

****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, April 17, 2012, at 8:00 pm in the Council Chambers of the Municipal Building.

PLEDGE OF ALLEGIANCE TO THE FLAG:

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

Absent: Mr. Brennan

Also Present: William Rupp, Board Attorney
Eve Mancuso, Borough Engineer
Brigette Bogart, Professional Planner
Robert Ludwig, Zoning Officer
Lyn Beer, Secretary to the Zoning Board

COMPLIANCE STATEMENT:

The Notice for this meeting required by Section 3(d) of the Open Public Meetings Act has been provided by the adoption of a resolution by the Park Ridge Zoning Board of Adjustment of January 17, 2012, setting forth a schedule of regular meetings by mailing of said schedule to The Ridgewood News and The Record on January 18, 2012, and by the posting of said schedule on the Municipal Bulletin Board and the continuous maintenance thereof and by filing the said schedule in the office of the Borough Clerk.

NEW CASES:

<u>CASE:</u> 12-05 <u>Block:</u> 2005 <u>Lot:</u> 36	Application of <u>Christopher Wittrock</u> , 4 King Road for front yard setback to construct addition to existing house in an R-15 residential zone.
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FLAHERTY: Let me state for the record that Mr. Bill Walker is stepping down for this application. We have some evidence to be logged in here. We will give Mr. Capilli a second to get it together.

CAPILLI: I have some evidence here.

- Item 1 is the application dated 3/24/2012.
- Item 2 is certification of service dated 3/29/2012.
- Item 3 is legal notification dated 3/30/2012.
- Item 4 is proof of payment of taxes dated 3/27/2012.
- Item 5 is the deed dated 7/15/2006.
- Item 6 is the survey dated 3/20/2012.
- Item 7 is elevations dated 2/07/2012.

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

FLAHERTY: Thank you Mr. Capilli. I see that you have Mr. Bruno with you. If you would like to take us through what you would like done, Chris?

WITTROCK: (At this point, Mr. Wittrock has not been sworn in.) Sure. There is a new addition to our family and we are looking to expand.....

BEER: Chris, excuse me, would you mind speaking into that microphone.

VON DER LIETH: The black one is the one that is working and if you would like, you can pull it out of the stand and speak into it. That is it, perfect.

WITTROCK: Basically with the addition of our family, we are looking for more space in our house. We live in Park Ridge and we have been in the house for approximately 10 years. We had a son back in 2006. We enjoy where we are living in the town in close proximity to East Brook School. We like the area where our kids are growing up.

We looked for bigger houses in the area, and there is really nothing on the market that suits our budget, so the natural consideration was to add on to our existing house. The things that we would like to do to our house is basically add a portico to the front of the house, because currently when you walk into our house, you can either go up or down. There is no closet space or anything. It is very small.

In addition to that, we are looking to add another bedroom. Currently, we only have 3 bedrooms and with the addition, we are looking for 4 bedrooms. We are also looking to expand our kitchen and also add a great room. Those are basically the additions that we are looking to do our house. Mr. Bruno can go into detail as far as what we really want to do.

VON DER LIETH: Okay, great, that would really help a lot. Thank you. Mr. Bruno.

BRUNO: Good evening, I have 2 things to present to the Board this evening in terms of handouts. I have a packet of 4 sets of photographs that are all equal.

VON DER LIETH: I am sorry, Mr. Bruno, it is my fault, we have to swear you in.

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

BRUNO: Yes, I do.

RUPP: Let us do another. Mr. Wittrock, you previously testified to this Board, so I am going to swear you in. Please raise your right hand. Do you swear or affirm that the testimony that you are about to give before this Board is the truth, the whole truth, and nothing but the truth, so help you God?

WITTROCK: I do.

RUPP: Okay, now you previously testified before you were sworn in. Are all the statements that you have previously made true to the best of your knowledge?

WITTROCK: Yes, they are.

VON DER LIETH: Okay, I apologize for that. Go ahead Mr. Bruno.

BRUNO: Would you like me to state my name and address for the record?

RUPP: Yes.

BRUNO: Joseph J. Bruno, 29 Pascack Road, Park Ridge, New Jersey. I have 2 handouts. One is 4 packets of photos that are all identical, of the subject property and the surrounding properties. The other item is I have a revised property survey, prepared by Christopher Lantelme, in which he revised the driveway to comply with the recently adopted driveway ordinance. I would like to hand that to Mr. Capilli, if I may.

VON DER LIETH: Please do.

CAPILLI: Item 8 is 8 photographs. Item 9 is the new property survey.

BRUNO: As Mr. Wittrock has said, they need to expand the house for the growing family and basically, the house is a typical 60's bi-level. It has 3 bedrooms and 2 bathrooms, kitchen, dining room, living room and a walkout basement.

The project is to reconfigure the ground floor and to expand the garage so that it could accommodate some to the utility spaces and also accommodate the cars a little bit better. That is the ground floor, or the walkout basement level.

At the main floor, the project is to add a master bedroom suite to the rear of the house with the kitchen, family room and the terrace. The project complies in all respects with the zoning ordinance with the exception of the front yard setback. The proposal is to create a foyer, which would be outside of the perimeter of the home, because at present, as Mr. Wittrock had stated, you open the front door and you enter directly on to the stair landing.

The stair landing is about 3 ft 2 or 4 in, front to back, so it is a very tight, very dangerous, way to enter the home and there is also no closet. So, what the proposal is to put a foyer so that when you walk in, you are not right on the stair landing, with your coat closet in the front and then there would be a covered portico to shield visitors from the weather, while waiting for the door to be answered.

Now, in the R-15 zone, the required front yard setback is 30 feet. At present, the existing house is set back 33.3 feet. We are proposing 25.5 feet to the front of the portico. As you can see on the survey map prepared by Lantelme Associates, in which he has plotted the proposed work, that the foyer itself, the enclosed foyer itself, is set back 30.8 feet from the lot line. So, that is in compliance with the ordinance. What is at issue here, with the ordinance, is the covered portico, which is at 25.5 feet.

Okay, so that is the nature of the variance that we are requesting. We have, we are showing an expansion of the driveway towards the east and that as I mentioned is 26 feet, which is in compliance with the recently adopted driveway ordinance.

Just to take you through the photographs, the first photograph in the set is labeled north elevation of the subject property. So, you see it is a fairly common and fairly simple raised ranch or bi-level style home. The second photo is the south elevation of the subject property, which shows the deck, which is, I guess, over the years been enclosed with lattice. It is not an interior living space, but all of that will be removed to accommodate the new construction.

The third photograph in the set is to show the embankment to the east of the driveway. So, when the driveway is expanded, in order to comply with the Borough of Park Ridge's site plan ordinance, Mr. and Mrs. Wittrock will have to engage an engineer to prepare a fully engineered site plan for grade and drainage, etc., and the expansion at that far back corner, the southeast corner, will be actually 6 feet beyond where it is now and more to the east, then it cuts in and meets the existing driveway. There will be a retaining wall there and the water will be redirected from its easterly flow, because right now it flows down the driveway and over the curb and down the embankment. That will be changed and it will flow strictly down the driveway, towards the street. So, the wall that will be placed there will catch any runoff so there will be no need to worry about that.

The fourth photograph in the set shows a property immediately to the west of the Wittrock property and it started out as a similarly styled home, and it looks like they have obviously updated it. In this particular project, they added the portico but did not add the foyer. It is very similar to what we want to add with the exception of the foyer. The last few photographs in the set show various homes across the street and towards the west, directly across the street and directly across the street and to the east.

The architecture of the home is consistent with that which exists in the neighborhood already.

FLAHERTY: Just go back to the third photograph the picture of the proposed driveway expansion. I am just trying to picture that today. I remember looking at the home. That is above the street level, so that when you are going to add, you are going to widen that driveway, and you said that water is going to come towards the road?

BRUNO: It will come down and there will be a grading plan if there are any basins that need to be added the Engineer will add that, but by eye, at least, it looks as though we can drain to the street. If not, we will collect it and bring it to a retention basin on site.

FLAHERTY: How will you expand the driveway, will there be like a wall that you have to build?

BRUNO: We have to create a retaining wall, otherwise, the slope will be much to steep going towards the east. You can see there is a lot of underbrush there. It is not any outward sign, even though we haven't had rain, from previous washouts, there is still the evidence. It looks like it is a pretty well planted embankment, but we still want to create, at least, a low retaining wall, so that we can make certain that we are not going to have any additional issues and we want to make certain that any water that is currently flowing eastward gets redirected and parallel to get to the street or to a retention basin, depending on exactly how the grading works out.

FLAHERTY: So the retention basin would be then towards the back yard?

BRUNO: The seepage pit would be best in the backyard, yes.

FLAHERTY: Thank you.

RUPP: I have just a couple of questions. Did you say that you are going to build a retaining wall by the driveway?

BRUNO: To the side of the driveway, yes.

RUPP: On the survey that you provided, is that on the, as I am looking at this in front of me, would that be on the left hand side of driveway?

BRUNO: It would be on the left hand side of the driveway. At present the very tip of the driveway is about 12.8 feet away from the property line, so we would be able to effectually construct the wall and still be a good distance away from the property line.

RUPP: So, the retaining wall would be—do we have a dimension for that?

BRUNO: In terms of height?

RUPP: Well in terms of height first of all.

BRUNO: In terms of height, based on what I see here you are probably looking at a height of 3 to 4 feet maximum.

RUPP: And the distance away from the property line, do you have that?

BRUNO: That would be on the formal Engineer plan, but that would be at least 8 feet away from the property line. We would still want to make certain that we had a property amount of green space between the wall and the lot line.

RUPP: The easterly property line, correct?

BRUNO: That is correct.

RUPP: Now you have also spoken about the retention basin. Did you submit any calculations?

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BRUNO: No, that will be done at the time that they applied for the permit, as has been the custom here. The engineer would have to design the seepage pit in accordance with the Municipal Site Plan Ordinance. Nothing gets built these days without a seepage pit.

LUDWIG: Is there any soil being moved?

BRUNO: There will be, but do to the nature of the foundations, most of the foundations are pier style foundations, so, and the only real foundation walls that we have is for the garage expansion and the foyer. If you are asking if we will hit that magic number of 300 yards, not even close.

LUDWIG: Thank you.

VON DER LIETH: Are there any questions from this side of the Board over here? Mr. Hoskins does anyone else over there have any questions for Mr. Wittrock or Mr. Bruno? Is there anyone here to speak to upon this case? Yes.

RUPP: Are you going to just ask questions, or are you going to testify as well? Please raise your right hand. Do you swear or affirm that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

WALKER: Yes.

RUPP: Please state your name and address.

WALKER: William Walker, I live at 17 Wield Court, Park Ridge, New Jersey. I am the house to the east. I want to distribute a couple of photographs that I took today, as well.

VON DER LIETH: Thank you Mr. Walker. I guess these would be what, number 10.

CAPILLI: These would be item 10.

BEER: No, that would be O-1.

WALKER: I didn't see the new dimensions of the proposed driveway. My entire problem is with the proposed driveway expansion. The way that it currently sits, it is probably about 20 feet from the property line. When I am standing on my property, the driveway at the end is about 12 feet above me. It is at street level but the property drops off as it comes towards me. So, that is fairly elevated.

My concern is by bringing the driveway closer, and obviously there is going to have to be, I don't know if they are going to get away with the 3 or 4 foot retaining wall, but I will be sitting in my backyard look at a large wall. That is my concern in a nutshell.

I have no problem with the physical expansion of the building and it is well away from, me with his expansion, and I was wondering if instead of expanding the garages at ground level, you could put pillars on ground level and expand the bedrooms on the second floor and not have to effect the driveway, which a number of trees, if you look at the photos that I presented. The first photo, is standing on my deck, what I look at as I look towards 4 Kind Road. The second photo is standing about at my property line, and that is what I currently look at. Most of those trees that you are looking at are going to have to come out to expand the driveway.

VON DER LIETH: The driveway would be where the lattice is to the left?

WALKER: No, the driveway would be about where those trees are, just about in the center of the photograph.

VON DER LIETH: Okay.

WALKER: Take a look at the last photo. The last photo shows the existing shrub that he has decided to remove, and those trees there are going to have to come out to expand the driveway. Currently they provide some screening from what would be the additional rear yard expansion. It looks like we are going to lose a tremendous amount of privacy back there and I will be looking at a wall that is pretty close to my property.

I wouldn't mind if that wall was going to be constructed at the actual dimensions, because 3 or 4 feet just doesn't seem like it is going to do it.

BRUNO: We are actually proposing the expansion at that back corner, which is at 6 feet, that is at the most and then it tapers down to the existing driveway. The retaining wall would be of an interlocking stone type. We would still be planting on the other side of it. We are not interested in

WALKER: There isn't much room for planting.

BRUNO: We could do an evergreen screen. We could even work it out with you. It is really a matter of not coming in and clearing the whole thing because, obviously, the driveway width at that back corner, is the most critical and then it tapers in as you can see on the plan.

WALKER: It looks smaller than what I originally looked at.

BRUNO: It is smaller than what you originally looked at. Because, when Mr. Lantelme, prepared this he was not aware of the recently adopted driveway ordinance. When it originally looked at it, he said he couldn't even come out another 8 feet for that additional parking space. But, I told him that wouldn't be a wise move to make because of the topography. We wanted to make up the backup space as short as possible. If there were a double loaded parking lot, maybe in the downtown shopping area, you would have a 24 foot backup space and a way to get around.

Here we are coming out 26 feet and when you back out there is some maneuvering that needs to be done so you can come out front-wards or you just back up the whole driveway. So we are not trying to—we are trying to keep our distance to the property line as much as possible and still get the car out of the garage.

WALKER: To me the best would be not to lose the screening and not to have a wall to look at.

BRUNO: The screening that we will be putting up would be evergreen and right now we are looking deciduous trees that have a canopy that is much higher than what...

WALKER: How are you planting on that slope?

BRUNO: That is not too steep to plant on. Things have been growing on it for years anyway. We will be planting evergreens along there, because obviously the Wittrock's wouldn't want to come down the driveway and just see the side of the wall as they are coming into the driveway.

BOGART: I was just going to make some suggestions. There are a couple of different options that they can look at. There could be a tiered retaining wall, where you put the landscaping on the first tier, so it is a little bit more elevated than what would be on a slope. Or, extending the retaining wall a little bit further, so the evergreens would be up near the driveway versus down by Mr. Walker's property. Then you could combine it with some deciduous and evergreen trees.

BRUNO: We can look at that, but one of the reasons that we didn't, I was resistant to the tiered wall, was that the tiered wall would actually require to come closer to the lot line. It was less obtrusive to the Walker's who are the neighbors, to have the planting at the present ground level in front of the wall, rather than on top of the wall. I

think that would not, or we could do a combination of both. The wall obviously, would not be right at the driveway.

WALKER: Up high, we are going to see it.

BRUNO: You would rather have the planting up high?

WALKER: No, I think the tiered thing makes some sense, because we are not going to see a road level and it wouldn't have to be very large.

BRUNO: No, that is fine, my only thought about doing the tiered one would be to try and stay as far away from the lot line as possible. But, if Mr. Walker would prefer that as an approach, there would be absolutely no objection to that.

RUPP: If you are going to testify, I have to swear you in. Do you swear or affirm that the testimony that you are about to give before this Board is the truth, the whole truth and nothing but the truth, so help you God?

J. WALKER: I do

RUPP: Please state your name and address.

J. WALKER: Joan Walker, 17 Wield Court, Park Ridge. I think that since we don't know too much about this wall, and the dimensions of it, I don't know if I want to make a decision on whether I want the other things at the top or the bottom or both. I don't want to be looking at this huge wall. You are suggesting to put it at the bottom, to cover the wall up. Perhaps, and I don't know.

W. WALKER: I have nothing further. That is my entire issue. They have been very good neighbors for 10 years, we didn't even know that they were there.

VON DER LIETH: Hopefully, we will be able to come to some sort of happy medium, Mr. Bruno, is that possible?

BRUNO: I am certain of that.

VON DER LIETH: I am sure we could, to make both parties very happy. If there are no other questions. Oh, there is another. Please come right up.

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

MARKLE: I do.

RUPP: Please state your name and address.

MARKLE: John Markle. I live at 3 King Road, across the street. I just have a couple of questions. One is for Joe. Does any other houses in the neighborhood have that variance for the front of the yard? Do you know?

BRUNO: I can't testify truthfully, that I know whether or not they have variances in the past. I can tell you that there are some houses with porticos and some without.

MARKLE: Right, but I think that this would probably, from what I know of the neighborhood, this would be the first house that would have that front yard variance. The second question is are you going to take down that Pine in the front of the house to accommodate the construction?

BRUNO: We have no decision about that. This is really not the area of any foundation work.

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MARKLE: Okay, those are my thoughts on the matter.

VON DER LIETH: Your concerns?

MARKLE: Yes.

VON DER LIETH: Is there anything else to add?

MARKLE: Nope, that is it.

VON DER LIETH: Did anything come up with concern about the tree coming down in the front, Mr. Bruno?

BRUNO: Not really, the tree doesn't effect or the tree won't be affected by the proposed addition.

VON DER LIETH: Right, it didn't seem like that. I was just curious if I missed something. That is all.

MARKLE: To me it was important.

VON DER LIETH: But your concern was that you don't want them to take it down, correct?

MARKLE: Yes. The other point was that I think this will be the first house in the neighborhood with this front yard variance.

VON DER LIETH: Is it the first house? I have to be honest, I didn't look at every house in the area, but is it, I am sure that there has to be another house with a portico. Are you talking about King Road?

MARKLE: No. There are houses with the portico, but not a foyer also. They are back 30 feet, there are no front yard variances that I can see.

VON DER LIETH: They one would be 25.5 feet, correct?

BRUNO: The 25.5 is to the columns, but it is open on 3 sides.

BOGART: I wanted to make a comment because there is a section in our ordinance, Section 101-16B, which talks about architectural projections that are permitted in setbacks. It specifically suggests that stairs in the front yard can project a maximum of 4 feet into the front yard. This is slightly different because it is roofed, so it is not just stairs, however, I think the Board can consider that language in that whole section talks about adding architectural details and permitting that type.

VON DER LIETH: These are basically covered stairs, is what you are saying, correct?

BOGART: Correct.

BRUNO: This is a platform because we are basically adding it at grade. It is in a sense a stair.

VON DER LIETH: That is right, okay. Sir, I am sorry, was that it?

MARKLE: Yes.

VON DER LIETH: Okay, thank you very much for your comments. Is there anyone else in the audience that wishes to speak on behalf of this application?

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LUDWIG: We are trying to find the requirement, as we speak, for the setback and the retaining wall, and also the maximum height. I don't know if we looked that up, but that may come in to play here.

BOGART: Fences and walls may project into required yard subject to 101-21E, which I believe is.....

BEER: We did something on retaining wall, I believe, Brigitte.

BOGART: Yes, we did an extensive set of regulations on retaining walls, and allowed them to project if they were tiered and if they had landscaping. Bear with me a second. It is 101-21E.

BEER: They are looking for the height of a retaining wall.

BOGART: It says a maximum of 8 feet. Once it goes over 8 feet, it has to be tiered and has to have plantings. It is 6 feet for residential zoning.

VON DER LIETH: Mr. Bruno, what was it for this wall?

BRUNO: 4 feet. We can gain or reduce the height somewhat by having a tier slope down and away from the garage doors. Right now, it is 4 feet. Whenever I have a project that has a regaining wall, I try to keep it as low as possible. We also have a safety concern for the children. We don't want to start to build things and then have to put fences and everything, then it just gets.....

VON DER LIETH: From what I understand, the lower the retaining wall, the more plantings that we can have to, am I completes on a different track with the retaining wall?

BRUNO: No, you are on the right track.

VON DER LIETH: So you would want a lower retaining wall in order to get more greenery in there as a buffer. Do you know what I am saying, less wall more greenery as opposed to more wall less green?

BRUNO: The absolute lowest wall that we can do and have it physically work, and still put enough plantings so that the wall is not obvious, that I think is the best way to do it. As an architect, obviously, I care how well the building looks but also, it is the whole package. I don't want to have a beautiful house here, and then have someone come by and say what is that wall doing there? It is the whole design, not just the house itself.

CAPILLI: I didn't spend much time, when I went to the property, looking at that part of the driveway. I looked at the front, where we were talking about the variance. Maybe, as a Board, we need to look at this section in question.

RAMAN: It is not part of the variance.

CAPILLI: That is true, it is not part of the variance. I don't know why we are talking about it then. But it is relative to the Site Plan Ordinance.

VON DER LIETH: Is there a problem with backing out of Mr. Wittrock's, backing out of the garage, in terms of what I am getting at is if there is a 4 foot wall there? Is that going to make it that much more difficult?

WITTROCK: I think that the addition to the house the turning ratio is affected.

RUPP: The concern being expressed is, if you don't gauge it correctly?

VON DER LIETH: Okay, so what I would like to do then is, I mean, obviously, we are going to talk about this later on, but we can come to some sort of amicable

meeting of the minds conditional in a resolution, plantings according to Brigette and the Engineer, if everything is by code, we can

BRUNO: We intend to do the right thing here.

RUPP: I really defer to the Engineer on the retaining wall. Should there be something on top of that, that looks like a curb or something, so the edge is...

MANCUSO: During the plot plan phase, when they apply for building permits, there will be fully engineered plot plan and a full engineering review and that would be one of the items that would be addressed, yes. At this point in the game, he is not obligated to show all of the full details. That is something that will be addressed because the curbing is going to direct the storm water to stay within the driveway and not go down the street.

The wall, the curbing, the storm water management, the grading, all of those items will be addressed.

VON DER LIETH: Okay. Thank you very much.

RUPP: One more comment. You are looking for a variance from the front yard setback.

BRUNO: Correct.

RUPP: Will you please site whatever criteria that you are relying on for a "C" variance?

BRUNO: I would be happy to. It really doesn't apply to the "C-1", which is a hardship. Under "C-2", which is better planning alternative, it does a number of things. It creates, other than the utility for the homeowner, and the safety for the homeowner, because you enter the home on a stair landing, is just plain silly.

More than that, for the neighborhood, it provides for tremendous amount of aesthetic benefit. These raised ranches and bi-levels, whatever you want to call them, pretty much straight right across the front, a couple of windows punched in, for light and effect and a door. What we are trying to create here is aside from the utility for the homeowner, to create or increase aesthetic benefit for the neighborhood and for the streetscape.

I think that the flow, while it provides for the utility also provides a little bit of aesthetic relief and benefit to the façade of the home, as well as the portico. It really doesn't apply under the "C-1", which is a hardship, but under the "C-2", as a planning alternative, it absolutely does.

RUPP: How about the negative criteria? Again, this goes to one of the comments made about other houses on the block. Is this the only house that has a front yard variance? How does that affect the neighborhood?

BRUNO: As I said, I don't know what the dispensation of any other additions that have been done on the block. Just because someone had it doesn't mean that they went for a variance and I obviously did not do that research. To satisfy the negative criteria the benefits definitely outweigh the detriments here because of the aesthetic benefit and just because it is not, other homes in the neighborhood have not done it, doesn't necessarily make it bad.

This is clearly a home that is going to be greatly improved from not only from a utilitarian standpoint, but from an aesthetic one as well. So, there is no negative. If this were a sheer wall, you know 25.5 feet away from the property line, I would have nothing to stand on. This portico is, let me just go back to my drawing here, this portico is 9 ft. 8 in. wide.

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The front yard setback encroachment is at these 2 columns at the front and a wedge of the roof. It is open on 3 sides. As I said, it is not a massive element on the front façade. It is not as if the whole wall of the home was at that 25.5 feet.

You can see from the elevations, the introduction of the natural stone and the siding and so on, we are interesting in greatly improving the home and not creating something that is monstrous. We are well within all of the other bulk zoning regulations.

BOGART: Mr. Chairman, just for the Board's information, all the Zoning regulations that talk about architectural encroachments into the front yard and side yard, were recently completed and there were extensive regulations on retaining walls, and how to tier them and it was all done to promote architectural details to the buildings. So, there may not be any variances in the neighborhood, but this is a recent regulation and I think it falls well within the walls of those regulations.

VON DER LIETH: Check, well noted. Okay. Nobody else has any questions. Okay, Mr. Bruno, Mr. Wittrock, thank you very much. You can contact Mrs. Beer in the morning. Congratulations, get back to that new baby safely.

For the record, Mr. Walker is returning to the dais, here, for the next case.
(8:32 pm)

I would like to get some business out of the way before we continue. **CASE: 12-03, Block: 714 Lot: 5** the application of Barbara Warren, was carried to this meeting for the submission of photographs showing subject property and surrounding properties.

BEER: I have not received photographs, but I don't know if Ms. Warren is back. I have not heard from anyone.

VON DER LIETH: Is there anyone here in regard to this case? No, let it be shown for the record, that no one appeared.

RUPP: Do we want to carry this then?

VON DER LIETH: Yes, I would like to carry this.

BEER: They evidently had a death in the family. That is why she was in Florida and her representative, who is the pool man, was supposed to come back. I wrote to him but I have not heard from him.

VON DER LIETH: Okay then lets definitely carry it over to next month.

RUPP: Okay, just for the record, so we can set the date.

BEER: May 15th.

RUPP: So, again, for the record, the Barbara Warren application, Case 12-03, will be carried to May 15th, 2012. Therefore, no further notice will be required or provided either by publication or by certification.

BEER: I will notify if there is no one here, we will deny without prejudice.

VON DER LIETH: Thank you. Okay, in that vein, lets go to the other case, which, hopefully, won't be much here. We wanted to see a revised map showing the reduced driveway and additional landscaping.

BEER: We received it. Mr. Walker has them.

PENDING CASE:

CASE: 12-02 Block: 1503 Lot: 4	Application of <u>Mario Izzo</u> , 17 Storms Avenue for building coverage, impervious coverage, front yard setback, and floor area ratio variances to construct addition to existing house in an R-15 residential zone. Hearing held March 20, 2012... applicant to revise map showing reduced driveway and additional landscaping. Carried to April 17, 2012.
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WALKER: I have some additional items to be marked into evidence in regard to this application.

Item 10 is Board secretary letter dated 3/20/2012.
Item 11 is applicant's architect letter dated 4/05/2012.
Item 12 is revised architectural plans dated 4/02/2012.

BEER: I don't believe that Mr. Izzo is here, but I think that Mr. Bruno is here representing him.

HOSKINS: Mr. Izzo is here in the back.

VON DER LIETH: Please come on up. Hello, Mr. Bruno.

BRUNO: Hello again.

RUPP: You were previously sworn in earlier, is that correct?

BRUNO: Yes. I believe that I remain sworn.

RUPP: Yes.

VON DER LIETH: Mr. Izzo has been sworn in also, I believe.

RUPP: Yes I believe he has. So they both have been sworn in.

VON DER LIETH: Okay. So, Mr. Bruno, just you don't have to go into too much, but we wanted to see a revised map showing the driveway and additional landscaping.

BRUNO: I apologize. I ran out and did not have a copy with me. We reduced the driveway width by about 4 feet in width and from the house, to the shed. I had previously sent a sketch to Ms. Mancuso, for her review and comment and she can speak for herself, of course, but the map that you see before you is reflective of that conversation.

MANCUSO: Yes, that is correct. There was additional landscaping added which gives the land a chance to percolate into the ground, which is our goal in a lot of these applications on fully developed sites.

VON DER LIETH: And that was "sticking" point that we had with this.

MANCUSO: Right to reduce the pavement of the driveway in the backyard.

VON DER LIETH: Because it was such a large amount of driveway? Right, okay. Could you do me a favor and just go over that one more time. You broke it up by what percentage? Do you remember?

MANCUSO: I don't have it in front of me. It was nominal. It was not that much opportunity to really introduce a modest landscaping because of the configuration of the driveway. We still had to leave enough room for the vehicles to back out of the garage and make like a "K" turn. There was a strip taken out. If I recall, it was about 2 or 3 foot wide maybe by about 15 feet long.

BRUNO: NO, it was about 4 by 25 or 30, something like that. We had to maintain a turnaround spot for a “K” turn, because the driveway is much too long and narrow to safely backup the whole way.

VON DER LIETH: Okay. Is there anyone on the Board that would like to make a comment regarding this, or maybe furnish information? No. Is there anyone in the audience that wishes to speak on this application as it is right now? No. Okay. That was rather quick, Mr. Bruno. I thank you very much. Mr. Izzo, thank you very much for coming in. You can call Mrs. Beer in the morning. Thank you for the revised information and for coming back.

NEW CASE:

VON DER LIETH: We are going to go with the other new case before the other big case.

CASE: 12-04 Block: 1808 Lot: 5	Application of <u>Ashok Idnani</u> , 49 Oak Avenue, for front yard setback and floor area ratio variances to construct addition to existing house in an R-20 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 3/26/2012.
- Item 2 is certification of service dated 4/05/2012.
- Item 3 is legal notification dated 3/30/2012.
- Item 4 is proof of payment of taxes dated 3/27/2012.
- Item 5 is the deed dated 7/22/1966.
- Item 6 is existing condition survey undated.
- Item 7 is elevations dated 3/12/2012.
- Item 8 is the Board secretary’s letter dated 4/12/2012.

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

VON DER LIETH: Thank you very much for that, Mr. Walker. Mr. Bruno please come forward. Mr. Idnani, we need to swear you in.

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

IDNANI: I do.

RUPP: Please state your name and address for the record and spell your last name.

IDNANI: Ashok Idnani, 49 Oak Avenue, Park Ridge, NJ.

RUPP: Mr. Bruno, I presume that you are going to testify as well? Let’s swear you in on this application. Do you swear or affirm that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

BRUNO: I do.

VON DER LIETH: Thank you. Please take us through what you would be proposing to do?

BRUNO: I have 4 sets of photographs to enter in.

WALKER: That will be Item 9 is 4 photographs undated.

VON DER LIETH: Mr. Bruno, please feel free to go ahead, as we are looking at these photos. Take us through what you would like or are proposing to do.

BRUNO: Yes, before I go in and describe the project I would just like to discuss the 2 variances that we are seeking this evening.

The project is located in the R-20 zone. So, we are seeking 2 variances. One for front yard setback. The existing home, to the garage, is setback 37.4 feet to the front wall of the garage. We are required to have 40 feet. So, the setback deficiency comes into play for the expansion to the south of the 2-car garage, to make it a 3-car garage. Also, there is a desire on the homeowner's part to construct a open porch. It will be covered with a roof, but open on 3 sides. The required front yard setback, of course, is 40 feet, and to the porch is 20.25 feet. The existing front wall of the house is at 29.6 feet, so it is 10.4 feet forward of the required setback line, which is the 40 feet in the R-20 zone.

The other variance that we are seeking is for floor area ratio. 22% is permitted, with a maximum area of 4,800 square feet. We are proposing, as designed we are at 18.08%, which is approximately 4% less than the permitted in terms of percentage, but at 5,278 square feet, we are over by about 478 square feet on the maximum square footage allowed, because in the R-20 zone, we are required to have a lot size of 20,000 square feet, and this is an oversized lot. It is 29,185 square feet. That is why we well within the FAR in terms of percentage, but we are over on the square footage. As you know, the ordinance has a 4,800 square foot maximum, no matter how large the property is, or no matter how much larger it is than the minimum required.

The house is at present a Cape Cod style house. It has a living room, dining room, kitchen, family room, bedroom and bathroom on the first floor and on the second floor it has 3 bedrooms, and 2 bathrooms. What the proposed expansion is to do, is to expand the garage 9 foot 6 inches to the south to turn it from a 2-car garage to a 3-car garage, to create an entrance foyer with closets for storage because at present, the house does not have any coat closets at the entrance, and to create a covered porch.

At the first floor level, in terms of living spaces, all of the spatial work is interior. Other than the garage, and the foyer and porch, there is no additional first floor expansion, with the exception of the new deck at the rear of the house.

At the second floor, we will add a bedroom, a laundry room, and enlarge the bathrooms. The second floor expansion is above the 1- story portion of the first floor. You will see from the photographs looking at the rear of the house, that the rear of the house is 1-story at the back of the house at the first floor. Then the second floor expansion is closest to the street. Then there is also an accessible attic above the garage, which is from the kitchen, which Mr. and Mrs. Idnani use as home office space.

Mrs. Idnani is a teacher and she brings work home and Mr. Idnani has a consulting business that he does computer work from, mostly household bills and things of that nature.

VON DER LIETH: I was just going over. It seems that the proposed, you know, the FAR, you are not over by a whole heck of a lot. It seems that the third garage, the 231, is basically what is getting you over that number.

BRUNO: It is getting us up there, you are right. We are within on the percentage, but over on the square footage.

VON DER LIETH: Technically speaking, right, but technically speaking it is an R-20 zone, and oversized lot in an R-20 zone, but the max permitted in an R-20 zone is the 4,800 square feet.

I guess what I am getting at, Mr. Bruno, I am all for garages, and look, it looks nice and you do a fantastic job. It is a very beautiful picture. Is there something that you could shave off to get within the required percentage? Even though it is an oversized lot, it is in an R-20 zone. Is there something that would be easy to knock off?

BRUNO: As far as the main living space is concerned, no, not really. The third garage is, you know they have a number of cars plus they have a number of children, so eventually there with me a fleet of cars out there. So, they wanted to be able to have as many as they could, inside, of course. I would say the biggest area in terms of FAR would be the attic above the garage.

As you can see from the outside, though, the only effect that we have, because the attic space above the garage is proposed to be finished. It is finished now, so the expansion would be finished. From the outside, the garage portion is a 1-story structure. It has a dormer in the front and it has a mirror image dormer in the back.

VON DER LIETH: So, basically it is a huge part of this design. You just can't take a garage off and have it look.....

BRUNO: Exactly. If this attic above the garage were unfinished it wouldn't count in the FAR.

VON DER LIETH: Yes I understand that.

BRUNO: So the thing that tips it is the fact that it is finished. It doesn't necessarily, it doesn't add to the bulk of the home, which I know is one of the goals of FAR regulations, which is sort of mitigate the massive structures, and if I were to say that we would get rid of the finished attic space above the garage, just as a hypothetical, we wouldn't even be talking about the FAR variance.

VON DER LIETH: Correct.

CAPILLI: But the expanse of the third car is also what makes you need the front yard setback, correct?

BRUNO: Right, we are extending the existing front wall of the garage southward, parallel with the existing wall.

CAPILLI: So, I guess what the Chairman is getting at is that if you didn't extend that garage, you wouldn't need that front yard setback.

BRUNO: Not for that portion, but we would still need it for the front porch and the foyer we would.

SIGILLITO: What is the square footage of the expansion of this garage? You are over about 400 square feet.

BRUNO: We are over by 478.

SIGILLITO: You said the expansion of the garage was about 200.

RUPP: For one floor.

SIGILLITO: Right for one floor. So it would be 240 twice for both floors. That makes you closer to the required.

WALKER: Mr. Bruno, what is this area behind the original 2-car garage? I can't quite figure what that is.

BRUNO: That is stairway that was added, a narrow stairway that was added to give direct access between the garage and the home. That was done some time in the 80's.

WALKER: My other question is, there is a laundry on the first floor and there is a laundry on the second floor. That seems odd for a 1-family to have laundry on 2 different floors.

BRUNO: Well, at this point that is what we designed. But it may be a library. They may change the use of it.

VON DER LIETH: It is an observation that I know that it is very nice not to go up a down the stairs if you don't have to. If you are doing laundry for... I am just saying that is an observation, we are not saying that because there is a laundry on 2 floors, that we are concerned about it being 2-family or 3-family. It is just something that.....

LUDWIG: I just need some clarification for the record. There are a few things that are unusual about the house in as much as that the second floor will have stairs directly to the second floor bedroom from the exterior. There is also I guess a bathroom that was added years ago in the basement. There was some correspondence that goes back, this goes back, if you can recall, to 1987, when it was asked whether or not you were going to create a separate living area by adding the additional bathroom, and you said that, no, that was not the case. You were not adding an apartment, however you were going to have, I guess, your mother, move in with you.

So, do you understand where I am coming from here. There are some indications here, that the house may have been prepared for a second family or second rental. We are just trying to clarify that is not the case.

IDNANI: I have lived in town for 30 years almost, and I own the property, and most of the time it has been occupied just by me, the majority of the time. Now, I am married with my wife and we have kids. We are planning to use that. The basement that you question about, the bathroom, it has not been functional for the last, ever since it was put in. It has never been used. I am paying taxes on it for something that is nonfunctional, and it has never been used. There is nobody else occupying it ever since I have lived there.

LUDWIG: And the stairs going directly to the second floor bedroom, is that just a feature of the house?

IDNANI: Yes, it is, so that we can easily get down from upstairs, or go from downstairs to the upstairs.

LUDWIG: The area that goes from the kitchen into the garage loft, the garage loft area is what? Is that used for living space?

IDNANI: What was that?

LUDWIG: From your kitchen it shows stairs that go into the loft above the garage, I just question if that was being used as living space?

IDNANI: What is the room above the garage that he is talking about?

BRUNO: The special area.

LUDWIG: What is the function of that room?

IDNANI: The function of that room is as Joe pointed out, it is to be used as an office for my wife. As a matter of fact, the floor area ratio comes into play here, even though it looks like it is a loft space above the garage, because of the nature of the slope of the roof, almost ¾ of this is not usable because of the headroom. So, even though the area, the footage might be high, but the usable part is not.

LUDWIG: So, to sum up, you are testifying that it is not, the house does not currently have a separate living unit and it is not intended to going forward? Is that your statement?

IDNANI: Currently it doesn't have another living unit, and in the future definitely not at this point. We don't have any plans on doing that. As a matter of fact, we are reconfiguring the bedrooms and the bathrooms in both levels.

LUDWIG: I just point that out, because the Municipality does not permit any new 2-family dwellings and I don't know if that comes into your plans, in the future, but you should know that going forward.

IDNANI: It has not been used.

LUDWIG: Okay.

VON DER LIETH: Also, it would be a provision of for sure, if it was to be a resolution. Obviously, right, Mr. Ludwig, I mean that would be in there.

LUDWIG: I don't see anything as such in the file. I just wanted for the record, that where we stand now and what your intention is going forward for the record.

BRUNO: I would like to shed a little bit of light on the exterior stair coming from the second floor. When Mr. Idnani made the request of me, I questioned him on it, because I thought it was odd myself. One of the things is that he is, he said, Joe, I look at things a lot differently than you do. He was really thinking of, in terms of having another exterior means of egress from the second floor, in the event of fire.

I think your mother-in-law's bedroom is up there, right? So, I thought, you know, you can, you know, why have it? When he explained that I said okay. Getting back to the laundry. I also thought that it was odd, but his answer to me was, that he likes the redundancy so that if one machine goes down, he still has that. Again, I thought it was odd, but sometimes I just can't question things.

But, the fact that we have it, that is all internal, the second laundry and that staircase don't contribute to the FAR. I understand Mr. Ludwig's questioning, because, yes, it does look suspicious. It is not the intent and it is not like he is going to plug a kitchen.

LUDWIG: Just one other point, you said that you were adding a bedroom, but it looks like you are adding 2 bedrooms, correct?

BRUNO: There are 2 that are to the rear in the second floor. That is above that one-story portion of the house that is in the back.

LUDWIG: I just questioned because you said that you were adding a bedroom but it looks like there are 2.

BRUNO: Oh, I am sorry, it is 2. We are shifting rooms but the total is going to change by 1 bedroom.

LUDWIG: I show one downstairs and 4 upstairs, so that will be 5.

WALKER: How many are there now?

BRUNO: Only 4.

RUPP: So there is one of the bedrooms downstairs being altered? Is that it? There is currently a room over the garage now, is there not?

BRUNO: Yes, there is.

RUPP: Are those dormers currently there?

BRUNO: The dormer is proposed. Right now, as you can see from the photograph, there is no dormer. There is a skylight there. They have the stand able area

is just in the middle, where the roof peak is. At the 2 sides, the roof comes down pretty low. As you can see, the eave height is just above the overhead doors, which is at the floor line.

RUPP: Is it finished now?

BRUNO: It is finished now with drywall, yes.

RUPP: And it has a stairway, an existing stairway from there?

BRUNO: The existing is, I think, a 6 riser stair. It is not a full story up. It is a half story between the first floor living space and that finished attic.

RUPP: By adding that third car, right, you are adding, it looks like 446 square feet in terms of floor area?

BRUNO: On both levels, right. The one level doesn't do it, but as I testified earlier, if the attic space above the garage were not to be counted, if it was unfinished, it wouldn't count as floor area, as far as the FAR calculations are concerned. I understand where you are going with this, Mr. Rupp, I am just giving a different perspective.

RUPP: Right, but I just want to make sure. It currently is finished.

BRUNO: It currently is finished, right.

RUPP: What you want to do is put a dormer to make it more usable.

BRUNO: In the center, yes.

RUPP: But, add what essentially is another car garage and then living area on the top of that as well?

BRUNO: Expand that space.

VON DER LIETH: Before I wrap things up, Gil, you had a couple of quick questions.

SANDLER: I had a couple of quick questions, yes. Some of them may be obvious, but I don't see everything on plan. Is there, either currently, or provisions in your addition, for a second kitchen, or kitchen appliances?

BRUNO: No.

SANDLER: Is there any area that could be or is intended to be used for a kitchen?

BRUNO: No.

SANDLER: How many baths are currently there?

BRUNO: Let me refer to the plan. There are 4, because I got to go to the plan to count.

SANDLER: So, 4 and are you adding a bath?

BRUNO: No.

SANDLER: So we are talking 4 to 4 ½? In the expanded space and the walk above the garage, is that space currently adequate for 1 person, 2 people, 3 people, and is it your intention to have other people working from that space?

IDNANI: No, I don't have any intention of that.

SANDLER: So your wife wouldn't be expanding her business to operate from that space?

IDNANI: She is a teacher.

SANDLER: Oh, okay. I thought she had a separate business.

BRUNO: Oh, no, no, no, she is a teacher. That wall space above the garage is open to the rest of the house. There are no doors separating it or anything. There is no direct access.

VON DER LIETH: Okay, Gil, thank you. Go ahead, Mr. Ludwig, please.

LUDWIG: We are still not clear on the driveway now. You are adding a bay, to the garage, and I am not sure how that impacts the driveway width. Is the driveway width getting wider? I am looking at the survey.....

BRUNO: The driveway width is getting wider coming, to where it flairs out 29 feet and then meets the existing curb cut. The existing curb cut will stay. So, we are coming about 25 feet out and then cutting back to the existing width of the driveway, if that answers your question.

LUDWIG: Do we have a picture of the proposed driveway layout.

BRUNO: Yes, it is on the plot plan, sheet number 2 of 4.

LUDWIG: And the curb cut is currently 24 feet, I believe?

BRUNO: 20. It is 20 that I took from the survey unless you are seeing something different.

LUDWIG: Well, I tried to measure the survey and it looked like it was bigger than that. If you are saying that it is 20.

BRUNO: That is what I had taken from the survey.

LUDWIG: Okay.

BRUNO: It certainly would not be widened there. The driveway would only be widened at the garage itself enough to back the car up and then swing into the and that was actually a source of lively discussion between Mr. Idnani and I, because I had to explain that we just couldn't come straight out.

VON DER LIETH: Okay, let's put it this way, aside from the driveway, the whole reason for the Zoning Board, I mean we do have a lot of oversized lots in different R-20 and R-10, what have you, and there just seems to be so many different places on this plan that you could shave off space, where we wouldn't have to have a Floor Area Ratio variance for this. Is there anyway that you could, maybe get together and figure out how or what you could reconfigure so that you wouldn't have to come before us and ask for this? Because, in looking at the house, and I am not in a position to tell you how to do, this is your property, your house, the way that you want to do it, however, when it comes to a point where you are exceeding certain limits that are governed by the town, there comes a point where we have to kind of just really stick to it. Especially, when there is so little at stake here in terms of you taking it off to meet a requirement.

Do you understand where I am coming from Mr. Bruno? I am tending to lean towards that way. I don't know how the other Board members are feeling about it, but, if it were something that were so outlandish that we see that you couldn't chop this off or you couldn't reduce this or that, there would be more discussion about it, but there just appears to be so much that could be done. Again, I am not telling you how to do it, I am just telling you need to do.

BRUNO: We will consider this, but, however, I feel with 4,800 square feet, but we are kind of limited, I can't see any space in here that we can really cut off. You are right that if I don't put anything over the garage, yes, possibly.

VON DER LIETH: Yes, and I am sure that it is limiting, but in terms of how it fits in with the rest of the surrounding homes, even though the lot is oversized, there is just a bunch of different factors that

BRUNO: Dr. von der Lieth, because, obviously, the Board doesn't make the decision the same night as the hearing, so, why don't I suggest this, and tell Mr. Idnani, I mean I can't make the decision for him, of course, but I would say, why don't we get together, you and I get together and we will discuss it and we will consider what you said, and we will come back to the Board.

VON DER LIETH: Please, I think that would be, unless the other Board members disagree with me, I think that would be all be in agreement with that. That would be a great thing to do. I appreciate it.

BRUNO: I don't see any harm in that.

VON DER LIETH: Okay, let's do that. If you can, return back next meeting with some revised plans, hopefully, or I don't know, Mrs. Beer, I can't see your face.

BEER: May 15th.

VON DER LIETH: May 15th.

BRUNO: May 15th is the next meeting. By what date would you need any revised plans?

BEER: 10 days before, May 5th.

BRUNO: May 5th, got it. May 5th is a Saturday, so we will do it Friday then?

BEER: May 4th, Friday, then.

VON DER LIETH: If there is anyone here wishing to speak on this application, please let it be known now. Anybody? No. Okay, Mr. Bruno I appreciate your cooperation, Mr. Idnani, thank you. See you next month.

RUPP: Before they go, a couple of questions. The maximum dwelling width, you are showing that permitted is 65% of 120 and then you have 2 asterisks. What do those asterisks refer to?

BRUNO: That is the lot. In this case I believe that we have a rectangular lot so it, oh no it does apply because we don't have rectangular lot. It is taken at the building setback line, not at the street line.

LUDWIG: We are just trying to clarify where the width is measured, at the street or at the front line of the property.

BRUNO: From what I understand, the front line of the structure. When that ordinance was first adopted, several years ago, I had a project on a cul-de-sac.

BEER: It is percentage of lot width, so that would be at the setback. It is the percentage of the actual lot width.

RUPP: But where is that measured from?

BEER: Oh, I see what you are saying.

RUPP: In other words, the width of this property from the appearance from the curb, it is not 120 feet, it is 111 feet. Part of this is to add bulk to the width of this building. So, also, the actual setback of the building proposed so we have to know where one measures the percentage ratio width.

BOGART: The dwelling width at the front yard setback.

RUPP: The front yard setback is 20 feet, now?

BOGART: No, at the required setback.

RUPP: My point is that the actual front yard is only 20 feet. That is my point. We are not talking about 40 feet, because this building already encroaches.

BRUNO: My understanding was that it was at the required setback line, not at the actual.

BOGART: That is what I thought.

BRUNO: Not at the actual.

LUDWIG: 40 feet would be it at the rear property line.

BRUNO: No, it wouldn't be that far because the front wall of the garage is at 37.4 feet. It would only be 2.6 back from that and that would be the required line. That is where you would calculate the maximum permitted dwelling width.

LUDWIG: The garage yes, but the front wall of the house is at 29.6 currently.

BRUNO: Right, but the point that I just stated, if it was taken at the required front yard setback, which would be 40.

LUDWIG: So it is 10 foot further back then the front wall of the house?

BRUNO: From the house it would but from the garage it would be 2.6 because the garage is further back. However you take it, it is still the same one.

LUDWIG: You are measuring the width from the 40 foot point? The ordinance itself, says it is taken from the required front yard setback line, which is 40.

RUPP: That is what I am attempting to look at. Again, it is 60%, not 65% in the R-20, isn't it. I thought it was 65.

BEER: The R-20 is 60%.

BRUNO: It is 60, okay I will correct that. I think that even at the 40 feet, we are a bit wider, but I will double check that because if we make a turn.

RUPP: It could be another variance thing. Because even if 120 is correct, that is 72 feet and you are proposing 76 ½.

BRUNO: Let me take a look at that and I will clarify it for the next submission.

VON DER LIETH: Okay, so that is it. We will clarify that, again, next month, what we just went over.

BRUNO: And the good news is that you won't hear from me again this evening.

VON DER LIETH: Well thank you very much. You have been up here since the beginning, Mr. Bruno.

Before we start we get on with the next case, I would like to thank everybody again, for their patience. I know that you have been waiting the whole night. Let's get on with it.

CASE: 12-01 Block: 1911 Lot: 1	Application of <u>Kevin Guarderas</u> , 134 Morningside Avenue for Floor Area Ratio variance and soil moving in an R-10 residential zone, to demolish existing house and construct new one. Original hearing date January 17, 2012, carried to February 21, 2012 at applicant's request and again to March 20, 2012 at applicant's request for Planner's review. Hearing resumed and carried to April 17 th for revised maps.
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HERLINSKY: Good evening, welcome again. My name is Victor Herlinsky Jr., from the firm of Nowell, Amoroso, Klein and Bierman. I am here on the application for a single residence located at 135 Morningside Avenue in the Borough of Park Ridge. We were here last time, not that I am much of a psychic, but I got a pretty good feeling, and my client did, at that time, that the Board didn't like our application and wanted us to rework it.

We listened to the comments, not only of the Board, but we read through, obviously, the Planner's report last time. We have looked at the report this time. I would like to reverse the order this time. My client would like to testify first, then we have the Architect and I don't believe that we are going to need any engineering testimony, and the engineer wasn't available tonight. Then I do have some planned testimony that I hope will allay whatever concerns that the Board may have.

I just heard the last application before and I know where the Board is as far as there is certain static numbers that have been set down by the ordinance that you want us to abide by. I would ask you to keep an open mind while we are giving this application and understand I have a 200 foot lot as far as the length of it. The square footage of this property is 25,500 square feet, which is not your typical lot in an R-10 zone. The unfortunate thing is, you know, most times people a lot this size and subdivide. I don't think that is really in keeping with what the neighborhood desires or wants.

We have a house that we are hearing today. I have my client here and he is going to testify as to the reasons why he is putting this in and then we will go through the actual revisions at that time. I do want the Board to know we have changed, I wouldn't say radically, but we did a lot of revisions based upon what the Board has said as far as we have detached the garage, which was a suggestion that was made. We have cut the square footage by almost, over 700 square feet, as far as the actual house, and we have reconfigured it so that we don't need the circular driveway, which was something that you were against. We are not asking for a variance anymore and we have a single driveway, which no longer encroaches into the side yard setback, that we were requesting last time.

So, as part of the process and we are still here to listen, we are here to present tonight.

VON DER LIETH: Just one thing before you continue, Mr. Herlinsky. It would be very helpful to the Board, when Mr. Guarderas, is explaining what is going on, just to hit a few points as best he can as to why this would make the surrounding neighborhood better, the surrounding homes better and what, if any, negative things that we had brought up last time, have you addressed, in that kind of vain. Because, I know something like this is very emotional, can start to get going and going and going, but there are certain main points that need to be hit for us to make a reasonable decision. We will go over them after your presentation also.

I will try to hit on them. Mrs. Bogart did a very thorough report here that was very helpful to me, anyway, and I am sure to most everyone else here on what is going to be presented tonight. So, with that, please go ahead.

HERLINSKY: The other thing, too, I wanted the Board to keep in mind that I do have a Planner that is coming in, who is giving, understand, no zone is an island unto

itself. There is a number of properties in the immediate area, whether they not necessarily be in the zone, which have houses that are more in keeping with what this house is. It depends on which lot you go towards, whether it is the R-10 zone or the R-20 zone that this is immediately adjacent to.

The first thing that I would like to do is call, my client, Mr. Kevin Guarderas.

RUPP: I believe that you testified at the last hearing, is that correct?

GUARDERAS: I did, yes.

RUPP: You were sworn in?

GUARDERAS: I was.

RUPP: You are still under oath.

GUARDERAS: Thank you. I just want to start by saying thank you once again for hearing us, in continuation of last time. I am the applicant and I did ask my attorney to speak first, because I thought it was meaningful that the Board got to hear me and not just be referred to as the “applicant, the applicant, my client”. I know that things tend to get a little emotional because it is where we live. It is our dream home.

We are going to try to be a lot more objective. We are going to try to, as Victor had said, we did take to heart a lot of the feedback that we had gotten in the report from Bogart. I know in conversations that I have had with various neighbors of mine, and I think we have done an excellent job of making this application significantly different from the last and significantly more in with what my neighbor’s would want. So, to that I just need a couple of moments to organize my thoughts.

I know that there were, I know that I testified the last time with regards to the house, that we would make the house 90 feet from the curb by the dwelling. Today, the front door of my home, we have put 100 feet to the curb, 80 feet back from the property line. That is significant. I know that there are such things as oversized lots, where the applicant before me had a 29,000 foot lot in an R-20 zone, so his is larger than his zone. Mine is significantly larger than my zone, as well. It is 2 ½ times larger than my zone.

I would as that you consider, and Bob, if you could help me, if you have that one Cheryl did. One of the things that we considered was, the size of our house, and while there are other houses that are plus 4,000 square feet, in Park Ridge, and we did an exhaustive study. For this application, what bares in this application, is the following; If we took my very rectangular lot for a second, and if it is 205 feet deep, so if we cut it in half, we essentially have 2 squares. The back lot is, if I were to draw a line across my rectangular property, I would end up with 2 lots.

What we are doing, basically, is we are developing the back lot. The front 100 feet of my property, the dwelling is not there. My dwelling is going to be all of my back property. The front lawn is going to be twice as big as my back yard. So, I think that goes a long way to hearing and responding to some people’s concerns about, you know this size might be, it might be a house congruent with the house directly behind me on Johns Court, but maybe the houses next to me, it might be somewhat larger. I think that we have shown that we understood where people are coming from and we are putting the house 100 feet back and that I think is significant.

We also, and I don’t know if it is shown here, I know my architect is going to show a drawing here, but the landscaping and the shading of the trees, I know that our planner will talk to you through the developing from zero, how many trees, how many shade trees, would be required in the front and I think we are going to meet that and that would not be a problem. Thank you Bob.

A couple of things that we have done, is we used to have a circular driveway. Now we have one. So we are reducing the amount of pavers, the amount of coverage on

the lot itself. I am moving my driveway, I have an easement to the property on my west. My property was originally, and my neighbor's property were originally owned by the owner of this house. In the mid 80's, she subdivided when she was a widow and she sold it and it got developed. She maintained 2 easements or a planting easement. We exchanged this easement so that my driveway, which encroached on his property was allowed to be there, and I was allowed to keep it there if I built in the future, I had that easement in perpetuity. I am opening my hand of that easement and we are going to move the driveway 20 feet over, so we no longer need a variance for being closer than 5 feet to the side.

We dug, also there was a concern by one of my neighbors and he is not here tonight, so hopefully that means that his concerns have been addressed, regarding, he is east of me and somewhat down hill. His concern was that with the rain and the size of my house, would cause a problem with drainage, runoff, I am not exactly sure what the terms are, so we proactively responded to that. I know that there was a question of whether, or his question was whether I was damaging the aquifer or not. I think we proactively got on the front of that and we dug 4 test.

In fact, just last weekend, the landscapers were finished fixing my lawn because I had 4 deep holes in my lawn. So, we have done that, and we reconfigured the headers and let the leaders from my drainage to go forward and we are putting seepage pits in the front.

We have reduced the dwelling by 700 feet. We reduced the garage by 200 feet. I would love for the garage to be attached, but I understand it can't be attached. We have detached the garage. So, today, we are asking for, as I understand it, 2 related variances. One is, we are still under the floor area ratio, but we are over the limit of 4,800. The second variance is, we had studied the idea of putting the garage in the back of the house. So we did a significant amount of study in the front. If we were to put the garage in the back of the house, in keeping the 20 foot setback, I am left with a very small back yard. It is just not a very well designed or use of the space.

By punching the house as far back as possible, and still putting a garage in the back, I end of with a 180 foot driveway, and a tiny back yard. So, what we decided to do, I think, makes a lot more sense for the way we live today. I don't drive a horse and buggy, and I don't but my horse in a stable. I drive up to the front of my house, or drive into my garage. The kids jump out and my wife unpacks the car and we go in through the mud room, to the kitchen. That is what we would like to do. So, that is why we ended up with the garage in the front again. I know having the garage in the front is a variance, but, again, if we consider that the front of my property is 100 square feet and putting the garage in the front made a lot more sense.

I don't know if it is a better planning alternative, and I know that is a tenable term, but for me if I am designing a home from scratch, my dream home, it is certainly a better living alternative, because this is the way that we live now a days. We are very tied to the way that we live with our cars. That is what I thought of.

With regard to the size of the house, you know, I know, and this is not getting emotional, but in the future, I would love for my parents to live with me when they get older. My wife's parents, her parents, to care for her parents. That is just the way that we do it in our families. I could be before you today, I understand asking to permit 2 lots on this site, a flag lot, I was educated, I was told it is a flag lot. I would still have two 12,500 foot lots. I would have two R-10 lots, wouldn't that be a more intense use of the property? I don't anyone here would want that. Certainly that is not the way that I want to live, anyway.

I don't want my parents in a different house. I don't want family in a different house. I would like to have a big, comfortable house, planning for the future, and as much as possible accommodate the requirements of the town, the wishes of the Board and to live harmoniously with my neighbors as well. I think we have tried to do that. I hope you do to, as well. I know that we are going have some very talented people speak today about how this makes the neighborhood better. I don't know if I am qualified to do

that. I know that there are neighbors here who would be willing to testify that are looking forward to a new home to drive the value of their homes up, and to have a modern new house. My home was built in 1932. It is the oldest house on my block. It was the first one and many of the people who are here today, live on plots that were subdivided off of my original home. So, in terms of a renewal of a neighborhood, it tends to happen. No one knows what the exact cycle is. This might be the first house. It might start something else. It may not. But, it is not unheard of a house being 80 years old that no longer fits.

It is a 1,400 square foot house. I love it. I have been there for 10 years. We have done a lot of things to it. It no longer fits with what we need. So, I will leave it at that. I just want to say thanks again.

VON DER LIETH: Thank you, Mr. Guarderas. Yes..

HERLINSKY: Mr. Guarderas, are you amenable to changes to your landscaping design as to what the Board is willing to see happen with the front lot?

GUARDERAS: The initial answer is yes. Right now, these are just, I think conceptual sketches that my architect has put together. I think that we can have almost endless number of configurations for a beautiful landscaping. So, that is a yes.

HERLINSKY: The other thing is, you have asked for a variance to allow you to have a 3-car garage. Why is that?

GUARDERAS: The short answer is I currently have 3 cars. I have a family that we want to grow large. There is going to be more cars. Again, it goes to how we live nowadays. We are all very car laden. You know, I don't know how much this bares on this process, but we have 2 twin daughters. They are a handful at 3 years old. They are great. They are Sophie and Olivia, that can go into the record. We are crazy about them as soon as we had family. We have visitors who come and visit and we would like them to have a place to park their car, rather than leave it outside. Currently we don't have a, I don't know if the Board members realize this, I have no garage. So for me to go from zero, and as long as I am building a garage, a garage for me is a very big thing. So, for 10 years I haven't had a garage and I have had three cars out in the snow.

I think you guys remember 2 years ago, that was a crazy winter. So, for one I would like to have all my cars in there now, but number 2, is if we have visiting, it makes it a lot more convenient. So, as long as I am building from scratch, I would like to have a 3-car garage.

VON DER LIETH: So, just for the record, just having a garage, doesn't mean that you would be able to get your cars in it once the family—I am just letting you know that.

GUARDERAS: That is true, but if you don't have a garage then you can't get in it either.

VON DER LIETH: As you are saying that, just wanted kind of go along with what you are saying. In terms of how you showed us how you moved the house back, that is basically one of your reasons how it is going to better the surrounding community. I mean it is going to, besides making the house bigger, better, better looking, it is going to improve the values of the surrounding homes. It is going, that is where you are going with this, correct?

GUARDERAS: It certainly one of them, absolutely. I had the opportunity, and again, I am not an attorney, so I will probably use terms incorrectly, but I have had the opportunity to speak to everyone of my neighbors that live within 200 feet of my house, that I knew that were not in opposition. We knew that there were some homes in opposition from the beginning.

So, every other one I have had to opportunity to speak with . I know that I can't enter it into testimony here, or evidence here, because of confident testimony, is that the legal term, but I know that I have spoken to them, so it is "here say", rather. But, I have spoken to each one of them and they are all in favor of it. I think there are 11 homes that I spoke with and I do have a signature of 11 out of 11 saying please go forward and please grant that. So, again, it is my testimony that I am saying it so I am not perjuring myself.

VON DER LIETH: I am sure that we will here from both sides tonight. Before we get to that, if Mr. Herlinsky, has no more questions for his client, I am sure there are some questions from the Board before we go on.

HERLINSKY: I don't have any further questions.

VON DER LIETH: Yes, Mr. Ludwig.

LUDWIG: We are just trying to back into the numbers for your FAR again. I guess part of it depends on what type of garage that you have here. Are you calling this a detached garage, or an attached garage?

GUARDERAS: As I understand it, it is a detached garage. Yes sir.

LUDWIG: So, that means that you didn't include it in your calculations for your floor area?

GUARDERAS: That is correct. Our reading of the, and this might be better answered by my architect, but correct me if I am wrong on the term, just jump in Bob. Our reading was that if it is detached by more than 10 feet, I think we detached it by 12 feet, and it is connected by a breezeway, but it has a different foundation. It is just a different building and I think that they call it an accessory building. But, we did cover it so that we don't get wet moving it from one point to the other. Those are mosquito nettings or I forget what kind of wall that you put up, those are not 2 x 4 walls. It is on a slab. It is not part of the foundation structure. So, yes it is a detached garage.

HERLINSKY: I would just remark that we had our planner and our architect look at the ordinance and the ordinance doesn't really give a guidance as to what could occur between the accessory building and the main dwelling. So, the adding of a breezeway is something that the architect thought was in keeping with ordinance. Obviously, we are here for guidance. We do have Ms. Bogart here to give us guidance on to that. That is our interpretation. Obviously, the Board will be able to determine what they believe the variance interpretation is.

LUDWIG: We will have to make a decision on it. Really we are trying to look at the detail of the definition, because it does show a roof connecting the garage to the dwelling.

VON DER LIETH: Which is the breezeway roof.

LUDWIG: Right. So, the question is, does that make it a detached garage or not?

HERLINSKY: Let me just say this. We are not trying to, obviously, we would never, especially when you have Mr. Rupp by your side, get anything past the Board. We believe that, we thought that you would be able to put a covering. We are not asking for a variance. If it is a variance required, then we will eliminate that separate covering over the breezeway. We are trying to keep within the ordinance, again, we didn't get much guidance from the ordinance as far as what a breezeway would be. Again, if we are asking for an ordinance, we are not asking for an ordinance.

VON DER LIETH: We understand that. I am trying to find out what. I am trying to find out what.....

LUDWIG: I have to look at that a little bit more.

GUARDERAS: I hope that is the only point, because that would be a really easy thing to get rid of.

LUDWIG: That is kind of where I am coming from. If you call it detached, now we have to look at our ordinance as it relates to what is a detached garage.

GUARDERAS: So, we are certainly going for a variance for a detached garage in the front yard. We are aware of that. That is why I mentioned that that putting the garage in the back didn't seem like a very reasonable solution either.

VON DER LIETH: Besides increasing the impervious coverage.

GUARDERAS: Yes, I would have a 200 foot driveway to the back of my house, and I have a huge lot and I am going to end up with a tiny little back yard.

VON DER LIETH: Mr. Rupp, if you have any questions for Ms. Bogart please go ahead.

RUPP: Ms. Bogart, I read your review and I think you have indicated that you believe that this was an attached garage. Is that correct?

BOGART: That is correct.

RUPP: I would then require, I presume, the square footage of the garage to be added to the FAR, is that correct?

BOGART: That is correct.

RUPP: Now, if this was a detached garage, they would have to remove the breezeway roofing. Is that the issue? I don't understand.

BOGART: There are a couple of different issues. There is minimum setbacks between principal structure and accessory structure. The accessory structure can't be located in the front yard. From, purely, just looking at the zoning regulations, for compliance, their best bet is just to remove the breezeway and detach the garage from the house. The reason that it is considered an attached structure, in my mind, is the definition of structure in the ordinance is anything that is constructed and built. So, that breezeway is a structure and it is still connected to the principle structure.

RUPP: If it was a detached garage, is there a limitation in the number spaces in a detached garage?

BOGART: I am looking right now, because there used to be and just since this ordinance has been, oh here we go.....

RUPP: I thought I saw something, as well. I am trying to find it now.

BEER: It is under 101-21.

VON DER LIETH: Right, but regardless of whether it is detached, or attached, if it appears that the, I am just going by Brigitte's, what I had gone over, a 700 square foot garage is included in the calculations, it is still less than permitted maximum. Correct?

RUPP: One more time?

VON DER LIETH: That is why I am reading it again. Brigitte, am I getting that wrong? The previous plans had an attached garage of 905 square feet, correct?

GUARDERAS: Yes.

VON DER LIETH: Okay, the revised plan calls for 700 square foot garage, which is still attached to the structure, but by a breezeway. So, what we are doing, is, still calling it an attached garage. But, that 700 square foot is still included in your final, correct? Oh, no it is not.

HERLINSKY: No, it is not.

VON DER LIETH: It is not, oh okay, thank you.

BOGART: You would also need a side yard variance, because the ordinance states that any accessory structure that is greater than 325 square feet has to be set back 20 feet from the side property lines. You are at 18.8.

HERLINSKY: It is 18.8 and we need 20, I don't think that would be a problem.

RUPP: I found that garage provision. It is section 101-21C, there is a provision that for a new detached garage, you are not permitted to have more than 2 vehicles, or 450 square feet, as I read that. So, that would be another variance, if it was detached, I think that the Planner has also pointed out that some distance between principle structures and accessory structures have to be looked at. So, there are a number of issues, depending on whether on calls this attached or detached. But, as it is currently structured, the Planner has opined that because the structure is attached to the main residence, that it is, in fact, an attached garage. An attached garage then would have to be added to your floor area ratio, which as I read the plans, would take you over 6,000 square feet.

HERLINSKY: So, Mr. Rupp, if I could respond to that, are intent is to have a detached garage. So, again, we didn't know that a breezeway would consider it an attached garage. So, I think that getting rid of the breezeway is diminimous thing for us.

VON DER LIETH: Right, but that, in saying if you want a detached garage, you are going to end up with a much smaller garage than what you want with an attached.

HERLINSKY: We are hoping to then, we are here for a variance for a 3-car garage in the front. I don't know if that is one variance or two, but that is what we are asking for.

BOGART: It actually may be 3 or 4. That is what I was suggesting earlier. You may be better off from a zoning perspective, to attach the garage, and go for the one FAR variance, then detach it and go for 3 or 4 variances.

VON DER LIETH: That is what I was just saying. It might be easier to do that, just on the argument alone, that, again, we went back to the case prior, you are on an oversized lot for your zone. That is what we are looking at. Even though you are not over the percentage, you are over the limit. So, that being said, you have made a very good presentation for your criteria, positive criteria, what has been done to try to accommodate the Board's wishes.

Does anyone, right now, have any other questions? Okay.

HERLINSKY: The fact that we have moved it back 100 feet from the door to the property line, I take it that is a good thing?

VON DER LIETH: I do, also, but, of course it is a good thing.

HERLINSKY: I just wanted to make sure we were on the right track. It sounds like we still have a little more tweaking to do.

VON DER LIETH: It is a good thing, and believe me I am sure that we will hear how it is not a good thing from certain aspects of the crowd. So, we will take that into account, but before I do that, I wanted to make sure there were no other pertinent questions from the Board, before we hear some of the people that want to speak out.

I am not trying to rush you Mr. Ludwig.

LUDWIG: Also, remember, we discussed the total soil movement. We did, again, the additions and subtractions, and we made a total for the soil moving permit, which I did some quick calculations, and I got something like 1,406 cubic yards versus your total export of 406 cubic yards. Possibly our Engineer also.....

GUARDERAS: Mr. Ludwig, I am not the Engineer, obviously, Tom Donohue could not be here tonight, otherwise he would be. He is the gentleman who made the calculations. I do remember that you raised a similar issue last month, and he concluded with your estimates at the time.

LUDWIG: I am looking for them here and I don't find them in your most recent submission. We just need to know what the total is and.....

GUARDERAS: So I know what question to ask, how.....

LUDWIG: The total number of cubic yards of soil movement.

GUARDERAS: Okay, movement, not just what is leaving, not what is coming in or what is going out, just moved. We will be sure to have that information. Sorry about that.

HERLINSKY: So, you are saying movement as opposed to removal?

LUDWIG: Yes.

BEER: Total.

MANCUSO: Mr. Chairman, might I suggest, when the Board ultimately decides upon the plan, the calculations are going to have to be amended to reflect the actual plan, anyway. So, there will be another revisiting of those calculations.

VON DER LIETH: I understand, thank you.

GUARDERAS: Does the Board need to know that before they make a vote.

MANCUSO: Yes, when the plan is ultimately finalized, those calculations have to reflect the actual plan, that they will have before them.

GUARDERAS: Excuse me, are you saying the plan before it is permitted and we have permits to construct, or.....

MANCUSO: No, because it is a condition of the approval. It has to be approved by the Board.

GUARDERAS: Okay, I understand.

MANCUSO: It is just a minor amendment to the application, that was presented already.

VON DER LIETH: Thank you Eve.

RAMAN: I have one question, is this the most that you are willing to cut out of the building? Because, it is still considerably larger and that is just a question for the architect or yourself.

GUARDERAS: No, I feel best answering it. First of all, I think that it is considerably smaller than what we had. It is considerably larger than my neighbors. But, again, we are in that area where we are discussing everyone else's small lot and I have a bigger lot. I recognize it is a lot larger. What we tried to do then, to be proactive, is we did take off 700 square feet. It was 2 room in the house. It was 200 square feet in the

garage. We are putting it back further. I don't know, if you could imagine starting with a clean sheet of paper, and having a back yard half the size of your front yard, I think that we are, what I am saying is that we are trying to be sensitive to the people around us, we don't want, you know, it is a polarizing issue. The largest house in the block always has forceful detractors and forceful proponents of it. So, I understand that.

I think that the house represents a significant compromise from what we wanted. I hope that you do to.

RAMAN: I think that one of the things that was mentioned in the last meeting, was, even in an R-20 zone, you are above that.

GUARDERAS: I know that we have, what I would like to do, if possible, sir, is to have my architect speak and Mr. Lantelme speak, because they will give better testimony to that.

I do know that it is almost 26,000 square feet, and if I, again, applied 22%, which correct me if I am wrong, were 22% is the R-20 value, that is somewhere around 5,600 square feet and we are under that. I know that we are over the 4,800, but in terms of an FAR percentage. We are under in terms of.....

VON DER LIETH: That is something, I don't mean to interrupt, but that is something that we just can not get around. It is what it is. It is a big house. There are no 2 ways around it. It is all going to come down to the positives outweighing the negatives, or vice versa.

RAMAN: The thing is as one of the people having to vote, we would have to, I mean if these are flaunted because of specific dream house needs and things like that, I mean anyone could make these kind of arguments and that is why I said is there any way that you could further come down to where....I mean again, this is just, I mean you don't have to answer me yes or no, now, because we probably won't vote on this today because there are changes that are required, right Mr. Chairman?

This gives you one more opportunity to revisit this, if I may be bold enough to present that.

HERLINSKY: The issue that we are dealing with and why we are staying, we look at the 22% as being sacrosanct as far as, you know, it is the percentage of what the overall property is.

What we are actually coming to the Board and asking, say, look if we move this all the way back, you know, to the rear of the back lot, and if we keep this under the 22 percentage, can we get credit to build a house that is more in keeping with the lot size as opposed to some arbitrary figure. Now, understand, we are not asking, this is an R-10 zone, we are asking for much greater than 3,000 square feet. The fact of the matter is if you were to keep us in a 3,000 square feet, we probably wouldn't develop this property for a single residence.

We would probably be coming here and we would probably do a flag lot, or if there is a way to subdivide it and put two lots there, and we would still be over 10,000 square feet for both. My client wouldn't want to do that. He wouldn't want to have, you know, one house on one side for him and one house on the other side for, lets say his parents wanted in.

That is not what he would wish to do.

RAMAN: That is another supposition that I was asking the Engineer, if you had a flag lot, there is no way that you could build a house on it.

HERLINSKY: But there are other ways that we could configure this to come in. We may need variances for that, that is true. But, the fact of the matter is to force us to an R-10 standard, with an almost 26,000 square foot lot.

VON DER LIETH: It is a very unique situation and that is why we are having...

HERLINSKY: And that is why I have an architect, and I have a planner, that, again, I understand where you are coming from. If you could just bare with us for a little bit and let us go to where we think that, when you really come down to it, this is in the best interest of the neighborhood. It is something that is going to bring up the neighborhood.

VON DER LIETH: Okay, keep going then.

SANDLER: Mr. Herlinsky, I just, picking up on what Mr. Raman's comment, we had discussed this at the last meeting. Even if for various reasons, this Board were to look at this as if it were in an R-20 zone, you are not even close to the requirements of the R-20 zone when you add that attached garage and you need the attached garage for at least you do if you want to have a 3-car garage of 700 square feet.

So, if you are really at 6,000 square feet and you are in, even if you were in an R-20 zone, you are not that close. That was, I think, where we ended last time. We were asking if there was some other way that you could get the scale down so that, giving you the benefit of the doubt, we are looking at it as if it were an R-20 zone.

VON DER LIETH: Thank you. I am sorry Gil, I don't mean to cut you short, but I wanted the professionals here. We only have until 10:15 to have professionals give us their testimony. After that, we are going to listen to everybody in the audience, but I want to give you guys the maximum amount time, so please go ahead. If you have anything else to add.

HERLINSKY: Then, if I can, what I will do at this point, is, because I do think it would be proper to have at least 10 minutes of planning testimony go down. So, if I can call David Karlebach, our Planner.

VON DER LIETH: We are going to have you sworn in, in a second. Mr. Herlinsky, I am going to make it a point and for the people, at the next meeting, we are going to have you go first. We have had you go, just because there have been so many people in the audience to speak on this. I hate cutting you guys short like this, on such an important thing, so please go ahead.

HERLINSKY: You are talking to a lawyer that gets paid by the hour. I have been through enough Zoning Board meetings, as I am a Zoning Board Attorney, and when you have applications, especially one that just had a child, don't worry about that.

VON DER LIETH: I appreciate the patience of everyone here and I will make it a point to make you guys first next time, but please lets go on, so you can get as much time in as you can.

RUPP: 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?

KARLEBACH: I do.

RUPP: Please state your name for the record.

KARLEBACH: David Karlebach, the address is 38 East Ridgewood Avenue, Ridgewood, New Jersey.

HERLINSKY: Mr. Karlebach, would you please give you educational background.

KARLEBACH: I have a Masters Degree in City and Regional Planning from Rutgers University. I am a licensed Professional Planner in the state of New Jersey and I

have been for many years. I previously qualified and testified before Planning Boards and Boards of Adjustment throughout the state.

VON DER LIETH: Thank you Mr. Karlebach, that is more than enough.

HERLINSKY: Mr. Karlebach, would you briefly discuss the materials that you have reviewed in making your presentation today and your familiarity with the property in question.

KARLEBACH: Yes, in preparation for my testimony, I have reviewed all of the application materials, including the architectural drawings and the site plan. I have visited the site and the surrounding areas. I photographed some homes within the neighborhood and I have reviewed the master plan and zoning ordinance.

HERLINSKY: Could you just briefly describe the surrounding areas, actually, before you do that, just describe the existing conditions of the property.

KARLEBACH: Well, as you mention, it is a 25,586 square foot interior lot. It is not a corner lot and I believe the applicant, Mr. Guarderas, pointed out the last meeting, that is fairly unusual for a property in the R-10 zone, along Morningside Avenue. If you look at your area map, which is part of the package, I believe that it is on the first page, you can see that just about, I would say the vast majority of lots in the R-10 zone on Morningside, are corner lots, which makes them easily sub-dividable. Now, even though this lot is 2 ½ times the required lot area, it is not a great candidate for a sub-division.

What would have to occur, would either be one of 2 things. A flag lot, which would require variances, and create one dwelling essentially in the rear of the property and one in the front, or, alternatively a new public roadway, a short one, would have to be constructed. That likewise would probably require some sort of variance relief, but, I think you could probably accomplish a short road, lets say a 5,000 square foot road, and still yield two 10,000 square foot lots. It is not recommended. I mean, number one, you are going to have roadway that the Borough is going to have to maintain and it is extremely inefficient to have a major subdivision for two lots. It just doesn't occur very often.

That is why we feel that this is actually better planning and zoning alternative for the property. Even though it could probably yield two 10,000 square foot lots, this is better for the surrounding neighbors, having a single dwelling. I think unquestionably, you could have two single family homes on this piece of property. Each home would probably be in the neighborhood of 3,000 square feet. You have your 6,000 square feet of living area. In terms of density, if you want to judge density, not in terms of dwelling units per acre, because I don't think that is fair. A studio apartment is not the same as a 6-bedroom house, we know that. They are both one dwelling unit.

In this case, you have 5 bedrooms and a study, so lets say 6 bedrooms over a 25,500 square foot lot. If it were subdivided you would probably also have 6 bedrooms. So in terms of suburban density, they would be equal.

HERLINSKY: Can you describe the proposed project?

KARLEBACH: Well, the proposed project is, again, it is a permitted use, single family use on a very large lot. It is set back a significant distance from the roadway, much further back than other homes that are along Morningside Avenue. I just did some quick calculations and I judged that the average setback of these homes along Morningside are roughly 45 to 55 feet from the curb line. This is much further back and lets not judge the setback on the garage alone. I realize that the 40 foot setback is for the garage.

The garage is relatively small structure as compared with the main dwelling unit. The dwelling unit is set back 90 feet from the right-of-way, a significant distance. I mean the Board is probably sitting approximately 50 feet from the back wall, so almost double that, and that is how far you are from the street to the main dwelling, a significant

distance. When you combine that with landscaping that will occur on the site, and maybe some artificial land forms, it is going to severely reduce the visibility of this structure from the street. That is a supreme advantage.

HERLINSKY: Can you describe the surrounding area?

KARLEBACH: Well, when we talk about neighborhood, we are not limiting ourselves to the R-10 zone. Because, if you live in an R-10 zone, and your neighbor lives in 3 homes away in the R-15 zone, you are still neighbors. Certainly, the R-20 zone is within the same general neighborhood. I have compiled a list of homes that are pretty substantial in size. All are within a quarter mile of this home, which I would consider to be in the same neighborhood.

Now if we are talking strictly about the homes along Morningside Avenue, yes, they are small homes, on 10,000 square foot lots. But, if you expand that search beyond Morningside Avenue, beyond the R-10 zone, you will find out that there are a lot of larger homes. I am going to refer to an exhibit, now, which I am going to call—what are we up to?

WALKER: Item 24.

KARLEBACH: Okay, A-25 is a series of 6 photographs and, I just want to point out that the square footage that I am giving out to the Board, now, represents living space only. There is no garage floor included as part of that calculation. There is no finished basement included as part of that calculation. At the very top left hand corner, we have number 4 John Court, which is a 3,640 square foot home. Number 5 John Court, which is actually an abutting property to the rear, is 4,144 square feet. In the middle row of photographs, I have number 6 Chadwick Court, that is 4,046 square feet, to the right of that in the middle is number 9 Chadwick Court, 3,985 square feet. The bottom left photograph is number 10 Chadwick Court, 3,956 square feet, and the bottom right is number 94 Maple Terrace, which is 4,140 square feet.

WALKER: Chadwick Court is across Kinderkamack Road from this home. You consider that the same neighborhood? It is across a county road.

KARLEBACH: Yes, sir, absolutely.

WALKER: That development, Chadwick Court, if I am not mistaken, was built in more recent times.

BEER: Within the past 5 years.

WALKER: I hardly find that comparable to Morningside Avenue.

KARLEBACH: Comparable?

WALKER: I mean, you know, when you are crossing a main road, I don't understand how that is the same neighborhood.

KARLEBACH: Well, there is no way to define neighborhood. You can attempt to define it. As a matter of fact, in different parts of the country, they will define it in different ways than we do here.

If you ask everybody on Morningside to tell you what the neighborhood is, you would probably find that everyone had a different opinion.

WALKER: I don't think anyone would mention Chadwick Court as being part of their neighborhood.

KARLEBACH: You may be wrong about that.

VON DER LIETH: That is okay, we will note that for the record. Go ahead.

KARLEBACH: You know what, growing up, I would consider anybody that went to my elementary school, I would consider my neighbor.

WALKER: I grew up on West 185th Street, and West 187th Street was a whole different world.

KARLEBACH: If you lived down south, sometimes everybody that goes to the same parish are considered neighbors.

VON DER LIETH: We know where you are coming from. Go ahead.

KARLEBACH: There are physical, I guess, I don't know what you call them, sometimes, psychological barriers that exist. Sometimes you don't want to cross over a bridge because there are other railroad tracks that would put you in a different neighborhood. I wouldn't consider crossing a County road putting me in a different neighborhood. Like I said, there is no correct answer because there is no correct definition of neighborhood.

In any event, these homes are all within a quarter mile of this site. So, the point is you don't have to travel a far distance to encounter 4,000 square foot homes. It is certainly within walking distance. The homes that are along Chadwick Court are in the R-20 zone. Those homes are generally 60 feet to 70 feet wide. That is certainly consistent with what is being proposed.

Let's take a look at the home located at number 5 John Court, which, as I said, is an abutting property. This is number 5 John Court in the upper right hand corner. This home is approximately 90 feet long. It is right up against the front setback line. I would estimate that the front yard setback requirement in that zone is 30 feet. This is right up against the front yard setback.

There are no trees in front of this house. There is no shade trees to try to break up that big horizontal mass that is occurring. I don't find this house to be offensive to the neighborhood. I drove up and down all of these streets. I looked at number 5 John Court, relative to some of the other homes. Relative at number 4 John Court, was just built, actually, and again, I don't find it to be offensive. It is a rather large home. The lot is only .66 acres. It is not an exceptionally large lot. If you look at those homes, yes, they are big beautiful homes. Are they a detriment to the neighborhood? I don't think so, not at all.

Let me go back to some of the earlier points that I wanted to get to. We talked at length about whether or not this is an attached garage, detached garage, what variances would be required, maybe I misled my client to thinking that this was a detached garage. That was my belief all along. I still maintain that it is a detached garage, even with the breezeway. You know if you want to go by the letter of the law, and say that the breezeway constitutes an attachment, well than it is an attachment. Certainly the intent was to keep it detached and subtract it from the building coverage.

So, the C-2 variance that we are seeking is different from a hardship variance. The C-2 variance is that it represents a better planning and zoning alternative for the property. It is not going to benefit just the land owner, but the community at large. As I said, this lot is a little bit different from some of the other lots along Morningside, because it is an interior lot, and it is exceptionally large, but it is in fact, difficult to subdivide.

So, the characteristics of the land present an opportunity from zoning and planning that would benefit the community. Normally, a 2-lot subdivision would be more consistent with the zone plan, because it would accomplish more harmonious lot sizes, which is certainly an important part of zoning. I just don't think it is a good alternative at this particular location. I said that this structure compared with two structures on two lots, are somewhat comparable because they yield the same number of bedrooms.

In this instance, I believe a larger home on a single lot is less impactful to the neighborhood than a subdivision. The application advances several of the purposes of the Municipal Land Use Law. I am going to cite a few. One is to guide the appropriate use and development of lands to promote the general welfare. Certainly, I think that this is an appropriate use. It is a permitted use. 5,367 square feet, while it seems large, is actually, I believe, consistent with the requirement of many modern day homes. Many of the homes in this neighborhood were built back in the 1950's. In the 1950's it wasn't unusual to have 3 growing boys share a bedroom or an entire family to share a bathroom. Things have changed.

Homes today, or actually homes even in the 1990's are twice the size as they were in the 1950's. 34% of single family homes in 2009 had 4 or more bedrooms. The proposed was for 4 bedrooms and one study. 54% of homes had 3 or more bathrooms and 53% of single family homes had 2 or more stories. So, certainly, I think, what is being proposed is not outlandish. It is certainly consistent with the requirements of families today and the construction of modern homes.

Another purpose of the Municipal Land Use Law, is to establish appropriate population densities. The proposed development density of 1.7 dwelling units per acre is far less dense than the permitted density of 4.35 dwelling units per acre. The lot area and dimensions are actually more closely related to the R-20 zone than they are to the R-10 zone. I mentioned a bunch of homes that are 4,000 square feet in area, and they are nearby the site.

VON DER LIETH: I am sorry Mr. Karlebach. I am going to have to stop you right there because we are going past the allotted time for the testimony. I apologize for that again. As I said, next month I will make it a point to make you guys come up first, if that is suitable for everyone. You have been very patient so far. I really want to give everybody a chance, as I appreciate your testimony, that is in the audience, I would like to hear both pro and con.

Brigette, before I go on, do you have anything to add as of right now? I mean aside from what you have given us, which was excellent, by the way.

BOGART: I actually just have one question with regard to what you have testified to so far. You made a point that the one house on the board was over 90 feet in length, and it didn't fit into the neighborhood. I agree. I agree that the way that you have situated this house, I don't think that it will have as much of an impact on the streetscape as someone may think because of the way that it is designed, the roof line, the setback, and the width. I think, actually, the biggest impact of this dwelling is going to be the eastern façade. That is approximately 90 feet in length at this point. My concern is not the immediately adjacent dwelling, but the one to the south.

You are pushing the dwelling back, which makes sense, but you do have a façade that is 90 feet long, that will be in their back yard. You have testified, so far, to the impact of the streetscape and I know my report sort of led you in that direction, because that is usually what we focus on. But, when you look at the plan as a whole, I think that you need to consider and look at the impact of that eastern façade and if there is anything that can be done, to, maybe reduce the scale of the structure or I don't know if additional landscaping, but you may want to look at that.

VON DER LIETH: Thank you, Brigette, and Mr. Karlebach, I didn't mean to interrupt, if you can finish in 5 more minutes. It seemed like you were wrapping up.

KARLEBACH: I actually, probably can finish.

HERLINSKY: There are some things that he has to address. I will have him back next month.

VON DER LIETH: Okay, I just wanted if he could finish in 5 minutes, I didn't want you to have to come back, but if you need more time, that will be fine. If there is no

further questions right now, from the Board. There will be, but we will see you next month. Is there anybody from the audience? What I am going to try to do is try and keep it, we are going to go one side and the other side, so to speak. If there is anybody to speak on behalf of Mr. Guarderas, right now, that would like to speak, please come and do so. You can come up and state your name, please, for us and your address. Please use the black microphone, if you could.

WAGER: Hi, my name is Eric Wagner, I live on 10 Awashawaugh Road, off of Fremont. I think, based on the testimony, I don't want to make this very long. I think that what was said and the various testimonies are true. I think the design that, I am in support of the design, especially given the design changes that were made. The house, right now, going back to your first question, what is the impact? At the end of the day, lets push the numbers aside and what is the impact to the neighborhood? I think that the design right now, is really in keeping and respectful in terms of the size and the scale. I think that the applicant has made significant changes and kind of realizes the importance in being integral with the neighborhood, not just on Morningside, but the entire neighborhood.

The size of, the issue of, whether or not it is big, or small is relative. I think that the Planner pointed that out very well in terms of the size of the lot and where it is.

RUPP: Let me swear you in.

VON DER LIETH: We are going to ask questions. Go ahead.

RUPP: 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?

WAGNER: I do.

RUPP: You made some previous comments, are those comments true to the best of your knowledge?

VON DER LIETH: I am sorry, before you go on, are you a neighbor right now? I didn't get that when you first came up.

WAGNER: No, I live off of Fremont. I live on the east side.

VON DER LIETH: Okay. That is all that I wanted to know.

WAGNER: That was it, relative to what the design it.

VON DER LIETH: Okay, thank you very much. Is there anyone else? Please come up?

RUPP: 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?

BEER: Black mic please. You have a very soft voice.

AUDIENCE: (name not given) I do. When, I am a neighbor. I live on 136 Morningside, so I am right next door. We moved here about 2 years ago. All of this is very new to me. I am supporting his dream home. I believe that if you buy a property, you do want to stay within the neighborhood, but they are great neighbors and I think that they just want to better their lives and I support it.

RUPP: I am sorry, we didn't catch your name.

RICHARD: Cathy Richard

VON DER LIETH: Thank you very much. Is there anyone else? I am sorry, I don't mean to be repetitive, grab that black mic. We are going to ask you your name and address, and swear you in.

HEALY: Sure, I am Arthur Healy, my address is 76 Chestnut Avenue.

RUPP: 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?

HEALY: I do. I have been a 16 year resident of Park Ridge. My business is IT Infrastructure, and I am an expert in Cloud Computing and I am also a negotiating expert. I have taken 8 advanced courses and passed those courses and I have negotiated over \$500,000,000.00 in local IT contracts.

The reason that I think that is important, is because I thought that it is against the rules to negotiate directly with the Board. I think that this is my fourth meeting, and it sure as heck looks like a negotiations with the Board, directly. So, I am very uncomfortable with that. It is my understanding that direct negotiations with the Board, you have to throw the whole variance out. So, I would like to put my expertise on the table and put my opinion regarding... this sounds like, looks like, and feels like direct negotiations with the Board. So that is the first thing that I would like to say.

The second that I would like to say, is that in these courses, that I took, after you get through the first chapter in the book, the first chapter of the classes all similar things. They say that what ever you do, make sure that you ask for more than you expect to get. In these courses, they say, but, it is a fine line where reasonableness and precedent comes in. If you make a request that far beyond the scope of precedent and reasonableness, you automatically loose the negotiation, almost 10 out of 10 times.

I would like to put that in to the record as well. That is what it feels like here. The second point that I would like to make is, that, the entire variance application seems like it varies between we are in an R-10 zone but applying R-20 zone criteria. So, I would like to put this in to the record. It is the entire variance application is a false premise to me. I believe that the Board got it right. It is a R-10 zone. It meets R-10 zone criteria and all the criteria and precedents for R-10 zone variances should apply.

All of this, it seems quite tricky. I am a simple guy switching between R-10 and R-20, when it is R-20 when it meets the variance application. It is R-10 when we are moving the environment and the neighborhood, and I would like to put that into the record. It just seems an entirely false premise for me. I didn't put this out front, but am on the eastern side of the property. I live in an R-10 zone. I am probably one of the more impacted properties from this proposed project.

I will also put out that 16 years ago when I moved here, the reason that I bought that property was because the property behind me was zoned for R-10. I knew that no such project like this could ever be approved. That is why I invested in this community. I respectfully ask the Board to make sure that we apply all R-10 precedent to your decision making.

I think this Board, is new to me, I have never been involved in a variance hearing. In looking into this, I think that there is a very close set of criteria for a successful R-10 variance applications. It doesn't appear that any of the data, specifically what I just heard from the Planner, reflects that this application is way outside of the scope, and size of any historical R-10 variance application in the history of this Borough.

So, I think that the Board has done great. I think that you have established a successful strike zone for variances, and I am respectfully asking that you don't stray from that strike zone.

VON DER LIETH: There is one point that I would like to make, and Obviously, in no way am I a negotiating expert. What you just said, there is a strike zone. It is in black and white and to what you said about the R-10, I am not trying to go

one way or the other, my whole being up here, is to be very impartial, and to take in every side of every argument. But, would you be, just as a thought, would you be more amenable to stick to an R-10, if Mr. Guarderas subdivided his property and put another house on it and had made two, technically speaking, R-10 zones? In other words, going by the book.

HEALY: I trust in the Board. You are appointees from elected officials that I elected, that every citizen in this Borough elected and I trust in your judgment. I trust in the historical precedent that has been set here and the criteria that this Board and the Zoning Boards have set.

What you are describing is actually a change of venue in my book. The way that I look at it. That was another point that you very gracefully lead me into, is that I believe that we have to summarily dismiss this variance. Why? Because, really what is described in this variance application is a rezoning application. I think that the pursuit the size and scope of what is proposed here should be put at the Zoning Board level, because of the massive size and scope.

We know what the definition of a humongous, gigantic, large, monstrous, or what we use in the zoning laws that everybody agreed to in the city of Park Ridge, maximum is the term that is used. So, it is not subjective. It is not by one person's opinion or perspective. It is defined in black and white and we all abide by it. That is why I moved into this community. I want those applied.

A humongous house is 3,333 square feet. That is the definition of massive house. A humongous house in an R-10 zone property. What we are talking about here, really, is a complete rezoning of the property and I trust in the Board. If the Board says that is great for the community, I will back you guys up. You are my appointee as well as anyone else's appointee.

VON DER LIETH: But, in your opinion, it is not. I am just saying, overall, if the Board was to approve this, I am just saying that the house as it stands now, with his, scale backs that he has made, is still, in your opinion, a detriment to the community? I am just curious to see, I know you come here and I know that you made that point about negotiations, it is your point of being non-negotiable. I just want to get your feel on it. It is a detriment?

HEALY: It is a detriment in the size and scope that exists today.

VON DER LIETH: Okay, got you.

HEALY: There is a precedent. There is a very clear black and white precedent that his Board has set in common R-10 variance applications from year after year after year. Quite frankly, the Planner, I have to thank the Planner, for providing some of the research that I didn't have a chance to do, with my day job, going to all of these meetings with you, but he mentioned 3,640 square feet, and 4,140, and 4,046, and 3,900, none of them, none of them are at all even close to what is being proposed here and they all back up the concept that you got it right initially, with your R-10 criteria at 3,333, and if our applicant can construct his dream house within this strike zone, a precedent that is set everywhere throughout the Borough, I would be comfortable with a 4,000 square foot house, as long as it met all of the variance applications, so on and so forth.

It is not, it is exponentially bigger than that, and I would not support it unless, you, the good Board decided to rezone it as an R-20. That is what I respectfully ask. I think that we have to throw out all of these illusions to R-20 criteria because it is not an R-20 property. It never has been. I don't think that it is fair to us to drag us through meeting after meeting after meeting, under this entirely false premise that has been presented for the fourth time now, for me, but I am going to be here right along side of my trusted Board, at every meeting and I am going to build my schedule around it as much as I can and I got your backs.

Stick within your strike zone, is my respectful request. Don't move from your precedent by a single square foot and I trust you to do the right thing, like you always have. I am proud of you guys. Thank you very much.

RUPP: The applicant's attorney had the right to question who testify.

HERLINSKY: I would simply ask you to answer the Chairman's question. Would you prefer, if you are so stuck on having an R-10 zone there, with no deviations, would you prefer that this property be subdivided and then you would have two 3,000 square foot houses in your back yard?

HEALY: So, I don't feel the threat to subdivide. I face it head on and I think it won't proceed. But, yes, absolutely, as long as it meets the criteria and I would like the Board to change of venue for rezoning, basically. Yes, I have no problem with subdividing according to your strict Borough zoning laws. I have no problems with that at all.

VON DER LIETH: Thank you for testifying.

RUPP: Do you swear or affirm that the testimony that you are about to give before this Board is the truth, the whole truth, and nothing but the truth, so help you God?

NIXDORF: I do.

RUPP: Please state your name and address.

NIXDORF: John Nixdorf, 132 Morningside Avenue. I am actually the property on the west side of the applicant's property. I would like to read my comments because I am not very good at public speaking. My property borders 134 Morningside Avenue, on the west side. I oppose the variance being sought to build a roughly 6,000 square foot home at 134 Morningside Avenue.

In my opinion, the proposed home is so large and will be so out of place that it will subject the surrounding property owners to ridicule and more importantly, will reduce the market value of my property. I welcome a new home being constructed next door to my home, I believe that would have a beneficial effect on my property value.

But, the size of the home needs to be reasonable, and needs to be consistent with the size of the surrounding homes. It appears that this was not given any consideration when designing the proposed structure. I believe that the proposed structure, which is approximately 2 or 3 times larger than the surrounding homes is unreasonable. This is why I am urging the Board to deny the requested variance.

The zoning requirements applicable to 134 Morningside Avenue, were in place when the applicant purchased his property. He knew or should have known of these restrictions. As a result, I don't believe enforcing those restrictions is inequitable. I also do not believe enforcing these restrictions presents an undo hardship to the applicant.

Anecdotally, we put an addition on our house in 2008, bring the square footage to 3,300 square feet. My personal experience that 3,300 square feet is a decent sized home. I don't believe that forgoing the piano room or the glass domed observatory presents a hardship, that the Zoning Board should recognize. Surrounding property owners such as myself, look to the zoning requirements to prevent the construction of nonconforming structures near our homes, which can diminish the enjoyment, use, and value of our properties.

I believe that the disproportionate size of the proposed structure at 134 Morningside Avenue, will, in fact, diminish the market value of my home and diminish my enjoyment of my property by overwhelming the view by the structure's sheer size. In addition, I just learned tonight, that they are going to be moving the home back further in the lot, which means it is going to be even more visible from my back yard.

My own expectations when purchasing my property is that any home constructed next door to me would be in compliance with the zoning requirements. In this case, the maximum of 3,333 square feet for an R-10 lot. The applicant is not asking for a modest increase from the 3,333 square feet maximum, but an increase of approximately 100%, to 6,000 square feet.

I understand that 134 Morningside Avenue meets the minimum parameters for an R-20 lot. An R-20 lot has a maximum floor area of 4,800 square feet. It appears that 134 Morningside was not zoned as R-20 because of the smaller surrounding lot sizes. Because this lot is larger than most in the neighborhood, I believe some relief from the zoning restrictions might be appropriate. In my opinion, that relief would fall somewhere between the existing limit of 3,333 square feet and the limit applicable to the R-20 zone, which is 4,800 square feet. The midpoint between these is roughly 4,000 square feet, which I believe would be a reasonable allowance under the circumstances.

This would afford the applicant an additional 20% over the existing floor area limitation and as I heard earlier tonight, this is consistent with the Board's prior rulings. For reasons set forth above, I am requesting that the Zoning Board deny the requested variance as presented. Thank you for listening.

VON DER LIETH: Thank you Mr. Nixdorf. That wasn't so bad, was it? Is there anybody else who wishes to speak? Please sir, come up.

KERSTING: My name is Chris Kersting, I live at 75 Chestnut Avenue.

RUPP: Would you please raise your right hand? Do you swear or affirm that the testimony that you are about to give before this Board is the truth, the whole truth, and nothing but the truth, so help you God?

KERSTING: I do. Mrs. Nixdorf has asked me to just give the Board some photographs of the houses surrounding on Morningside Avenue. Perhaps from these you can see the size and scope. (not speaking into mic, barely hear the testimony).

WALKER: Okay, Item 26 are 6 photos.

BEER: It shouldn't be 26, it is an objectors item. We have an O-1.

WALKER: Okay, Item O-2 is 6 photographs, undated.

VON DER LIETH: I am sorry Mrs. Beer, we are making it O-1, the other one was for a prior application. It wasn't for this one. I am sorry, please state your name one more time.

KERSTING: It is Chris Kersting, 75 Chestnut Avenue. I live directly across from the Healy's. Every day, I live in my house if that monstrous house is built, I will open my front door, and look at it. I will look out my bedroom window and look at it. I will see it from the living room. I will see it from the dining room. The property goes up, so it will loom above me like one of the 5-story houses that I used live in on 188th street in the Bronx. I came here 19 years ago. I left the city. I found Park Ridge to be just the best place to live.

My house was built in 1896. It is the anchor of the neighborhood. Since 1896, it has seen the sky. If this home is built on this scale, I will be back in the city, like I was 20 years ago. We all want to make improvements. My house has been improved. Somehow I was able to put central air in it after we bought it 19 years ago. It took a lot of hard work. We have made changes to it over the years. We all do. But, that doesn't mean that somebody has to say, well, I am building a giant house, so now you all have to come up to my standards. Maybe you will improve your houses.

We all have dream homes. We all came from different places. But, please don't put a 5,600 square foot house in the middle of the property. If you move that back 100 feet, how far back is it going. As I said, the Healy's back yard will be this house. Every

time that I look out the front, I will see that house. When I mow my lawn, when I shovel my snow, when I walk my dog, when I take out the trash, it is there. These other houses, number 4 John Court, when I am in my back yard on my deck, I can see the top of it. That is only just below 4,000 square feet. The house at 5 John Court, they are very good friends of mine. I am there a lot. That is an unusually wide property. It is not very deep, so when you are on the back deck, in that property, you are about 30 feet from the fence. What is on the other side? Kinderkamack Road. Who lives there? Landlords that rent it out. They don't care.

They didn't care when that was changed. We care about when this property is changed. We don't rent our homes out. We live here. So, I respectfully ask the Board to let me do what the people who have lived at 75 Chestnut since 1896, have always done, look out the front door, and see trees and sky, not a giant building. Thank you.

VON DER LIETH: Is there anybody else who wishes to speak? Okay, of not...

RUPP: We are going to carry this application to May 15th, no further notice need be provided, either by publication or service.

WALKER: A little record keeping here. We have a couple of items to be added to the record.

Item 21 is revised seepage calculation dated 4/05/2012.

Item 22 is revised plot plan dated 4/05/2012.

Item 23 is the Planner's review dated 4/16/2012.

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

VON DER LIETH: Thank you, Mr. Walker.

CASE: 11-17 Block: 1601 Lot: 15	Application of <i>Park Ridge Board of Education</i> , 85 Pascack Road to utilize existing house as the Board of Education offices necessitating a Use variance in an R-20 residential zone. Hearing postponed from July 19, 2011 for Notification of property owners within 200'. Hearing began August 16, 2011, carried to September 20, 2011 for Board Engineer's review of revised plans, rescheduled to October 18, 2011, applicant did not appear, carried to November 15, 2011 and continued on January 17, 2012. Revised maps submitted with County changes. Engineer reviewed, landscape map submitted and reviewed. Carried to February 21, 2012 for revised maps and postponed to March 20, 2012 at applicants request. Determination forthcoming this evening.
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WALKER: I have 2 items to add to the record for this application.

Item 43 is tape certification that Tom Hoskins read the transcript of 11/15/2011 meeting, dated 3/27/2012.

Item 44 is transcript certification that I read the 8/16/2011 minutes dated 4/17/2012.

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

VON DER LIETH: That is it. Okay. I have a resolution in the affirmative for the Board of Education.

WHEREAS, PARK RIDGE BOARD OF EDUCATION (hereinafter referred to as ("Applicant"), being the owner of premises known as 85 Pascack Road, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also being known as Lot 15 of Block 1601 on the Tax Assessment Map for the Borough of Park Ridge, applied to the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE (hereinafter referred to as "BOARD"), seeking a use variance and site plan approval to permit the renovation and use of an existing one and one-half story home for offices for the Board of Education; 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 is defined by the Zoning Ordinance of the Borough of Park Ridge; and

WHEREAS, the Applicant has submitted a revised plan, with a revision date of March 14, 2012, having been prepared by Lantelme, Kurens & Associates, P.C., Engineers and Land Surveyors, and revised architectural plans revised March 13, 2012, prepared by Linda Del Nobile, AIA; and

WHEREAS, the BOARD held a hearing in connection with the application, upon due notice as required by law, commencing on August 16, 2011, carried to September 20, 2011, for Board Engineer's review of revised plans, rescheduled on October 18, 2011, when Applicant failed to appear and was carried to November 15, 2011 and continued to January 17, 2012, carried to February 21, 2012 for revised maps, and postponed to March 20, 2012 at the Applicant's request; and

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

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 premises located at 85 Pascack Road in the Borough of Park Ridge.
- 2 The BOARD received the following documents into evidence.
 - Exh. 1. Application 6/8/11
 - Exh. 2. Certification of Service 8/8/11
 - Exh. 3. Legal Notice 7/8/11
 - Exh. 4. Payment of taxes 6/29/11
 - Exh. 5. Deed 6/20/11
 - Exh. 6. Survey, Plot Plan, Site Plan, Elevations 6/28/11
 - Exh. 8. Board Secretary Letter (BSL) 7/13/11
 - Exh. 9. Board Engineer Review 7/13/11
 - Exh. 10. Board Secretary Letter 7/14/11
 - Exh. 11. Board Planner Review 7/19/11
 - Exh. 12. Board Secretary Letter 7/20/11
 - Exh. 13. Board Secretary Memo 7/20/11
 - Exh. 14. County Planning Board letter 7/21/11
 - Exh. 15. E-mail from Bogart to Kovacs 8/16/11
 - Exh. 16 Photoboard
 - Exh. 17. Revised Survey 8/16/11
 - Exh. 18. Applicant's Attorney letter 8/18/11

- Exh. 19. Board Secretary letter 9/15/11
- Exh. 20. Board Engineer Review 9/14/11
- Exh. 21. Board Secretary letter 9/15/11
- Exh. 22. Parking Lot and Grading Plan 9/14/11
- Exh. 23. Drainage Calculations 8/24/11
- Exh. 24. Board Secretary letter 10/21/11
- Exh. 25. County Planning Board letter 11/2/11
- Exh. 26. Board Secretary letter 11/22/11
- Exh. 27. Bergen County Planning Board letter 12/1/11
- Exh. 28. Director of Ops letter 12/22/11
- Exh. 29. Board Secretary letter 12/27/11
- Exh. 30. Revised Plan per County 12/29/11
- Exh. 31. Board Engineer Review 1/10/12
- Exh. 32. Board Secretary letter 1/12/12
- Exh. 33. Board Secretary letter 1/18/12
- Exh. 34. Planner Review of Landscape Map 1/23/12
- Exh. 35. Board Secretary letter 1/24/12
- Exh. 36. Engineer Review 2/17/12
- Exh. 37. Extension of time 2/10/12
- Exh. 38. Board Engineer Review 3/14/12
- Exh. 39. Revised Site Plan 3/14/12
- Exh. 40. Applicant's Engineer Letter 3/14/12
- Exh. 41. Elevation/Wall/Drainage 1/31/12
- Exh. 42. Floor Plan 2/14/12

3. The Applicant proposes to convert an existing 1 ½ story residence into offices for use by the Park Ridge Board of Education and the additional of a new 12 space parking lot. Office use is not a permitted use within the R-20 Residential Zoning District in which the property is located.
4. The Property is immediately adjacent to property owned by the Park Ridge Board of Education (Block 1601, Lot 1) which is currently used for public school purposes and for accessory use of the Board of Education's offices. Public schools are permitted within the R-20 Residential Zoning District as conditional use subject to the following conditions as set forth in Section 101-22B of the Zoning Ordinance:

(a) Minimum lot area: two acres, plus one acre per 100 pupils.

- (b) Minimum lot width: 150 feet.
 - (c) Minimum front yard: 75 feet.
 - (d) Minimum side yards: 35 feet.
 - (e) Minimum rear yard: 50 feet.
 - (f) Minimum recreation area: 100 square feet per pupil.
 - (g) Maximum building coverage: 15%.
 - (h) Maximum building height: one story; 15 feet.
 - (i) Minimum buffer: 50 feet.
5. The subject property does not meet the conditions required for a public good. Moreover, even if Lots 1 and 15 were merged, the existing structure would not meet the front yard setback conditions or building height conditions for public school conditional use.
 6. The Applicant has submitted revised plans to address the concerns expressed by the Board's Engineer and Planner. With respect to the Planner's comments, the revised plans have relocated the shade trees along Wampum Road to increase the space between same and have been modified to provide Crimson King Maples. Shrubs have been installed on the top of the retaining wall above the parking lot and at the ends of the parking rows adjacent to the frontage on Wampum Road. One gallon dwarf Pompas Grass has been substituted for Emerald Green Arborvitae along the southeast property line to better grow in the confined space along the adjacent retaining wall. The area between the retaining wall on the northwest side of the driveway has been planted with shrubs to improve maintenance in the area.
 7. With respect to the Board Engineer's comments, the plans have been revised to reflect a reinforced concrete retaining wall extending six inches above the finished pavement of the parking area, with a four foot high chain link fence at the top of the wall. Concrete filled bollards are to be provided at the head of each parking stall which abuts the retaining wall. The cross slope of the parking stalls adjacent to the retaining walls has been reduced to 3.0%. An underground detention system has been provided consisting of a series of seepage pits with an overflow being schematically indicated. The west side of the parking lot has remained uncurbed to allow storm water to flow towards the east. A note has been added to the plans to indicate a barrier free entry door to be installed along the south side of the structure in close proximity to the handicapped parking stall. The lighting plan submitted indicates that the lighting level for the bollard type fixture has been reduced. The light poles on top of concrete pedestals have been located to avoid conflict with parked vehicles. As per the Board's request, a walkway has been added from the parking lot to the adjacent school property so as to provide safer and more convenient pedestrian access.
 8. The BOARD finds that the proposed use, as Board of Education offices, to free available space within the adjacent school building for classroom use, in an inherently beneficial use, and is consistent with the Land Use Plan Element of the Master Plan which provides, in part, that the use of the school sites be continued and that future development maintains the compatible relationship between the schools and surrounding land uses. The adaptive reuse of the existing insulated residential structure for accessory office use for the Board of Education adjacent to the existing Middle School/High School site promotes such compatibility.
 9. Moreover, the BOARD finds that the decision to grant the use variance to permit the proposed Board of Education offices, subject to the conditions hereinafter contained, 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. The proposed use is adjacent to the existing Middle School/High School use and is accessory thereto.

10. Furthermore, the Board finds that the revised site plan is in substantial compliance with the site plan criteria. The excess slope within portions of the parking lot has been minimized and a waiver therefore can be granted.

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(d), the BOARD does hereby grant the Applicant's requested use variance to permit the conversion and use of the existing residential structure to office use by the Board of Education, subject to the following conditions:

- A. The proposed improvements to the parking lot encroach upon the adjacent public school property requiring, as a condition of approval, that Lot 15 in Block 1601 be merged and combined with Lot 1 of Block 1601.
- B. The proposed office use by the Board of Education shall be limited to an accessory office use to the existing school use upon the merged properties.

AND IT FURTHER RESOLVED that the BOARD hereby grants the Applicant's requested Site Plan approval, subject to the conditions hereinbelow set forth:

- A. The Applicant shall be required to execute a Developer's Agreement in a form acceptable to the Board and Mayor and Council of the Borough of Park Ridge, said Agreement to be prepared by the Board's Attorney at Applicant's cost and expense.
- B. The Applicant shall be required to furnish performance bonds, maintenance guarantees and cash deposits in accordance with the Subdivision and Site Plan Review Ordinance of the Borough of Park Ridge in amounts to be determined in accordance therewith and upon consultation with the Board Engineer.
- C. All improvements to be completed in connection herewith shall be in accordance with all development application proceedings and evidence submitted to the Board and in compliance with the requirements of all Borough Ordinances and other requirements as may be imposed by the Board Engineer. Specifically, the applicant shall comply with the following conditions:
 - 1. Percolation tests shall be submitted to the Board Engineer to determine the viability of the proposed underground detention system.
 - 2. The actual connection of the overflow from the seepage pit shall be shown on the plans.
 - 3. Approval of the structural calculations submitted by the Applicant by the Board Engineer.
 - 4. The lighting shown on the Lighting Plan shall be shielded in a manner approved by the Board Engineer to prevent any spillage or trespass of light onto the adjoining properties and the hours of operation shall be noted on the plans.
 - 5. An Erosion and Sediment Control Plan shall be developed and submitted to the Board Engineer for approval.
 - 6. A construction detail of the proposed stair with handrails shall be added to the Plans

7. The landscape plan must be completed as submitted and, once the plants are installed, the Board's Planner shall be called for an inspection and shall be subject to approval by the Board's Planner.
- D. Applicant shall be required to pay all professional fees, escrows and bonds in a timely manner.
- E. Applicant shall secure all necessary approvals, if not previously secured, including but not limited to the County of Bergen, the Bergen County Planning Board Approval, the Bergen County Soil Conservation Board approval and any other required governmental approvals. In the event any agency requires modification to the Site Plan approved herein, Applicant shall be required to return to the BOARD for the approval of such modifications.

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

ROLL CALL:

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

Abstain: Mr. Sandler, Mr. Sigillito

NEW BUSINESS:

None

CORRESPONDENCE:

None

APPROVAL OF MINUTES:

The Chairman entertained a motion that the January 17, 2012 minutes be approved as submitted. So moved by Mr. Capilli and seconded by Mr. Walker. Carried unanimously.

The Chairman entertained a motion that the February 21, 2012 minutes be approved as submitted. So moved by Mr. Sandler and seconded by Mr. Capilli.

ROLL CALL:

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

Abstain: Mr. Hoskins, Mr. Flaherty

VOUCHERS:

Brooker Engineering PE

Board of Education	\$330.00*
Kevin Guarderas	495.00

(* indicates *insufficient funds* – letter written to *)

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. Capilli, and seconded by Mr. Flaherty;

ROLL CALL:

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

Abstain: None

DISCUSSION OF APPLICATIONS:

The first application to be discussed was for Barbara Warren. The members all felt that due to the death in the family the case would be carried for one more month, however is no one appears at that time, it will be denied without prejudice.

The Board then discussed the application of Mario Izzo. The Board felt that he had complied with what was requested of him. The Board agreed to approve the application and have a resolution of approval for the next hearing.

The application of Kevin Guarderas, was then discussed. The Board felt that the objector from the audience made very good points. The attorney felt that the application should not be discussed while it is still open for hearing. He felt that their decision was going to be based on the evidence and it had not all been provided as yet. He advised some member to write down their thoughts and bring them up at the next hearing.

The attorney advised the Board that the application of Ashod Idnani, was also one that should not be discussed until all evidence and testimony is presented.

The application of Christopher Wittrock was then discussed. Mr. Walker excused himself during this discussion. The attorney advised that the application was closed and could be discussed. They felt that the retaining wall needed further discussion. The attorney advised that the architect had testified that further review of drainage and the retaining wall would be discussed at the plan approval meeting. They felt that a site visit with the professionals and the architect would be helpful.

The attorney advised that the mitigating conditions could be discussed once the variance was granted as conditions of a resolution. The Engineer said that she need to see the plot plan and that would be submitted after a variance approval.

The attorney was advised to do a resolution of approval for the variance, containing the conditions of the mitigating conditions.

ADJOURN:

There being no further business to come before the Board, the meeting was adjourned by motion of Mr. Capilli and seconded by Mr. Hoskins at 10:55 pm.

Respectfully submitted,

Margot Hamlin,
Transcriber