

****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, March 15, 2011, at 8:00 pm in the Council Chambers of the Municipal Building.

PLEDGE OF ALLEGIANCE TO THE FLAG:

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

Absent: Mr. Flaherty, Mr. Galdi

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

COMPLIANCE STATEMENT:

The Notice for this meeting required by Section 3(d) of the Open Public Meetings Act has been provided by the adoption of a resolution by the Park Ridge Zoning Board of Adjustment of January 18, 2011, setting forth a schedule of regular meetings by mailing of said schedule to The Ridgewood News and The Record on January 24, 2011, and by the posting of said schedule on the Municipal Bulletin Board and the continuous maintenance thereat and by filing the said schedule in the office of the Borough Clerk.

VON DER LIETH: We are going to do the resolutions first, before we get into our first new case tonight.

<u>CASE:</u> 11-01 <u>Block:</u> 1312 <u>Lot:</u> 10	Application of <u>Irma McDarby</u> , 5 Wortendyke Road for building coverage, impervious coverage, side yard setback, rear yard setback in an R-15 residential zone. Hearing held February 15, 2011. Determination forthcoming this evening.
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We have a resolution in the affirmative for this application.

WALKER: We have one item to be added to the record in regard to this application. We have a certification, dated March 2, 2011, that Tom Hoskins, has listened to the original tape of the Zoning Board of Adjustment meeting of February 15th, 2011. That is Item 10 on the record.

WHEREAS, IRMA MC DARBY, (hereinafter referred to as "Applicant"), being the owner of premises known as 5 Wortendyke Road, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also known as Lot 10 of Block 1312 on the Tax Assessment Map for the Borough of Park Ridge, has applied to the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE seeking a floor area ratio variance, an impervious coverage variance, a front yard variance, a side yard variance and a rear yard deck variance from the terms and provisions of the Zoning Ordinance of the Borough of Park Ridge to permit the construction of an addition to an existing home; and

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

WHEREAS, Applicant has submitted a survey of the premises prepared by Christopher Lantelme, a licensed surveyor of the State of New Jersey, dated September

30, 2010, together with architectural plans describing all improvements prepared Joseph Bruno, licensed architect of the State of New Jersey; and

WHEREAS, a hearing was held before the ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF PARK RIDGE duly convened on February 15, 2011 upon due notice as required by law; and

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

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

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

1. Applicant is the owner of a single-family home located at 5 Wortendyke Road within the Borough of Park Ridge. Applicant's lot is also known as Lot 10 of Block 1312 on the Tax Assessment Map of the Borough of Park Ridge.
2. Applicant's lot is located in the R-15 Zoning District, a district requiring a lot area of 15,000 square feet. Applicant's lot is extraordinarily unique having a lot area of approximately 7,000 square feet, less than one-half that required by the Zoning Ordinance. Applicant's lot is also deficient with respect to lot width and lot depth.
3. There are several nonconforming bulk conditions existing on the property. Applicant's dwelling fails to comply with building coverage limitations, impervious coverage limitations, side yard setback requirements, front yard setback requirements, rear yard setback requirements and floor area limitations.
4. Applicant seeks to make several improvements to the existing dwelling. Applicant proposes to eliminate some nonconforming conditions, reduce other nonconforming conditions and expand a few nonconforming conditions. Specifically, Applicant will remove an existing nonconforming enclosed porch attached to the rear of the dwelling. Applicant also seeks to construct a new second floor addition above the southerly side of the dwelling. Applicant proposes the construction of a small one story addition attached to the northerly side of the existing dwelling. Applicant also proposed the construction of a new deck attached to the rear of the dwelling. Finally, Applicant proposes the replacement of an existing asphalt driveway with a new paver driveway.
5. Applicant's proposed improvements will result in the need for four new variances. The combined improvements will result in a slight increase in the current nonconforming floor area ratio, bringing the new floor area ratio to 35.02%. Applicant's additions will also increase the impervious coverage on the site from 39.32% to 44.65%. Applicant's proposed covered front porch, while not being constructed nearer to the front lot line than the existing dwell, will encroach into the required front setback. Finally, the proposed new deck will be situated but 15.6 feet from the rear lot line rather than the 20 feet required by the Zoning Ordinance.
6. The BOARD finds that the very unique size and shape of the Applicant's lot, coupled with the location of the existing dwelling on the lot, creates a hardship as defined by the Municipal Land Use Law. Moreover, the BOARD is very cognizant of the fact that the Applicant's home is a preexisting, nonconforming structure, a home that was constructed prior to the adoption of any Zoning Ordinance. The BOARD also finds that the combined improvements will result in substantial aesthetic benefits, and that the proposal will transform an old structure in need of modernization to an attractive, new residence.

7. The BOARD further finds that the Applicant has taken measures to insure that the proposed additions will not result in any significant encroachments into required yards, nothing that none of the improvements will bring the footprint of the structure nearer to any lot lines than existing portions of the home. In essence, the Applicant has designed the additions to have as minimal as possible an impact on neighboring lots and the neighborhood in general.
8. The BOARD further finds and concludes that there will be no negative impact whatsoever resulting from the proposed new additions, nor the grating of the requested front yard, rear yard, side yard, impervious coverage and floor area ratio variances. The BOARD specifically finds that the purposes of the Municipal Land Use Law (N.J.S.A. 40-55D-1, et seq.) will be advanced by a deviation from the requirements of the Zoning Ordinance of the Borough of Park Ridge. The BOARD specifically finds that the Applicant's proposed improvement will constitute a substantial aesthetic benefit.
9. Finally, the BOARD also finds and concludes that the proposed improvement will not result in any substantial detriment to the public good, now 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 floor area ratio variance, impervious coverage variance, front yard variance, side yard variance and a rear yard deck variance to permit the construction of the proposed new improvements subject to the following conditions:

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

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

ROLL CALL:

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

Abstain: Mr. Raman

CASE: 11-02 Block 2303 Lot: 25	Application of <u>Lawrence and Donna Kenyon</u> , 6 Fairview Court for a wider driveway with apron extension beyond the 10' permitted by ordinance. Hearing held February 15, 2011. Determination forthcoming this evening.
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VON DER LIETH: We have a resolution in the affirmative for this application.

TEN HOEVE: The hearing has been closed, we can't accept any further testimony.

L. KENYON: I understand that but... (not near microphone testimony inaudible)

TEN HOEVE: Procedurally, the Board isn't supposed to hear any new testimony once a hearing has been closed. If anyone from the public wanted to ever appear, they wouldn't know that there was going to be any testimony taken. I guess it is up to the Board if they wanted to.

WALKER: Is this a member of the public or is this the applicant?

TEN HOEVE: This is the applicant.

BEER: The applicant indicated that he didn't feel that you understood the particular problem.

TEN HOEVE: It is up to the Board.

VON DER LIETH: Come on up, Mr. and Mrs. Kenyon.

L. KENYON: Thank you very much. I appreciate the opportunity to speak.

TEN HOEVE: This isn't testimony.

L. KENYON: I am just addressing the Board at this time. I was unable to attend the meeting last month due to an athletic conflict. I needed to take my youngest son to his communion workshop over at Our Lady of Mercy. So, we couldn't be in 2 places at once. We needed to split those duties.

The issue for us is that we can see in the resolution that it looks like you are willing to approve 13 feet, instead of 16 feet for the apron as you are calling it on the side of my garage. The issue is for us, that the 13 feet is the same problem as 10 feet, when you take into consideration that what we would like to be able to do is, park a car, and we have a minivan, for example, in that space, being able to open the doors without knocking the doors of the minivan on the passenger side, into the stone wall, which runs 3 ½ feet up on the side of the garage. It is part of the façade of the garage.

The simple math in this is that our minivan in particular, is 6 ½ feet wide. You need about another 3 ½ feet to open the door. If you park in the middle, just doing some simple math here, if you got 13 feet, back out the 6 ½ feet, that leaves you 6 ½ feet, 3 ¼ feet on each side. You are still short about 3 inches if you open a car door on the passenger side. You are going to run the risk of knocking the door of the car into the side of the stone on that side of the garage.

I know, personally, I am not going to want an air traffic controller guiding me into my parking spot to insure that I am 6 inches further away from the left each time. I would like to have a park in the spot and open the door and not have to be concerned about smashing a car door into the stone wall.

The reason we arrived at 16 feet, was it allows us to pull on either side and park in the middle, as close to the middle as we can and still be able to open the car door and not run any risk of smashing a car door into the stone wall. When we appeared, a month ago, we had the survey in front of you and we really thought that it wasn't that big of an issue given that we are not getting any closer to the neighbor that is closest to this. We are 19 feet from the fence line on the south side of the property. Even with the 16 feet of driveway apron, the side of the garage, we are still 63 feet away from the neighbor on that side of the house.

We are not planning on parking construction vehicles, RV's Boats, trailers. We are just talking about parking one car in the spot. Even with a 16 foot apron on the side of the garage, we are still well under the maximum allowable impervious surface coverage as well. I think that the number that we come up with, as well as our landscaper, is 27.9%, including this extra 6 feet.

VON DER LIETH: I think that you are right, also. But, I am trying to think, we, I believe, the Board and myself, we met kind of a happy medium. It is 10 feet.

L. KENYON: 10 feet is what is allowed.

VON DER LIETH: Right, so, my take on it, the impervious coverage doesn't really have anything to do with it. It was actually the width itself. As I recall, we did try to make it in the middle. We tried to please everybody.

WALKER: If you had a normally configured driveway, and just wanted to park another car off of the driveway so that you could back a car down from your garage to the street, you would be permitted that 10 foot space.

L. KENYON: Understood.

WALKER: We felt that 13 feet would be more than enough room for 1 car, and we were afraid that having 16 feet might lead to 2 cars being parked side by side.

L. KENYON: No, that will not happen.

WALKER: I understand that you are saying it won't happen, but 16 feet, is enough room to park 2 cars side by side.

L. KENYON: It will not happen there. The 16 feet was derived, originally 16 feet came up because when we first talked to our landscaper about how to put the space in, we weren't even aware at that time, this was the beginning of the process, that 10 feet is what the town allowed. We were considering keeping some of the landscaping along the garage to prevent smashing a door into the stone wall. We came up with, well, maybe we can go out 4 feet with the landscaping do 12 feet. The problem with that was, yes, we would avoid hitting the stone wall, but we would be stepping over the Belgian Block that we would like to maintain around the driveway, keeping the look of the rest of the property.

CAPILLI: May I ask a question just to clarify?

L. KENYON: Certainly.

CAPILLI: Are you saying that if you have both side doors of your minivan opened, it is going to go 16 feet?

L. KENYON: It is going to go wider than 13 feet. It is 6 ½ feet plus, 7 feet, 13 ½ feet.

CAPILLI: I can't imagine 14 feet, but.....

D. KENYON: He measured it all out.

L. KENYON: The specs on, you have caught me, it is not 78 inches, it is 77.1 inches wide. I am not saying 15 feet. I am saying 13 feet that has been approved. With the doors open, what I said was, it is 6 ½ feet plus 3 ½ feet to open each door. I am more worried about the passenger side door. We are talking about 7 feet, plus 6 ½ feet is 13 ½ feet.

CAPILLI: Each door is 3 ½ feet?

L. KENYON: 3 ½ feet to open the door.

CAPILLI: And they open out.....

L. KENYON: The front doors open out. This is what we are considering. We wanted to be able to park the car, open the doors, and not have to worry about the stone wall. My garage is.....

TEN HOEVE: May I ask a question? How do you ever park that anywhere?

L. KENYON: It fits in the garage.

TEN HOEVE: No, I mean your typical parking space at any mall, at any office building, virtually anywhere that you go, is going to be, maybe, if you are lucky, 10 feet.

L. KENYON: I understand that the standard is 12 feet, that is what I have been told.

TEN HOEVE: No.

WALKER: It is 10, actually, but they allow 9.

TEN HOEVE: So, that would mean that you couldn't park vehicle that you are talking about, virtually any place.

L. KENYON: You can not open the doors all the way.

TEN HOEVE: You must make some accommodations in order to do that. Secondly, the other thing that you should know, the Planning Board is currently, or has proposed the adoption of a new ordinance that would totally prohibit this specific proposal, even at 13 feet. Because, the town has decided, or at least the Planning Board, that it is concerned with excessive blacktop in both side loading and front loading garages. I think, Brigitte, isn't that true that this would be prohibited completely?

BOGART: That is right.

TEN HOEVE: So, there was a compromise that was reached. There were many Board members who wanted deny the application outright, and some who compromised and agreed to do this.

L. KENYON: Well, the perspective that I have on this is that if we really want a parking spot, and we go through the process of doing an addition to our garage, get all the permits for that, we could change the egress from the garage, from the side to the front, which is where I would have expected to see it. We have room on the impervious surface coverage, where we could add the driveway there. I am not a Municipal Zoning expert. This is the first time in 20 years of being a home owner that.....

TEN HOEVE: Move the garage so that it would enter from.....

L. KENYON: I wouldn't move the garage, I could move the doors to the side.

TEN HOEVE: Than you wouldn't be allowed to have any of that parking area that you have in the front there. That would all have to go.

L. KENYON: My point is, I could also add on to the garage.

TEN HOEVE: Well, within whatever Zoning limitations there are on that lot.

L. KENYON: Understood.

TEN HOEVE: You wouldn't be allowed any of that driveway that is currently in the front, if you made this a side loading garage.

L. KENYON: This is the hand that we were dealt. This is not a house that we had built. The point is.....

RAMAN: You see, Mr. Kenyon, there is one other thing, you point out that the door might hit the stone wall, but the other side there is nothing for it to hit. You can swing it wide open and then step out. I understand, many of us have vans, and larger

vehicles, and I understand the concerns. But if you came off of the center a little bit, so you have the space to open the door on the left you are absolutely unrestricted.

L. KENYON: Until we put the landscaping in, right. At that point as we are putting in the bushes, along that side, the east side of the apron, we are going to have to set back from that space anyway, just to be able to open the door. The point of all of this, was, that if we are going to have to set back anyway because we are going to be catching landscaping in the doors of this van, than we might as well just have the whole thing there. We can do landscaping shrubs, whatever, right up to the Belgian block and keep the look of the property the way that it is.

Last summer was the summer that we spent \$100,000.00 on the back yard. The only reason that we didn't get the front yard done with the apron, was because that is when we discovered that we were limited to 10 feet. We are going to take the same amount of care with the front yard here. We have already started that process. We just haven't completed it because we need to know how far out we are going to go with the driveway apron.

I understand, as I said, I appreciate your position that this was closed last month, and my wife and I have been home owners for 20 years in 4 different Municipalities and 2 different states. This is the first time, ever, that we needed to go in front of any type of variance board, and we found that the rules of the towns that we have lived in, including Park Ridge, have been very beneficial for us. We appreciate that. This is just a unique lot with a unique space, that the builder decided to, for aesthetic purposes, turn the garage, which we appreciate. But, it creates a situation, already, if we are worried about too much blacktop, I already have, my only view from my front window in my house, on the ground floor, is to my driveway. So, when I am parked in my driveway, I am looking at cars.

Most people that are looking to add an apron to their driveway, have a front facing driveway, a front facing garage, with the house. We are trying to go on the side of the house, you actually have grass in front of your windows. You are not parking in your front yard, as we are right now. This allows us to park next to the garage and have the same amount of freedom that we currently have, when we open the car door, that we are not going to be smashing into any kind of wall.

VON DER LIETH: That being said, I can ask the other Board members if they would like to decide whether they want to amend the resolution or not, for this case.

L. KENYON: I would appreciate that. I understand your position on all of this, and I appreciate that this is probably out of the norm, but it is very important to us. It is not a number that we came up with, just to come up with something that makes no sense. It literally was thought about, and considered and there were some consequence to having 16 versus anything smaller.

BOGART: Mr. Chairman, I just want to make a point of information for the Board to consider. The Borough provides for a dimension for parking stalls 9 by 18, in the entire Municipality, all commercial properties. For supermarkets, it allows a slightly larger parking stall size to 10 by 20, in consideration of food carts.

VON DER LIETH: Okay. In discussing this, John, if we discuss do we nullify that and vote again, because then there is a possibility it won't get, 13 feet won't be approved. I am just saying just....it is possible.

TEN HOEVE: If the Board is going to reopen it and discuss it, it can do that, or you poll the Board now, if you want to do that, whatever is your pleasure.

L. KENYON: Well, one position that I have, and I hate to play games with this sort of thing. I understand that we have already submitted everything on 16 feet, and that is done and we can't come back and go to the well twice for this. It is the type of thing and I am willing to submit or request through the normal channels for something bigger, 16 feet is what I am looking for, and I am not trying to be ridiculous, but anything that I

can do to help you out with allowing something like this without breaking the seal on something that could open the floodgates to further problems in the future. I can appreciate that. I have been in business a long time, and I try not to do those sorts of things if I can help it.

VON DER LIETH: Well, I tell you what, I will give the Board some time to think about this during the meeting tonight. We are going to hear other cases first. We will discuss it after we are finished with the new cases and everything that we have to do. I just think everyone should think about it. Just think about it, whether they want to reopen this or not.

TEN HOEVE: You are welcome to stay here. You won't be able to speak again, though.

L. KENYON: I understand. I am sure that you have heard enough from me already.

WALKER: One item to add to the record for this application. Item 7 is Board member certification, again, Mr. Hoskins, on March 2nd, listened to the tapes of the February 15th meeting, to be eligible to vote. That is all that I have at this time.

CASE: 11-03 Block 1706 Lot: 1	Application of <u>Emile Barros</u> , 102 Maple Terrace for rear yard coverage to construct an in-ground swimming pool and oversized, in width at street frontage, driveway variances in an R-20 residential zone. Hearing held February 15, 2100. Determination forthcoming this evening.
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WALKER: I have two items to add to the record for this case, Mr. Chairman.

Item 7 is a revised survey dated 2/18/2011.

Item 8 is Mr. Hoskins certification of listening to the 2/15/2011 meeting tape.

That is all that I have at this time.

WHEREAS, EMILIE BARROS (hereinafter referred to as "Applicant"), being the owner of premises known as 102 Maple Terrace, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also known as Lot 1 of Block 1706 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 originally seeking a variance from the terms and provisions of the Zoning Ordinance of the Borough of Park Ridge to permit the construction of a swimming pool less than 20 feet from a property line, a rear yard coverage in excess of the 10% rear yard lot coverage applicable to the property and a variance to permit a curb cut in excess of the 18 foot limitation of the Zoning Ordinance; and

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

WHEREAS, Applicant has submitted a survey describing the proposed improvements to the premises prepared by Bertil J. Kauderin, Licensed Engineer of the State of New Jersey dated December 9, 2010; and

WHEREAS, a hearing was held before the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE duly convened on February 15, 2011, upon due notice as required by law; and

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

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

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

1. Applicant is the owner of a single family home located at 102 Maple Terrace in the Borough of Park Ridge. The premises have dimensions of approximately 101 feet by 159 feet. The Applicant testified that a contractor recently constructed a new driveway on the premises having a curb cut of 20 feet rather than the maximum 18 feet permitted by the Zoning Ordinance. Applicant testified that the original plans submitted to the Borough provided for an 18 foot curb cut but that the driveway contractor inadvertently built the driveway with a nonconforming 20 foot curb cut, the width of all other portions of the driveway.
2. Applicant also submitted a plan showing a proposed in-ground pool to be constructed in the rear of the premises. The survey submitted to the BOARD indicated that the pool would be 18 feet from the rear lot line at its closest point. The Zoning Ordinance of the Borough requires that pools be set back a minimum of 20 feet from all property lines. At the hearing on the application, however, the Applicant indicated that the survey incorrectly located the pool and that the pool would be constructed in such a fashion so that no portion of the pool was nearer than 20 feet to any lot line.
3. Applicant further testified that while the survey did not indicate where the pool equipment would be located, all equipment would be placed against the existing home next to the existing chimney. Applicant confirmed that the equipment would be shielded in accordance with the Zoning Ordinance requirement that the equipment be hidden by either board on board fence or landscaping.
4. The survey provided by the Applicant also failed to indicate the location of all fencing required to be constructed so as to deny access to the rear yard. Applicant testified that chain link fencing would be provided connecting the existing side yard fence to the dwelling thereby precluding free access to the rear yard.
5. Accordingly, Applicant requires but two variances. The first variance is to permit a pool in the rear yard that will result in a rear yard coverage of approximately 25%. The second is a variance to allow the existing driveway curb cut to remain.
6. The BOARD finds that substantial reasons exist justifying both of the remaining variances. The Applicant has agreed to relocate the pool so that no portion encroaches into any side yard. The Applicant has also agreed to locate the pool equipment, and to provide a fence or buffer for same, in the area that complies with the requirements of the Zoning Ordinance. The BOARD is cognizant of the fact that there is a pending amendment to the Zoning Ordinance that would eliminate the 10% rear lot coverage requirement currently contained in the Ordinance, and that the Planning Board of the Borough of Park Ridge (as well as the Borough Planner) has recommended that the provision be eliminated. Finally, the unique conditions existing on the subject property, including the location of the existing dwelling, render it impossible to construct any pool without violating the 10% rear lot coverage requirement.
7. The BOARD further finds the testimony of the Applicant to be credible with regard to the mistake resulting in the 20 foot wide curb cut. The BOARD finds that the existing curb cut does provide for safe ingress and egress from the driveway and further finds that a decision requiring the removal of the curb cut would create a needless hardship for the Applicant.
8. The BOARD thus finds that the Applicant faces a unique condition and that the Applicant's proposed pool will provide a health benefit for the residents in the home. The BOARD further finds that the grant of the proposed variances will have no negative impact whatsoever by virtue of the uniquely secluded nature of the subject property. The decisions 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-79, that the BOARD does hereby grant the Applicant's requested rear yard coverage and curb cut variances to permit the construction of the proposed improvements subject to the following conditions:

- A. That Applicant construct the proposed improvements as set forth on a revised plan to be submitted to the BOARD confirming the following:
- 1) No portion of the pool shall be constructed nearer than 20 feet from any property line;
 - 2) The pool equipment shall be shown as being located in a complying area and said pool equipment shall be properly shielded as required by the Zoning Ordinance;
 - 3) The revised survey shall show the locations of all final proposed fencing.

All of said improvements must be constructed in such a fashion so as not 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, upon the completion of all improvements, shall be required to provide an "as-built" survey illustrating that the pool, fencing and pool equipment comply with all requirements of the Zoning Ordinance.

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

ROLL CALL:

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

CASE: 11-04 Block: 604 Lot: 44	Application of the <u><i>Borough of Park Ridge & Dean Albanis,</i></u> 176 Colony Avenue for Minor Subdivision with Use variance and impervious coverage to subdivide property and grant ingress and egress easement to Borough for access to site in an R-20 residential zone. Hearing held on February 15, 2011. Determination forthcoming this evening.
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WALKER: I have one additional item to be marked into evidence in regard to this application. Item 9 is Mr. Hoskins certification that he listened to the tapes of the February 15, 2011 meeting and that is dated March 2, 2011.

VON DER LIETH: We have a resolution in the affirmative for this application.

WHEREAS, THE BOROUGH OF PARK RIDGE, being the prospective purchaser of a lot to be created by the subdivision described hereinbelow, and **DEAN AND CYNTHIA ALBANIS**, (ALBANIS) being the owners of premises known as 176 Colony Avenue, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also known as Lot 44 of Block 604 on the Tax Assessment Map for the Borough of Park Ridge, (hereinafter collectively referred to as the “Applicants”) have applied to the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE (hereinafter referred to as the “BOARD”) seeking preliminary minor subdivision approval and an impervious coverage variance in order to subdivide the aforementioned parcel into two lots; and

WHEREAS, the Applicants have submitted to the BOARD a subdivision map illustrating the proposed subdivision entitled, (Minor Subdivision of Map Property of Dean & Cynthia Albanis prepared for the Borough of Park Ridge, 176 Colony Avenue, Block 604, Lot 44, Borough of Park Ridge, Bergen County, New Jersey”, prepared by Azzolina & Feury Engineering, Inc., a licensed engineering firm of the State of New Jersey, said plan dated January 10, 2011; and

WHEREAS, a hearing was held in connection with the application before the ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF PARK RIDGE, duly convened on February 15, 2011; and

WHEREAS, the BOARD has carefully considered the application and all evidence and testimony presented in connection with the application.

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

1. Applicants, both the Borough of Park Ridge and current property owners, have submitted a minor subdivision application in order to subdivide a portion of the aforementioned lot so as to convey said portion to the Borough pursuant to the Borough’s Open Space and Recreation Plan. The property, while located in a residential zone, is currently developed with a nonconforming, preexisting restaurant use know as “Peppercorn’s”. Since the subdivision will result in a reduction of the lot area on which the nonconforming use is located, a (d) or *use* variance is required pursuant to the New Jersey Municipal Land Use Law.
2. The parcel in question has been identified as land potentially to be acquired pursuant to the Borough’s 2003 Open Space and Recreation Plan. The Borough has received Green Acre Funding and Bergen County Funding to assist in acquiring the subject parcel, however, funds will only be available if the property is subdivided from the current lot.
3. The subject property is irregularly shaped with frontage on two streets and an unimproved right of way. The lot has 231 feet of frontage on Spring Valley Road and 366 feet of frontage on Colony Avenue. The Applicants seek to subdivide a portion of the northern portion of the property and to convey said portion to the Borough of Park Ridge. The proposal requires one variance. While the Applicants are not proposing the creation of any additional impervious areas on the site, the reduction in lot area artificially increases the percentage of impervious area on the site, increasing the coverage from 31 percent to 46 percent.
4. As indicated, Applicants require a (d) variance. The Municipal Land Use Law and cases interpreting said law recognize that local Boards may grant such variances in particular cases and for special reasons. Special reasons include conditions that advance the purposes of the Municipal Land Use Law. Special reasons also include the grant of variances to provide for public, beneficial purpose. The BOARD specifically finds and concludes that the creation of a

subdivision to provide public land permanently dedicated to public purposes achieves such a public goal and purpose and advances the goals and objectives of the Municipal Land Use Law. The public purposes and Municipal Land Use Law goals achieved by a decision to grant the subdivision and required variance were clearly outlined in a February 8, 2011 report to the BOARD from the Borough and BOARD Planner and in testimony provided by said Planner at the aforementioned hearing. The subdivision will allow the Borough to preserve a parcel of land stated for public purpose since 2003.

5. The BOARD further finds that there will be no negative impact whatsoever flowing from a grant of the variance. No portion of the land to be conveyed to the Borough is currently utilized for restaurant purposes. There is no proposed modification to the existing restaurant use of the restaurant site. There are no additional uses for the site. The slight increase in impervious coverage will not be noticeable since there will be no added impervious surface constructed on the site. The BOARD finds and concludes that there will be no negative impact whatsoever flowing from a grant of the impervious surface variance.
6. Accordingly, the BOARD finds that the Applicant's have satisfied the positive and negative criteria required for the issuance of the (d) variance referenced above and the (c) variance for the increase in impervious coverage. The BOARD finds that there will be no negative impact resulting from a decision to grant the variance or subdivision and that there will be no adverse impact to the Master Plan, Zoning Ordinance nor neighborhood. Rather, the subdivision will have a positive benefit and achieve the goals and objective of the Zoning Ordinance, Master Plan and Open Space Plan.
7. As noted in testimony provided to the BOARD during the hearing, the subdivision also requires approval by the New Jersey Department of Environmental Protection. In addition, proposed subdivision requires that the current owner of Lot 44 provide the Borough of Park Ridge with a 40 foot wide easement as shown on the Subdivision Map provided to the BOARD. The within approval, therefore, is subject to approval by the DEP, the County of Bergen and the creation of an easement as described on the Subdivision Map. As also required by the Borough of Park Ridge and the County of Bergen said easement shall be subject to specific conditions. Said conditions require that:

The BOROUGH OF PARK RIDGE shall be responsible for the future maintenance and insurance for the property encumbered by the access easement. The BOROUGH agrees that property encumbered by the easement shall continue to be included as part of the ALBANIS remaining property for purposes of lot area and other bulk dimensions presently existing. The BOROUGH further agrees to reduce the assessed valuation of the ALBANIS remaining property resulting from the loss of the use of approximately 7,975 square feet of property resulting from the easement agreement. As part of the consideration for the easement granted by ALBANIS in this Agreement, the BOROUGH specifically acknowledges and agrees that the property encumbered by the easement being conveyed outright hereunder shall continue to be included as part of the ALBANIS remaining property for purposes of zoning issues, including but not limited to, lot area and other bulk dimensions. It is expressly understood that ALBANIS may at some time in the future expand his parking lot up to the easement area provided same complies with the Borough of Park Ridge Code Section 101-63(C) and/or the buffer requirements identified in the Borough Code at the time of any application to expand said parking lot.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE, by virtue of the foregoing that the BOARD hereby grants Applicant's request for preliminary minor subdivision

approval and impervious coverage variance to permit the subdivision of the parcels as set forth in the submitted plans subject to the following conditions:

- A. That the Applicant provide the Borough Engineer with a satisfactory metes and bounds description for both lots and that no subdivision deed or plat be signed by the Board until such time as the Applicant provides said descriptions.
- B. That the Applicant furnish to the BOARD either proof of subdivision approval by the Bergen County Planning Board or a jurisdictional waiver from the County Board confirming that approval is not required, and proof that the subdivision has been approved by the New Jersey Department of Environmental Protection.
- C. Applicant shall be required to prepare and file the required Subdivision Plat and/or required Deeds and related documents to complete Subdivision Approval after said Plat and/or Deeds are reviewed and approved by the BOARD Engineer and Attorney.

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

ROLL CALL:

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

CASE: 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 28, 2011 and carried to February 15, 2011 for revised plans. Determination forthcoming this evening.
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WALKER: I have additional items to be marked into record for this application. Item 13 is certification that he listened to the tapes of the February 15, 2011 meeting and that is dated March 2, 2011.

VON DER LIETH: This is also a resolution in the affirmative for this application.

WHEREAS, DAVID ALVAREZ (hereinafter referred to as “Applicant”), being the owners of premises known as 145 North Avenue, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also known as Lot 2 of Block 708 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 originally seeking variance from the terms and provisions of the Zoning Ordinance of the Borough of Park Ridge to permit the various improvements to the existing single-family home located on the property; and

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

WHEREAS, the Applicant initially required several variances in order to construct the proposed improvements including front yard, side yard, rear yard and floor area ration variances; and

WHEREAS, Applicant has submitted an architectural plan for the proposed improvements to the premises prepared by Robert P. De Pippa, Jr., Licensed Architect of the State of New Kersey dated November 16, 2010 and last revised on January 20, 2011, and;

WHEREAS, hearings were held before the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE duly convened on December 21, 2010, January 28, 2011 and February 15, 2011 upon due notice as required by law; and

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

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

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

1. Applicant is the owner of a single-family home located at 145 North Avenue in the Borough of Park Ridge. The parcel is also improved with an existing detached garage located in the right rear corner of the lot.
2. Applicant's home and garage are situated near to the northerly side lot line of the premises and more than ninety feet from the southerly side lot line. Applicant thus seeks to construct a two-story addition to the northerly side of the home and a new second story addition over the existing home.
3. Applicant also originally sought to connect the existing detached garage to the existing home. By so doing, Applicant created the need for several new variances including side yard, rear yard and floor area variances. During the course of the hearings in connection with the application, the Applicant revised the proposed plans to eliminate any connection between the garage and the home and to construct only the second story addition above the existing home and the new addition attached to the southerly side of said home. Applicant also seeks to construct a new porch providing a covered entranceway over the front entrance to the home.
4. Accordingly, Applicant's revised plans require but two new variances. Since the proposed front porch will be but 13 feet from the front lot line, Applicant requires a variance from the 40 foot front setback requirement. The current home is situated 33.8 feet from the front lot line. Applicant will thus be slightly increasing the existing front yard encroachment. Applicant will also be constructing a new, two-story addition in line with the existing building line of the current dwelling. The current dwelling is 38.33 feet from the rear lot line rather than the required 50 feet. Applicant will thus be extending the existing violation in a linear fashion, but not bringing the home nearer to the rear lot line at any point.
5. Applicant's revised plan also eliminated the need for any floor area ratio variance. While the revised plan contained errors in floor area ratio calculations, the Applicant's architect testified that the proposed improvements will not result in a violation of the floor area ratio requirement and the Architect agreed to submit a corrected plan confirming that no floor area ratio variance was required prior to the issuance of any building permit.
6. The BOARD finds that substantial reasons exist justifying both of the remaining variances. The Applicant will be making substantial aesthetic improvements to an existing dwelling, a home that is among the smaller of the homes in the neighborhood. The proposed additions will result in significant aesthetic improvements to the dwelling. The proposed covered front porch will provide a safer means of ingress and egress to the home and will also provide an aesthetic improvement to the dwelling. The new addition will provide needed space for the occupants of the home. The BOARD is cognizant of the fact that the Applicant is not constructing the addition in a manner that will increase the existing rear yard encroachment except in a linear fashion. No portion of the new addition will be nearer to the rear lot line than the closest point of the existing home. The

BOARD is also cognizant of the efforts made by the Applicant to modify the plan in accordance with requests made by BOARD members.

7. Applicant's property is also extremely unique, particularly with respect to the location of the existing dwelling. The home has been constructed on one side of the lot. There is no other place to expand the home without requiring some variance. Applicant is providing an improvement in a manner that results in minimal additional encroachments.
8. 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 FO 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 rear yard and front yard 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 the final plan 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 improvement 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, prior to the issuance of any building permit, provide the BOARD with a corrected plan confirming that no floor area ratio variance be required.

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

ROLL CALL:

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

NEW CASES:

CASE: 11-05 Block: 1006 Lot: 9	Application of <i>Frank and Patricia Calabrese</i> , 30 Tuxedo Avenue for Building Coverage and Floor Area Ratio variances to construct a new house in an R-10 residential zone.
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WALKER: Mr. Chairman, I have the following items to be marked into evidence in regard to this application.

- Item 1 is the application dated 2/15/2011.
- Item 2 is certification of service dated 2/14/2011.

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- Item 3 is legal notification dated 2/25/2011.
- Item 4 is proof of payment of taxes dated 2/09/2011.
- Item 5 is the deed dated 12/10/2010.
- Item 6 is the survey and elevations dated 1/22/2011.

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

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

P. CALABRESE: Yes

F. CALABRESE: Yes.

TEN HOEVE: Please state your names and addresses?

P. CALABRESE: Patricia Calabrese, 30 Tuxedo Avenue, Park Ridge.

F. CALABRESE: Frank Calabrese, 30 Tuxedo Avenue, Park Ridge.

VON DER LIETH: Why don't you please just take us through what you would like done for your variances. I am assuming that some of the Board members have gone by to see this property.

P. CALABRESE: Well, first and foremost, we are very happy that we found property in Park Ridge to stay in Park Ridge. We have been here for quite some time and I didn't want to uproot my children and we are downsizing to a smaller home. We still have a bigger home and now we want a smaller home and we couldn't anything that would suit our needs. So, we were lucky to find the property within Park Ridge. Unfortunately, we have to build a little bit bigger because we do have 3 children and they are getting bigger, without building such a large home, because we don't want a big home.

That is why we are going over the FAR. We need a little bit more space than that, but not really as much as what we just sold. We are trying to do our best in a smaller home, because it is considered a little smaller than what we had. I don't think we are building anything out of character for the community, if anything, it is going to enhance. Because, the home that is there now, the foundation is not, we can not construct what is there, because it will just crumble.

VON DER LIETH: Did you say that it is bigger than, this proposed home, you mean your home right now is.....

P. CALABRESE: No, the house was sold. This is considerably smaller. We are downsized.

VON DER LIETH: The one that you are building is much smaller?

P. CALABRESE: It is half the size.

VON DER LIETH: Just from my perspective, going by, it is a 100 x 100 piece of property?

P. CALABRESE: Yes.

VON DER LIETH: It is just a little weird, because it is a dead end. There is a walk right in the front of this old house, right there. You know, it is like macadam. I was just curious, on the drawing here, is that where the driveway is going to be?

P. CALABRESE: Well, no it is right in the front of the home. It is a street. That is not a.....

VON DER LIETH: To the right of the street there is a little (everyone speaking at the same time, nothing picked up clearly).

P. CALABRESE: To the right, yes, that is the driveway right there.

VON DER LIETH: But, your driveway is going to be actually in front.

P. CALABRESE: No, it is going to be to the left of the home on the side. It is going to be on the left hand side, not straight ahead.

VON DER LIETH: From the street, you are going to be able to, because it looked like as you get up to the house, it is almost like cut off right there. There is a lot of brush. So, you would be taking that out?

P. CALABRESE: Well, we will maintain it. We will clean it up and make it look presentable. Right now it is pretty much of an eyesore. Obviously we would improve it, at our own cost, obviously it is going to make the whole area look nicer than what it does now.

If you look here, the driveway, the garage and the driveway will be on the left of the home.

VON DER LIETH: It just didn't look like there was any street access to the left of the home. That is why I am asking.

F. CALABRESE: The neighbor has a basketball hoop there.

WALKER: There is a basketball hoop that is blocking it right now.

P. CALABRESE: The neighbor across the street, which is totally fine. We don't care. We have kids. They are currently using it to play basketball.

VON DER LIETH: Maybe that is why I didn't realize that, okay.

P. CALABRESE: Like I said, we don't care, until construction starts, it is not our property, it is a street.

VON DER LIETH: The other thing was the woods that are behind, like if you are looking at the house as it is right now, to the left of it, I saw the lines where they marked out the property, next to that, is that town property? Is that the property of the people behind you?

P. CALABRESE: No, that is the development that they are thinking of doing if they ever get around to it. That is all part of their property.

WALKER: How come we didn't get a survey for this application?

P. CALABRESE: Yes, there is.

TEN HOEVE: It is a site plan that is shown on the architect's renderings.

P. CALABRESE: I had also given surveys. I gave copies of surveys for everything also.

BEER: It is in the architects.

P. CALABRESE: Do you want an original? I have one. It is in my car, but Mrs. Beer said she didn't need it. Do you want them? I have them.

MANCUSO: Does it show the existing condition, the existing home on the property?

P. CALABRESE: Yes.

WALKER: The survey is Item 7, dated 11/22/2010.

VON DER LIETH: Have any other Board members been by the house? Any questions or comments?

HOSKINS: I was by there today.

TEN HOEVE: While you are doing that, can you just tell us why you need to have the house the size that it is? In other words, if you made the house 4 feet less in width, you probably wouldn't need an FAR variance. So.....

P. CALABRESE: I guess we can, but having 2 girls....

TEN HOEVE: I am not saying that you have to do it. I am just saying tell the Board why.

VON DER LIETH: Yes, if there are any extenuating circumstances that makes it necessary to do it like that.

P. CALABRESE: It was just the type of home we have always wanted to build. It was always our thought to build a home, and this particular style home is what we wanted. Yes, of course, we can shrink it, if need be. But having 2 teenage girls needing space and a boy that is getting bigger and bigger every second of the day, I just wanted everyone to be comfortable, considering we are downsizing from such, what we are downsizing from, I just wanted them to be comfortable.

As it is, it is a big change all around, downsizing to something smaller, with the economy being the way that it is, it is what we decided to do. I didn't think that it was such a big deal. I mean we are going for it. Obviously we are here, otherwise we would have said, you know, just shrink it the 164 feet.

TEN HOEVE: Is this house existing now, the one that is on the survey that you have just given us?

P. CALABRESE: Yes.

TEN HOEVE: So, that is going to be demolished for the new construction?

P. CALABRESE: Correct. I have everything for my demolition permit. We waited for this.

TEN HOEVE: So, one of the benefits that you are proposing is that this house is only 12 feet from the front lot line right now? The existing house?

P. CALABRESE: Correct.

TEN HOEVE: And you are going to be demolishing that and putting up a house that complies with the 24 foot setback or 25 foot setback?

P. CALABRESE: Right.

VON DER LIETH: I believe that it is complying with all of the setbacks.

P. CALABRESE: Yes.

TEN HOEVE: But, in essence what I am saying is that they are removing a very nonconforming condition, a house that is only half the distance from the front lot line that is permitted by the ordinance.

BEER: It meets all of the yard requirements.

WALKER: The home that is directly across the street, is fairly large.

VON DER LIETH: It seems like it is the same lot size, is it.

P. CALABRESE: Maybe about 10 feet bigger, not much bigger though.

VON DER LIETH: How about the house that would be directly to your left?

P. CALABRESE: If I am standing in front of my house, the house to my right, it is an average home. It is very small. It is an older home. Eventually if and when it is sold, I am sure they would want to do the same thing, just to update it, maybe not brand new. I mean I would fix that house up and no knock it down, because with that one you could. This house you can't do anything to. We had people look at it, thinking maybe we will just do an addition, and fix it. We can't. The foundation is just going to crumble.

WALKER: Other than the house that is directly across the street from you, the other house on that side of the street, faces yours.

P. CALABRESE: Yes.

TEN HOEVE: Brigitte, the driveway that is proposed on this sketch, on the site plan, am I correct that it would not be permitted under the proposed new ordinance, where it extends beyond the garage?

BOGART: It would only be able to extend 2 feet beyond the garage.

TEN HOEVE: Two feet beyond the garage. Do you understand what I am saying? If you look at the proposed driveway that you have.....

P. CALABRESE: Where it says pavers?

TEN HOEVE: Paver driveway, you extend from where your garage ends about another 10 or 12 feet, I can't tell.

P. CALABRESE: We could take that out and just put a walkway.

TEN HOEVE: You would be willing to do that?

P. CALABRESE: Oh yes, definitely.

BOGART: The other thing, it wouldn't comply with is the setback from the property line. It would have to set back 5 feet from the property line.

P. CALABRESE: So what you are saying is the stone walk is, that is where the driveway would have to begin?

TEN HOEVE: No, no, if you look at your side lot line, the front to back on the left, the 100 feet, the ordinance requires that the driveway be 5 feet off of that. Now, I can't tell, again, from this sketch, how far that is. The whole length of that.

P. CALABRESE: So it is extending from the front, so we would have to start it in the back.

TEN HOEVE: Yes, the whole length of that has to be.....

P. CALABRESE: It is a very unusual situation, that is why we wanted to put it on this side as opposed to the other side, because backing the vehicles out of the driveway on the right hand side, would be very difficult. That is why we wanted to do it on the left hand side, this way we have a little bit more of a turn.

WALKER: So whose property is on that side, beyond your house?

P. CALABRESE: Nobody. It is the new development.

BOGART: Is it the stem from the new development that front on Montvale?

P. CALABRESE: Yes, behind me.

BOGART: There is a little access strip.

BEER: It is the Garrity property.

BOGART: It is an access strip.

MANCUSO: It is 15 foot wide, or something if I recall.

BEER: Yes.

BOGART: So basically under the proposed subdivision, or the approved subdivision, there is like a 15 foot wide access strip that is owned by Garrity, but wasn't proposed to be developed with anything. It was just a strip of land that was going to remain open.

WALKER: A 15 foot strip that runs parallel to their property line?

P. CALABRESE: That is not what you are talking about, the driveway, correct? On the driveway part, we are within our 100 x 100.

MANCUSO: No, immediately next to you.

TEN HOEVE: Eve, what is that dimension, do you know? What is the scale? One inch is 20 feet.

MANCUSO: The scale is approximately 3 feet.

TEN HOEVE: Three feet, So is it possible to just move that 2 feet and still be able to make the turn with your cars?

P. CALABRESE: Two feet, meaning in?

MANCUSO: It is very tight now.

P. CALABRESE: It is tight as it is right now. I wouldn't say it would be possible.

TEN HOEVE: Then, the Board may be want to consider granting a variance for that.

P. CALABRESE: Just because, like I said, to even pull into the driveway, even with this, we are still going to have to maneuver it, back it up, pull it in, back it up.....

MANCUSO: It is a very tight backup area.

VON DER LIETH: Right, and you also can't just move the house to the right on the property line, because then you would lose your sides.

P. CALABRESE. I mean we are trying to stay in compliance with what needs to be done, but make it where we could actually use the driveway. Right now, there is currently 4 drivers. The 5th one is coming up, not any time soon, but I am sure she will be there eventually, so there will be 5 drivers in the home and I don't foresee any of them ever leaving, so.....like there are going to be cars....and that I can't help. I am not going to be a chauffeur any more and I am very happy about that.

TEN HOEVE: No matter what you do, you are going to have to be jockeying cars if you have more than. You just have to move them in and out.

P. CALABRESE: But that is okay.

TEN HOEVE: Like I do, and most people do.

P. CALABRESE: Exactly.

VON DER LIETH: I am sorry, shouldn't that left hand side have been in here, the side yard setback.

TEN HOEVE: This measurement, yes, well, the Board is going to have to discuss that and decide what it wants to do. The final survey will show what ever distance the Board decides.

P. CALABRESE: If we need to shrink it, if that is what it will take to get it done, we will live with it.

WALKER: It is tight now.

P. CALABRESE: I am just saying if it needs to be, we will figure it out, but I am hoping not to have to do that.

RAMAN: If you reduce 2 feet on the house in that location, that will probably kill both variances.

F. CALABRESE: Then it will throw things off in other places.

TEN HOEVE: My suggestion is that the Board discusses it when it discusses the other applications, and makes a recommendation.

VON DER LIETH: Because, either way, we have to see another.....

TEN HOEVE: Well, if the Board decides, the survey will have to be prepared that complies.

VON DER LIETH: Fair enough.

WALKER: I see that some mature trees have been taken out recently. They don't appear to be in the footprint of the house.

P. CALABRESE: No, they were very bad and we took them down because they falling down already, as it was. They were hollow and they were eventually going to come down. We started to do some of the work, doing the excavating of the trees. We were just trying to clean it up because it was pretty bad.

VON DER LIETH: Before we go on, is there anyone in the audience tonight, that wishes to speak on this case? Yes sir, come forward.

HOSKINS: Just one question, The house across the street, is that lower?

F. CALABRESE: Yes.

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

OSLACKY: I do.

TEN HOEVE: Please state your name and address.

OSLACKY: Mike Oslacky, 27 Tuxedo Avenue. The only concern that I have and I want to make the Board aware of it, the drainage in that area, there is no culverts or gutters or anything like that, to catch the water. Any oversized building on that lot is going to obviously push more water down hill. Right now, we get a decent amount of water in the driveway, and I would just be concerned that something would be done to accommodate that.

VON DER LIETH: I am sorry sir, you live across the street from them, correct?

OSLACKY: Yes.

P. CALABRESE: Can I just say something on that defense?

TEN HOEVE: Maybe I can help you here. Normally, when plans for new construction are submitted, and we are fortunate because the Borough Engineer is here today. Those plans, if she believes that it if the house is going to reduce impervious coverage, and also create more runoff from the roof of the new dwelling, will require that seepage pits be provided for the new dwelling. I am fairly certain that she would require them for this application. Is that correct?

MANCUSO: Yes, you are correct.

TEN HOEVE: What is the process, maybe you could explain that process to Mr. Oslacky.

MANCUSO: What is going to happen, next, should the Board approve the application, is a full package will be submitted to the Building Department, and during the Building Department review, since it is a new dwelling, and the size of the dwelling is considerably larger than what was existing, it will come to Engineering for a review as well. So, we will look at the grading. We will look at erosion control, and we will look at drainage. All of those items will be addressed.

OSLACKY: Okay, that was the only thing I wanted to mention.

P. CALABRESE: We will definitely not add any problems.

OSLACKY: I just wanted to be clear. I don't have a concern about the size of the building that they are going to put up, I just wanted to make sure that the drainage is adequate.

TEN HOEVE: What I am saying is that it is almost certain, and I think that the Engineer will confirm that, that you are not going to be able to build this without constructing seepage pits and connecting all of your roof drains to the seepage pit.

P. CALABRESE: We had that with our other home, and our neighbor behind us was really concerned about it and in the beginning he wasn't quite certain, oh my God, what are they doing? But, then he came and thanked us because we actually fixed a pre-existing problem because we know we didn't want to cause with them, the neighbors. So, we knew what needed to be done before we created a problem.

TEN HOEVE: Do you think it would be appropriate, Eve, to have that as a condition in any resolution, if the Board were to approve it, that it would have to have seepage pits, the size and the number subject to your review?

MANCUSO: I guess it couldn't hurt, but that is the normal procedure.

VON DER LIETH: The only reason that we are going so in depth on this, is because a Floor Area Ratio variance, is a little more difficult to obtain. We scrutinize it a lot more, than something else, especially with the drainage thing.

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P. CALABRESE: Well, I wouldn't want it happening to me, so we would definitely make sure that it doesn't happen to any of our neighbors, because who wants to have a nightmare of water, because that is the worst thing ever.

VON DER LIETH: Okay. Are there any other questions from the Board, or public.

RAMAN: I know you shook your head that you don't want to cut anything in the dimensions. Are you open to any.....

P. CALABRESE: We are open, of course. No, we are. We are open to any suggestions for sure, yes.

RAMAN: I know you are concerned with aesthetics, obviously, but within the context of you have a driveway issue as well as the thing. I mean one added variance is now required, it looks like. This is going to make it really difficult to get the car in, so in that context, I mean, if we were to suggest something else, you are open to that, right?

P. CALABRESE: Yes.

F. CALABRESE: Yes.

VON DER LIETH: If it did come off, say if you are looking at the plans right now, the right side of the house, would it be possible to get rid of 169 square feet, without maybe.....

P. CALABRESE: You mean right here, just bringing it in 2 feet?

VON DER LIETH: Any further questions? Alright Mr. and Mrs. Calabrese, what we do is, the Board is going to talk about this tonight, and try and come to a decision. You can call Mrs. Beer in the morning.

P. CALABRESE: How long does it take to get an answer, just because we are anxious to start building, because we are in a rental home right now, and our lease is up in June. Our house, obviously, will not be ready in June, but he is asking us when will we be out, because he wants to put his house on the market. He is respecting us by not showing the home while we are living in it. So, he is kind of anxious to get an answer as to when we are getting out.

TEN HOEVE: The Board won't take it's action until April 6th. So, whatever decision it makes, the final resolution will be adopted on April 6th.

P. CALABRESE: Okay. Thank you.

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

KRUPSIC: Yes.

TEN HOEVE: Your name and address, please.

KRUPSIC: Roberta Krupsic, 36 Circle Drive. I am right in back of them, and there is a water problem. After these big rains, I have water in the back, right next to the back of their property. I have never seen that before. I hope that doesn't happen again. This is my back yard, it is not a big deal. Also, when they came to cut these trees down, they come and whack them off, and they go right on my property and lay on my shrubs. I hope this doesn't happen again.

P. CALABRESE: You should have told us. We would have made certain that won't happen again. I apologize.

KRUPSIC: Okay, well I went out there and talked to them. They had no idea where the property line was.

P. CALABRESE: Nobody said anything to us. I would have apologized.

KRUPSIC: No, you weren't home. I just hope that in the construction activity, there is no more of this.

VON DER LIETH: I am sorry mam, are you saying that there is a flooding problem anyway, prior?

KRUPSIC: There were big puddles after these recent rains, right at the property lines of theirs and mine. I am concerned about the drainage, so they seem to have a remedy in place.

VON DER LIETH: Right, that will definitely be something that the Board is taking into consideration, the drainage problem.

KRUPSIC: I am concerned about the activity in the construction, that they don't get on my property.

TEN HOEVE: Just so you understand, they are not obligated to correct some condition that has been existing, that hasn't been caused by any work that they do on the property. If they build and create any type of problem, they can't do that and they can't increase any runoff from the property. If this is something that is existing before they have done anything, that wouldn't be their responsibility.

KRUPSIC: Yes, if it works.

TEN HOEVE: No, they can't do that. That absolutely they can not do.

KRUPSIC: That is what I am concerned about.

TEN HOEVE: That is what the Engineer will be looking into.

F. CALABRESE: Was this a problem before?

KRUPSIC: I have never noticed it before. With all this rain recently, and the new construction.

P. CALABRESE: We haven't had any construction yet. We haven't started.

KRUPSIC: I know that, but I don't want it to get worse.

P. CALABRESE: We are going to make it better. We are going to make the whole area pretty.

VON DER LIETH: Thank you very much. You can give Mrs. Beer a call in the morning.

BEER: Mrs. Calabrese, I think you can pick up your surveys.

P. CALABRESE: I have others, do you want them?

BEER: No, because you are redoing it.

CASE: 10-14 Block: 1103 Lot: 10	Application of <u>Felix Rizo</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 without building permits. Hearing held January 18, 2011 and carried to February 15, 2011 for inspection by structural engineer and to March 15, 2011 at the request of the applicant.
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TEN HOEVE: Mr. Rizo was previously sworn in and you are still under oath. Mr. Bruno, I don't think was.

BEER: Bill has new things to put into the record.

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

BRUNO: I do.

TEN HOEVE: Please state your name and professional address?

BRUNO: Joseph J. Bruno, 29 Pascack Road, Park Ridge, NJ.

TEN HOEVE: Thank you. Sorry Bill.

WALKER: I have the following item to add to the record in regard to this application.

Item 15 is the Board secretary's letter dated 1/24/2011.

Item 16 is the Board secretary's letter dated 2/15/2011.

Item 17 the Architect's report dated 3/09/2011.

VON DER LIETH Thank you Mr. Walker. Mr. Bruno, can you please take us through your report here, on your findings on Mr. Rizzo's property?

BRUNO: Yes, I believe that you all have a copy of the report that was dated March 9th 2011, prepared by me. I was asked pursuant to Mrs. Beer's letter of January 24th, to do an inspection at the premises to determine the Code adequacy of the construction in place.

So, my involvement is post construction. I am here to present my findings. I did field observations at the above captioned site. I have attached photographs of the house as it is now, and I also attached the REScheck energy calculations. The REScheck energy calculations, as I state in the opening, is pending the recommendations for the floor insulation to be installed. I will go through that in a moment.

My report is broken up into two sections. The first section is observations that I made on site, and the second part of that report are the recommendations that I am making to Mr. Rizzo, for remedial action.

Item number 1 deals with the footings and foundation. The foundation is constructed with 6" concrete block. No destructive testing was performed so the presence of reinforcement could not be determined. The footing is constructed with "cast-in place" concrete and extends to 36" below the finished addition grade, which complies with the Code requirement for depth of foundation footing. Likewise, I did not do any destructive testing to ascertain whether or not there is reinforcement in the footing. That would probably be more detrimental to the footing than if there was not reinforcement. I will get to that in my recommendations part of my report. I noted that the footing was not formed. Normally speaking, we would have a concrete footing that is formed with frame lumber. Occasionally we will run into what is called a "trench type pour", where if the adjacent grade is solid enough in the walls of the excavation are able to be cut pretty straight vertical and true, a "trench type pour" or a pour that does not require form work, is permitted. In this case, it was obvious that it was not a formed pour but rather a "trench type pour". The footing appears to be 18 inches wide.

Item number 2, the floor framing is pressure treated 2"x 6" at 16" inch on center spacing. The span is approximately 8 feet.

TEN HOEVE: Is that Code? Floors can be 2x6?

BRUNO: If the span is not too long, yes. There is no Code required minimum other than the minimum for the span. I found that the, I measured the span at approximately 8 feet, but in the recommendation section, I have some other comments regarding the floor, because I am concerned about it because of the way that an access hole was cut from there. I was not able to really ascertain the full length and width of the way the floor was built. So, in my recommendation section I deal with that.

The bottom of the floor joists are approximately 10" about the finished grade. The grade below the floor beams is bare earth and the floor system was not insulated. These are all things that are contrary to Code. The interior floor finish is ceramic tile. The substrate could not be determined at the time of the observations. What I was able to determine is that the finished flooring and whatever substrate was placed over the top of the original decking because it is obvious that this addition was built over the preexisting, exterior wood deck that was on site. The foundation wall was added subsequently to support the perimeter exterior walls.

Item 3, the frame walls are framed with 2"x 4" wood studs with 16" on center spacing. The wall cavity is insulated with 3 ½ " R-13 batt insulation. R-13 being the resistance to the transience of temperature through the wall itself.

Item 4, the roof/ceiling is the same. The roof is sloped and the ceiling follows the same. There is not a separate ceiling framing system. It is framed with 2" x 10" wood rafters at 16" on center spacing. The frame space is insulated with 6 ¼ R-19 batt insulation, which is a little light for this day and age, but it you will see with the REScheck calculations that given the parameters of the building, that it does comply.

The rafters at the wall bearing points do not the required metal hurricane anchors for positive attachment to the top wall plate. For instance, when you have a typical slope roof construction, then you have a horizontal ceiling construction, there is a lot of meat in terms of lumber, and fasteners at that point, so the code does not require separate restraint, such as hurricane anchors. In this case, we just have the rafter to rely on, so in that case, not only does the Code dictate it, but good structural design practice dictates it. Likewise, at the top bearing are framed flush into the side of the ledger, which was just face nailed into the structure, and that likewise, is required by Code to be affixed to the solid framing with lag bolts, which are big wood screws, for lack of a better term. At the access hole cut into the ceiling, galvanized metal angle connector was observed on one side of the rafter only, at the 2 rafters that I saw. It will be necessary to add more, but that is covered in the recommendation section.

Item 5, the electrical wiring is copper, non-metallic shielded cable, which is fairly standard. You hear the term Romex. Romex is sort of like Kleenex, it is a brand name, but the common nomenclature for that type of wiring is not metallic shielded cable. What that means is that the wires are copper. The conductors are copper, but the insulation is plastic, for all intents and purposes. Proper grounding was checked by with a plug in device and an electrical receptacle and box was found to be loose in the wall. So we deal with that in the recommendation section.

Item 6, the does not appear to have the required vents at the upper area. We have to ventilate the roof space between underside of the roof sheathing and the top of the insulation. In this case there is no vent at the top side of the roof. So you will have a build up of heat in there, which is against the Code and will not provide for proper venting of the roof structure, which will over time, lessen the life span of the roofing material itself and also over a much greater period of time, lead to dry rot and the degradation of the framing system itself.

VON DER LIETH The size of the room, Mr. Bruno, it is 8 by? I am assuming there is more than one electrical outlet in the room.

BRUNO: No, no, I just made mention of one outlet that I found to be a problem. It was just loose and came out of the wall.

VON DER LIETH The wiring hasn't been able to be looked at in the walls, right, because you didn't take

BRUNO: Well I was able to see the wiring in the one access hole that was cut at the low end of the roof, I was able to see the wiring there, and I even moved a wall plate and I was able to see that the wiring is copper. In my recommendation section, it is also very strongly worded here, that, well, we will get to that in a moment. Let's not jump the gun here.

The room is approximately 14 ½ feet by 15 feet. It is relatively square.

Now, the recommendations. As I said, the masonry wall appears to have been constructed to a height of approximately 2 block courses (16"), each block course being 8 inches. So a total height of 16 inches. As such, I don't feel that reinforcement is really a concern, because we don't have any lateral forces against the wall. It is not underground. It doesn't have any appreciable height. I really can't make any comments regarding the soil bearing as I couldn't see directly underneath the footing, but the soil adjacent to the footing appears to be well graded clay and gravel, which does have a very good soil bearing capacity. So, if the soil in that particular spot is indicative of the soil in that area, as I mentioned, it is fair to assume that it is adequate for the soil pressures exerted by the structure, which are relatively light in structural parlance. You and I couldn't lift it, but in the sense of a building, the loads are relatively light.

The existing flooring shall be removed to expose the floor framing. That means that the floor finishes, which are ceramic tile and any decking that is below. All of that needs to come out throughout the room in order to expose the floor joists. This will allow the following work to be performed.

- Rake existing grade below the floor framing and remove debris.
 - Place a 4" thick concrete slab, which is code, over a 6 mil. polyethylene vapor barrier on the grade.
 - Insulate the floor with 6" thick rigid foam insulation. The reason why I am recommending rigid foam insulation, from a practical standpoint, if you put batt insulation, which is the stuff that the fiberglass looks like cotton candy, there is no clearance underneath between the floor joists and the grade. There would be no way to protect it from animals using that stuff for nesting, because it is very good for nesting. It wouldn't be practical to use that type of insulation.
 - Over the top of the existing floor joists, to install ¾ inch thick CDX plywood sub-flooring. CDX means that the C and D means it is unfinished spaces and the X means the exterior glue is used, which is standard for sub-flooring.
 - The finished flooring can be as selected by the owner, whether he does tile or carpet, that will be strictly up to him.
 - I will make observations of the presently un-observable areas of the floor framing and make any appropriate recommendations, when the floor system is exposed.
- DO NOT INSTALL SUB-FLOORING UNTIL THESE OBSERVATIONS ARE MADE AND REMEDIAL ACTION (IF REQUIRED) IS RECOMMENDED AND PERFORMED.**

Cut away the gypsum drywall at the low and high ends of the sloped ceiling. Install galvanized hurricane anchors at each rafter to wall plate connection. Install galvanized framing angles both sides of rafters at flush ledger. The flush ledger shall be bolted to the existing structure with 3/8 diameter lags bolts at 16" on center, with the rows staggered top and bottom so that the stresses are not placed in the same plane in that ledger, which could lead to cracking. Again that is good design and construction practice. Ensure that all lags penetrate into wood framing members. Again, (penetration into the wall sheathing only is **NOT** acceptable. Restore all drywall finishes.

Install a continuous "vent a flash". Vent a flash is a trade name for a continuous flashing vent that would be placed at the intersection between the roof and the wall, so that we get that hot air that is building up inside the roof, carried to out for the

reasons that I stated before. Soffit vents shall be checked to ensure proper clearance to roof insulation and effectiveness.

Re-install the loose electrical box and receptacle.

ALL WORK SHALL BE PERFORMED ONLY AFTER PROPER PERMITS HAVE BEEN ISSUED. ALL WORK SHALL BE INSPECTED BY THE LOCAL CODE ENFORCEMENT AGENCY PRIOR TO CONCEALMENT OF ANY CONSTRUCTION.

So we have 2 things going on here if the Board should decide favorably on the variances that have been previously discussed before my involvement. Then all work has to have permits issued. I have to go and my inspection once the floor system is exposed. Any recommendations that I make have got to be done and, of course, inspections have got to be made before any work is considered.

TEN HOEVE: Did you check the roof at all?

BRUNO: Well it is a standard asphalt shingle. I got up there and look to have some sort of underlayment that looked like felt.

TEN HOEVE: How about where it meets the building? Was there flashing?

BRUNO: That once the rest of that is exposed, I will be able to see that, but the vent a flash will take care of that because as the name implies, it is a vent and flashing.

TEN HOEVE: It protects water from running in where the roof meets?

BRUNO: Yes. It is a very effective way to not only vent the roof structure, but to ensure that the joint between the roof and the wall above is

TEN HOEVE: That goes under the shingles in some manner?

BRUNO: Well it goes, there is a flashing piece that above the shingles because it has to, if it goes under the shingle, you can get water penetrating. It sheds over the top of the shingles. But at the top of the vent a flash, it goes up behind the siding. There is a flashing flange that goes up behind it.

TEN HOEVE: Okay, I understand.

BRUNO: I did not see any evidence that there is any roof leak there at that spot at the present time.

RAMAN: I have a question. The block, isn't code 8" block minimum?

BRUNO: No, the code talks about the size of block based on the height and the distance below grade.

RAMAN: The foundation had a code requirement of minimum 8 inch.

BRUNO: If it is below grade. At this point it is just, it is basically a skirt block around the foundation and it is essentially all above grade. What they have done is with that trench pour that I mentioned, the excavation, the hole was filled with concrete. The blocks start at grade essentially.

RAMAN: The block starts at grade?

BRUNO: Right, it is not below grade.

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CAPILLI: Mr. Bruno, is there any question in your mind, that if your recommendations were followed, the structure would be as secure and as compliant with Code as if it had been built properly and inspected properly along the way?

BRUNO: Yes, and I think the only qualification that I am putting on that is what I have not been able to see yet, which is the floor, but I will see it and make any recommendations that need to be done.

CAPILLI: If the recommendations are followed it will be fully compliant?

BRUNO: Yes.

CAPILLI: It will not suffer by not having been done with the proper inspections if it had been done properly.

BRUNO: That is correct.

VON DER LIETH: Mr. Rizo, are you able to do what Mr. Bruno is saying?

RIZO: I will try.

TEN HOEVE: You will try?

RIZO: I will try sir.

TEN HOEVE: What does that mean?

RIZO: I will save some money and then do it. What do you want me to do?

TEN HOEVE: I think that the answer is that if you don't, then you are probably going to be denied and the Board would probably make you take the whole addition down.

RIZO: I have to do my thing and you have to do yours. I said to you I don't have any money left. That is my answer. Do you want me to say I have the money. If you give me the money I will do it. I have 3 kids there and my father, with my salary in that house. I work every day as a teacher. I told you already, why I did that room. I said it was wrong and this and that, but I can not tell you that I am going to do it tomorrow, because I don't have the money. When I have the money I will do it.

The person is asking me to do that, but I have to buy the floor. I have to buy the cement. I have to buy all of these different things. I don't have the money right now.

VON DER LIETH: When do you think you might have the money?

RIZO: I have no idea.

CAPILLI: Are we talking about a matter of months or years?

RIZO: Well, I am going to try, I am just going to get a part time job to see if I can make the money, because all of my savings went into this room. Now they are asking me to destroy the whole thing. It was my fault, I understand.

VON DER LIETH: I know that you understand, and you have to understand.

RIZO: I know that it was my fault, but what I am saying is that the ceramic floor was \$400.00, and it goes to the garbage. You have to buy, he wants 4 inches of cement. That is probably another \$700 or \$800.00.

TEN HOEVE: Do you understand that this is being done because everything that you constructed does not comply with the building code. Had you done that....

RIZO: How many times are you going to tell me that?

TEN HOEVE: But you are complaining because you have to rip up some ceramic tile.....

RIZO: Sir, I am not.....

TEN HOEVE: Let me finish. Listen, let me finish. We had this conversation before. I talk and you are quiet, and then you talk, and I will be quiet.

RIZO: Exactly.

TEN HOEVE: Do you understand that?

RIZO: Yes I do.

TEN HOEVE: You are talking about ripping up a ceramic floor that you have to rip up. But, you have to rip it up because you built the entire addition without complying with code. You didn't put a concrete floor in. You didn't attach the floor joists the way that they should be. You didn't attach the rafters the way that they should. You didn't put insulation the way that you are supposed to do it. All of the deficiencies that have been noted by Mr. Bruno are the reasons why you have to rip things up. Had you gotten a permit, then you wouldn't be in this position.

RIZO: To get a permit, sometimes, here is like flying over Niagara Falls with nothing. I tried. I told you that I tried many times to get a permit, but it was not easy. So what can I tell you? I did it because I was forced almost to do it. I have 3 kids, and my father with me. I was almost forced to do it.

Then I came here and I apologized for what I did. I didn't have any other alternative. Now what I said to you was the situation is wrong. What I did was wrong. I apologize. He asks me why did I do this?

VON DER LIETH: We understand and we know that you are apologizing but it is almost, it is a very difficult, even if we are sympathetic up here, it is a very difficult situation, because on one hand if we say okay no problem and we grant the variance for this, we are basically rendered useless up here because anybody else could come in and they will know that guy did it and all he had to do was come back and ask for permits, and ask for a variance, and we grant it.

RIZO: I understand what you are saying, but you have to be in my position also.

CAPILLI: Mr. Rizo, the problem that we are in is, not only your situation, which everyone is sympathetic to, that is not a question, everybody is sympathetic. Nobody wants you to tear it down tomorrow, if you can't afford to rebuild it and you needed it. But if you had done what you needed to do to get the permits, it wouldn't necessarily have cost you anymore and it wouldn't have been a non-affordable project. Maybe you could have afforded it if you did it right the first time. We can not be in a position where somebody does it without a permit and then maybe they get caught and maybe they don't get caught, that is not a good way.....

VON DER LIETH: I think that Mr. Rizo completely understands.

RAMAN: One other things is that this is for your safety. You have kids, and your father. This room appears to be marginally unsafe. I am not going to take away from anything that the Architect has already said, but it looks like it might be marginally unsafe, plus you are wasting more energy by not having the insulation. So, the money that you are hoping to use here is not entirely going down the toilet. You are making a safer structure which will also save you energy. So, I think that hopefully that will persuade you to.....

RIZO: I know what you are saying. What I am saying is that the gentleman asked me when I was going to do this?

VON DER LIETH: We got the answer. It is undetermined.

RIZO: If I tell you I am going to do it next week, I would be lying to you. That is all that I am trying to say. Now I say if you give me permission, how long do I have to do this? That is all that I am asking, because I don't have the money. I can not take the money away from my kids food to do the floor.

VON DER LIETH: Mr. Hoskins, do you have a question?

HOSKINS: Did you get anybody to come professionally to give you an estimate for everything that Mr. Bruno suggests?

RIZO: Yes I did.

HOSKINS: You did. More than one contractor?

RIZO: Two people as a matter of fact.

TEN HOEVE: Did you ever go back after the contractor that you said you hired? Last time you testified under oath that you had a contractor and you hired him and he did the work and told you the work was okay?

RIZO: Yes. I went to him.

TEN HOEVE: Did you sue him?

RIZO: No, I didn't.

TEN HOEVE: Why not?

RIZO: Because he is my friend.

TEN HOEVE: But he is the one who said that this was legal and built it in a nonconforming manner.

RIZO: I guess he was trying to save me some money.

RAMAN: Mr. Bruno, I have a question. The 4" slab, again, just a question, could that be a 2" wrap slab?

BRUNO: The code used to allow that, but it no longer does. That was changed probably in one of amendments to the 2006 international building code, which is the New Jersey addition, which up until a few months ago, we used it but now we use the 2009 code.

HOSKINS: Just one more question. Is all the wood decking what you see and what you can't see, is that treated lumber?

BRUNO: The wood decking that I saw appears to be treated. But, underneath the floor the condition is in determent. If it was new, I wouldn't be concerned about it. You wouldn't really need to be concerned about it, but especially since it had been a deck and it does have a finish and painting pressure treated lumber does tend, in my experience, does tend to reduce its service life. So that is one of the many reasons for removing it. But, the long and the short of it is that is the practicality issue. You can not insulate the floor without taking the deck out because it is impossible to get in there. Also, all things being equal, if I am not able to see every square foot of the way that the floor is constructed, I can't put it in my report and say that I looked at it and I am comfortable with it.

VON DER LIETH: So you need time to go back and see what is underneath there?

BRUNO: Yes, I need to be able to go further. So the flooring and the decking needs to be removed for many reasons.

VON DER LIETH: So you will be coming back here again to give us your report on what you found when the floor is ripped up, is that correct?

BRUNO: What I found and what has been done.

TEN HOEVE: Only if he commences the construction.

RIZO: Well, the removal of the floor will be done. We will start next week.

BRUNO: The Board has to

RIZO: If permission is given, we are going to remove it. Now, the idea of putting it back, I don't know.

VON DER LIETH: Is there anyone else who wants to speak to this case, tonight.

BEER: You can't remove it without permits.

BRUNO: Mr. Rizo, as I mentioned to you, this Board has to determine whether or not the structure would be permitted to stay in place. That is first and foremost. Then permits have to be issued before you can do any of this. Then once you remove the flooring, I have to come back, make my observations, make whatever recommendations that I deem appropriate and then they have to be implemented and inspected. So there are a number of things that need to be done. Nothing is being done next week.

RIZO: Well, what I am saying to you, if granted permission, my friend is ready to demolish the floor and start at least the cement.

TEN HOEVE: So, you are going to be in a position where you can't use this room at all, until this is completely done in any event. You are right back to where you started.

RIZO: So, all the boys will be sleeping in one room.

VON DER LIETH: Does anyone else on the Board have any questions? Thank you Mr. Bruno. Mr. Rizo, we are going to discuss this tonight and you can call Mrs. Beer in the morning and find out.

RIZO: Okay.

CASE: 10-16 Block: 1603 Lot: 5	Application of <i>South Maple Associates</i> , 62 Park Avenue for modification of prior Board of Adjustment approval to relocate dumpster, add shed, modify landscaping and parking lot in the Neighborhood Business District. Hearing begun December 21, 2010, continued to January 18, 2011 for submission of a site plan. At applicant's request hearing was carried to February 15, 2011 and to March 15, 2011 due to snow covering the parking lot.
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WALKER: Mr. Chairman I have some additional items to be marked into evidence.

- Item 9 is the Board secretary letter dated 12/22/2010.
- Item 10 is the Board secretary letter dated 2/15/2011.
- Item 11 is the proposed shed location dated 2/25/2011.
- Item 12 is the site plan dated 6/03/1987.

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

VON DER LIETH: Thank you, Mr. Secretary.

BELL: Good evening Mr. Chairman, I am Alan Bell. I represent the applicant. The Board may recall that we were before the Board in December and presented testimony from the owner, Mr. Growney. He testified that what he was seeking was the Board's permission to move the dumpster area to a site shown on his site plan, so as to get better access to it by the trucks that have to remove it.

The Board asked us to show the plan, the Board wanted to see the site plan and see the dumpster area on the plan. What we did was submitted the approved site plan and we gave you the blowup of the area where the proposed dumpster is shown, so that you could see it in a better dimension. What I would like to do today, which I think may help the Board, is we have Mr. Joseph Neely here. His company is the company that removes the waste and lifts the dumpster into the truck. I would like to just ask him a couple of questions and I think that may help you understand why we are trying to place the dumpster where we are proposing it.

TEN HOEVE: Mr. Neely, would you 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?

NEELY: Yes.

TEN HOEVE: Your name and address please.

NEELY: Joseph Neely, at 639 Piermont Road, Closter, New Jersey.

BELL: Mr. Neely, what is your occupation?

NEELY: I own a sanitation company.

BELL: And your company performs solid waste removal for this property?

NEELY: Yes.

BELL: How is that currently accomplished?

NEELY: It is by a front load truck that has 2 forks on the front and picks up the container and throws it over the top and empties it.

BELL: How big is that container?

NEELY: 8 cubic yards.

BELL: Is this a picture of the truck that removes the, that lifts the dumpster in to remove the garbage?

NEELY: Yes.

BELL: These polls that are shown on the front, they come down?

NEELY: They are forks that are on the front and they fold down to pick up the container.

BELL: How long is this truck?

NEELY: Approximately, with the container, about 41 feet.

BELL: I would like to offer this to the Board.

WALKER: Item 13, photo of Mr. Neely's truck.

BELL: Mr. Neely, I am showing you the site plan that is been submitted to the Board. You will see a dimension on it running from the middle of the handicapped parking space to the old dumpster area. Can you see that dimension, it says 41 feet?.

NEELY: Yes.

BELL: That would be the length of your truck?

NEELY: That is correct.

BELL: Are you familiar with the property?

NEELY: Yes.

BELL: You are aware that it slopes from the street down toward the end of the driveway?

NEELY: Yes it slopes in, yes.

BELL: Can you tell the Board how, if you had to remove the dumpster from the existing concrete pad area, what impediments are placed upon the driver?

NEELY: If we were removing it from where it was years ago?

BELL: Right.

NEELY: Years ago, they used to dump that with a rear load truck, and they would pull the container out. The front loader is totally different to the rear load garbage truck. On the front loader, you basically, you got to be level, because you are going in with forks and you can't go in like this. If you did pick up the container, being on a slant, you might kill the driver it would come right off of the truck.

BELL: In addition, in order to get at that area, the driver would have to maneuver the truck several times to be able to come straight in?

NEELY: He would have to go into the handicapped location and then you have worry that the truck is going to be on the slant going to the container.

BELL: So, in your opinion, is the proposed dumpster area a better location for the dumpster?

NEELY: I would say it is a better location and it is much safer.

BELL: How would the driver accomplish the pick up?

NEELY: The driver would back into the driveway and then pull forward and pick up the container, drop it back down and then leave.

BELL: Those are all the questions that I have for Mr. Neely.

VON DER LIETH: I have a question. Sid I know we asked them to present a site plan, just refresh my memory what your concern was Sid, about.

RAMAN: Well, we were wondering whether this could be relocated to the rear of the property and since we didn't have a site plan, we didn't know whether there was any other room that would permit the same thing to happen. I know that there was testimony that it is a very tight site, the parking extends all the way back, but we didn't have a physical diagram.

VON DER LIETH: Okay, got ya. So, now that we see that, there is no room?

NEELY: In my opinion, this is a very safe area where they are trying to put the container. I tell you why, if we had to pick containers on a slant, we would have a serious problem with OSCHA.

WALKER: So how is the driver going to pick it up now? Is he going to back on to the property so that.....

NEELY: He backs right in and then picks it up, dumps it, puts it down, and then leaves.

VON DER LIETH: So, he basically doesn't really have to come anywhere close to the cars that are parked?

GROWNEY: No, it is 200 feet deep.

VON DER LIETH: Okay.

NEELY: It is a lot safer the way that they want to do it.

VON DER LIETH: What is going to be surrounding this dumpster?

BELL: There are blocks surrounding it and then it is shielded by a arborvitae hedge.

TEN HOEVE: The revised plan shows that the height of the arborvitae will equal or exceed the height of the container.

BELL: Correct

VON DER LIETH: Right now, the dumpster, again, is in the parking lot.

GROWNEY: Correct.

VON DER LIETH: Where that proposed storage area is, for the salt and what not, is that where it is now?

GROWNEY: No, no it situated in the area where the dumpster is proposed, but it is sticking out into the driveway area.

BELL: The Board may recall Mr. Grownney's testimony from the last meeting that over the years, the amount of refuse has increased so he needed a bigger dumpster because it wouldn't fit in the existing area.

VON DER LIETH: Moving it to this area would actually open up the entrance way.

BELL: Yes, absolutely.

VON DER LIETH: Does anyone else have any questions from the Board? Is there anything else that you would like to add?

HOSKINS: I just have one question. The back of this proposed storage shed right here, what is all that space between the walk that goes around it? Right here sir.

GROWNEY: That is the landscaping. It is grass. It is not going to be much if the plan goes in as we are proposing.

HOSKINS: Okay.

VON DER LIETH: Okay gentlemen, thank you very much. You can call Mrs. Beer in the morning.

NEW BUSINESS:

James Babcock – 41 Midland Avenue – Architect to explain discovery of error on survey.

VON DER LIETH: Mr. Bruno.

TEN HOEVE: This is not a hearing. This is just to explain something to us.

BRUNO: I had discovered we had a dimensional error on the site plan that we presented to Zoning Board when we went for the variance. What I had done, is I had spoken to Rob Mancinelli, because he and I work together. He does land use, as you know.

He had spoken with Mr. Ten Hoeve about the situation and suggested that I request a hearing with notice, to explain the dimensional discrepancy. I have one for everyone except one and I will need one, if that is okay.

TEN HOEVE: There is no exhibit marking. The purpose of this is that there has apparently been some minor error with the survey that was the basis for our variance that was granted recently by the Board. This Board has the ability to amend its resolution to correct it, if it determines that this is a minor change that doesn't require a full hearing. If it determines that, no, this is extensive, the property owners should be given notice, then we need to have another hearing, it can do that. So, that is the real purpose of tonight's meeting, or discussion of this application. I told Mr. Bruno that he could come in and explain it. If the Board that it is a minor change, or minor error, then the resolution can simply be amended without holding a formal hearing.

BRUNO: Right, on the second page, which is on the legal size sheet of paper, is the site plan was submitted with the variance application and was discussed the night of the hearing. I believe that we had 2 hearings on it.

That dimension of 19.67 feet from the front corner of the proposed porch to the front lot line, is shown as the closest dimension of the proposed porch to the front lot line. Actually that 19.67 feet should be moved over to the right, which would represent the farthest dimension of the porch from the front lot line.

TEN HOEVE: What is the dimension supposed to be?

BRUNO: The closest, if you look on the first page, would be 17.4 feet. So the porch at its closest corner, because as you can clearly see, the porch, the front line of the porch and the house itself, is oblique to the front property line. It is not parallel. So, at the closest dimension that the porch would be to the front property line at the east end of the porch, would be 17.4 feet and at the west end it would be the 19.67.

TEN HOEVE: So it is essentially a 2 foot difference?

BRUNO: Right, at the corner. I don't know if I would be permitted to make this statement or not, but I will and then you let me know whether or not it is admissible. During the proceedings we had a second meeting and the biggest issue that the Board seemed to have, or the biggest question that they seemed to have was the rear yard setback variance. Because of the proximity to the property line and that the second meeting was necessitated by the fact that the Board wanted to make a site visit and also we needed to determine whether or not that land behind the Babcock's property was buildable at some time in the future, and it was determined that it was not. So, the front setback did not seem to be a bone of contention during the proceedings.

TEN HOEVE: Also, I don't remember what the resolution said, but it looks as if there is a large distance between the front lot line and the actual edge of pavement.

BRUNO: Yes. I can scale that for you.

TEN HOEVE: Normally it is around 10 feet. It looks like it is more than that.

BRUNO: It is 15 feet, instead of the traditional 10. So we have an additional 5 feet of apparent property.

RAMAN: What did you scale?

BRUNO: 15 feet.

RAMAN: On the second sheet?

BRUNO: No, on the first sheet.

RAMAN: The second sheet shows Midland Avenue.....

BRUNO: Yes that was a curb line. I think that when the engineering site plan was drawn, they may have corrected something that they had shown incorrectly originally, on the boundary survey.

VON DER LIETH: Okay, Mr. Bruno.

BRUNO: This top sheet is taken from the engineering site plan that Azzolina and Feury prepared for the Babcock's construction drawings.

VON DER LIETH: Can I poll the other Board members, right now, John?

TEN HOEVE: That would be perfect, I don't have any objection.

VON DER LIETH: Guys, ladies, if you have any objections to this just let me know now. I don't see how 2 feet is that big of a deal.

HOSKINS: I don't have any objection.

VON DER LIETH: So they don't have to come back. We can just amend it.

BRUNO: How will that effect them applying for a building permit? Would they have to wait until after the next meeting?

TEN HOEVE: No, but I think you need to, I guess this is the correct survey that you are showing me?

BRUNO: The top sheet is taken from the engineered site plan, that would be submitted with the construction drawings.

TEN HOEVE: Okay, then I think that the Board could actually just vote now, and I can memorialize a resolution indicating the change.

BRUNO: Okay, thank you.

TEN HOEVE: If they vote to approve the application as pursuant to the prior resolution, with the understanding that one dimension is actually 2 feet off and have a motion, a second and a roll call.

VON DER LIETH: May I have a motion to approve?

A motion to approve the amendment to the resolution for the 2 feet was made by Mr. Raman and seconded by Mr. Hoskins.

ROLL CALL:

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

Abstain None

VON DER LIETH: Thank you very much, Mr. Babcock, Mr. Bruno.

Lollipop Day Nursery School – 67 Spring Valley Road - Bond release request.

WALKER: Has everything been satisfactorily performed?

TEN HOEVE: They have bonds posted. They did the deeds that we had requested. Eve has signed off.

BEER: Brigitte signed off ages ago.

WALKER: Okay.

TEN HOEVE: All of the professionals are okay now.

A motion was made by Mr. Hoskins and seconded by Mr. Capilli, that the bond be released. Carried unanimously.

VON DER LIETH: We can discuss the annual report later.

APPROVAL OF VOUCHERS:

Burgis Associates, PP	
Lollipop Day Nursery School	\$ 93.75
Lollipop Day Nursery School	362.50
Brooker Engineering, PE	
Lollipop Day Nursery School	477.50
John E. Ten Hoeve, Jr., Esq.	
Lollipop Day Nursery School	115.00

The Chairman entertained a motion that the Board recommend payment of the vouchers to the Mayor and Council, subject to receipt of funds. So moved by Mr. Walker and seconded by Mr. Capilli.

ROLL CALL:

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

Abstain: None

CORRESPONDENCE:

None

APPROVAL OF MINUTES:

The chairman entertained a motion that the January 18, 2011 minutes be approved as submitted. So moved by Mr. Walker and seconded by Mr. Capilli. Carried unanimously.

DISCUSSION OF APPLICATIONS:

The Board discussed the application of Lawrence and Donna Kenyon. In general the members felt that there was enough property to allow the amendment to the resolution. However some members felt that they thought from an aesthetic standpoint, they wouldn't want to see 2 cars parked there, side by side. The members also felt that the resolution was enough room for the vehicle and that the new ordinance will not allow any expansion to the side of the driveway.

The attorney advised that the Board should analyze the application. If it finds that the configuration of the property and the location of the dwelling and garage on it creates a need, to have that parking area, then that is a legitimate hardship under the Municipal Land Use Law. It has to be either a hardship and no negative detriment or it has to be a flexible "C", which as Brigitte said means you are going to be achieving some goal or objective the Municipal Land Use Law, and without any negative detriment. This applicant only fall under the hardship rule.

The Chairman made a motion to adopt the resolution without any changes. The motion was seconded by Mr. Capilli.

WHEREAS, LAWRENCE & DONNA KENYON (hereinafter referred to as "Applicant"), being the owners of premises known as 6 Fairview Court, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also know as Lot 25 of Block 2303 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 originally seeking a variance from the terms and provisions of the Zoning Ordinance of the Borough of Park Ridge to permit the construction of a driveway having an apron in excess of the requirements of the Zoning Ordinance; and

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

WHEREAS, Applicant has submitted a survey describing the proposed improvements to the premises prepared by Paul J. Troast, dated October 12, 2010; and

WHEREAS, a hearing was held before the ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF PARK RIDGE duly convened on February 15, 2011, upon due notice as required by law; and

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

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

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

1. Applicant is the owner of a single family home located at 6 Fairview Court in the Borough of Park Ridge. The Applicant's lot is very irregular in shape, having what is best described as a lot width of 243 feet and a lot depth of but 89 feet. A relatively small portion of the lot fronts on the Fairview Court cul-de-sac.
2. Applicant's garage is also unique in its location. The two-car garage actually faces a portion of the lot that does not abut the cul-de-sac. Accordingly, Applicant's driveway is also irregular in shape, having an area for a turn around of vehicles.
3. Applicant seeks to construct an extension to the existing driveway, bringing the driveway along the easterly side of the existing garage. Applicant also asks that the new driveway area extend to 16 feet out from the side of the existing garage. Section 101-23(B) limits driveway aprons to a width no greater than 10 feet beyond the width of the garage.

4. Applicant testified that it required the additional space in order to accommodate the increasing number of vehicles in the family and to cope with the irregularly shaped existing driveway. The BOARD finds that the irregularly shaped driveway does create a unique condition, however, also notes that the intent and purpose of Section 101-23(B) is to limit the size and scope of parking areas in front and side yards of residential lots.
5. The BOARD is also cognizant of the Applicant's testimony indicating that a driveway extension that was 10 feet in width would limit the ability of the driver of a car to open car doors and exit the car when parked in the new driveway area. The BOARD finds, however, that a 16 foot wide apron far exceeds the width required to park one car. The BOARD further finds that the construction of a 16 foot wide driveway extension would violate the goals and objectives of the ordinance and possibly permit the parking of two vehicles in the new driveway area.
6. Accordingly, the BOARD finds that there are reasons justifying the construction of a driveway apron in excess of the 10 foot limit, based upon the unique conditions existing on this site, but that no extension in excess of 13 feet should be permitted.
7. The BOARD thus finds that the Applicant faces a unique condition justifying grant of some apron variance. The BOARD, however, finds while the grant of a variance permitting a 13 foot driveway apron will not have a negative impact (provided the Applicant plants a landscaping buffer along the north side of the new driveway), the construction of a 16 foot driveway apron would have a substantial negative impact on the Zoning Ordinance and the neighborhood. The decision to grant a 13 foot apron variance 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 driveway apron variance subject to the following conditions:

- A. The plan shall be modified to provide a driveway apron that does not extend more than 13 feet from the existing garage rather than the proposed 16 feet. Applicant shall also provide a planting buffer along the north side of the new driveway of arborvitae or similar planting material.
- B. That Applicant construct the proposed improvements as set forth on such revised final plan. All of said improvements must be constructed in such a fashion so as not to exceed the scope and extent of the improvement set forth on said final document.
- C. 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.
- D. That Applicant, upon the completion of all improvements, shall be required to provide an "as-built" survey illustrating that the

driveway has been constructed in a manner which complies with the conditions of the Resolution.

ROLL CALL:

To accept the resolution as it is written.

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

Abstain: Mr. Capilli, Mr. Walker

BEER: The resolution is carried.

The next application to be discussed was that of Felix Rizo. The members felt that it can't be let stand as is. The members felt that a time limit should be place. The attorney advised that it was problematic to have a time limit because the applicant can't get permits without a variance. There is a permit extension act that extends the time for people to act in connection with the approvals that they have been granted for years, so it can not be limited to a one year period. Some Board members also felt that if he could not use the room he might act on it.

The Attorney also advised that if the variance is not granted he will have to take it down. It would be up to the town to enforce the violation, by continuing to issue summons. The Board felt that they probably would have been likely to approve the request, had he gone through the proper channels and inspections. The Board also discussed that he has already been issued fines but hasn't paid them.

The Attorney also advised that a possible solution could be inclined to grant the variance. They would wait until Mr. Bruno could inspect it to make sure that the entire floor was removed and that would include the floor joists as well as all of the flooring, so it clearly couldn't be a usable room. If he agreed to periodic inspections, by the Zoning Officer or Construction Code officer, probably the Zoning Officer, who could inspect it to make sure that no work was being done inside, that would be a possible solution. At that point the room couldn't be used and he would be inclined to complete it. The Board felt that if they didn't do it that way it would probably be used as is. The attorney also stated that the entire application could be denied without prejudice with the understanding that he could reapply and be approved pending his completion of all of the repairs. The only problem with that is that the building department is not going to give him the permits to do the work without a variance.

The best solution would be to not give the variance until Mr. Bruno reports that the floor has been removed. In that case the room would not be able to be used. The members all agreed to handle it by that procedure.

The next case to be discussed was the application of Frank and Patricia Calabrese. The Chairman noted that there is 2 things to be considered. One being the driveway on the left side of the house, and the FAR. The attorney advised that there are two provisions in the FAR. A percentage limitation, and then there is in no event more than 33.33, even if it complies with the percentage. The Planner inquired as to how this Board is looking at this application. Are they looking at it as a (D) variance for and FAR and also a (C) variance for exceeding the maximum?

The attorney advised that there were two factors in the applicant's favor that even though it is 1,000 square feet, it doesn't comply with the lot depth. It is 100 feet rather than 120. The other factor is that he is removing a very nonconforming dwelling, that is only 14 feet off the front lot line. Some members felt that if he took two feet off of the building, he will get his driveway to conform with the five. It would also shave about 200 or 300 square feet. It would bring the FAR down to 33 ½ % with the maximum being 33.33, so it would be closer to conforming. They felt that the family-room would not suffer if they lost 2 feet.

The Planner felt that the negatives to the FAR variance are that the proposed dwelling is not consistent with the scale of the neighborhood. It is larger than the adjacent dwelling. It doesn't fit into the surrounding area, however it is a match to the dwelling across the street. The Planner mentioned that the adjacent property is too small to ever be developed.

The Attorney was advised to draw a resolution of approval conditional on the 2-foot reduction on the driveway side of the dwelling.

South Maple Associates was the next application to be discussed. The Board felt that there was no reason to deny the modification to the prior approval. Attorney advised to draw a resolution of approval for the next meeting.

The Board then discussed the Annual Report. The Attorney stated that the biggest issue on the report was regarding the people that do the improvements without prior approval, and come in for variances after the work has been done. There were a couple of such cases in the past few months.

The Board felt that the Mayor and Council should be advised that this is occurring. They would also request strong support from the Council going forward, should such cases be denied by the Board in the future.

ADJOURN:

There being no further business to come before the Board, by motion of Mr. Hoskins and a second from Mr. Capilli, the meeting was adjourned at 10:20 pm.

Respectfully submitted,

Margot Hamlin,
Transcriber