

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 Wednesday, April 6, 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. Flaherty, Mr. Galdi, Mr. Hoskins, Mr. Raman, Mr. Sandler, Dr. von der Lieth, Mr. Walker

Absent:

Also Present:

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

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.

PENDING CASES:

CASE: 10-14 Block: 1603 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, carried to March 15, 2011 at request of applicant and hearing continued. Carried to April 6, 2011.
--	---

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

Item 18 is the Board secretary letter dated 3/21/2011.
Item 19 is the Board secretary letter dated 3/30/2011.
Item 20 is the Architect's report dated 4/05/2011.

VON DER LIETH: Thank you very much. Mr. Rizo, please come up and have a seat.

TEN HOEVE: What were the two dates of the letters?

WALKER: From our Board secretary? March 21st of 2011 and March 30th of 2011.

VON DER LIETH: Okay, Mr. Rizo, I have, right here, the letter from Mr. Bruno. I guess it was dated April 5th, 2011. Before we start, I would just like to figure out, what do you plan on doing with this? I can see, I can read the letter. I see what Mr. Bruno had said in the letter. I see that Mr. Bruno is no longer...you are not using his services anymore, let's put it that way.

Minutes of the Park Ridge Zoning Board of Adjustment
Meeting of April 6, 2011 – Page 2

The things that he had pointed out in the letter, I guess what I am trying to say, what do you plan on doing with that? Do you plan on fixing it? Do you plan on....what are your plans for this, from this point further on in?

RIZO: There were 3 inspectors from the city there today and they told us what to do.

VON DER LIETH: Okay, that aside, because we haven't had, the inspectors are not here right now, we don't have a report of what the inspectors found.

RIZO: The floors were removed.

VON DER LIETH: The floors *were* removed. Okay.

TEN HOEVE: Can I ask a couple of questions? You say that the floors were removed. The initial floor had no insulation, correct?

RIZO: Yes.

TEN HOEVE: After the last meeting, you were told that you had to remove the floor so that it could be inspected, is that correct?

RIZO: Yes.

TEN HOEVE: You must have, then, put insulation in, after that meeting, since it wasn't there previously, is that correct?

RIZO: Yes.

TEN HOEVE: Why would you do that when you were told that you had to remove the floor so that it could be inspected?

RIZO: Because I spoke to Mr. Bruno, about the possibilities of going under.

TEN HOEVE: Did he tell you that you could do that?

RIZO: He said he wanted to see if it was a possibility to get under and inspect it.

BRUNO: No, no, that was Mr. Rizo's idea totally. It was always our intention.....

RIZO: I didn't say it was your idea.

TEN HOEVE: Just so I have the record clear, did he tell you that you could put the insulation in and that it could be inspected in some other manner?

RIZO: Well he said to me, under....

TEN HOEVE: Did he tell you that, what I just said?

RIZO: No, I said to you

TEN HOEVE: Not what you said to him, what he said to you.

RIZO: He said to me was take off the whole thing. Then the person who is helping me do the work, said to me that the walls are going to weaken up.

TEN HOEVE: But, that is not what you were asked to do by either the Board or by Mr. Bruno, is that correct?

RIZO: May I finish?

VON DER LIETH: Yes, please finish.

RIZO: The person constructed the box, it is not like we are doing Fort Knox here, the person who constructed the box said that if you take out the floor, it might weaken the walls and I don't want that responsibility when it collapses on top of one of the kids. So I went to him and I said they want the floor removed.

TEN HOEVE: Did you tell Mr. Bruno what you just said, that some carpenter told you that you couldn't remove the floor?

RIZO: Yes.

TEN HOEVE: What did Mr. Bruno tell you?

RIZO: He said to me why don't they go under.

TEN HOEVE: Listen to my question please. What did Mr. Bruno say to you?

RIZO: You can go against the inspector.....

TEN HOEVE: Mr. Rizo.....Mr. Rizo...

BRUNO: It was always my advise to Mr. Rizo, especially dating back to my report dated March 9th, that the floor.....

RIZO: Why did you inspect the floor under?

BRUNO: That is all that I had to look at.

RIZO: Why didn't you tell me yesterday, I call and said tell me the truth about this, can we go down or rip the floor. Rip the floor, that is the why the floor was ripped.

VON DER LIETH: Okay, before we go on, let's just talk about during the last time that you were here. We had come to an agreement, actually, because, now I am just going to give you a little bit of information. I promise I will let you talk.

When it comes to a Zoning Board, it is to help the residents. There are hard and fast rules that residents must abide by to insure safety, etc., etc., you know from other buildings, what have you, fences being put up in wrong spots. Those rules are made to be bent a little bit, thus you have a Zoning Board that would grant a variance under certain circumstances.

When you first came in, I know myself, I was, and still am, sympathetic to the circumstances that you had for doing what you did without permits. That is in the past. We know that already. Now, it was well within the Board's right, as we know, to say, you know what Mr. Rizo, you did this without a permit, forget it. That is the rule and you broke the rule, fine. But, we are here to help, so we wanted to give you the benefit of everything that we could offer by having Mr. Bruno come in a do some inspections. Based on that first inspection, that is terrific. Everything looked really good.

All he had to do was go and inspect the floor. Now, what it appears to me, is that, maybe when Mr. Bruno looked at the floor and saw something that wasn't right, that he didn't like, you, and now I am not saying that you did this, but this is what it appears like to me, and maybe not the rest of the Board, you said I don't like that because we are going to have to rip up a lot more than I thought we would have to rip up. I am going to get my own guys to come in here.

Now, that being said, if Mr. Bruno wanted to rip up the floor out further to look at it, why didn't you just let him, instead of terminate his services and get people that you know that aren't here right now to help you get this done?

RIZO: You don't understand where I am coming from.

VON DER LIETH: Please tell me. Now I am going to let you speak. Go ahead.

RIZO: I was going to rip the floor with the person who helped to build the room. I said to the person, rip the floor when I got the letter from Mrs. Beer. I already had my mind made up. I spoke to the Board and we are going to rip the floor. The guy said to me, "If I rip the floor, and the walls get weakened, and somebody gets hurt, I don't want that responsibility". I had to listen to what this guy is telling.

VON DER LIETH: That is closing the barn door after the horse out already, Mr. Rizo.

TEN HOEVE: You can't have anybody sleeping in that room. You can't be using that room. That room has been declared to be not safe and that room is not supposed to be use.

RIZO: What do you want me to say?

BRUNO: When the floor was pulled up, did you have the children in the room.

RIZO: The floor wasn't pulled up. When the guy said to me that, the person who built the room, I called Mr. Bruno, and I said that this man is telling me now that the walls might weaken now, a little bit, if they remove the floor. He proposed to go under. He said it was a deck and on top of the deck was the room and the other half of the deck, they ripped the deck. I don't have a deck now. They went under to see if they could, under there, clear up so Mr. Bruno can inspect the rest of the floor. I called Mr. Bruno and I said this is what they want to do.

He said to me, if I see everything, alright, but if I see a problem, you better rip the floor. I would have paid \$2,000.00 to dig a hole under my house, if Mr. Bruno said to me rip the floor. Do you think I want to spend \$2,000.00 extra?

VON DER LIETH: No, I don't.

RIZO: I should ask these people to open a coal mine under my house. I just ripped the floor last night.

TEN HOEVE: I am confused though. Weren't you also required to pour a concrete slab after putting the vapor barrier down? Wasn't that part of the recommendation?

RIZO: We aren't even close to that?

TEN HOEVE: We aren't close to that, right, but that couldn't be done without ripping the floor out anyway. Isn't that correct?

RIZO: No, it could be done.

TEN HOEVE: Could that be done, Mr. Bruno?

BRUNO: Since I took my time out to be here, do you want to swear me in John?

TEN HOEVE: You are still under oath. You were sworn at the last hearing. Both of you are still under oath.

BRUNO: My report of March 9th, clearly states that the floor should be taken up. What I mean by that, I was specific, the floor finish and the plywood and whatever decking was beneath. That is really the only way to adequately assess the way that the floor was framed. I had a number of concerns. First and foremost was that there was some intermediate gurtter system that I could not see from a 12" by 12" hole that he cut in the deck for me to originally look at. So that would allow me to see that, which is very

important, and also secondary, but also very important, would be how the floor frame is attached to the house. Okay, these are two major structural conditions that need to be reviewed.

WALKER: In a well constructed, properly constructed house, if the floor were removed, would that jeopardize the wall structure?

BRUNO: The floor decking, no. The thing that mystifies me, is when Mr. Rizo continues to ignore what I have to say and take the word of somebody who, from what I have seen in this house in terms of construction, doesn't know which end of the hammer to hold. I am sorry if I am getting real angry, because I have pretty much had it.

It has nothing to do with the Board. Yesterday, I went and I had to crawl on my belly underneath this structure and only maybe 40% of the area beneath the floor structure was excavated, so I couldn't see everything that I needed to see. What I did need to see is outlined in my letter dated April 5th. I wrote the letter yesterday when I got back to the office.

TEN HOEVE: Does Mr. Rizo have a copy of that letter?

BRUNO: Yes, I dropped it off at the house today. Basically, and I will just hit upon the high points here. I know that you have a copy of it. Upon completing the observations of that which was visible, it is my opinion that the floor system does not meet the code nor does it meet minimally accepted trade practices.

We have a triple 2 X 6 girder spanning roughly 15 feet and it is supported intermediately with single 2 X 4 stud nailed to the side of it and jammed into the earth. So, I will offer you a picture of the side of the girder and what—this is the girder, this is the vertical stud, this is the earth and this is the point. It is a stake just stuck into the ground.

This is the type of construction that I am being asked to sign off on. If I sound angry, it is because I.....

RIZO: Everything was approved by the Board when the deck was there. I didn't do the deck.

BRUNO: You can't make that assumption. You can't make that assumption that these people approved that.

RIZO: Well, I hope that they did.

TEN HOEVE: There was never any application here for that deck. This Board never approved that deck, never.

RIZO: That deck was there when I bought the house.

TEN HOEVE: That doesn't mean that it is okay for you.

BRUNO: The long and short of it is that I am trying to take a big pile of lemons and make lemonade here. You know this has to be, in the 25 years that I have been a licensed architect, and the 30 years that I have been in the industry, this has to be the shoddiest piece of garbage that I have ever seen.

I am trying to help this person and I am being thwarted every time.

VON DER LIETH: That being said, Mr. Rizo, the point being that it seems like you have people up here, Mr. Bruno is here, everyone is like this. It is not the case at all, because if it was the case, this wouldn't have even gotten this far. We want to help you. Mr. Bruno wanted to help.

Minutes of the Park Ridge Zoning Board of Adjustment
Meeting of April 6, 2011 – Page 6

RIZO: If he wanted to help me, he would say the truth. The truth is that he inspected the hole. Instead of saying to me, NO, rip the floor, I am not going to see the hole. The hole is to see the floor. He should have said to me, stick to the law.

BRUNO: No, no, no, Mr. Rizo, you insisted that you were going to dig the hole because you were taking the word of that schlub that you hired.

RIZO: Why do you say that about this person.

BRUNO: He is a butcher.

TEN HOEVE: Is there anything else you wish to tell the Board, Mr. Rizo?

RIZO: The floor is off and the inspectors were there and they said the only thing wrong with the thing was that they had to put a foundation around that big beam in the middle and that is the whole thing there.

VON DER LIETH: Do you realize now, we would have to have a report?

RIZO: I never said I was right.

TEN HOEVE: Is that, in your professional opinion, Mr. Bruno, what he just described, render the floor beams satisfactorily.

BRUNO: I was there this afternoon, yes, it would.

TEN HOEVE: Okay, what else has to be done in order to comply with all of your recommendations in both your first report and your second report?

BRUNO: I still haven't been able to make a full observation of the floor system, because at the time that I was out there, today, the area of the floor adjacent to the house was not yet removed.

TEN HOEVE: How about all that other, the ceiling being taken down, so you could check?

BRUNO: None of that was done.

TEN HOEVE: None of that has been done yet?

BRUNO: No.

RIZO: All of that was fixed.

TEN HOEVE: Pardon me?

RIZO: It was all open and fixed the way that he said it should have been fixed.

TEN HOEVE: Who inspected that?

RIZO: 3 people from the town.

TEN HOEVE: Inspected the ceiling? It was all taken down, joist hangers were put in and all the other things that were supposed to be done?

RIZO: Do you want to go to my house right now?

TEN HOEVE: No, no, who inspected that?

RIZO: I don't know, I wasn't there. I was in school teaching science. 3 people, including Nick Saluzzi, were in my house this afternoon, sir.

Minutes of the Park Ridge Zoning Board of Adjustment
Meeting of April 6, 2011 – Page 7

TEN HOEVE: But they did not inspect an approve anything.

RIZO: Yes they did. They said what I needed to be done to make the house livable, the room livable.

BRUNO: The only comments made had to do with that girder system. There was no notice given that the ceiling was opened up, the joist hangers were installed.....

(Applicant speaking over Mr. Bruno, testimonies inaudible)

TEN HOEVE: Mr. Rizo, let me ask you one question. Are you willing to do everything that was mentioned?

RIZO: Not for him, the town yes.

TEN HOEVE: No, no, the town isn't going to do that. The decision of this Board was that you had to get a licensed Engineer or....

RIZO: I did that.....

TEN HOEVE: Listen to me, STOP interrupting me. Every meeting that we have had, I have had to say this to you. You talk, I talk, you talk, I talk. Why can't you do that? What this Board did, was it decided to give you an opportunity to try remedy all of the deficiencies, that you had a licensed Architect or a licensed Engineer, who would appear before this Board and testify that you would do all of the repairs that were required and then it would render a decision.

You hired Mr. Bruno. Mr. Bruno gave us a report, itemizing the things that had to be done. You now have told us that you fired Mr. Bruno. The question, a simple question, are you willing to do everything that Mr. Bruno had and either present Mr. Bruno, or another licensed Engineer or licensed or Architect to come here and testify for you that all of that has been done before the Board renders a decision.

RIZO: I can.....

TEN HOEVE: Yes or no?

RIZO: Let me finish.....

TEN HOEVE: Yes or no?

RIZO: Wait a minute. I have to file bankruptcy because of that room.

TEN HOEVE: Yes or no?

RIZO: I am going to tell you something.

TEN HOEVE: Yes or no?

RIZO: Just let me tell you my point. I had to pay \$1,500.00 to this gentleman. \$2,00.00 to the other gentleman. The house is a mess. I have 3 boys sleeping on top of each other. I have to file bankruptcy because I am at the end of a rope. Now, you tell me that after I have done all of this, that you don't have somebody that can go there inspect and tell me....I will do what he says, but inspect when he already said it had to be done. Why does it have to be him. I don't have any more money!

TEN HOEVE: Do you want to know why it has to be done?

RIZO: Maybe I should call Channel 7 and I will bring them here in front of you.

TEN HOEVE: You should call whoever you would like to call, but listen to me.

Minutes of the Park Ridge Zoning Board of Adjustment
Meeting of April 6, 2011 – Page 8

RIZO: You are punishing me and you are not helping me.

TEN HOEVE: Listen to this....

RIZO: This is punishment, this is not help.

TEN HOEVE: Mr. Rizo, listen to this. The reason you are being required

RIZO: I am doing everything that you told me to do.....that house is ripped apart.

TEN HOEVE: You have one more chance to listen to me or the hearing will end, and you will be asked to be removed. That is what will happen tonight. The reason that this is being done and not being inspected by the Building Inspector or by the Zoning Officer.....DON'T SPEAK, let me finish.

RIZO: Do you want me to get on my knees in front of you and tell you that I made a mistake? What the hell do you want me to do sir?

TEN HOEVE: STOP.....

VON DER LIETH: The thing is, the last thing that I am going to say.....

RIZO: We are all under stress. Do you know what it means to be to have to file bankruptcy, because of this situation, of a box to put my kids to sleep, sir.....alright...you can see, April 5th.

VON DER LIETH: I know that you are upset. I have to say this, though, okay? We all have jobs to do. You are a teacher correct?

RIZO: I am but I have never dealt with people like this Board. In 37 years.....

VON DER LIETH: I am curious, because a teacher, 37 years, so you have come under circumstances where maybe the rules which you must abide by in school either can be broken or not broken depending, if a child comes to you with something that might be harmful to him, hurtful to him, it is your duty to go to a parent, if he is a minor. Now, if you broke that rule and didn't and he got hurt, that would be your fault. Now, we have a job to do up here. If we would okay something which you wanted us to do, without permits, just say I know we are very sympathetic, of course, Mr. Rizo, we will okay this. If someone got hurt in that house, who would it come before? Us.

We are trying to help. What you are asking for, we are trying to give you everything that you are asking for and you are not complying.

RIZO: I did exactly what you told me to do. The floors have been ripped completely. Everything is there to be seen.

VON DER LIETH: If you are willing as Mr. Ten Hoeve said, to bring forth, and I understand money problems, okay, everyone has money problems. If you can bring the required professionals before us to validate what Mr. Bruno wanted to have done, that is a whole other story. I don't want to sound heartless, whether you have the money to do it or not, it is not a concern.

RIZO: I know, why should you be concerned?

VON DER LIETH: So I am asking you, is that something you can do, because if not?

RIZO: I will do it, but I want, today, Nick Saluzzi said you have to do this, you have to do that, they spoke to the person that is there, okay. He said these things have to be done. My friend there working, already took what he said, he took the sheet rock and

took the studs or whatever had to be done. They did that because somebody told him to do it.

TEN HOEVE: They can't do that, without having an engineers report.

RIZO: You are telling me two different stories.

WALKER: We need someone to verify, Mr. Rizo, that this work was done. If somebody did the work and then covered it up again, how can it be inspected?

RIZO: It is all open to be seen. 3 guys were there today, that was my understanding.

LUDWIG: I was there today, the ceiling could not be observed, because the ceiling was closed up. It could not be observed.

RIZO: The ceiling is open.

LUDWIG: It may be open now, but it wasn't open then.

TEN HOEVE: He was there today.....

RIZO: When I returned from school at 4:30, the ceiling was open.

LUDWIG: The ceiling was not discussed.

TEN HOEVE: I am going to ask you this question one more time. I don't want to hear about your contractors. I don't want to hear about people from town coming. I don't want to hear about what anyone else in the world had told you. I just want you to say yes or no. Are you willing to do everything that was on Mr. Bruno's initial report and in the current report that he just provided, and have all of that inspected periodically while it is being done by a licensed Engineer or a licensed Architect, who will then come and testify before this Board or not, yes or no? You can just tell us yes or no.

RIZO: What do you want me to do?

TEN HOEVE: I just told you exactly what I want you to do, EXACTLY, word for word.

RIZO: He has to tell us what he wants us to do. It is all open now.

TEN HOEVE: Listen to me. You have reports. You have an initial report from Mr. Bruno and you have a subsequent report from Mr. Bruno.

LUDWIG: There haven't been any recommendations made.

TEN HOEVE: You haven't done the inspections, I understand that.

RIZO: He has done the inspections.

TEN HOEVE: He hasn't done the inspections. He has not. He just told you, he testified under oath that he has not. That is what he just said. I am asking you whether you will hire Mr. Bruno or someone else to do

RIZO: Mr. Bruno was in my house.....

TEN HOEVE: I will construe that as a refusal to answer that question.

RIZO: No, you are not listening to me. I am a physics teacher, sir. I am a very, very, very concrete on my ideas. I have been teaching for 37 years. I am telling you that Mr. Bruno went there and said that until you remove the lower part of the floor, I will be able to see. He saw the beam in the middle and somebody else was there. I don't

know who. He told the people that are working there to remove part of the ceiling. If you go to my house right now, all of you can go. You can see that the whole part of the ceiling, the sheetrock was removed. They told me to reinforce every 5 feet, the main beam in the middle. I didn't do it because I don't know those things. I don't know if it was Mr. Bruno or Mr. (?) who was there, but somebody has been telling this person what to do.

BRUNO: One thing I want to point out, and remind the Board of. In my report of March 9th, and I have 5 more minutes and then I have to leave. Mr. Rizo, I don't expect you to have in front of you from March 9th, but item number 2, which is on page number 2 says the existing flooring should be removed to expose the floor framing, this will allow the following remedial work to be performed. I gave a laundry list. What is key to this is that the architect will make observations of the presently unobservable areas of the floor framing and make any appropriate recommendations. In bold and in caps, it says, do not install sub-flooring until these observations of the remedial actions if required is recommended and performed. That is item number 1 tonight.

At the bottom, and again in bold and in caps, all work shall be performed only after proper permits have been issued. All work shall be inspected by the local building code enforcement agency prior to concealment of any construction. So, if any work was done and then concealed it at variance as to what was done here. This afternoon I was there at 1:30 and roughly 40% of the flooring had been removed and I was able to see the girder and that circus act, that was supporting it. The rest of the floor at that time was unobservable, so I had no comments to that.

We did discuss, Mr. Ludwig and Mr. Saluzzi, some possible solutions but nothing was definitive in terms of exact size, exact spacing, reinforcement and the like, so at that point we were talking about concepts, because we are trying to help Mr. Rizo, contrary to what he believes.

VON DER LIETH: I understand that and we can't really, I would ask that question again, but I am really not going to. I am just going to ask if Mr. Rizo has anything else to add to this.

RIZO: What do you want me to do sir?

TEN HOEVE: Tell us anything else you would like us to know.

RIZO: I want permission for my children to sleep in the room. I already ripped the whole place apart. It looks like a mad house. We are living on top of each other. We have things all over the house. Everybody is under stress. These kids have already had a very difficult life. Some of them are very stressed. I had to file bankruptcy because of the condition of the room, which is my fault because I didn't get permission.

The only thing I ask you is please, now a person goes to my house today, I am paying money every day, money that I don't have, so, somebody here has to tell me something.

BRUNO: They weren't instructed to do anything.

VON DER LIETH: I know and I didn't want to get into that because, I hate to see you pay money that you don't have, but you paid money unnecessarily because we weren't informed by a professional of what was going to be done. So, please aside from that, Mr. Rizo is there anything else?

RIZO: Why was someone from the town going to my house without my permission?

TEN HOEVE: They don't need permission to go.

RIZO: Why, into my house?

Minutes of the Park Ridge Zoning Board of Adjustment
Meeting of April 6, 2011 – Page 11

TEN HOEVE: Into your house? No, I thought they looked at the....

BRUNO: It was the construction site portion of the house.

RIZO: They went into my house.

TEN HOEVE: Well, the construction portion. I suspect that they went there to see if the floor had been ripped out as had been required by the last meeting.

RIZO: You didn't tell me you were going to send someone to go and see if it was done.

VON DER LIETH: Mr. Bruno, if you have to go, you may be excused. I don't want you to be late. What we are going to do right now, is we are going to, Mr. Rizo, if you are done that is fine. We are going to discuss this with the Board after we are done.

RIZO: Tell me what to do. I am hanging in the middle of no where.

VON DER LIETH: We are going to close the hearing.

TEN HOEVE: The hearing is closed. It is over. The Board is going to discuss what it is going to do with your application.

VON DER LIETH: You guys can listen to me first. My recommendation, and I have been championing your cause here, Mr. Rizo, you haven't given us any, I am not asking you, I am just want to tell you this. I am not asking you this, I am just telling you this so that the Board members can hear me. Every possible, possible solution and open doorway for you to get this fixed. Based on what you have given us here today. I can't do that. I can't. That is my opinion. We are going to take a vote with the other Board members, but I can tell you right now, I have to vote no. I can't vote yes on this. It is not possible. With Mr. Bruno's report, and of the phantom people, I am not saying that you didn't have people there, and again you can't speak, but I am telling you I don't know that.

RIZO: People were in my house.

TEN HOEVE: The hearing is closed. You can not talk. If you keep disrupting the Board's deliberation. There is a police officer here and he will remove you. If you are disorderly, he might even arrest you. You can not disrupt the meeting. The hearing is closed and you can not speak.

One of the things that I think the Board should focus on is whether to grant the variance or not. The principal issue that is here is whether or not there has been testimony and evidence that is presented to justify the grant of the variances required for the structure to exist.

I think that there should be some discussion of that.

VON DER LIETH: That goes right back to what has been presented to us, and there is no way that we can grant a variance based on what was submitted to us.

GALDI: Based on what we have heard tonight I don't think there is enough to grant what he is asking.

HOSKINS: If there was a licensed contractor, that came to that house, and picked up where we are right now, if he was licensed, he would say I can't do it without a permit, if he was truly licensed, to me. So, therefore, nothing should be done until he files a permit and done the right way.

CAPILLI: I would like to answer Counsel, if the Board were to deny the application which is what is before us right now, based on where we are right now and if

we feel as I do and there is a circle of other people, we don't have a choice. We don't have any basis on which to vote yes at the moment, can that application be renewed?

It wasn't done right the first time. It wasn't done right the second time. If Mr. Rizo wanted to try and do it right the third time, could he?

TEN HOEVE: The issues here are whether the applicant has advanced proofs under the Municipal Land Use Law that would justify the grant of the variance. Those are those your traditional "C" variance, which is a hardship because of the unique shape of the property or topography or something like that, or, some meeting a goal or objective of the Municipal Land Use Law. Then, the Board has to find that there is no negative impact.

The reasons for the variance can't be personal. It can't have anything to do with the size of the family or illness in the family or anything like that. There is no justification under the Municipal Land Use Law that would allow the grant of a variance for that. There is also a principle called the "Stop All", which precludes the applicant from returning to a Board with an identical application, if it is denied, because if you didn't have such a rule, an applicant could just keep coming back and coming back and keep submitting the same application and giving notice again and forcing the Board to hear an application over again.

If an application is changed, and there is something different from that which was originally submitted, then the Board does have jurisdiction to hear it and it would have to apply the same standard of proof and tests. That is the answer.

VON DER LIETH: So it can be changed?

TEN HOEVE: If it is changed, yes. If an identical application comes in, it is supposed to be governed by the principles of a "Stop".

VON DER LIETH: Okay. Is it possible that one of the changed circumstances that might justify a new application, might be a further exploration of all of the conditions of the first "C" variance.

TEN HOEVE: That would be difficult. That would not really.....

VON DER LIETH: Compliance with or perspective compliance with all the things that weren't complied with?

TEN HOEVE: Those weren't really being viewed by the Board.

VON DER LIETH: They weren't variance conditions. They were conditions to get us to the point where we could even look at it.

TEN HOEVE: Correct, correct.

VON DER LIETH: So, basically, it is the preliminary conditions that we never got through.

TEN HOEVE: I don't know how those things could ever be done at this junction. It would be something that the Board had no participation in, and no control over. It would be up to the Zoning Officer, the Building Officer and the Mayor and Council with regard to the administration of the laws of the Borough.

VON DER LIETH: Okay, so.....I am going to set forth a motion to deny this application. I am sorry, deny the variance request.

FLAHERTY: I will second that motion.

ROLL CALL:

Minutes of the Park Ridge Zoning Board of Adjustment
Meeting of April 6, 2011 – Page 13

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

Abstain: None

TEN HOEVE: I will prepare a memorializing resolution for adoption at the next meeting.

RIZO: Now, what am I supposed to do?

TEN HOEVE: The hearing is closed.

RIZO: I know the hearing is closed, but what am I going to do?

TEN HOEVE: We can't give you any advise. We can't give you any legal advise.

RIZO: You have to tell me something.

TEN HOEVE: The Board denied your variance application. That is all that we can tell you.

RIZO: Yes, but what am I going to do with what I have done and \$4,000.00.

TEN HOEVE: The Board denied your variance application. That is all that we can tell you.

RIZO: Why did the Board tell me to remove the floor?

TEN HOEVE: The Board denied your variance application.

RIZO: I understand, but why did you ask me to spend money to remove the floor and you are going do this in the first place.

TEN HOEVE: Your hearing is closed. We can't discuss it anymore.

RIZO: What is the next step from this?

TEN HOEVE: We can't give you any advise. We can't answer your questions.

RIZO: You have to give me an answer.

TEN HOEVE: We are not allowed to give you an answer.

RIZO: Do I tear down the room?

TEN HOEVE: We are not allowed to give you an answer. We hear an application to decide to grant a variance or not. If we don't, if the Board doesn't grant it the case is over.

RIZO: You asked me here at a meeting to remove the floor, to remove the floor and pay for the floor and now you tell me the variance is denied. Does that make sense? Because, with my physics mind, maybe I am going crazy. If you denied it from the beginning, I could understand it, but you told me to do certain things, which I did. I obliged. Now you tell me you are not giving me that. I don't think it is very fair. Do you know what I am saying?

TEN HOEVE: The Board denied your application. We can't give you any advise. You can't sit here and talk for the rest of the night. The Board has other business.

Minutes of the Park Ridge Zoning Board of Adjustment
Meeting of April 6, 2011 – Page 14

RIZO: I am going to call somebody else, a lawyer or something because this is not fair.

TEN HOEVE: That is an excellent idea.

RIZO: What do I do in this situation—please? I know you denied.

VON DER LIETH: We can not give you advise right now. Take Mr. Ten Hoeve's advise.

TEN HOEVE: I am not advising you, I am telling you that I can't give you advise and the Board can't give you any advise, a lawyer can give you advise.

RIZO: I can't get a lawyer. You people are making this so difficult for my family and my children. I can't believe that you are doing this to me. You ask me to do something, to remove the floor of that house, where my children were sleeping and now there is a hole there. Now you tell me you deny the variance and you send me with no advise or nothing. Do you think that is fair as a human? Do you really?

TEN HOEVE: The Board denied your application. We can't give you any advise.

RIZO: It is your obligation, what do I do with the house? Do I eat it? Can I apply again, something? Do I tear down the place? What do I do? You are the people. Where the onus of the homeowner begin and your begin?

VON DER LIETH: During the closed session, which we weren't able to talk to you, you did hear us discuss certain options where if the applicant was changed in a certain way, you would be able to reapply.

RIZO: How do I do that?

VON DER LIETH: I can not talk to you about that right now, Mr. Rizo, because that is it. It has been denied.

RIZO: What am I supposed to do? I am hanging in the middle of the air.

FLAHERTY: Mr. Rizo, hire a professional. I am sorry this is going on too long. Hire a professional, an engineer or an attorney. That is all that we can say.

VON DER LIETH: That is it.

TEN HOEVE: Perhaps listen to the advise that the professional gives you.

RIZO: I don't believe this. You guys are ridiculous.

VON DER LIETH: Let's get on with this.

BEER: Would you mind waiting about 10 minutes. Sometimes he comes back. Thank you.

OFFICER: Yes.

NEW CASES:

CASE: 11-06 Block: 2501 Lot: 6	Application of Michael Lustig , 236 Knoll Drive for constructing a second shed in the rear yard in an R-15 residential zone requiring a rear yard coverage variance(<i>application filed prior to the elimination of this variance</i>)
---	--

Minutes of the Park Ridge Zoning Board of Adjustment
Meeting of April 6, 2011 – Page 15

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

- Item 1 is the application dated 3/03/2011.
- Item 2 is certification of service dated 3/07/2011.
- Item 3 is legal notification dated 3/25/2011.
- Item 4 is proof of payment of taxes dated 3/08/2011.
- Item 5 is the deed dated 8/24/2005.
- Item 6 is the survey dated 2/24/2011.
- Item 7 is 4 undated photographs.
- Item 8 is the Board secretary's letter dated 3/17/2011.
- Item 9 is the Board secretary's letter dated 3/01/2011.

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

VON DER LIETH: Okay. Hello, Mr. Lustig. Before we get on with this, Mr. Ten Hoeve..

TEN HOEVE: As I understand it, you made an application to have a second shed in your rear yard. It was denied because the ordinance currently provides that accessory structures can not cover more than 10% of the rear yard. Correct?

LUSTIG: Correct.

TEN HOEVE: What you don't know, or didn't know, perhaps, at the time, that there is an ordinance that is pending before the Mayor and Council right now, to eliminate that restriction. There will no longer be a 10% limitation of coverage in the rear yard.

LUSTIG: Okay.

TEN HOEVE: The ordinance, as I understand it, Brigitte, maybe you can help me out here, is silent with respect to whether or not you can have more than one identical accessory structure in a rear yard.

BOGART: I believe that is correct. I am just confirming that. Give me a moment.

TEN HOEVE: Yes, 101-21A1, 2, 3 and 5, I think are the sections.

BOGART: I am just looking prior to that and in 101-16.

TEN HOEVE: So, while she is looking, what I am saying to the Board is that while a variance is technically required, right now, because it will exceed the 10% limitation, in less than a month, it won't be required and I would think that is a substantial reason why the Board would consider granting the variance.

VON DER LIETH: Just approving it right now, right.

WALKER: A little bookkeeping here, Item 9, the letter from the Board secretary dated March 1st, does not belong to this application.

BEER: Oh, thank you.

BOGART: I don't see anything that would limit the number of accessory structures in a residential respect.

TEN HOEVE: It might be something that the Planning Board should consider, in terms of amending the ordinance so that you couldn't have 17 sheds in your rear yard.

WALKER: I thought that the old ordinance was only one accessory structure.

TEN HOEVE: No. It was a limitation as to the coverage only. There are also limitations with regard to the size of the sheds. You can't have a shed that exceeds 150 square feet. It has to be 5 feet from the lot lines and it can't exceed 150 square feet. Again, what are the areas of your 2 sheds?

LUSTIG: They are 10 X 10, the existing one is 10 X 10 and the proposed one is 10 X 16.

TEN HOEVE: In which case, doesn't 101-21a5 say 150 square feet?

BEER: No.

TEN HOEVE: No? I had that wrong.

BOGART: No, basically the way the ordinance is set up, is that anything under 150 square feet is considered a shed and between 150 and 325 is considered a detached garage and has greater setbacks.

BEER: Right.

TEN HOEVE: Even if it is not a garage?

VON DER LIETH: Or if it is 2 separate structures, not constituting 1.

TEN HOEVE: Even if it has no driveway and can't be.....

BOGART: Anything accessory structure that is over 325 square feet has to have a setback of 20 feet.

VON DER LIETH: This doesn't fall into that. This is only 260 square feet.

TEN HOEVE: Isn't there...what does 101-21a5 say? Does it say a shed can't be more than 150?

BOGART: No, that discusses through lots. Oh, here, a7. An accessory structure should not be greater than 150 square feet. Therefore, if you go back to A1A,....

TEN HOEVE: Does it define a shed in that one?

BOGART: In 7, yes. Sheds or similar structures. Then it moves on to suggest in A1A that detached garages that are 150 and 325 have to be set back a minimum of 10 feet.

TEN HOEVE: Right, but wouldn't you say if it a shed and not a garage, that the ordinance limits it to 150 square feet?

BOGART: Correct, in 7.

TEN HOEVE: Okay. So, if he wants a 10 X 16 shed, he is going to need a variance or cut it back to by a foot.

LUSTIG: Not a problem.

TEN HOEVE: Not a problem, okay.

BEER: John, 101a, accessory structures other than patio storage, if they are greater than 150, they have to be set back 10 feet.

TEN HOEVE: Specifically, 101-21a7 says, sheds or a similar storage structure can not be greater than 150 square feet. So if you have a shed or any other type of storage structure, it can't be any bigger than that, without getting a variance.

Minutes of the Park Ridge Zoning Board of Adjustment
Meeting of April 6, 2011 – Page 17

These other sections are really designed to cover garages, not sheds. There is a greater setback requirement, but it is for something that is not a shed. The limitation in 101-21a7 is clear.

VON DER LIETH: Right but he is taking down the size.

LUSTIG: Also my taxes would probably go up a lot higher if it is 10 X 16.

VON DER LIETH: We are set, provision being provided in the resolution, Mr. Ten Hoeve:

TEN HOEVE: Not a problem.

VON DER LIETH: Can I have a motion to approve this resolution?

CAPILLI: So moved. And seconded by Mr. Walker.

ROLL CALL:

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

Abstain None

LUSTIG: What do I do now? Can I start building?

TEN HOEVE: We have actually approved it, even though there will be a resolution adopted next month. It will be just to memorialize it. So, the Board usually doesn't do that, but they, considering the.....

LUSTIG: I appreciate it.

TEN HOEVE: You are good to go.

PENDING 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. Hearing begun March 15, 2011 and continued to April 6, 2011 for revised plans.
---	---

FLAHERTY: That is a pending case from last month.

VON DER LIETH: Oh, it is?

BEER: Yes, you asked her to submit revised plans to show that.....which she did. She reduced the size of the house to reduce the amount of F.A.R..

TEN HOEVE: And you changed the driveway, I think, the location. Wasn't that one of the

WALKER: I have 3 items to be entered into the record.

Item 7 is a Board secretary letter dated 3/16/2011.
Item 8 is the revised plan dated 3/21/2011.
Item 9 is the Board secretary letter dated 3/23/2011.

VON DER LIETH: Is there anybody here with respect to this application? To speak on this? There is, oh, okay.

BEER: No, she said that she would not be here tonight. John, we asked her to, she was 551 square feet over, so 2 feet off of the driveway side, that we would grant the variance on the driveway, after a revised site plan was submitted.

VON DER LIETH: Oh, I am sorry sir, you are here in respect to this application?

AUDIENCE: No.

VON DER LIETH: Okay we will discuss this later.

RAMAN: Is there a letter stating what they changed? You just write something up, right?

BEER: No, that was from my notes from last month. I think I put it in a letter. Mr. Walker there was a letter there.

WALKER: Yes, the Board suggested to bring the F.A.R. number down. If they reduce the house by 2 feet on the new driveway side, and also that would bring it to 5 feet from the line, instead of the 3 feet that was proposed.

TEN HOEVE: No, we gave them the variance, I think to do that, because of the garage was tight.

WALKER: The Board is inclined to grant the driveway variance. But, we want the measurements.

VON DER LIETH: Okay, so we can discuss that later.

NEW CASES:

CASE: 11-07 Block: 1202 Lot: 19	Application of <u>Gregory Perez and Karen Murphy</u> , 1 Sixth Street for rear yard and F.A.R. variances to construct addition to the existing house in an R-20 residential zone.
---------------------------------------	---

VON DER LIETH: Mr. Perez, come on up.

TEN HOEVE: Before you start, 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?

PEREZ: I do.

TEN HOEVE: Your name and address.

PEREZ: Greg Perez, 1 Sixth Street. I also have my contractor here, Tom.

TEN HOEVE: If he wants to testify, that is fine. We will swear him in as well. 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?

OLECHEWSKI: I do.

TEN HOEVE: Your name and address also.

OLECHEWSKI: Tom Olechewski, 12 Ridge Road, Upper Saddle River, NJ.

TEN HOEVE: Thank you.

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

Item 1 is the application dated 3/10/2011.

Item 2 is certification of service dated 3/24/2011.

Minutes of the Park Ridge Zoning Board of Adjustment
Meeting of April 6, 2011 – Page 19

- Item 3 is legal notification dated 3/25/2011.
- Item 4 is proof of payment of taxes dated 3/03/2011.
- Item 5 is the deed dated 2/28/1995.
- Item 6 is 4 undated photographs.
- Item 7 is a Zoning Officer letter dated 2/17/2011.
- Item 8 is the Board secretary's letter dated 3/01/2011.
- Item 9 is the Board secretary letter dated 3/31/2011.
- Item 10 is the survey dated 3/09/2011.

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

VON DER LIETH: Okay, Mr. Perez, if you would just take us through what you want to have done.

PEREZ: In the rear of my house, I have a solarium. We purchased the house and the solarium was there.

VON DER LIETH: I saw that yes. I am sorry, have any of you people gone by?

WALKER: I have.

VON DER LIETH: Okay, I just wanted to know, because I know that I have. Okay, you can go ahead.

PEREZ: We have a solarium and it has served its purpose. It served its purpose up until last March, when we had that severe weather come through and as everyone probably recalls, we had quite some damage here in the town of Park Ridge. We did incur some damage and it did incur right onto one of the supports of that solarium.

Of course, the insurance came and said we just needed a few panels, window panels, not ever thinking that the frame itself would be out of square. Well, we learned soon after that, after numerous leaks, and it has become quite a problem now. It also has, we used a little bit more electricity this winter and heating because of the various leaks and again, its ability to hold heat.

So, we looked at the solarium, my wife and I, and we said lets go ahead and see if we can enclose it. Hence, the plans and we hired Tom to help us come up with some idea on what we are going to do with the removal of the solarium, and enclosing and insulating and making it more of a closed type of a kitchen, than an open kitchen where probably my neighbors know what I eat for breakfast and diner.

VON DER LIETH: That is what it is right now, a kitchen nook? Okay, understand. I saw that, and obviously it has been leaking pretty badly.

PEREZ: It has, we have a bucket under there right now.

VON DER LIETH: So, where are you eating? Where do the kids go?

PEREZ: We just moved the table. We can move the table into the kitchen proper, and that is kind of where we are right now.

GALDI: So you want to come out 11 feet by 15 feet?

PEREZ: That is correct.

GALDI: Is that going to be on top of this deck or.....

OLECHEWSKI: No, that is going to be on a foundation, with cinder block wall with a crawl space. The deck that is beyond the solarium is going to remain. We are just going to take it away, do our work, and then put it back the way that it is.

VON DER LIETH: You are just continue whatever siding was on.

OLECHEWSKI: We are going to match the siding that is there, which I think is 7 or 8 inch exposure cedar.

WALKER: On the survey, there is an existing multi-level deck that exceeds your property by 4/10ths of a foot. Am I reading this incorrectly?

BEER: No, it encroaches the

OLECHEWSKI: It goes right up to the property line, as far as.....

WALKER: How did that come to be?

VON DER LIETH: It is a weird.....

WALKER: I saw that it is an unusual shaped property, but how does it come that close?

OLECHEWSKI: There is a variance that I saw in the records.

WALKER: Not for anything that exceeds your own property. A zero setback? I have been on the Board for 20 some years and we never have approved a zero setback. I assure you of that.

OLECHEWSKI: When I was down at the Building Department, there was a record of a variance for this deck. That is all that I know.

WALKER: We can find that.

PEREZ: I don't know if it was built that way or what.

TEN HOEVE: A variance granted by this Board for this multi-level deck that is there now?

PEREZ: There was a...I have a copy and I might have the original. The D'Eletto family owned that house prior.

TEN HOEVE: Do you have that with you?

PEREZ: I don't, but I do recall having a yellow permit card. I don't know if I have any other paperwork with that. But, I am almost sure that.....

TEN HOEVE: We are not interested in the yellow card. That is something from the building office. You are saying that there was a variance that was granted.

PEREZ: When the first plans were submitted and denied, there was a mention by someone, that there was a variance on that property. I don't know what the variance was.

TEN HOEVE: Who told you that?

PEREZ: I overheard the Building Inspector saying that.

TEN HOEVE: In the Zoning office here, someone said that?

PEREZ: Yes.

VON DER LIETH: But that deck was there when you purchased the house, correct?

PEREZ: Yes.

VON DER LIETH: You didn't have that deck built? I am just curious.

Minutes of the Park Ridge Zoning Board of Adjustment
Meeting of April 6, 2011 – Page 21

PEREZ: That was there when we moved in 1995.

VON DER LIETH: Right.

TEN HOEVE: Do you understand what he is saying? You actually, that deck is actually, a portion of it is actually on someone else's property. That corner.

PEREZ: That can be removed very easily, from the property line.

VON DER LIETH: Yes, because you are just going to really take the solarium out and blend it in with the house and have a non-leaking area to eat.

PEREZ: There is a 35 square foot addition to the solarium for that doorway.

TEN HOEVE: On the survey it shows the dotted line, that is the expanded addition that you intend to construct. You are here because you need 2 variances, an F.A.R. variance and a rear yard setback variance. Do you know what the floor area is?

PEREZ: The existing floor area or the proposed?

TEN HOEVE: Either, just so we know how much of a variance we are granting.

PEREZ: Yes, I have the numbers.

TEN HOEVE: Yes, that is what I mean. There is no document that the Board has.

PEREZ: The floor area existing is 14.5%.

TEN HOEVE: Not the percentages, because your problem isn't going to be with the percentages it is going to be with the total area, because there is a total floor area limitation in this zone of 3,333 square feet. Brigitte is that correct?

BOGART: Yes.

PEREZ: Yes, I see that.

TEN HOEVE: I am sure that, because of the size of the lot, I am sure that you are well within the percentage limitations.

PEREZ: The existing is 2,613 on the Zoning criteria.

TEN HOEVE: 2,613, then how are you going to get up to 3,333 with this little addition?

PEREZ: Again, this came from the....who made these numbers?

OLECHEWSKI: We made the numbers with Karen. This the existing, and the proposed is going to 2,648.

GALDI: You are adding 105 square feet.

OLECHEWSKI: Right.

TEN HOEVE: You are counting both stories in those numbers, and the garage?

OLECHEWSKI: The floor area is 2,613. That is just the first floor.

TEN HOEVE: It has to be both floors. One of the things that I think the Board might, they will have to discuss this. What I ask you to do is to clean this up a little bit. Number 1, do the calculations so we know what we are giving in terms of an F.A.R.

variance. We can't do those for you. We need to know exactly what they area and then if we prepare a resolution, we can say you are going to be "X" square feet. Secondly, show that you are going to remove that encroachment on to somebody else's property, so the deck is not on their property. Then, I had a couple of other questions.

The basketball court, I assume that is a basketball court in the backyard?

PEREZ: It is.

TEN HOEVE: And the shed, were those both pre-existing when you bought the house?

PEREZ: They were.

TEN HOEVE: The shed is also in violation of the ordinance. It is too big and it is too close. As you heard from the prior discussions tonight, it would have to be a minimum of 5 feet and it has to be under 150 feet. But, if it is a pre-existing...how old is this house?

PEREZ: I believe it was built in the '40s and then the addition of the family room was put on, I believe, in the '70s. Again, this was after Mr. D'Elleto had discussed with me some of the things that he was doing with the house.

TEN HOEVE: So, that shed could have been there long prior to... and the same thing with the basketball court?

PEREZ: I am sure of that as well.

BEER: The boys all played basketball, the D'Elleto children.

PEREZ: And we heard that they played to late at night, as some of the neighbors have told us.

HOSKINS: I don't know how they didn't complain about that. It is very close to the line, a bouncing ball. I saw that today...

VON DER LIETH: I would think so. I mean, I see a lot of common things where houses built in the 30's or 40's, there is basically no room between the houses. Is that something you could do. Can we get just a hard concrete, what the current F.A.R. is, what the proposed is, so we know what we are going to be granting.

WALKER: I don't know how the F.A.R. on the survey, doing a quick calculation. I don't understand how we can approve a variance with a deck that is.

TEN HOEVE: He can't. He is going to fix that. That is the second condition. He has to get that off of the property line and show it on the survey. He has to show on the survey what the F.A.R. distance is.

WALKER: We have a quick F.A.R. calculation and I don't think that there is an issue.

TEN HOEVE: The Zoning Officer did some quick calculation in the office and he said it was going to be over the 3,333.

RAMAN: It doesn't look like it to me either.

BEER: Nick Saluzzi did it also.

GALDI: 2,613 is the first floor?

WALKER: No, it can't be.

RAMAN: No, it is the total.

WALKER: You have a garage there.

TEN HOEVE: Garage counts. The dimensions of the house are 33 plus 23.77 feet long, by an average of what, Eve?

PEREZ: The second floor is not as wide as the first floor.

TEN HOEVE: You are 2,610 with the first floor.

GALDI: You can't calculate out that second story over the garage. We don't have dimensions on it.

WALKER: 77 by 25 times two, even if the whole thing was....

TEN HOEVE: It would be way over then. 77 times 30 gives you 2,210 it would be over 4,400. These are both 2 stories, how can that be? What am I missing? These are both 2 stories. Part of that is 2 stories.

WALKER: You have 55 by 25, 2 stories. It is 1,100. It is close enough to figure.

VON DER LIETH: So that is all we will have you do. If you will just bring back a hard number of what the current is and what the proposed.....

TEN HOEVE: And show the distance that you are going to make that deck from the property line.

PEREZ: My question is, does that get back to zero setback or more?

VON DER LIETH: That is a good question.

TEN HOEVE: I wouldn't do something with a zero setback. I also would love to see if there was a variance to have granted that because if there is talk of a variance being granted.....

BEER: I will look it up.

TEN HOEVE: In the mean time, Lyn can look it up and check and see if that is the case. Because if there is a variance and this exceeds the scope of that variance, then you have a problem.

GALDI: Have the neighbors back here been notified?

PEREZ: Oh sure, that is the Desmond family. They are notified of my plans. We are quite close. That doesn't mean that they would or wouldn't have a problem. They were notified of tonight with my certification.

TEN HOEVE: They probably don't even know.

PEREZ: They do, they probably don't know, you are probably right. They don't know that the corner of the deck lands on the line that goes over their property.

VON DER LIETH: Have they been living there the whole time that you have been there, or they prior to the previous residents. I am just wondering if they had come in during your variance and we agree with it couldn't be done.

TEN HOEVE: When it becomes a problem is when they want to sell their house and the survey is done and says that your neighbor's deck is on my property. You have to do something about that.

VON DER LIETH: Is there anyone else in the audience to speak on this case tonight? No?

PEREZ: We surely can move that portion of the deck, to conform with whatever.

TEN HOEVE: Before you revise the plan, just check with Mrs. Beer, to find out if there is a variance that deals with that issue.

BEER: I will look it up tomorrow.

VON DER LIETH: Thank you Mrs. Beer.

PEREZ: So, just to be clear, I will get a floor area of my whole entire house, with the total, and then a total with the proposed.

BEER: With garages.

PEREZ: Of course. The storage above the garage, is that counted as well?

VON DER LIETH: There is an attic space, but it is storage not living space.

PEREZ: It is a pull down attic.

GALDI: You are not talking about the second story over the garage, you are just talking about the attic area over the garage?

PEREZ: Correct.

TEN HOEVE: Look at your survey. See where it says 2-story over the garage? Is that what you are talking about?

PEREZ: No, I am not.

TEN HOEVE: You are talking about the other area? Then don't count that.

PEREZ: Okay, if I look at where we are, I mean just an increase of the square footage of what we are proposing, which is 105 square feet. That would be the difference between total and proposed?

TEN HOEVE: Right, but understand the reason it is an issue is if you exceed it now, which maybe the case, then even adding 105 requires another F.A.R. variance, so that is why you are here and that is why the Board has to get that information. So, if you, for example, 3,350 now, and you add 100 you are only going to go 3,450, but the Board still has to grant a variance for that because it is over the maximum floor area.

So, there is 3 things. That deck, show the distance from your addition, to the corner, where the deck overlaps, and then the F.A.R.

OLECHEWSKI: How does the ordinance read on the setback for this deck?

BEER: 20 feet.

OLECHEWSKI: Where is it measured? Is it from the side setback or the rear setback?

TEN HOEVE: It is any property line. So this is way in violation. I don't know how it happened or whether a variance was granted for it or.....

VON DER LIETH: John, just one question, maybe for the Board members also, a pre-existing F.A.R. that is over the limit, how—does that happen often? I haven't had that, we haven't had that.

Minutes of the Park Ridge Zoning Board of Adjustment
Meeting of April 6, 2011 – Page 25

TEN HOEVE: Yes, that happens because we have only had the 3,333 limitation, for probably 5 years, Brigitte?

BOGART: Yes.

TEN HOEVE: So that is why you will find houses that....so even though it is pre-existing, there is no problem because the ordinance didn't exist, now that it does, and you want to expand, you need a variance. He is over by 30 square feet? The Planner and the Engineer just did the calculations, so that is what you should come up with, something in that range.

PEREZ: Again, where I am in the R-10 zone.....

TEN HOEVE: I can't speak for the Board, I don't think you will have any problem getting your approval. It is just that you have to dot your "T's" and cross your "T's" and

PEREZ: Okay, so going forward, I will be here again next month?

TEN HOEVE: Yes.

VON DER LIETH: Mrs. Beer will check out that variance issue, if there was one, concerning the deck previously. You can call and see if she has found that. Thank you very much.

BEER: The next meeting is May 17th.

PENDING CASES:

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. Determination forthcoming this evening.
---	---

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

WHEREAS, SOUTH MAPLE ASSOCIATES, LLC. (hereinafter referred to as "Applicant"), being the owner and occupant of premises known as 62 Park Avenue, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also known as Lot 5 of Block 1603 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 (hereinafter referred to as the "BOARD") seeking an amendment to a previous Resolution of the BOARD and an amendment to a previously approved Site Plan of the BOARD; and

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

WHEREAS, Applicant submitted various plans and sketches to the BOARD including a copy of a prior site survey entitled "Topographic Survey of Block 1603 Lots 5 & 6 at Park Ridge", prepared by Jaivahar A. Chetti, Licensed Engineer and Robert Vicardi, Licensed Land Surveyor, last dated June 25, 1987 together with a revised survey illustrating proposed improvements entitled "Prop. Shed & Relocate Container" prepared by Robert Vicari, Licensed Surveyor, dated November 29, 2010; and

WHEREAS, hearings were held before the ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF PARK RIDGE duly convened on February 15, 2011 and March 15, 2011; and

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

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

1. Applicant is the owner of premises known as 62 Park Avenue, Park Ridge, New Jersey. The premises consist of a mixed use commercial and residential structure constructed in 1987 pursuant to a Resolution of the BOARD adopted on April 21, 1987.
2. Applicant seeks to make minor modifications to the previously approved site plan. Specifically, Applicant seeks to relocate and redesign the refuse dumpster located on the site. Applicant testified that since the project was developed in 1987, the size of the required dumpster has increased. Applicant further indicated that trucks attempting to access the dumpster have difficulty doing so in a safe and efficient manner. Applicant further indicated that the current dumpster location renders the dumpster visible since it is located past the existing curb line.
3. Applicant seeks to locate the dumpster in the southwest corner of the site. As shown on the most recent survey provided to the BOARD, the Applicant will surround the dumpster with a rock wall, with a gate providing access to the dumpster. Applicant, at the BOARD'S request, further agreed to providing arborvitae plantings surrounding both the dumpster location and an existing storage shed containing sand and ice melt required to maintain the parking area. Said arborvitae will be planted having a height equal to or greater than the height of the proposed dumpster and shed.
4. Applicant also presented the testimony of Joseph Miele, the owner of the sanitation company servicing the property. Mr. Miele testified that the proposed new dumpster location will provide a safety benefit. He further noted that trucks attempting to pick up the dumpster from the other sloping locations on the property could not do so in a safe manner.
5. The BOARD finds and concludes that the relocation of the dumpster, provided all improvements are made as set forth on the aforementioned survey, will result in several benefits. The location will result in an aesthetic benefit since the dumpster will be hidden from view. The new location will also provide a safety benefit enabling trucks to pick up refuse in a safer and more efficient manner.
6. The BOARD further finds and concludes that the proposed relocation of the dumpster 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 Applicant's requested modifications to the prior Resolution of the BOARD and prior Site Plan approval of the BOARD subject to the following conditions:

- A. Except as expressly modified herein, nothing in the within Resolution shall be deemed to modify or replace the provisions of the April 1987 Resolution of this BOARD. All of the terms and conditions of said Resolution shall remain in full force and effect.
- B. All improvements to be completed in connection herewith shall be in accordance with all development application proceedings and evidence submitted to the Zoning Board of Adjustment and in compliance with

the requirements of all Borough Ordinances and other requirements as may be imposed by the Borough Engineer.

- C. The within approval is expressly contingent upon the Applicant's completion of all improvements noted on the submitted survey, including the construction of the described rock wall and the planting of arborvitae at a height that exceeds the existing shed and proposed dumpster.

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

ROLL CALL:

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

Abstain: Mr. Raman, Mr. Flaherty, Mr. Galdi

NEW BUSINESS:

James Babcock – 41 Midland Avenue – revised resolution to be adopted.

WHEREAS, JAMES R. & REGINA A. BABCOCK, (hereinafter referred to as “Applicant”), being the owners of premises known as 47 Midland Avenue, in the Borough of Park Ridge, County of Bergen and County of Bergen and State of New Jersey, said premises also known as Lot 6 of Block 1103 on the Tax Assessment Map for the Borough of Park Ridge, by way of a Resolution of the BOARD dated January 18, 2011, had previously received variances from the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE to permit the various improvements to the existing nonconforming two-family home located on the property; and

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

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

WHEREAS, said survey incorrectly indicated that the closest point of the proposed front portico would be located 19.67 feet from the front lot line; and

WHEREAS, the Applicant has discovered that said survey was in error, and that the closest point of the front portico to the front lot line is actually 17.4 feet; and

WHEREAS, the Applicant has returned to the BOARD seeking a minor modification to the aforementioned Resolution to reflect this minor survey correction, and;

WHEREAS the BOARD has determined that the correction constitutes a minor modification to the prior approval that does not require a new hearing.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF PARK RIDGE that the BOARD hereby resolves to modify its prior Resolution to approve the grant of a front yard setback variance to permit a proposed 17.4 front yard setback rather than the 30 feet required by the Zoning Ordinance.

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

Lawrence and Donna Kenyon - 6 Fairview Court – revised resolution to be adopted.

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 known 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 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 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 FOR THE BOROUGH OF PARK RIDGE that the BOARD hereby makes the following findings of fact:

1. Applicant is the owner of a single family home located at 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 area along the easterly side of the existing garage. Applicant also asks that the new driveway area extend 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 the 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 the grant of some apron width 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 south 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 for 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 south 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 that complies with the conditions of this resolution.

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

CORRESPONDENCE:

N. J. Planner

Re: Magazine – Feb/March 2011 - distributed

APPROVAL OF MINUTES:

The Chairman entertained a motion that the February 15, 2011, minutes be approved as submitted. So moved by Mr. Capilli and seconded by Mr. Flaherty.

ROLL CALL:

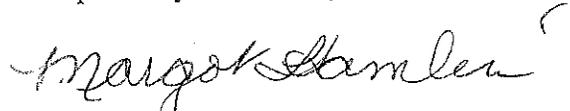
Ayes: Mr. Brennan, Mr. Capilli, Mr. Flaherty, Mr. Galdi, Mr. Raman
Mr. Sandler, Mr. Walker, Dr. von der Lieth

Abstain: Mr. Hoskins

ADJOURN:

There being no further business to come before the Board, by motion of
Mr. Capilli and seconded by Mr. Walker, the meeting was adjourned at 9:20 pm.

Respectfully Submitted,



Margot Hamlin,
Transcriber