old. So, I was so desperate. I didn't know what to do. He was sleeping almost on the floor. Then they found out that I had 3, not only the 1, 2, 3 herniated vertebrae on my neck. It was producing incredible pain, so all of these things came at me at the same time. I said I am going to make this, I am going to build this place, cause I am going to go crazy.

So, I did the work myself, with a program. I have 2 friends that helped, they are licensed. One is an electrician and one is carpenter, a mason. We built the place. Then, you know, I said if they get me I will have to pay the consequences. But, at least my family will be a little better. I did it for my boys. I do understand that it was wrong. I understand that I should not have done it. I understand that I am nobody to do something like that. The only thing that I can tell you as an excuse, if you accept it, is that I was with a rope around the neck. My family is very important to me.

VON DER LIETH: It is very commendable what you have done so far. I want to say that, for sure. Did you come to anyone at the town with these problems?

RIZO: I told them, yes, but in town, the law is more important. I understand that. So everybody looks at the law and it like Moses and the ten commandments. I do understand. I am a teacher and I follow the law. In the case of the teacher, we sometimes we can break it here and there but it is different. Now, I do apologize as I said. It was wrong. If I would have known the consequences, I probably rented a house and go to another place.

VON DER LIETH: Well, I mean your story is quite compelling and I personally wish you had told the Board. We are all human beings and if we heard the story that applied, I think we would have looked—there is a chance we might have looked favorably. I can't say for sure.

I don't know what, perhaps the Attorney can give us, what are our options here? What are we, well, what options do we have in this situation?

TEN HOEVE: This Board can't render a determination based upon personal problems that the applicant has. It can only render a determination based upon the Municipal Land Use Law. The applicant has to supply testimony and or evidence to justify the variances that are requested. The Board has to analyze it the way it would analyze it the way it would analyze any other application.

Was the addition built in the best place? Could it have been built some place else? If the applicant knew before he did this, that he couldn't put it there because he would have required variances and building permits, why did he do that, rather than seek to put it someplace where he could have put it? Why didn't he make an application for the variance at the time. The shape of the property, the way the house is shaped as well, because it looks like the addition was built in line with existing building line, but it is curved, so it is at an angle so that the farther back that you go, the closer you get to the side line. There is an 18 foot side setback requirement. This is 6.9 feet.

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VON DER LIETH: So, the question, are we to—are there options where we would get the same evidence and testimony as if he was coming in front of us for the first time, as if that wasn't done?

TEN HOEVE: Yes.

CAPILLI: We retroactively look at this?

TEN HOEVE: You can, you can, absolutely, that is why he is here for a variance application. You would analyze this, again, his personal problems have nothing to do with whether you grant the variance or not.

RIZO: Well, sir, that is very difficult to say. I understand that. So many people do those things. When it comes to your family, you have to, you know, I was between a rock and a hard place. You tell me you wouldn't do it for your family?

TEN HOEVE: Let me ask you some questions. You said you had 2 licensed contractors who worked on this addition?

RIZO: Yes.

TEN HOEVE: Didn't they tell you that you had to get building permits?

RIZO: Yes, they did.

TEN HOEVE: And you just ignored them and went ahead?

RIZO: I didn't listen because I was in a difficult situation. I was looking for the health of my children. After I made the sacrifice of taken them from orphanages that were really horrible, I wanted to give them a home.

TEN HOEVE: Listen to me, I have a question. Couldn't you have made an application, come before this Board, and.....

RIZO: I did.

TEN HOEVE: Let me finish. You did, you did not.

RIZO: No, I did. What happened was there were so many different things that were, I was going to do at one place first and they said that I couldn't do that, because the driveway was too close to the house. Then it was my kitchen and then they said I was too close to the neighbor's house. Then, you know, it was....

TEN HOEVE: Who told you that?

RIZO: The people in the office.

TEN HOEVE: And, no one told you that you could make an application for a variance?

RIZO: Yes, they did.

TEN HOEVE: Well, you could have and you have now done that. That process takes about a month. So, you would have had a situation where one of your children was perhaps sharing a bedroom or living someplace in the house for a month until you could come before the Board and find out whether you could get that application or not.

RIZO: I understand that. I told you that my father came down with a really bad disease and I had to take him in to the house.

TEN HOEVE: All that I want you to understand, Mr. Rizo....

RIZO: I do understand.

TEN HOEVE: You don't understand because you keep bringing it up. This Board does not have the jurisdiction to be a .....

RIZO: I do understand, but.....

TEN HOEVE: Stop talking when I am talking. I talk then you talk.

RIZO: Yes.

TEN HOEVE: This Board does not have the jurisdiction to grant a variance based upon personal problems that are being suffered by the occupants of the home. The Municipal Land Use Law does not allow it to do that.

RIZO: I agree with you 200%. What I am saying to you is there are laws and there are laws. There are problems and there are problems. Sometimes a man has to act. I see illegal aliens. They are not supposed to be here, but you here their stories. It makes you cry. Are you going to say that the law says you are not supposed to be here. This man broke the law because he wants the children to eat. Come on, there is a God in heaven. Do you believe in him? I do believe in him.

VON DER LIETH: Mr. Rizo...

RIZO: There are sometimes that you do things that is from the heart, not from the mind. I am a science teacher. I am a physics teacher. I love Einstein's. I have always studied science, always studied physics. I know the laws of science. They are separate from the laws of man, than the heart. But,

VON DER LIETH: Mr. Rizo....

RIZO: There is a point in which sometimes the man thinks with the heart. You can not blame the man from thinking with the heart, although you know. Okay, is the idea that this is impossible for me to lift up and fly, but it is a probability.

VON DER LIETH: We understand that, but then you have to understand that from our point of view,

RIZO: Oh, I do.

VON DER LIETH: That we can't, we totally sympathize, but then, our laws are telling us what we have to do.

RIZO: I do, but what I am saying, is why I did what I did.

VON DER LIETH: We understand why you did what you did.

RIZO: I know it is wrong, but I want him to know that I didn't do it because I wanted to be spiteful, or that I wanted to be mean, or that I wanted to do something against the town.

VON DER LIETH: Right.

BRENNAN: I think we can all understand that. What we want to do is see how we can make this to completion, which would require you as if it never happened. Do you have the plans, the survey, the architect drawings that you could provide us with?

RIZO: I did it myself because I don't have enough money. I don't have enough money to do that. She told me, Mrs. Beer, told me that I could do that myself. So, it took me like 3 months to do it.

BRENNAN: I think if you were able to provide everything that would be required for us to review, it certainly would...

RIZO: The problem is that I can not take out \$10,000 or \$20,000.00 that these people want for these things, because it is taking it away from my kids. I know that you probably say, why do you have so many kids? I know it was my fault to have so many kids that I adopted.

VON DER LIETH: With that being said though, we do need that information, absolutely for sure. If we were only to take that tact of going retroactively to look, aside from why you have done it, there is no way on earth that we could okay anything without having, we couldn't do it.

RIZO: I did it just following the directions that she said to me. It was possible.

CAPILLI: Was anything submitted?

TEN HOEVE: There is a survey that is provided. There are also elevations that are provided. There is a, none of them are signed, but there are documents that show the location of the new addition that was put on the property.

BRENNAN: Are we responsible for the inspections that should have been?

TEN HOEVE: Well, no, but before you get to anything of that, you have to decide whether you are going to grant the variances that are requested. That is the first question. The Board has to decide whether it is going to grant 5 variances.

BRENNAN: You have nothing there for us to review, to decide whether we can or not?

TEN HOEVE: Do you have this? All I am saying is, I am not saying that the Board should grant the applicants, I am saying that I think sufficient information has been provided to the Board to review it.

HOSKINS: Mr. Rizo, they only, a little contradictory, for the good of the family, absolutely commendable, but when you are dealing with electricity and you have somebody do it, the reason why you have for a permit or variance, or whatever, is to have somebody come out and inspect it and make sure that it done right. That is more important than to have somebody do it...

RIZO: I know what you are saying. I did wrong.

HOSKINS: It is for your family's protection.

RIZO: I know, it is something that I did wrong. I shouldn't have done it. I know all of that. But, sometimes a man is in a situation, which is so desperate and so difficult that there is no alternative. I hope that you are not ever in this situation.

HOSKINS: We hear you, but ....

RIZO: I went and I did something wrong. It is like the man, you know like maybe the man, maybe his child doesn't have something to eat and he goes to a super market and steals, he know he is doing wrong, but you know....

TEN HOEVE: Mr. Rizo, let me try to explain it this way to you. If you came to the Board the way that you were supposed to, the Board might have looked at your application and said your proposed addition is too close to the property line. We need to have you move it 5 feet, 6 feet, 8 feet, off of the property line, and put it kind of in the area that you have it, but off to the side, and you still would have been less than the 18 feet that you are required, but the Board gives you a variance so that you are not just 7 feet off of a property line.

You took a month to get that application. You then made your application for a building permit. You get your building permit and you go ahead and you build it. You would have had the Board listening to your testimony and making a determination as to whether it would do that.

Now, you have come to the Board and given them a take it or leave it proposal. Now they can only approve or reject your application, or make you take it down and move it, which they have the power to do. You have removed the ability of the Board to hear testimony and shape the application. As you saw it do in a prior application tonight, just has you saw it do. You have made it impossible for the Board to do that.

RIZO: I do understand and that is what I was trying to explain.

TEN HOEVE: If everyone did what you did, which is come before the Land Use Officer, find out you need a variance to do it, then just go ahead and build it and then come forward and say approve it or reject it, it would be an impossible situation. There would be Zoning chaos in the town.

RIZO: I understand.

WALKER: The reason that this Board exists, is to give relief to people in your situation, Mr. Rizo. You didn't give us the opportunity to do so.

RIZO: I don't know, maybe if I would have spoken to you before, I wouldn't have the problems.

WALKER: Absolutely. Where do these fines and such stand? I see in the record that there are a bunch of fines. Are they increasing daily or weekly or monthly?

TEN HOEVE: They don't increase, they can just be issued each time. The Zoning Ordinance and the Zoning Officer can issue violations for every day. I think that he has held off waiting to see if the Board grants the variances.

WALKER: So, he has now filed an application. Can we hold increases in any fines while this application is in front of the Board, while we discuss what we are doing?

TEN HOEVE: Yes, I am sure that you can do that and I am sure that the Zoning Officer would do that, but is there a reason you need to have this heard at a second night? Do you want to do a site inspection.

WALKER: I actually have been there.

HOSKINS: I saw it also.

TEN HOEVE: Is there anything that you want to tell the Board that would justify the variances that you requested? Is there anything from a zoning perspective?

RIZO: I really don't know much about that. The only thing that I can tell you is that I apologize for what I did. I put the addition in the deck that was already there, except I thought it was the best of 2 evils.

WALKER: Was the deck existing when you bought the property?

RIZO: It was.

WALKER: Can we find out whether the deck was built by the prior occupant legally?

RIZO: Yes, it was. He told me.

CAPILLI: Does the deck have the proper footing? Can it hold the weight of the structure?

RIZO: The deck, my friends put a foundation around the deck.

TEN HOEVE: Around the deck?

RIZO: Yes.

TEN HOEVE: You didn't take the deck down?

RIZO: No, the deck is there. The deck was reinforced with concrete. The footings, yes.

CAPILLI: Normally in a situation like this, if something ever arose, lets say a construction that everything is legit, they pour the footings, but unfortunately they fill it in so you can't inspect it, would they just require them to excavate so you could see the footings?

RIZO: You can see the footings.

TEN HOEVE: I don't know what the Construction Code Official would have to do, in order to determine whether or not this complied with all building code requirements, whether that, I don't know whether he would have to have walls ripped open to see wiring. I don't know whether he would require foundations dug up to see if the foundation is everywhere that it should be, as deep as it should be, proper footings and constructed in the appropriate fashion. That is the second step.

If the Board were to grant the variances it would certainly condition it upon the applicant having to get those permits and again, I don't know. You could ask the Construction Code Official to give you some report in terms of what he finds.

VON DER LIETH: That is what I was going to say. I know personally, I would definitely need some sort of a report from a professional in terms of inspection to okay something like this. It would help us to determine whether we would say okay or not to this applicant.

BRENNAN: This is a prior approval for construction.

TEN HOEVE: It is, but if it is going to have to be torn down, anyway, because of the way that it has been constructed.

VON DER LIETH: If the structure is unsafe. If something else is seriously wrong, then it does change.

BRENNAN: Right, but if the official came to us and said hey guys, this is all sound. It is all good, that would definitely sway me in a certain direction.

VON DER LIETH: We would have to know that prior to doing something.

WALKER: Who inspected this property?

TEN HOEVE: No one. He never got a building permit.

CAPILLI: How did this actually come about saying that there was a violation? Did someone report it or did somebody just happen to drive by and say...

BEER: Yes.

CAPILLI: Oh, that is how it came about?

BEER: Mr. Rizo had been told by the Building Office that it required a variance, and then I spoke to him. Later somebody said do you know it is already done.

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VON DER LIETH: Speaking for the Board, I would like to have the Construction Official go out and inspect to make sure that everything is sound and that no one is going to get hurt.

TEN HOEVE: It has to comply in all....

VON DER LIETH: It has to comply so, it is preliminary for us to make a judgment, it has to be?

BRENNAN: Do you have photos of it as it was being done?

RIZO: We followed the laws and regulations of New Jersey.

TEN HOEVE: If it was as simple as that, then no inspection would ever be done by any construction official, because the builder or owner would just say I followed all of the codes you don't have to worry about that.

RIZO: No, I understand what you are saying, but my friend who is licensed professional, I told him if he was going to do this, do it following the rules, 3 blocks down, filled with cement, the footing on every end.

BRENNAN: Do you have any photos, though, of the progress of the construction?

RIZO: No. You can dig down.....I didn't take any pictures. I just wanted it over with.

TEN HOEVE: Who are the names of the licensed contractors?

RIZO: I would prefer not to say.

TEN HOEVE: You have to tell us, if we ask you that question. Do you want us to make a decision based upon what you told us, but you will not tell us the names.

VON DER LIETH: The inspector will definitely ask you who did the work?

TEN HOEVE: Who are the names of the people who did the work?

CAPILLI: Are there any repercussions on this if he answers it correct, on the individual contractors?

TEN HOEVE: No, he said they told him that the permits should be obtained and they went ahead and did it anyway.

VON DER LIETH: Because if they were licensed, that would also weigh very heavily in your favor.

TEN HOEVE: Who were they?

BRENNAN: Are you saying that you did the work and they just advised you? Or, did they do the work?

RIZO: No, I did the work. They advised me.

TEN HOEVE: You did all of the electrical work and all of the masonry work?

RIZO: Mrs. Beer said that I could do that.

BEER: No I didn't.

RIZO: You said that I could do it because of the construction.

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BEER: No, I didn't. I don't deal with construction.

RIZO: Or Nick. Somebody said that to me that I could do the work, if you have somebody that can help you. Somebody said a licensed person could help.

TEN HOEVE: Are you telling us that you are refusing to give us the names of the people who did this?

RIZO: No, I am not saying that, but I just don't remember. I am sorry, this man has 3 children and I don't want you to take his license away. It is not right, because of a stupid addition that I put on my house. I would rather that the addition comes down and then move on to another place or rent a house with my children.

VON DER LIETH: I am in no position to say that his license would .....

RIZO: I don't know, but what happens if that happens?

VON DER LIETH: Exactly, you are right, but you know what, that is not the Board's, I hate to sound like that, but ahhh.....

RIZO: This man needs to work. I mean he is a hard worker.

VON DER LIETH: You need to get this okayed.

RIZO: I agree with that, but this is the situation that we are discussing. I apologize for what I did. The man's name is not an issue.

CAPILLI: We are trying to help you solve the problem.

VON DER LIETH: Okay, members of the Board, tonight, we are going to have an inspector go out. He will come back with a report. Either he knows who did it, or he knows he didn't do it. But what he will know is whether it is safe and done to code and it is done correctly.

RIZO: It is a small addition. He can break the walls. It is a small addition. We are not talking about the west wing of the White House. We are talking about something that is 10 by 12.

BEER: Let the Zoning Officer or Sub Code Official say something.

LUDWIG: I just think you are asking for the Construction Department to determine whether or not it was built according to code and how it was built and in other words, you want them to completely give the approval for a Certificate of Occupancy and then at that point come back here?

VON DER LIETH: No, my initial thought was in order for us to even proceed in this matter, it would help me and I think some of the other Board members to just at least figure out if it was done halfway, if it was done all the way. I understand where you are coming from. If I am completely wrong, I want to for someone to come and tell me because I am.....

BEER: I think what Mr. Ludwig is saying, that it is not just a case of digging down to the footings, there is electrical work, plumbing.....

VON DER LIETH: The Board needs some direction and we were hoping to get some from perhaps a one page report from the Building Official.

TEN HOEVE: A one page report I don't think is...in order for the construction code official to do this, Mr. Ludwig is right, there is going to have to be extensive work done and probably extensive damage done to the addition, in order to determine whether it was properly constructed. He has to check all of the wiring in all of the walls, which they never had an opportunity to check initially, the framing, the footings, the foundation

on top of the footings. It is going to require massive excavation. It is not digging one hole in one area, to see what is there. It is a tremendous amount of work that is going to have to be done to confirm whether or not it was constructed properly.

VON DER LIETH: Is that worth it, Mr. Ludwig, or not. I mean seriously, because.....

LUDWIG: The construction department will have to make sure those things are done and that will mean that maybe walls will have to be opened up, some excavation to determine footing depth and what type of footings. Those things will take a while and in fact, the Construction Official may ask for a professional to give him those assurances rather than him do that himself.

Generally speaking, a Construction Official doesn't do that type of thing. He does an inspection when you can see the inspecting. Other than that, he may ask for a professional to make those determinations and give him a report. Maybe a Structural Engineer.

TEN HOEVE: That is an excellent idea.

LUDWIG: I mean with regards to the framing, you have the footing, the electrical. I mean it is a bedroom. It might not be as extensive as we may think.

VON DER LIETH: I guess that doesn't matter because we know nothing about that, so you are right, Mr. Ludwig, I think, I know it is at the applicant's expense.

TEN HOEVE: The applicant is occurring the expense only because he didn't do it the way that he should have.

VON DER LIETH: I understand that and I hate to sound callus but that is the way that the world spins. I don't....we can be sympathetic to only a point. Like Mr. Ten Hoeve said, I wish, wish, you had come, because we really would have listened.

TEN HOEVE: And you would have had inspections and you wouldn't have to tear this whole place apart, which you are going to have to do now. Is it the Board's suggestion that he get professionals to both inspect and then appear here so they can be questioned by the Board to answer questions with regard to the electrical, the construction, the framing, the footings.

BRENNAN: Where I have a problem, is, we are a Zoning Board, and now we are going to be talking about construction. I am more concerned about whether I am going based on where the position is and height and all that other stuff, and then it is out of our jurisdiction. I am not worried about, safety aside, it is a bedroom, it is their job. It is my job to decide whether I am going to approve this and the variances that it entails and how it is constructed is up to the State of New Jersey and the Construction Officials. It is not mine.....

TEN HOEVE: It is not the State. It is the local Construction Code Official.

BRENNAN: Isn't it the Board's job to just approve or disapprove the application?

TEN HOEVE: Yes, if this were a normal application where it hadn't been constructed first, and they came before you, you wouldn't be concerned about any construction issues. You would simply view this as a zoning application. You would apply the Municipal Land Use Law. You would grant the variance or not grant the variance, and then the applicant would go and build it in accordance with whatever you told him to do.

This is unique in that the building has been constructed and the suggestion the Chairman made, and I do think that it makes some sense, is that if this has to be torn down anyway, completely, because the footings are wrong, the framing is wrong, it was

built on a deck and there is no real sub-flooring that should have been provided, there is insufficient beams, if the insulation.....

BRENNAN: Is the reverse true? If they come back and say that this is built to code, does that mean that we have to grant the variances?

VON DER LIETH: If he goes through all that expense, are we going to sit here and say, you know what, I can't approve this anyway?

TEN HOEVE: That is a very good point, and if the Board was inclined to deny the variance, anyway, no need to do that. Absolutely correct.

VON DER LIETH: That is the discussion that we need to have.

TEN HOEVE: Absolutely.

BRENNAN: Either way, there is an expense.

CAPILLI: It is an expense. Mr. Rizo, just asking you, it is a lot to have professionals come in. I mean, is that .....

RIZO: I wouldn't be able to pay. I am in bankruptcy now for some more of my things. That is how difficult it is for me. That bedroom has cost me, going bankrupt. So, at this point, I am so fed up with so many problems. I have to be sound to work and keep my family healthy. I just can't. I understand this from the law, but I just can't make it. I have to, I am this way already for 2 months.

My kids are worried and they don't sleep. The little one is scared of all the chaos. If I have to, I will sell the house and I will live in another place. At this point, it is impossible. I am nervous. I have been to a doctor, and the kids are nervous. We don't know what is going on. We didn't think that it was something that is the caliber that you are building like the White House.

CAPILLI: Mr. Rizo, this is something that you are going to have to take care of. Now you won't even be able to sell the house without that Certificate of Occupancy.

RIZO: I just destroy the place and put it back the way it was before. Who is going to support us, the State of New Jersey? My little one was a very abused child, and I won't go into details here, he turned out to be difficult and he needs certain things and he sees and he listens to what is going on.

I am not saying that my emotional part should be taken care of, but I am at the point that I don't know what to do. I need to sleep and to go to work and feed my family.

VON DER LIETH: A quick straw poll, excuse me, Mr. Rizo, look, as of right now, because I want to be straight up with you, I understand. I want to know what is going on. But, if I polled members of the Board up here, based on what we know right now, okay, looking at the pictures, what are your opinions? If you don't have one, don't say it, but please feel free.

HOSKINS: I just have one thing to add. If you have the advise of a professional electrician, and somebody that is a mason, that did the foundation, then there shouldn't be any problems sending somebody out there to dig this up and look at it and you should be okay. I know you can't afford it.

RIZO: I could bring you the person who built it, if he is not going to loose his license.

VON DER LIETH: That is tough. I am sorry, Mr. Rizo, I am sorry I can't say that. That wouldn't be .....

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RIZO: I know, but I feel that man helped me put the foundation in and that bedroom is solid rock.

CAPILLI: Mr. Chairman, this is very complicated.

VON DER LIETH: Very. I would like some input, please.

CAPILLI: Mr. Chairman I think we should table it for now. We have a number of issues to discuss tonight and we could continue to discuss it as the evening goes on.

HOSKINS: I would go for that.

VON DER LIETH: Let's do that, okay, we have heard everything that we need to hear.

TEN HOEVE: Okay, it will be continued to next month's meeting.

VON DER LIETH: Let's do that. Thank you Mr. Rizo. If you have any other information to add, please call Mrs. Beer in the office.

RIZO: Do you want me to do anything in the meantime? If we sit down again next month is it going to be the same situation, and the same dilemma?

TEN HOEVE: If the Board wants you to do anything specifically, Mrs. Beer will communicate it.

RIZO: Okay.

VON DER LIETH: Good night.

<b>CASE:</b> 10-13 Block: 1103 Lot: 6	Application of <u><b>James Babcock</b></u> , 47 Midland Avenue for Floor Area Ratio, building coverage, rear setback, front setback variances to construct an addition to existing house in an R-15 zone. Hearing begun November 16, 2010, continued to December 21, 2010 for Board to conduct a site inspection. Determination forthcoming this evening.
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VON DER LIETH: We have a resolution in the affirmative in regard to this application.

**WHEREAS, JAMES R. & REGINA A. BABCOCK** (hereinafter referred to as "Applicant"), being the owners of premises known as 47 Midland Avenue, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also known as Lot 6 of Block 1103 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 variances from the terms and provisions of the Zoning Ordinance of the Borough of Park Ridge to permit the various improvements to the existing nonconforming two family home located on the property; 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, the Applicant requires several variances in order to construct the proposed improvements including:

- a) A building coverage variance to permit a proposed building coverage of 22.76% rather than the maximum 20% provided by the Zoning Ordinance;
- b) A front yard setback variance to permit a proposed 19.67 front yard setback rather than the 30 feet required by the Zoning Ordinance;

- c) A rear yard building setback to permit the construction of an addition that will be 20.50 feet from the rear lot line rather than 45 feet as required by the Zoning Ordinance;
- d) A rear yard variance to permit the construction of a deck that is 12 feet from the rear property line rather than 20 feet as required by the variance;
- e) A floor area ratio variance to permit a floor area ratio of 25.5% rather than the maximum 25% permitted by the Zoning Ordinance. And;

WHEREAS, Applicant has submitted a survey of the premises prepared by Michael Ritchie, Licensed Surveyor of the State of New Jersey dated September 8, 2010 together with various architectural renderings prepared by Joseph Bruno, Licensed Architect of the State of New Jersey, illustrating the extent of the proposed improvements, and

WHEREAS, hearings were held before the ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF PARK RIDGE duly convened on November 16, 2010 and December 22, 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 nonconforming two family home located at 47 Midland Avenue in the Borough of Park Ridge. As indicated, the home is a nonconforming two family home. Previously, both of the two rental units in the dwelling were rented to tenants. Applicant intends to occupy the first floor of the home and continue to rent out the second floor of the dwelling to current tenants occupying same.
2. Applicant testified that all proposed improvements will be made to the first floor of the premises only and that no expansion or enlargement of the space will be made to the second floor, rented space. The improvements include a family room, master bedroom and kitchen addition, the construction of a front porch, and the construction of a deck all as noted on the aforementioned plans. Applicant testified that the kitchen is now extremely small, having barely ten square feet of usable space.
3. As stated by the Applicant and the Applicant's architect, the subject property is extremely unique, being surrounded on all sides by Borough owned property, land that cannot be developed for any residential use. One side of the property abuts a paper street. The rear portion of the property abuts Borough owned vacant land with an acre in excess of 4 acres. The Borough property is also very steeply sloped. While the Applicant requires several variances as noted hereinabove, there will be no impact whatsoever on the neighborhood, adjacent residential parcels or the zone scheme of plan of the Borough.
4. Applicant does require two (d) variances. Initially, Section 101-24 of the Zoning Ordinance permits the expansion of the owner occupied portions of nonconforming two family uses, however, only when no bulk variances are required. Secondly, Applicant requires a very slight FAR variance, again a (d) variance.
5. The BOARD finds that special reasons exist justifying both variances. The Applicant will be making substantial aesthetic improvements to an existing

nonconforming dwelling. The dwelling is currently not owner occupied and is in need of improvement. Applicant will be moving into the home, occupying the home and making substantial improvements to the home. More importantly, there is absolutely no negative impact flowing from the grant of either (d) variances or the bulk variances that are required.

6. Applicant's property is also extremely unique, both with respect to its location and its topography thus creating a hardship for the Applicant. Applicant is also not expanding the tenant portion of the home in compliance with the goals of the Zoning Ordinance.
7. The BOARD thus finds that the Applicant faces a unique condition and that the Applicant's proposed additions will result in a major aesthetic improvement to the home. The grant of the proposed variances will have no negative impact whatsoever by virtue of the uniquely secluded nature of the subject property. The decision to grant the requested variances 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 variances to permit the construction of the proposed improvements as shown on the submitted plans 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 reduce the driveway curb cut from its current oversized width to either 18 feet as required by the Zoning Ordinance or to a width that is acceptable to the Borough Engineer, with the final plan to be subject to the review and approval of the Borough Engineer.

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

**ROLL CALL:**

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

**Abstain:** Mr. Capilli, Mr. Galdi, Mr. Brennan

VON DER LIETH: I would just like to read into the record for tonight, that our cases, 10-16, *South Maple Associates*.

BEER: For those of you who were concerned about the way the parking lot was, Mr. Growney came in and he said they were trying to get a 40 foot, backing a trailer in, which was one of the things that he has to do, he said they can't make it, so he is redesigning it.

VON DER LIETH: Okay, the next case was 10-17, the application of *Joseph Careccio*.

BEER: He hadn't done his notices. He just got annoyed and said now he doesn't have a job, and he is getting thrown out of his house by his mother, and he left. I have written him twice.

WALKER: If he doesn't have too many vehicles in the lot, why does he need an approval from us to do this? I don't understand.

TEN HOEVE: Say that again.

WALKER: If he has a Lincoln Town Car in his driveway, and he goes out and he picks up passengers 24 hours a day, why is that our business?

BEER: Because apparently he intended to build his business. He is a young man and eventually he would have more than one.

WALKER: Well, if he gets a second or third car, then.....

TEN HOEVE: Well, the reason is because we have a home occupation ordinance. The home occupation ordinance has fairly extensive conditions that are required in order to be able to do that. It is not just parking. It has to be incidental to the use. You can't use more than 30% of the floor area, no more than 500 square feet of the floor area, so if there is any office in there that is used for that, it can't be done. Only members of the immediate family can be working there. No one else can be working there.

BEER: He has one other driver.

TEN HOEVE: No one else can do that. It can only be open certain hours. Certain people only are permitted in. There can be no change to the outside. They can't generate any additional vehicular traffic. It shall not involve the use of commercial vehicles other than one vehicle not exceed a  $\frac{3}{4}$  ton owned by the resident of the dwelling, which shall be parked in an adequate off street parking area. The use shall not require any off street parking spaces for any customers or people who use the occupation.

So, I think the purpose was to make sure that he was going to comply with all of those conditions, and to determine whether he needed a variance or not. If he complied with all of those conditions, then you are right, Bill, he wouldn't need any .....

WALKER: I mean it is just a guy with a cell phone and a car.

TEN HOEVE: It might be. If that is the case.....

BEER: He is not the owner of the property. His mother is. His address on everything is Saddle Brook. He said, well.....yeah, that is my grandmother. His drivers license, his bank accounts, everything is Saddle Brook. He said well, I am living with my mother now. So, that was a little, he has to be a resident. He had no way of proving that he was a resident. Evidently, his mother said if you get a job, I will let you live here. If you don't get a job, you are out.

Do you want me to send him a letter? I have asked him to withdraw, and he hasn't.

TEN HOEVE: Tell him that if doesn't intend to appear at the next meeting, it will be denied without prejudice. He would need to apply for a new variance.

VON DER LIETH: I just have one last thing before we go to the discussions.

**APPROVAL OF MINUTES:**

The Chairman entertained a motion that the minutes from November 16, 2010, be approved as submitted. So moved by Mr. Hoskins and seconded by Mr. Sandler.

**ROLL CALL:**

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

**Abstain:** Mr. Capilli, Mr. Galdi, Mr. Brennan

**NEW BUSINESS:**

None

**OLD BUSINESS:**

None

**APPROVAL OF VOUCHERS:**

None

**ANYONE PRESENT WISHING TO BE HEARD:**

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

**DISCUSSION OF APPLICATIONS:**

The Board discussed the application of Felix Rizo. The members were sympathetic to the applicants needs, however, they felt that this couldn't be permitted. They felt that if others were to do this, it would lead to many problems.

They felt that had he come in before he did the work, they may have approved it. One member had done a site inspection and found problems with wires that he had seen coming out of the meter.

The Attorney advised the Board of their options. One option would be to deny it. Another option is to grant the variance and send it back to the Building Department, which would put them in a difficult position. He felt that one of the best suggestions, if the Board would be likely to grant this in any event, the best this to say would be to say that we are not going to even consider it until, and he believes that any Court would uphold it, that you are not going to consider it until he presents professional evidence and testimony, not a report from somebody, to find out what he did, how much he checked the footings, how many holes he punched in the walls to find out whether the electrical was correct, whether or not there are sufficient beams that are properly spaced and proper joist hangers and everything, for the floor itself.

The members felt that his testimony had changed at times saying he had professionals do it to saying that he did it himself. Most members felt that he brought this upon himself and that they probably would have approved it had it been brought before them before its completion.

The general consensus was that without professional testimony regarding the construction they couldn't grant the variance, as there could be a fire hazard or worse. They felt that he should provide the professionals as it would require too much time for Building Department to do.

The Attorney advised that he would prepare a letter outlining what he needs.

The Board then discussed the application of David Alvarez. The members felt that the Architect was correct in his interpretation of the height variance. They felt that the soil moving could be a problem. They felt that with the modifications to the garage

not being done, the FAR is lowered, they could look more favorably on the application. The application will be continued to February.

**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 9:55 pm.

Respectfully submitted,

Margot Hamlin,  
Transcriber