

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

The regular meeting of the Park Ridge Zoning Board of Adjustment has been called for Tuesday, June 23, 2011, at 8:00 pm in the Council Chambers of the Municipal Building.

**PLEDGE OF ALLEGIANCE TO THE FLAG:**

**ROLL CALL:** Mr. Galdi, Mr. Hoskins, Mr. Raman, Mr. Walker, Mr. Flaherty

Absent: Mr. Brennan, Mr. Capilli, Mr. Sandler, Dr. von der Lieth

Also Present: John Ten Hoeve, Jr., Board Attorney  
Brigette Bogart, Professional Planner (8:15 pm)  
Robert Ludwig, Code Official  
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.

**NEW CASES:**

<b><u>CASE:</u></b> 11-13 Block: 1103 Lot: 10	Application of <b><i>Felix Rizo</i></b> , 33 Midland Avenue for F.A.R., front yard, rear yard and building coverage variances for constructing addition to existing house in an R-15 residential zone, without building permits or variances. First application was denied on May 17, 2011.
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RIZO: My Engineer and the Architect, not the Architect, the Planner, were not able to review all of the instructions because they got to my house this afternoon. They were asking me if it were possible to carry on the meeting until the next month, so that they will be able to study all of the proceedings of the papers that were sent to me.

FLAHERTY: Would it be one month? Would you be prepared for the July meeting?

RIZO: Yes. They just want to go over those papers that I got today.

FLAHERTY: Okay, it seems like a reasonable request. Do any members of the Board have a concern about putting this application off for one month.

WALKER: We should change the dating and we shouldn't open the case at all tonight.

TEN HOEVE: Is that addition that was not approved last time, being used right now, or not?

RIZO: There is no floor and there are no walls.

TEN HOEVE: Okay, so no one is living in it and no one is using it?

RIZO: It has been empty for the past 4 months. I was told to remove the floor.

Minutes of the Park Ridge Zoning Board of Adjustment  
Meeting of June 23, 2011 – Page 2

TEN HOEVE: Don't open the file at all, we will just wait until next month. If anyone is here in connection with that application, it will be carried to the July meeting, which is the 19<sup>th</sup>, July 19<sup>th</sup>. There won't be any further notification.

<b>CASE:</b> 11-12 <b>Block:</b> 2201 <b>Lot:</b> 19	Application of <u><i>Richard and Sharon Browne</i></u> , 106 Oak street for variance to construct a patio in the front half of the side yard in an R-20 residential zone.
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TEN HOEVE: The reason that we called this case is because, could you just identify yourselves, first.

BROWNE: I am Richard Browne and my wife, Sharon.

TEN HOEVE: Apparently there is a notice question in connection with this case. Maybe we could look at that first. I spoke to the Land Use Administrator and she indicated that there were properties in Montvale that hadn't been notified.

BROWNE: Actually, I don't know if there is a significant time period that is needed.

TEN HOEVE: It is 10 days.

BROWNE: So, I did get the notifications done, but I only got them done this afternoon, when I realized it was needed and required.

TEN HOEVE: How many people were in Montvale?

BROWNE: It was 7 owners. To be very honest with you, they were very surprised that we even needed to notify them, because they are not even on the existing side that we are even considering a patio on. So, I understand if you need to push it off, I can get signatures from each one of them.

TEN HOEVE: Yes, that is the only problem. If it were just one or two people, it might be possible to get a waiver and have them sign notices that they understood that they were entitled to 10 days notice and they didn't get the 10 days notice, but if somebody that you couldn't get, then it would just, it is a problem.

If we were to proceed and ask you to do that and you didn't get everyone to sign the waivers, then you would have to come back again, anyway.

BROWNE: I would be willing to do the waivers, because as I mentioned, I think everyone was surprised.

TEN HOEVE: I understand that. The problem is not that the Board wants to give you a hard time, it is a jurisdictional requirement. The Statute says that you can't hold a hearing unless everyone within 200 feet has been given notice. One of the things I think that the Board can do, normally, what the Board would do is hear your application, discuss it later in the evening, instruct me to prepare a resolution and then adopt it at the following month's meeting, which would mean if it was approved, under the normal course, it wouldn't be approved until the July meeting.

In exceptional cases, because this problem exists, what you could do is ask the Board to rule upon it at the July meeting and adopt a resolution immediately, so you didn't have to wait that extra month and you would get the approval the same time, if that is something that the Board would be inclined to do. So, you don't lose any time and you don't have to notify anybody again. You just come back at the next meeting.

It would probably be a good idea just to alert those people to the fact that, anyone that you notified originally, you don't have to bother with, but just send a note to the Montvale people to let them know that it is going to be heard in the July 19<sup>th</sup> meeting. I am sorry.

Minutes of the Park Ridge Zoning Board of Adjustment  
Meeting of June 23, 2011 – Page 3

BROWNE: That is okay. So should we present the case tonight?

TEN HOEVE: No.

BROWNE: Okay.

TEN HOEVE: You won't lose time, because you will get the resolution the same time.

BROWNE: Okay. Thank you.

<b>CASE:</b> 11-11 Block: 1017 Lot: 3	Application of <u><i>Naren Ramineni</i></u> , 196 Pascack Road for front yard variance to remove existing patio and construct a covered porch on the existing 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 5/29/2011.
- Item 2 is certification of service dated 6/09/2011.
- Item 3 is legal notification dated 6/10/2011.
- Item 4 is proof of payment of taxes dated 6/14/2011.
- Item 5 is the deed dated 4/27/2011.
- Item 6 is the survey dated 4/15/2011.
- Item 7 is elevations dated 5/31/2011.
- Item 8 is the Board secretary's letter dated 6/20/2011.

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

TEN HOEVE: Will anyone who is going to testify, 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?

RAMINENI: Yes.

BRUNO: I do.

TEN HOEVE: Please state your names and addresses please.

RAMINENI: My name is Naren Ramineni, I am with my wife and my daughter. This is my Architect, Mr. Joseph Bruno.

TEN HOEVE: What is your address?

RAMINENI: 196 Pascack Road.

TEN HOEVE: Thank you. For the record, Mr. Bruno.

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

TEN HOEVE: Thank you.

FLAHERTY: Okay, who would like to take us through the application?

BRUNO: Mr. Ramineni will start and then I will start, and then I will explain the technical aspects.

BEER: Mr. Ramineni, I am sorry, would you take a seat and just speak into the black microphone.

RAMINENI: I am going to add a porch in the front of the house. I am doing this due to religious purposes. In Hinduism, we have, we follow ( Vastatasha? ), which is similar to (Kinchu? ), and the northeast part of the house should be covered and it should not be left blank. That is the reason that I am trying to cover the area and level it according equal to the garage.

FLAHERTY: The northeast part of the home has to be covered?

RAMINENI: Yes. It doesn't have to be like once may not be there, but it should be covered as part of the house. It should be joined to the house and not to be away. Right now, it is cut away from the house and I am trying to cover the area.

FLAHERTY: Okay, so, I looked at the home, there is a cement patio, and just so I am understanding, it is because that is kind of cut out of the square of the home?

RAMINENI: Yes, it should be covered by a roof or something. That is the reason that I am trying to add a roof in that area. Joseph Bruno might be able to show the pictures.

BRUNO: I will go through the technical aspects. I have 4 packets of photographs. They are all equal and I would like to introduce them into evidence, please.

WALKER: That will be item 9.

BRUNO: I would like to just go through the project with you. The project, where the property is located on the southwest corner of Pascack Road and Cascade Street. The requested variance is for front yard setback as it relates to Cascade Street. In the R-10 zone, the required front yard setback is 25 feet. By squaring off this inside corner, we would be 8.8 feet off of the front lot line at its narrowest and 10.6 feet at its widest. That is just a function of where the house is presently located on the site.

As you can see, on the site plan, that I drew on the front page, is that this hatched in square or rectangle really, is within the boundaries established by the existing structure. So, as I said, the only variance required there is for the front yard setback. We do comply with the setback requirement along Pascack Road.

We are also complying in the terms of building coverage. 20% is required we would be at 19.05 feet. The impervious coverage required is the maximum allowed is 40% and we are at 25.5%, so we are under on those other aspects of the requirements.

FLAHERTY: Mr. Bruno, which is the front yard on Pascack?

BRUNO: We have 2 front yards. It is a corner lot. We have Pascack and we have Cascade. We comply with the front yard setback requirement along Pascack, but not on Cascade, due to the existing location of the house. We are not coming further out then the house is presently existing.

HOSKINS: Could I just ask one question?

BRUNO: Sure.

HOSKINS: In this picture here, in the front of the house on Pascack Road, 29.4 feet. Is there a stone wall that runs along....

BRUNO: There is a stone wall that wraps around the corner. Right now, it is buried under all of that growth.

HOSKINS: Okay, is that 29.4 feet to the stone wall or to the sidewalk?

BRUNO: That is to the property line, from the property line to the front corner of the house. It has nothing to do with the stone wall.

HOSKINS: Okay.

BRUNO: I will go through the technical aspects, and then I will roll through the photographs, if that is okay.

Going to the second sheet, I wanted to show you both floor plans, the first floor plan and the second floor plan, to give you a lay of the land, so to speak. We are not increasing the interior living space of the house. We are not trying to make this a “mc mansion”, or anything of that nature. It is simply to create the covered porch that --- Mr. Ramineni just testified to, for the religious purposes and also, if you look at the first 2 photographs in the packet, it would be a tremendous over what presently exists. Right now you have a hodge-podge of various concrete pavements and a very tiny entrance way. So, you can see that the porch would be much more aesthetically pleasing from both a use standpoint in providing a nice entrance to the home, as well as a better aesthetic benefit in terms of its roof line, its columns, etc.

If we go to the third photo, I show the view from the subject property looking north, so facing the opposite side of Cascade Street, there is a bi-level style home with its driveway, garage and driveway facing the addition and then the next photo, and I apologize that it is quite blurry, but that is the view of the adjacent property to the west, with, just to give you more of a context of the neighborhood.

These other 2 photos show that the corner, the house is pretty well concealed on the corner of Cascade and Pascack.

WALKER: The stop sign is pretty much concealed by vegetation. Is it the property owners chore to make that visible or is that the town?

BEER: It is being addressed. It is the property owners responsibility. It is supposed to be no more than 2 ½ feet high.

BRUNO: That is going to be addressed and Mr. Ramineni and his family only recently moved in. I think within the last 2 months?

RAMINENI: One month.

BRUNO: That obviously would be in their best interest to take care of that.

TEN HOEVE: Is this going to be any higher than the existing patio?

BRUNO: No.

RAMINENI: No, it has to be equal.

TEN HOEVE: The floor level, or ground level, is going to be the same height as the existing patio?

BRUNO: It will be about 1 step up. One step higher. We don't want it to be an imposing structure. It is important to note that the roof line will not be any higher than any of the roofs that are there. I am showing the roof line to match the ridge of the existing garage.

TEN HOEVE: I am just curious, why wouldn't, for all the work that is being done, a room be constructed as opposed to just the open structure that is proposed?

BRUNO: The program is not to create additional living space. It was to create this porch for the religious purposes. I think Mr. Ramineni would be better to answer that than I, why it doesn't want it closed in.

RAMINENI: I am okay with either way. I can have the walls done. My wife wanted to leave it open.

TEN HOEVE: Just curious, no other reason that I asked.

BRUNO: I think, and the reason why I show the floor plans, to show that this is a genuine request for their satisfying their religious purposes and also to create a better way to enter the home. It does provide a tremendous amount of cover when you get out of the car to go into the house, because there is no way to enter between the garage and the house directly. The garage goes against an existing bedroom. It wouldn't be appropriate to put a door from the garage to the bedroom. With the way that the kitchen is with the cabinets here, you couldn't get in between the kitchen and the garage.

LUDWIG: Mr. Bruno did you check the regulations on the roof slope? It looks like it is a very shallow slope.

BRUNO: It is about a 3 ½ on 12. From my understanding, that relates to the main roof and there is a relief for the porch roof, because porch roofs are generally shallower due to the need to be beneath window sills and so on, of the upper stories.

WALKER: Mr. Bruno, the entry to the home will remain as is?

BRUNO: Yes sir.

FLAHERTY: So, there is a, what I guess was supposed to be the front door, they can't see it from these bushes here, but is that in use?

BRUNO: Yes, that is "official" or ceremonial front door. This door is in such close proximity to the driveway and is convenient so that is the one that by virtue of it's location is the one that gets used.

FLAHERTY: Okay. So, Mr. Ramineni, you moved in a month ago, is it?

RAMINENI: Yes, we moved in, in May.

FLAHERTY: I was just curious, did you not notice in the process of buying the home, that this would be an issue?

RAMINENI: Yes, but I didn't notice that it might be an issue. That is why I am before you.

FLAHERTY: It is a somewhat simple application. Are there any questions or concerns from the Board? Does anyone have any questions of the applicant? Is there anyone in the audience who wishes to speak to this application? There being none, we thank you for your time and we will discuss it this evening and you can call Mrs. Beer in the morning.

**PENDING CASES:**

<b>CASE:</b> 11-07 <b>Block:</b> 1202 <b>Lot:</b> 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-10 residential zone. Hearing begun April 6, 2011, carried to May 17, 2011 for additional information and revised plan. Voice vote approval on May 17, 2011. Memorializing resolution to be adopted this evening.
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WALKER: I have a couple of items to be added to the record here.

Item 17 is Board secretary letter dated 5/19/2011.

Item 18 is Board secretary letter dated 5/19/2011.

Item 19 is revised plans dated 6/08/2011.

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

FLAHERTY: We have a resolution of approval for this application.

**WHEREAS, GREGORY PEREZ and KAREN MURPHY** (hereinafter referred to as “Applicant”), being the owners of premises known as 1 Sixth Street in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also known as Lot 19 of Block 1102 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 rear yard setback variance and a floor area ratio variance from the terms and provisions of the Zoning Ordinance of the Borough of Park Ridge to permit the construction of an addition to the existing single family home located on the property.

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

WHEREAS, Applicant has submitted a survey describing the proposed improvements to the premises prepared by George J. Anderson, LLC, Licensed Surveyors of the State of New Jersey, dated March 9, 2011; and

WHEREAS, hearings were held before the ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF PARK RIDGE duly convened on April 6, 2011, and May 17, 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 variance;

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 premises known as 1 Sixth Street in the Borough of Park Ridge. The subject property is very irregular in its configuration, having an L-shape and being located along a curved portion of Sixth Street. The property, while located on but one street, has the appearance of a corner lot.
2. The property is improved with an existing single family home facing the northwesterly property line. There is a solarium attached to the rear of the home, a solarium surrounded by an existing deck. Applicant testified that the solarium is in need of substantial repair, that there are many leaks in the glasswork of the solarium and that water frequently enters the kitchen of the home during heavy rainfalls. Applicant essentially seeks to replace the existing solarium with a small, single-story addition having dimensions of 5.8 feet by 10.7 feet, as shown on the plans offered into evidence during the aforementioned hearings. The addition will be smaller than the existing solarium.
3. As indicated, the solarium is surrounded by an existing deck. During hearings in connection with the instant application, the BOARD learned that the existing deck was constructed pursuant to a variance granted by the Zoning Board in 1986, and evidenced by a Resolution of the BOARD dated July 15, 1986. As stated in the 1986 Resolution and as shown on a survey submitted to the BOARD by the prior owner of the property in connection with the 1986 Resolution, the deck was to have been constructed in an L-shape and the deck was to be constructed so that the deck was no nearer to any property line than 11.60 feet.
4. The prior owner of the property, however, in apparent flagrant disregard of the provisions of the 1986 Resolution constructed the deck in such a manner that it not only failed to maintain the required 11.60 foot setback, but actually extends slightly onto an adjacent lot. The Applicant was unaware of this condition when the property was purchased and, in fact, did not learn of the encroachment until the within application was filed.

5. The current application does not involve any proposed change to the deck. Rather, Applicant seeks to replace the existing solarium with an enclosed addition to the home of equal size. The addition, which will be no nearer to any lot line than the existing solarium (a structure again built by the prior owner without any variance), will be 16.32 feet from the rear property line. The total additional floor area resulting from the addition replacing the solarium will be but 43 square feet. As noted in calculations submitted to the BOARD by Joseph Bruno, Licensed Architect, the current floor area ratio for the property is 24.65%, greater than that permitted in the zone. The new floor area ratio will be 24.90%, less than one-quarter of one percent greater than that which currently exists.
6. During hearings on the application, the Applicant agreed to remove a portion of the deck, modifying the current structure so that no portion of the deck encroached onto adjacent property and so that no portion of the deck would be nearer than two (2) feet to any adjacent property line. The Applicant indicated that it might be necessary to move the deck a greater distance from any property line for structural reasons, however, that no portion of the modified deck would be nearer than two feet from any property line.
7. The BOARD finds that substantial reasons exist justifying the requested variances. The Applicant faces a unique hardship by virtue of the very unique size and shape of the lot, the fact that the lot appears to be a corner lot and by virtue of the location of the existing improvements on the property. The new addition will be no nearer to any property line than the existing solarium. The addition will be smaller than the existing solarium. The addition will provide a health and safety benefit and remove an existing structure in need of replacement. The addition will actually reduce the nature and extent of an existing encroachment, an encroachment created by a prior owner of the property. The addition will provide an aesthetic improvement to the property. The resulting FAR variance will actually reduce the existing FAR violation if the solarium is considered to be part of the floor area of the premises. The decision to grant the FAR variance will also reduce an existing non-conformity.
8. The BOARD further finds that there will be no negative impact flowing from a grant of the requested variance. As noted, the proposal will reduce the extent of existing encroachments. The area in which the addition will be constructed is secluded, and is already subject to the existing encroachments. The Applicant will also be reducing the extent of an existing violation and removing a deck that encroaches onto a neighbor's property.
9. The BOARD finds that the grant of the proposed variances will have no negative impact whatsoever. The decision to grant the requested variance will no result in an 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 rear yard variance, the Applicant's requested FAR variance, and the variance to allow the modified existing deck subject to the following conditions:

- A. That Applicant construct the proposed improvements as set forth on the revised final plans submitted to the BOARD.
- B. That the Applicant modify the size of the existing deck so that no portion of the deck is nearer to any property line than two (2) feet. The Applicant shall be required to secure the review and approval of the proposed deck modification construction from the Construction Code Official.

- C. All improvements shall 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.
- D. 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. Raman and seconded by Mr. Hoskins.

**ROLL CALL:**

- Ayes:** Mr. Galdi, Mr. Raman, Mr. Hoskins, Mr. Flaherty
- Nays:** Mr. Walker
- Abstain:** None

<b>CASE:</b> 11-08 Block: 1508 Lot: 3	Application of <b><i>Thomas &amp; Concetta Desiderio</i></b> , 55 North Maple Avenue for expansion of non-conforming use, Floor Area Ratio, height, building coverage and impervious coverage variances to construct an addition to existing house in an R-10 residential zone. Determination forthcoming this evening.
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TEN HOEVE: The resolution that is there is to deny the application. So you will be approving a resolution to deny the application.

**WHEREAS. THOMAS & CONCETTA DESIDERIO**, (hereinafter referred to as “Applicant”), being the owners of premises known as 55 North Maple Avenue, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also known as Lots 3 4 of Block 1508 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 to construct a large addition attached to the existing nonconforming two-family dwelling located on the premises, an application requiring the following variances:

- (a) A use variance to permit the substantial expansion of the preexisting nonconforming two family dwelling;
- (b) A (d) variance to permit the construction of an addition resulting in a floor area ratio greater than that permitted in the R-10 Zoning District in which the property is located;
- (c) A building height variance to permit the construction of a dwelling having an average building height in violation of the provisions of the Zoning Ordinance;
- (d) A building coverage variance to permit the construction of an addition resulting in a building coverage in excess of that permitted by the Zoning Ordinance;
- (e) An impervious surface coverage variance to permit an impervious surface coverage percentage in excess of that permitted by the Zoning Ordinance;
- (f) A variance from the provisions of Section 101-23 of the Zoning Ordinance requiring that driveways be set back a minimum distance of five (5) feet from any property line;

- (g) A variance from the provisions of Section 1010-21 of the Zoning Ordinance requiring that retaining walls be set back a minimum distance of eight (8) feet from any property line; and

WHEREAS, the Applicant further requires a soil moving permit pursuant to the provisions of the Park Ridge Soil Moving Ordinance; and

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

WHEREAS, Applicant has submitted a plot plan and soil erosion control plan describing the proposed improvements to the premises prepared by Azzolina & Feury Engineering, Inc., Licensed Engineers of the State of New Jersey dated March 4, 2011; and

WHEREAS, a hearing was held before the ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF PARK RIDGE duly convened on May 17, 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;

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 premise known as 55 North Maple Avenue in the Borough of Park Ridge. Applicant testified that the home located on the site is a nonconforming, preexisting two-family dwelling, a dwelling that has always been occupied as a two-family use, a use that is in violation of the single family use provisions applicable to the R-10 Residential Zoning District in which the premises are located. While the testimony and documents reviewed by the BOARD raised some concerns as to whether the premises were occupied as a three-family use, and while some evidence was presented to the BOARD to establish that the premises were occupied by three families in violation of the Zoning Ordinance and not as a preexisting use, the BOARD finds that since 1994, when the Applicant purchased the property, the home has only been occupied as a two-family dwelling. The BOARD is also aware of prior continuing certificates of occupancy issued by the Borough confirming that the dwelling is a preexisting, nonconforming, two-family dwelling.
2. Applicant testified that both rental units in the home had been rented out to tenants and that the dwelling was not owner occupied. Applicant has now moved into the home and plans to occupy the dwelling as an owner-occupied, nonconforming two-family dwelling, with the Applicant occupying the basement and first floor of the dwelling and with the Applicant renting out the second floor unit of the dwelling.
3. As shown on the plans submitted to the BOARD, the Applicant seeks to construct a large addition attached to the existing dwelling. The approximate 1,650 square foot addition would be attached to the rear of the dwelling and would substantially expand the basement and first floor portions of the dwelling. Applicant stated that the Applicant would occupy and use the proposed additional space. The proposed addition requires several variances from the provisions of the Park Ridge Zoning Ordinance including the following:
  - (a) A variance to permit a building height of 34.02 feet rather than the average building height of 32 feet permitted by the Zoning Ordinance;

- (b) A variance to permit a building coverage of 23.3 percent rather than the maximum 20 percent permitted by the Zoning Ordinance;
  - (c) A variance from the impervious coverage limitations of the Zoning Ordinance to permit an impervious coverage of 41.7 percent as opposed to maximum permitted 40 percent;
  - (d) A floor area ratio variance to permit a floor area ratio in excess of the 30 percent permitted by the Zoning Ordinance. While the plans submitted by the Applicant indicated a proposed 35.2 percent floor area ratio, testimony provided during the hearing on the application confirmed that the actual floor area ratio, testimony provided during the hearing on the application confirmed that the actual floor area ratio was greater than that stated since some portions of the dwelling had not been included in the calculations;
  - (e) A variance to permit the construction of retaining walls but one-half of one foot from a property line rather than the minimum eight foot setback required by the Zoning Ordinance;
  - (f) A variance to permit the construction of a new driveway located directly on a property line rather than the five foot setback required by the Zoning Ordinance;
  - (g) A use variance to permit the expansion of the nonconforming two-family use currently located on the site.
4. Applicant presented the testimony of a licensed architect to describe the proposed modifications. This expert witness described the improvements and the nature and extent of the several variances required. When questioned, the Applicant's architect acknowledged that the proposed additions could have been reduced so as to not require the several necessary variances, however, to do so would render the improvements "less comfortable".
5. The Applicant's architect was also questioned with regard to certain specific problems perceived by the BOARD to constitute significant problems resulting from the application. The BOARD and the BOARD professionals noted that the proposed driveway was situated directly on a property line and, notwithstanding the location of the driveway, still did not provide adequate space for a vehicle to exit the proposed garage and make the required turn in the driveway. The architect stated that the driveway could not be relocated so as to comply with the provisions of the Zoning Ordinance, noting that the plan already resulted in a very difficult turn for vehicles exiting the garage and that the proposal created a "very tight space". The architect also attempted to justify several of the requested variances (FAR, impervious coverage, etc.) by claiming that if one viewed the structure from the street one would not be aware of the existence or extent of the proposed encroachments.
6. The Applicant's architect was also not aware of the nature and extent of the required floor area ratio. He initially testified that the 35.2% figure on the plan conformed to his calculations, however, later acknowledged that at least 629 square feet of space had not been included in the calculations. He also acknowledged that the proposed floor area not only exceeded the percentage limitations of the Ordinance, but also exceed the maximum of 3.333 square feet permitted in the Zoning District.
7. A resident, Carl Lindstrand, testified in opposition to the application. He opined that the home was too large and worried about what would take place if the owner did not occupy the dwelling or sold the dwelling. He

also confirmed that the home had previously been occupied as a three-family dwelling prior to the time the dwelling was owned by the Applicant.

8. Applicant's counsel initially argued that no use or (d) variance was required for the expansion of a preexisting nonconforming use, alleging that the expansion of the structure did not constitute an expansion of the use. The BOARD rejects this argument. The BOARD finds that the substantial expansion of the dwelling does result in an expansion of the nonconforming use as well as the nonconforming structure. The expansion encourages, rather than discourages, the continuation of the nonconforming use. The expansion makes it possible for more individuals to occupy the dwelling in the future. The enlargement of the dwelling increases the intensity of the use. The home, at times in the past, has been utilized as a multi-family dwelling in violation of even the preexisting, nonconforming status granted to the dwelling. While the Applicant indicates that the Applicant alone will reside in the expanded portions of the home, any sale of the home, or any decision by the Applicant to rent out both units in the home as had been the case in the past would again allow an increase in the intensity of the use. The two-family use is not a use permitted in the district. The BOARD also notes that the expansion is substantial. The current building coverage for the existing home is approximately 13%. The proposed enlargement of the structure would increase the coverage to more than 23%.
9. The BOARD is also cognizant of provisions of the Park Ridge Zoning Ordinance that permits the Applicant to expand the existing nonconforming use if only the owner occupied portion is to be expanded, provided that no additional variances are necessitated by the expansion. The proposed expansion not only requires six additional variances. It requires substantial variances, including a significant floor area ratio variance. The Applicant is seeking to enlarge the use by permitting a significant violation of the floor area ratio provisions of the Zoning Ordinance, again supporting the conclusion that the proposal will increase the intensity of the nonconforming use. The BOARD is further cognizant of the provisions of Section 101-26 of the Zoning Ordinance providing that no existing structure devoted to a nonconforming use shall be enlarged, extended, reconstructed or structurally altered except when changed to a conforming use. Even if one were to argue that a variance from the provisions of Section 101-26 required a (c) variance rather than a (d) variance, there can be no question that the proposal violates the provisions of this section. The BOARD finds that the Applicant has presented no evidence to justify a variance from this provision regardless of whether a (d) or (c) analysis were to be applied.
10. The Applicant has also asked the BOARD to grant a use variance if it deems a use variance to be required. The BOARD finds and concludes that the Applicant has provided no evidence that would justify the grant of the required (d) variance, either for the expansion of the use or the issuance of a floor area ratio variance. No testimony was provided other than the architect's statement that the visual appearance of the home from the street would not significantly change. The BOARD finds that this testimony does not come close to supporting the grant of the two (d) variances. If a floor area ratio would be justified by simple statements that someone viewing the dwelling from the street would no notice a substantial violation, virtually every homeowner could devise a proposal to secure an FAR variance. Moreover, the dwelling can be viewed by all surrounding property owners, not only individuals viewing the home from the street.
11. The BOARD also finds that the Applicant has not provided sufficient evidence to justify the grant of any of the required (c) variances with the exception of the requested building height variance. The BOARD finds that the Applicant does not require a height variance in connection. The

nonconforming height existing on the site is a preexisting condition. The proposed addition does not increase the existing violation, but decreases the nature and extent of the violation. The BOARD further finds that it would be possible for the Applicant to reduce the size and scope of the proposed addition so as to not require any bulk variances and not require an FAR variance. If the Applicant were to reduce the scope of the proposed improvement so as to not require any bulk variances or any FAR variance, and improve only the owner occupied portion of the dwelling, the addition could be constructed without BOARD review or approval.

12. The BOARD further finds and concludes that a decision to grant the requested variances would result in substantial detriment to the public good and would result in a substantial impairment of the zone plan and Zoning Ordinance. The Zoning Ordinance prohibits two-family uses. The expansion of the two-family use, and the expansion of the structure encourages the continuation and expansion of nonconforming two-family uses. The specific requested variances also cannot be justified either on the basis of hardship or on the basis of flexible (c) arguments. No testimony was presented as to any unique or special condition on the property creating a hardship. The Applicant could certainly propose an expansion that would not require six variances, including and FAR variance. The proposed expansion will not result in an improvement that will achieve goals and objectives of the Municipal Land Use Law. Rather, it will expand a use that is not permitted by the Zoning Ordinance.
13. The BOARD thus finds that there will be a negative impact flowing from a grant of the requested variances. A decision to grant the requested variances will result in a substantial detriment to the public good, and will impair the intent and purpose of the Zone Plan or Zoning Ordinance of the Borough of Park Ridge.

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 deny the Applicant's requested (d) and (c) variances.

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

**ROLL CALL:**

**Ayes:** Mr. Galdi, Mr. Raman, Mr. Walker, Mr. Hoskins, Mr. Flaherty

**Abstain:** None

<b>CASE:</b> 11-09	Application of <b>Todd Walder</b> , 65 Fremont Avenue for rear yard variance
Block: 1312	to construct a deck to an existing house in an R-15 residential zone.
Lot: 1	Determination forthcoming this evening.

FLAHERTY: We have a resolution to approve this application.

**WHEREAS, TODD WALDER** (hereinafter referred to as "Applicant"), being the owners of premises known as 65 Fremont Avenue, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also known as Lot 1 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 rear yard setback variance from the terms and provisions of the Zoning Ordinance of the Borough of Park Ridge to permit the construction of a deck attached to the single family dwelling on the premises; and

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

WHEREAS, Applicant has submitted a survey describing the proposed improvements to the premises prepared by Gary F. Hauenstein, Licensed Surveyor of the State of New Jersey, dated April 21, 2011; and

WHEREAS, a hearing was held before the ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF PARK RIDGE duly convened on May 17, 2011, upon the 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 variance;

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 premises known as 65 Fremont Avenue in the Borough of Park Ridge. The lot is a corner lot having dimensions of approximately 95 feet by 100 feet. The lot is thus an undersized lot, failing to comply with the lot area requirements of the R-15 Zoning District.
2. The Applicant's home fronts on Fremont Avenue and is located 31 feet from the rear property line at its closest point. The Applicant's home thus currently fails to comply with the rear yard setback requirement applicable to the zone. The property is also improved with a detached garage facing Wortendyke Avenue.
3. Applicant seeks to remove a concrete stoop with a connected planter and replace same with a wood deck. The deck will be constructed so that same is 17.0 feet from the rear lot line at its closest point. The proposed deck thus fails to comply with the 20 foot setback requirement for attached decks. Applicant testified that the existing stoop and planter are in disrepair and need of replacement. Applicant further testified that the proposed deck would be an aesthetically pleasing replacement that would benefit the family.
4. Applicant stated that it was necessary to construct the deck in the manner proposed in order to provide a usable, functioning outdoor area. He noted that if the deck was constructed in a complying manner, the size of the deck would be but 11 feet, a dimension rendering the deck virtually unusable. The Applicant also stated that it was impossible to relocate the deck the west because of the location of windows and other existing obstructions preventing any other deck location.
5. The Applicant further noted that the minimal requested encroachment will have no negative impact on the neighborhood or the zone. The property immediately to the south of the subject property, (the area most impacted by the new deck) has been improved with a garage that is extremely close to the Applicant's lot line. The Applicant further noted that there is no other possible place that the deck could be constructed considering the location or the existing improvements on the property.
6. The BOARD noted that the deck is proposed to be build over an existing Bilco basement door. The Applicant indicated that he intended to provide removable deck sections that would provide access to the basement door and that there was an existing separate entrance to the basement. The Applicant further stated that he had discussed the proposed construction with the Borough Construction Code Official and had been advised that the proposed manner of construction complied with all applicable codes.
7. The BOARD finds that substantial reasons exist justifying the requested variance. The Applicant faces a unique hardship by virtue of the undersized nature of the lot, the fact that the lot is a corner lot and the location of the existing

improvements on the property. The extent of the proposed encroachment is minimal. The deck will replace an unsightly existing condition. The deck will result in an aesthetic improvement to the property. The BOARD finds that the requested variance may be granted pursuant to either traditional hardship standards or flexible (c) standards.

8. The BOARD further finds that there will be no negative impact flowing from a grant of the requested variance. As noted, the extent of the encroachment is minimal. The area in which the deck will be constructed is secluded, with the garage on the adjoining property being located very close to the Applicant's rear lot line. Views of the deck from the adjacent property are very restricted by virtue of this garage.
9. The BOARD finds that the grant of the proposed variance will have no negative impact whatsoever. The decision to grant the requested variance will no 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.
10. The BOARD specifically makes no finding, however, with respect to the Applicant's decision to construct the deck above the existing basement entrance door. The within approval is specifically subject to review by the Borough Construction Code Official and the Borough Fire Official to make certain that the proposed manner of construction complies with all applicable building and fire codes.

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 setback variance to permit the construction of the proposed deck subject to the following conditions:

- A. That Applicant construct the proposed improvements as set forth on the revised final plans submitted to the BOARD.
- B. The within approval is specifically subject to review of all construction plans by the Borough Construction Code Official and the Borough Fire Official to make certain that the proposed manner of construction complies with all applicable building and fire codes.
- C. All improvements shall 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.
- D. 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. Walker and seconded by Mr. Hoskins.

**ROLL CALL:**

**Ayes:** Mr. Walker, Mr. Galdi, Mr. Flaherty, Mr. Hoskins

**Abstain:** Mr. Raman

<b>CASE:</b> 11-10 Block 604 Lot: 44	Application of <u><i>Dean and Cynthia Albanis</i></u> , 176 Colony Avenue for expansion of pre-existing, non-conforming use to construct an outdoor dining facility in an R-20 residential zone. Determination forthcoming this evening.
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**WHEREAS, DEAN AND CYNTHIA ALBANIS**, trading as “Peppercorn’s Restaurant” (hereinafter referred to as “Applicant”), being the owner 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 of the Borough of Park Ridge, has applied to the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE seeking a use variance to permit the expansion of the existing nonconforming restaurant located on the premises to include a small, outdoor dining area; and

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

WHEREAS, Applicant has submitted various sketches and renderings including a Site Plan entitled, “Peppercorn’s Restaurant Outdoor Café”, prepared by Azzolina & Feury Engineering Associates, Licensed Engineers of the State of New Jersey, dated April 18, 2011; and

WHEREAS, Applicant has also provided architectural drawings and floor plans for the proposed outdoor dining area entitled “Peppercorn’s Restaurant” prepared by Perry Petrillo, Licensed Architect of the State of New Jersey, dated March 16, 2011; and

WHEREAS, the BOARD has also received professional reports from the Borough Planner, Brigitte Bogart, PP, dated May 13, 2011 and the Borough Engineer, Eve Mancuso, P.E., also dated May 13, 2011; and

WHEREAS, a hearing was held before the ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF PARK RIDGE duly convened on May 17, 2011, upon due notice as required by law; and

WHEREAS, the BOARD has carefully considered the application and all testimony and evidence presented to the BOARD, both in favor of the application and in opposition to the application.

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:

- A. Applicant is the owner of a parcel of land located at the northeast corner of Spring Valley Road and Colony Avenue, a lot on which the Applicant operates the Peppercorn’s Restaurant, a facility that operates both a restaurant and bar. The parcel is located in an R-20 Residential Zoning District as defined by the Zoning Ordinance of the Borough of Park Ridge. Restaurant uses are not permitted within the R-20 Residential Zoning District. The existing restaurant use is thus a preexisting nonconforming use.
- B. Applicant seeks a variance to permit the use of a small portion of the premises on the southeast side of the existing building as an outdoor dining facility. Specifically, the Applicant seeks to construct an outdoor patio dining area covered by a roof, surrounded by half walls thus creating an outdoor, open dining area. The proposed outdoor dining area will have 28 seats. The area will be adjacent to the existing bar area of the restaurant.
- C. Outdoor dining within the Borough of Park Ridge is governed by the provisions of three separate sections of the Zoning Ordinance, including:
  - (a) Section 101-20 Zoning Ordinance of the Borough;
  - (b) Section 87-50.1 of the Borough Code regulating licensing; and

(c) Section 75-20 of the Borough Code providing additional regulations.

Outdoor cafes are only permitted, as stated in Section 101-20, “where restaurants are a principal permitted use or identified as permitted conditional use.” Since the Peppercorn’s Restaurant is located in a residential zoning district where restaurants are not permitted uses, the Applicant requires a use variance to permit the expansion of the existing nonconforming use.

- D. Dean Albanis, owner of the restaurant, testified that the outdoor dining use was necessary to enable the restaurant to remain competitive with other restaurants. He indicated that while he was seeking 28 additional seats, he was not contemplating increasing the intensity of the use, but rather believed that the outdoor area would be complimentary to the much larger indoor area, providing an outdoor area used by patrons that would otherwise dine within the facility. He specifically confirmed that he would comply with all of the applicable regulations as outlined hereinbelow (with one exception being that the area of the outdoor dining area will represent 17.5% of the indoor seating area rather than 15% as limited by ordinance), and agreed to other specific limitations designed to insure that the outdoor dining area would not result in any offensive condition to residents in the are of the neighborhood in general. Specifically, Mr. Albanis confirmed that the outdoor dining area would be only to customers who were dining, and that the are would not be used as a spill over area for the bar patrons.
- E. Applicant also presented the testimony of a licensed engineer who confirmed that there would be no substantial site changes resulting from the outdoor dining proposal. He stated that no trees would be removed. He referenced a separate landscaping plan that would buffer the proposed low walls to be provided. The engineer testified that no additional site lighting would be proposed other than the ceiling lights discussed by the Applicant’s architect. He confirmed that there was more than adequate parking on the site even if the additional seating for the outdoor dining area was to be included. He further confirmed that the Applicant would comply with every restriction contained in any Borough Ordinance regulating outdoor dining in conforming zones.
- F. Perry Petrillo, the Applicant’s architect, also described the proposed outdoor dining area indicating that the area would be sixteen feet by twenty-four feet, and that the area would be designed to appear as if the space were open, outside dining space. He indicated that there would be a roof over the area, and that the tables would be surrounded by a three foot knee wall, buffered by low landscaping. He further testified that the roof structure would be an aesthetically pleasing improvement to the structure, and that there were several other benefits flowing from the proposal, including the relocation of now visible exhaust fans and an improved and relocated service entrance. Mr. Petrillo also testified that the only additional lighting would be downward directed lighting from the ceiling over the outdoor dining area and that no lighting would spill out from the outdoor dining area.
- G. BOARD members questioned Mr. Petrillo as to whether the outdoor dining area could ever be enclosed thereby providing additional indoor bar and dining areas. The Applicant indicated that it would accept a condition that the area could never be enclosed without further review and approval by the BOARD. BOARD members also asked whether there would be any music or other form of entertainment. The Applicant confirmed that there would be no music in the outdoor dining area, but that there might be a television that would only operate with no sound.
- H. The Applicant, and all witnesses, confirmed that the outdoor dining area would not be utilized except in compliance with the provisions of the Zoning and related Ordinances, specifically acknowledging that the area could not be occupied after 11:00 p.m.

- I. Some neighbors spoke at the hearing on the application expressing concerns with respect to noise that might be generated from the outdoor use. In response thereto, the BOARD and the Applicant agreed to several conditions that would operate to minimize any noise from the site. Initially, Applicant agreed to meet with the Borough Planner and the Applicant's professionals to determine additional landscaping that could be provided, potentially including landscaping in the Borough right-of-way, and that the Applicant would agree to install such landscaping as the Borough Planner deemed appropriate and as would be permitted by the Borough. In addition, Applicant agreed that in the event residents in the area voiced complaints with respect to noise emanating from the site during the first six months after the outdoor dining area begins operation, Applicant would return to the BOARD for a hearing to determine what additional measures would be appropriate to further reduce noise.
- J. The BOARD finds that there are special reasons justifying the requested variance. Initially, the BOARD finds that the site is extremely large and can accommodate the small added outdoor dining space. There is more than adequate parking. The site is four times larger than the required lot area in the zone. The proposed dining area will be seventy feet from any adjacent residential property. The Applicant is providing a substantial aesthetic benefit by constructing an improvement that will render the structure more attractive and will provide additional landscaping. The BOARD is cognizant of the Borough's recent adoption of an Ordinance encouraging outdoor dining facilities. While the Applicant is not located in a zone permitting outdoor dining, the location of the site, the size of the site, and the measures to be taken by the Applicant to ameliorate any negative impact, operate to render the site a suitable location for outdoor dining. The site is unique, and specifically suited to the requested outdoor dining use.
- K. The BOARD further finds that there will be no negative impact flowing from a grant of the requested variance. This finding is based, in large part, on the Applicant's agreement to comply with all requirements applicable to outdoor dining in other zoning districts. The Applicant must comply with all of the conditions outlined below.
- L. The BOARD finds that the grant of the proposed variances will have no negative impact whatsoever. The decision to grant the requested 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 hereby grants the Applicant's request for a use variance to provide an outdoor dining area subject to the following specific conditions:

- A. Applicant shall comply with all of the provisions and conditions of all applicable Borough Ordinances governing outdoor dining. These restrictions and conditions shall include but not be limited to the following:
  - 1. The dining area shall not exceed 17.5% of the restaurant dining area at the current time or at any time in the future. The BOARD hereby grants Applicant a variance to allow an outdoor dining area slightly greater than 15% of the existing seating area.
  - 2. There shall be at least 24 inches of clear and unobstructed passageway between the tables, chairs, barriers, street trees and other obstructions at all times.

3. The Applicant shall keep the outdoor area clean and litter free at all times. The outdoor area must be cleaned at the beginning of each business day and at the time the business closes.
  4. There shall be no amplified music nor live entertainment at any time in the outdoor dining area.
  5. The Applicant shall provide the additional landscaping and screening as required by the Borough Planner after consultation with the Applicant.
  6. There shall be no umbrellas, awnings, canopies, or heating units placed in the outdoor dining area at any time.
  7. Tables shall be of either wood or metal. No plastic chairs shall be permitted in the outdoor dining area.
  8. The Applicant shall comply with all indemnification provisions of the Borough Code and shall file the required statement with the Borough Construction Official as required by Section 101-20(13) of the code.
  9. The Applicant shall comply with all insurance provisions of the Borough Code and shall provide the Construction Code Official with any documents required pursuant to Section 101-20(14) of the code.
  10. The Applicant shall also file with the Construction Code Official all information required pursuant to Section 75-20 of the Borough Code, paying all required fees.
  11. The Applicant shall comply with the hours of operation provisions of Section 75-31 of the Borough Code, understanding that said requirements may be modified if the Applicant is required to return to the BOARD for reasons set forth hereinbelow.
- B. The Applicant shall agree to meet with the Borough Planner and the Applicant's professionals to determine additional landscaping should be provided, potentially including landscaping in the Borough right-of-way. If the Borough Planner determines that additional landscaping is appropriate, the Applicant shall install such landscaping as the Borough Planner deems appropriate and as is permitted by the Borough.
- C. In the event residents in the neighborhood voice complaints to the BOARD with respect to noise emanating from the site during the first six months after the outdoor dining area begins operation, Applicant shall return to the BOARD for a hearing to determine what additional measures would be appropriate to further reduce noise.
- D. Applicant shall secure all required building permits and other required permits from the Borough of Park Ridge or any other agency having jurisdiction over the site.
- E. Applicant shall secure the required additional licensing necessary for the expansion of the premises in which liquor will be consumed on the site from the Division of Alcoholic Beverage Control.
- F. Applicant shall insure that no patrons utilize the outdoor dining area who are not ordering and consuming food. The area specifically shall not be available to customers who are drinking alcoholic beverages and not

consuming food. The Applicant shall insure that only those patrons who are seated at tables in the outdoor dining area occupy the area at any time, specifically insuring that no bar patrons stand in the outdoor dining area.

- G. There shall be no smoking in the outdoor dining area, and the Applicant shall take all necessary measures to insure that there is no smoking in the outdoor dining area.
- H. There shall be no parties or other group events or gatherings in the outdoor dining area at any time.
- I. The Applicant shall bring all furniture, tables, chairs, and any other equipment used in the outdoor dining area into the restaurant or other storage area during months when the outdoor dining area is not open. The area shall not be used for the storage of equipment, furniture or supplies.
- J. The outdoor dining area shall only be open from April to October of the year. Alcohol shall only be served in conjunction with food consumption as required by the Borough Code.
- K. In the event either the Borough Planner or the Borough Engineer determines, after inspecting the outdoor dining area when completed, that there is an offensive spillage of lighting from the area, Applicant shall be required to take such measures as are recommended by either the Planner or Engineer to eliminate said spillage.

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

**ROLL CALL:**

**Ayes:** Mr. Galdi, Mr. Raman, Mr. Walker, Mr. Hoskins, Mr. Flaherty  
**Abstain:** None

**NEW BUSINESS:**

None

**CORRESPONDENCE:**

None

**APPROVAL OF MINUTES:**

The Chairman entertained a motion that March 15, 2001 minutes be approved as submitted. So moved by Mr. Hoskins and seconded by Mr. Raman.

**ROLL CALL:**

**Ayes:** Mr. Raman, Mr. Walker, Mr. Hoskins  
**Abstain:** Mr. Flaherty, Mr. Galdi

**VOUCHERS:**

<b>Brooker Engineering, PE</b>	
Lollipop Nursery School	\$160.00
Auto Body Express	80.00
Peppercorns	400.00
<b>Burgis Associates, PP</b>	
Peppercorns	217.50
<b>John E. Ten Hoeve, Jr. Esq.</b>	
Peppercorns	345.00

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. Raman and seconded by Mr. Hoskins.

**ROLL CALL:**

**Ayes:** Mr. Walker, Mr. Raman, Mr. Hoskins, Mr. Flaherty, Mr. Galdi

**Abstain:** None

**DISCUSSION OF APPLICATIONS:**

The Board discussed the application of Naren Ramineni. The Construction Code Official expressed concern regarding the pitch of the roof line. The Planner felt that another variance would be required for that. The Board agreed that the application could be granted along with the additional variance for the pitch of the roof. Attorney advised to draw a resolution of approval for the next month's meeting.

**ADJOURN:**

There being no further business to come before the Board, by motion of Mr. Walker and seconded by Mr. Hoskins, the meeting was adjourned at 8:30 pm.

Respectfully submitted,

Margot Hamlin,  
Transcriber