

****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, September 18, 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,

Absent: Dr. von der Lieth, Mr. Brennan

Also Present: William Rupp, Board Attorney
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> 12-11 Block: 502 Lot: 11	Application of <u>Michael DiBella</u> , 3 Glenbrook Drive for rear yard, impervious coverage and pool in front yard variances to construct an in-ground swimming pool, patio, outdoor cooking area to existing house in an R-40 residential district.
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CAPILLI: Would you like step forward?

DIBELLA: Good evening, I am Michael DiBella.

RUPP: Will you both be testifying? I will swear you both in. Please raise your right hands? 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?

DIBELLA: I do.

HAKIM: I do.

RUPP: State your name and address for the record.

DIBELLA: Michael DiBella, 3 Glenbrook Drive, Park Ridge, NJ.

HAKIM: Michael Hakim, Hakim Associates, 68 Dean Street, Harrington Park, NJ.

RUPP: Whoever wants to go first.

DIBELLA: I am Michael DiBella, I am here in regards to....

BEER: Before you start, I think that Mr. Walker probably would like to enter the evidence for this application:

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

- Item 1 is the application dated 8/22/2012.
- Item 2 is certification of service dated 8/28/2012.
- Item 3 is legal notification dated 9/07/2012.
- Item 4 is proof of payment of taxes dated 8/22/2012.
- Item 5 is the deed dated 8/08/1995.
- Item 6 is the survey dated 5/30/2012.
- Item 8 is 2 undated photographs.
- Item 9 is a Mortgage Satisfaction dated 3/23/1994.
- Item 10 is Landscape Plan and details dated 7/09/2012.
- Item 11 is letter of authorization dated 8/16/2012.

That is all that I have at this time.

CAPILLI: Thank you very much Mr. Walker. Would you like to take us through what it is that you would like to do?

HAKIM: As I said, my name is Michael Hakim. I am the President of Hakim Associates in Harrington Park. I am both a Professional Licensed Planner and a Licensed Professional Landscape Architect. I have 40 years of experience, 22 heading the firm of Hakim Associates. I am also the Municipal Planner in numerous communities around the area, including Closter, Cresskill, Haworth, Harrington Park. For 15 years, in River Vale, up until last year, open space coordinator in Fair Lawn, Municipal Landscape Architect in all of those towns as well as several in New York, and New Jersey. Like you, I have occasionally have served on my Environmental Commission and my Planning Board, 12 years each. Just to give you a background on who I am.

I am asking you if your will accept my credentials?

CAPILLI: Absolutely.

HAKIM: Thank you. Well, first of all, we are representing Michael and Barbara DiBella. The proposal is to demolish an old patio and a barbeque structure that is in their backyard right today, and replace it with a new patio and a new pool.

I can show you what the existing site looks like right now. The property sides Spring Valley Road. This is the house, a 2-story house. This is a detached garage. The driveway wraps around the house and connects over to the next lot, which is on by the DiBella's parents and in the backyard there is a small patio with a little outdoor barbeque structure. There are walks and gates and fences to the property because there are always functions as a family, a pair of family lots.

There is significant landscaping throughout the entire site, particularly along Spring Valley Road. There is also buffering along the common property line with his parents' place. The front yard is all mature and decoratively landscaped.

The plan, let me show you the plan. What we are planning to do is to demolish that patio and barbeque structure and replace it with a patio and pool, with a deck around the pool and the accoutrements that would support the pool and the outdoor living space would be a little water fall with a slide going into the pool for the kids. They have 4 children, a spa, a little fire pit, and an outdoor kitchen.

The way it works withy the topography is that the topography steps down toward Spring Valley Road, is that you would step out of the house at 2 different elevations onto one deck and down onto slightly lower patio and then onto the pool deck.

We are also planning some significant landscaping to add to the buffering. There will be landscaping behind the waterfall and slide, that will also buffer the filter, the pool filter. Then, we are going to be adding significant landscaping around the perimeter so

that views will be obscured. The other issue that they have right now, is that there is actually a little bit of a natural berm over here, an earthen berm. The property holds water down here, so they have some very wet areas in their yard, particularly after a night like this, and by the way, let me thank you all for coming out on this night. It is wild out there.

That is another thing that we are going to do. We are going to put in some improved drainage, a system in the yard so that we can dry out the property. The site, as I said, is on Spring Valley Road and Glenbrook Drive, the northeast corner. That is the southwest corner of town, very close to Woodcliff Lake.

The property came about because it was once part of a much larger property that encompasses a lot of the properties that are along the Glenbrook Drive corridor, today. Then, and the father's lot was subdivided together decades and decades ago. Then at about, I believe it was, 19 years ago, in 1993, this lot was subdivided of the parents lot to create a lot for Michael and his family. At that time, 1993, it was a 53,066 square foot lot, was created for Michael and Barbara DiBella, on which they built the house, garage and the driveways that I discussed with you earlier. They have lived in this house since that point in time.

53,066 square feet, and the zone as you even mentioned, is a 40,000 square foot zone, the R-40 zone. So, the lot is about a third larger than the minimum lot size. Yet, despite that fact, there are numerous constraints, that really, as a designer, as a landscape architect, prevent really good design from conforming with all of Park Ridge's dimensional requirements. It is understandable, I am a planner and a landscape architect, and I have dealt with codes for many years. Codes cannot contemplate every situation and in this particular case, we believe that there is a hardship based on the size of the rear yard. So, therefore, we believe that these variances that we are requesting should be classified as C-1 variances, under Municipal Land Use Law.

As I stated, despite the lot being so much larger than the minimum 1 acre lot size, the constraints that we see, are a product of these 2 large front yards, a 50 foot setback from Spring Valley Road and a 50 foot setback from Glenbrook Drive. Yet, the house, where it exists today, legally exists today, is significantly further back than each of those setbacks. Because of the way two decades ago, the driveway was built, preventing the house from coming this way. This entire end of the property becomes side yard. So, what we end up with is technically, according to your code, a rear yard that is just this little rectangle in here, virtually a postage stamp compared to the entire lot.

This rendering does not show the whole lot. This shows the entire lot. This is twice the scale, just to focus on the area that we are making some proposals. The 2 street frontages and their yard requirements, the back position of the house on the lot, very large side yard. It is really miniscule rear yard to work with.

There are 2 other major constraints that I would like to point out to you, that also influence our variance requests. Right in the middle of the backyard, there is a very large Copper Beech Tree, that we really want to preserve it. We do not want to loose this tree. So, everything that we are doing is to try to go around that tree, so that it will become the focal point of the backyard as it is today, and that any improvements that we do will not impact that tree.

Of course, the other major constraint is that added pavement, that I mentioned to you, that wraps all the way around the house and adds more impervious surface that is really permitted.

So, I will explain what these variances are and where we see, why we think we are justified. The first is a rear yard setback. That is really just a technical variance, because that is the existing house and the existing house is where it is. It is right here and the dimensions, it is a 60 foot requirement and the existing house sits 53.3 feet from that rear yard.

RUPP: If I may interrupt? You are not changing that at all, are you?

HAKIM: We are not changing that at all. I am just pointing that out. It is a technical variance. It exists, but everything that we are proposing, the pool and all of the associated structures all meet setback requirements.

RUPP: Let me ask you one more question? Do you know whether or not that was located in that location under a prior ordinance that allowed that, or was a variance granted for that?

HAKIM: Ordinances have changed over the years. I don't know the answer to your question. I looked at a plan that was prepared back in '93, and it had different side yards and different rear yards. Things were defined somewhat differently and the required dimensions were different. So, it is, I can't say for certain, but, it exists as what it is today.

The second variance you were requesting, is the impervious coverage. The R-40 zone, the maximum permitted is 25% and today because of that driveway, the house and garage, it is at 29.7%. When we expand that patio and the pool deck, it will go up to 32.3%. All those other factors are far larger contributors to the impervious coverage than what we are proposing to do. They are all legally preexisting.

The new patio and pool that we are proposing, with the demolition of the old patio, and barbeque area, really only increases the impervious area by 2 ½%.

RUPP: How much is the square footage for that?

HAKIM: 2 ½% of 53.066, I could do the math if you like me to.

RUPP: I guess we can do that.

HAKIM: I don't have that number.

WALKER: About 13 hundred.

RUPP: Can you flush out the issue from a planning perspective, you have an oversized lot, that existing coverage already exceeding the permissible ordinance.

HAKIM: Correct.

RUPP: Explain exactly what provision of the Municipal Land Use Act you are relying on to demonstrate a hardship.

HAKIM: The hardship really comes from the definitions that are in your code, and the requirement that the pool be in the rear yard. That is really what it boils down to. If you would consider it a C-2, I guess you could consider it a C-2, that we believe that it is a better design than a fully compliant plan, but we couldn't really have a fully compliant plan because the fully compliant plan requires a 60 foot setback and the house and the garage are already within that setback.

RUPP: Yes, I am a little bit confused on how one can argue from a zoning perspective that higher coverage is furtherance of the Master Plan or the purposes of the Land Use Act, when you are already exceeding by roughly 5%.

HAKIM: It already exceeds it but it seems a little odd that a lot that is 1/3 larger than the minimum lot size could claim a hardship but it is all because of the way that the house was constructed on the lot and some changing dimensional requirements in your zoning code. As I said, back in the early 90's this was considered the side yard. The rear yard was over here. So, this house was constructed under different codes. Now, whether that meant that this required a variance back then or not, that was the questions that you asked earlier. I can't really answer that. I don't have that number with me.

RUPP: From a planning point of view, not only speaking a impervious surface coverage variance, one of the reasons would be given that the lot is undersized.

HAKIM: I understand that.

RUPP: Your lot is oversized, actually that goes against it, does it not?

HAKIM: I understand what you are saying, but if you look at what exists, forget what we are proposing, this is everything else exists. They can't, they have a 53,000 square foot lot, and they can't put a pool on a lot that is 1/3 larger than the minimum lot size, without requesting variances. It is impossible. If we put the pool right up in this nook, to minimize the impervious coverage, we would kill the Copper Beech Tree. They would walk out of their back door right into a pool deck.

A pool is a facility that is used 3 months a year. The rest of the yard is used 12 months a year.

RUPP: Is there any way that one could reduce the overall impervious surface coverage by redesigning some existing aspects, or by redesigning the pool patio?

HAKIM: The pool patio, if you take a look, the pool has to be set back, and I know that Mr. Ludwig knows these numbers, probably off of the top of his head, but I think it has to be 20 feet from the house.

RUPP: I think it is 10 feet or it depends on the depth of the pool. So I don't know how deep the pool is.

HAKIM: This is only a 1 inch equals 10 scale plan. So this is really just about 11 feet right in here. So, it is just, just far enough away from the house.

RUPP: I think that the plan showed 12 plus or minus.

HAKIM: Is that what it showed. 12 plus or minus, you are correct. I have to say the Beech Tree is a major consideration it is a 12 inch caliper. You can see some of this and you see pictures of it in the pictures that I gave to you. 12 inch caliper, 25 feet high, with a 22 foot spread of branching.

We don't want to sacrifice that tree for and also sacrifice the remaining nine months of the year where you would want to have some outdoor living, simply to meet dimensional requirements. That is why we are asking for this relief from your code.

RUPP: The other alternative I asked you to at least address, is to reduce the impervious surface coverage elsewhere.

HAKIM: Of existing? You come in off of Glenbrook Drive, you have a little turnaround in front of the house, and the garage is all the way back here. You have got to get a drive, this can't disappear. There is also garage on this side, of the house, so there needs to be pavement over here. This is a link to his parents lot.

DIBELLA: That is gravel.

HAKIM: That is gravel?

DIBELLA: Half way.

HAKIM: That accounts for all of that.

RUPP: When you say a link, cause when I look at the plans, it almost looked like it had a curb around it. It was hard to check on the plans.

HAKIM: So if it is gravel, it may have inadvertently been included in the impervious surface area when it should not have been. It would take a little bit off, if that

finger were removed, it might take a little of the impervious surface off. What would it reduce though, I mean it wouldn't reduce it by very much.

RUPP: I am looking at both your plan, but more importantly a survey that was submitted, which again, I am not quite sure that you are the right person to testify to this, or whether the resident is, but, when I look at the plan, I don't see that little tongue connecting anything. It looks like it is closed based on the plan.

HAKIM: Yes, it looks like it ends right here, Mike, right at the property line. It goes to a little gazebo, which is actually on your parents property. The children have a play area. I am sorry, I didn't mean to block you. There is a children's playground over here. There is a gazebo here, and this is paver. So this is all paved here.

RUPP: My point is do you need a driveway to get to the gazebo. I mean I am looking at this. It looks like, when I first saw this as a driveway to nowhere. It adds impervious surface coverage, right? It serves, for all practical purposes, no practical purpose, right?

DIBELLA: It is really just for backing up and backing out of the garage.

RUPP: Well, you have got, certainly, enough maneuvering area based upon what you have there already.

HAKIM: Let me just take this one step further, what area really the impacts of increasing the impervious surface area on a lot like this? It is a lot that is 53,000 square feet plus. Is it visibility? It is not, no one will see this. From a visual impact standpoint, no one in any public right of way, will ever see the increase in impervious surface. If, from these rights of way, the property appears as though it is well below the maximum impervious surface that is permitted. You also have an exceptionally large landscaped area beyond the property line in the public right of way over here at Spring Valley Road, which is also landscaped. So, if you, from a visual impact standpoint, it appears as though it is significantly below.

The other impact that is potentially, you can see that all here. This is all green, all in here. The other impact from impervious surface, too high in impervious surface, is storm drainage. As I indicated to you, we are proposing an improved storm drainage system on site, so that there will be no increase in any storm drainage leaving this site, no public storm drain will have anything greater than what exists today. In fact, it may even be less based on what we are proposing to do.

WALKER: You said that water collects at a certain spot on the property. Does any water flow off of the property currently, on to the neighboring lot?

HAKIM: I don't believe so, because this is as is said, this is like a natural berm, or it is a berm that was constructed when this property was developed.

WALKER: Which way does the property slope, generally?

HAKIM: It slopes this way, and it comes down gently to here and then it rises up and it comes back down to Spring Valley Road. So, the water gets trapped here. What we are going to be doing and it is beyond the variance discussion, but what we are going to be doing, is, raising this elevation somewhat and putting in a sub-drainage system in, capturing it, and having a percolation system down in here, which we will go through with the Engineer, when we get to that point. There won't be any, as a result of an increase in impervious surface, there won't be any increase in storm drainage leaving this site, and there won't be any visual impact. So, I don't know what other impacts are generally caused by

RUPP: The visual impact deals with a negative criteria. You still have the affirmative criteria and you still have the zone plan and zoning ordinance issue. I am just, so if you want to address it, okay. I am just asking the questions because.....

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HAKIM: I don't think the consistency with the Master Plan, I don't think it addresses anything, to my knowledge, about that. So, I can't really address whether a slight increase in impervious surface on an existing, fully developed residential lot, where the storm drainage is being contained on site, and disposed of in a contemporary disposal system, as opposed to what was done 20 years ago, I don't believe that the Master Plan touches on that issue. In terms of the criteria, I am calling it a hardship. I am calling it a C-1, so I am not sure that I need to meet that other criteria.

RUPP: No, you just mentioned something else that I see going over my notes here. You said that you were raising the elevation, you are obviously digging a pool. Has there been any calculations done on soil moving.

HAKIM: Premature. We will be doing that. There is no reason to go to that extent of engineering if this Board is not going approve the variances.

BEER: I am sorry. One of the questions I had asked Mr. Hakim, and I told you that if it is over 300 cubic yards, you would require a public hearing, which could have been done tonight if you think it is over 300 cubic yards.

HAKIM: Right, and if you recall, we discussed it and I asked you if we could defer that discussion to another point because if we

BEER: No, what I said is if you are willing to come back and have a public hearing at some later date, if it is 300 or over, there is no way that can be waived. So, when you go and the engineer determines that, you will be back for a public hearing.

HAKIM: We understand that. Based on the dimensional variances that we are requesting, if this Board does not see fit to grant them, and the DiBella's are denied the opportunity to develop a pool in their yard, then there is no reason for them to be investing in an engineer calculating soil quantities and coming for a soil moving permit. So, that is why we decided take this one step at a time.

CAPILLI: When we talk about impervious surface coverage, I would, personally, be more concerned with water runoff. So, could you just take a little bit more over the plan for the upgraded improved drainage system, as you called it?

HAKIM: It has not been designed yet. Again, that is something that we are deferring until later, but right now, the way the site drains, it drains in this direction. Some of this water accumulates in here and percolates into the ground. It does not get past this berm. This water comes down diagonally into this corner, puddles in this corner and ultimately percolates into the ground. It is so slow because of our soils, that they have a persistent wet site problem over here.

There are a couple of other areas over in here, where they also have wet site problems, on a regular basis. So, by elevating the grade ever so slightly, and putting a sub-drainage system in, that drains beneath the very porous fill, and collects in seepage pits. We can then promote infiltration and not increase any off site runoff. But, that is yet to be designed.

RAMAN: Again, if it is impervious surface area question, shouldn't it be part and parcel of this argument. Because, what if the soils are that bad, that it won't percolate, and I don't think that might be the case, it is a hypothetical, but it is part and parcel of proving that adding to the impervious is not going to create a problem.

HAKIM: The water doesn't leave the site right now.

RAMAN: But you add another 3 or 4%, coming in.

HAKIM: I understand, it adds 2 ½% to 3%, but even so, it is still will not get past this berm. There is still going to be a berm here. So, even if we put a half dozen seepage pits in there and it is still not sufficient, we can always increase the number of seepage pits and even if it all failed, it would still be contained within the berm. So, it wouldn't impact any public properties at all. It would all be contained on site.

WALKER: You are not going to raise the level of that property above the existing natural berm?

HAKIM: This is about a 3 foot grade differential, between the top of this berm and this elevation right here, right now. If we bring this up 6 inches, and that is basically what we are talking about, we still have a 2 ½ foot containment. So, there should be no impact on any public right of way.

CAPILLI: Does anybody else have any questions?

HAKIM: There are a couple of other variances that I need to go through.

CAPILLI: I know, I am just talking about this part.

SIGILLITO: I have a question. Looking at the survey, I wanted to understand a little bit. I see that there is this paved area that goes to the gazebo on the adjacent lot. I am not sure from the survey, exactly how much paved area you need to back up out of that stucco garage, and whether all of that paved area there, is necessary for purposes of accessing the garage, or is it just that is the way it was before when you built the house, and somebody thought it was when the house was built it was a good idea to have a paved area going to the gazebo on the next lot. But, it looks like that paved area is about 5% that you are over now. I think that is where Bill was asking, Mr. Walker, was asking the question, about whether you really needed that paved area, because that might actually reduce your seepage pit requirement.

HAKIM: So what you are suggesting is we offset this increase, if I understand you correctly, this increase by removing this figure.

SIGILLITO: If doesn't materially affect the usability of the property, and it might not be ideal, but it might reduce this impervious surface issue.

HAKIM: Michael, does it?

CAPILLI: That is not something that you have to decide right now. You are not being put on the spot.

HAKIM: It is something that we will look at.

RUPP: It is issues that we are raising that is all.

SIGILLITO: It is not as if that paved area goes to another garage that you use on a regular basis. It goes to the gazebo at the other house.

DIBELLA: What it is used for is literally backing out, because you have to make that turn to get out.

SIGILLITO: So, if you can figure out whether you need all of that or whether there is another turn radius that works for you.

HAKIM: Just remember, vehicles, when they come in here, they will pull in here and they will either make a left into this garage or come straight in, head in, to this garage. So there has to be some maneuvering room here.

CAPILLI: I don't think in the grand scheme of things it is not going to make or break.

WALKER: It would probably be 3 or 4% out of it.

HAKIM: It might offset it.

RUPP: It might offset the increase, in which case, then you won't need a variance for that because it is an existing condition.

CAPILLI: Anybody else, anything, just so we can move forward with the rest of this.

HAKIM: Okay, the next variance is "accessory structure coverage" in the rear yard. Now, the maximum impervious surface permitted according to your code, is 10%, with the existing patio and barbeque, it is at 20%.

RUPP: Okay, okay, okay, before you go on with that, we took a look, we can't find that provision in the ordinance.

HAKIM: Okay, are we off the hook on that one, then?

RUPP: I want you to know that I looked at your plans, and I just said, that is a new one on me, maybe I missed it. So, I am looking and looking and I just asked the Zoning Officer and he doesn't have it either.

HAKIM: I am happy. I am trying to be as thorough as I can.

BEER: It was deleted about 2 ½ years ago. There is no coverage percentage in the rear yard.

HAKIM: It needs to be deleted from your website ordinance.

BEER: It is not in the ordinance any longer, I will tell you that.

RUPP: Yes, I looked on the website for it and I couldn't find it.

HAKIM: That is good. The other than, what I thought would be the 4th, but would be the 3rd is that you required that pools must be in the backyard only. For the most part, this pool is. But, because the existing house is set back 68.7 feet from Spring Valley Road, even though it only really needs to be set back 50 feet. Technically, our proposal does intrude into the front yard. You can see that on the variance plan. It does not intrude into the front setback, but the front yard is defined by where the building is, and there is a piece of the pool deck that would intrude.

We had to design it there, rather than pushing it back to be equivalent with the building setback, from the road, in order to preserve that Copper Beech Tree, that I was mentioning to you. Otherwise, we would be damaging the very shallow roots of the Beech. They have extremely shallow roots. More than likely, it would lead to the death of that tree. There is a picture of that tree in the pictures that I gave to you. It is in its winter condition, but I think you can see, even in the winter condition, what a healthy large specimen that tree is.

In addition, by pushing it back to get behind that setback, you would be putting the pool deck into that outdoor living space. That is the same argument that I mentioned to you earlier. This is a 3 month facility. We want to be able to use the yard 12 months of the year. So, we would like to get that, to have the pool, a little bit away from the back door. But, really, the impact is minimal. Again, it is slightly encroaching into the front yard. It will never be seen from anywhere off site.

RUPP: When you say encroaching in the front yard, it is actually in the required front yard, it is set back further. It is a 50 foot requirement.

HAKIM: It is set back behind the front yard setback.

RUPP: But it extends beyond that corner of the house. That is the issue.

HAKIM: It is something that Mr. Ludwig explained to me, when I met with him. There is a front setback and there is also a front yard. So, technically, it does intrude, but it will never be seen. The landscaping that we are proposing is a lot of newly enhanced landscaping with evergreens all through here, additional new evergreen trees. This is an existing Spruce hedge and in some places where it has begun to thin out, we are filling it all in with evergreen, large evergreen shrubs, Mountain Laurel, Rhododendron and so forth. So, the eyelevel screening will be increased and full. It won't ever be seen. Plus, the water flow that will be put in here, there would be a little bit of an elevation on the hill here, that will also help to screen. There will be landscaping behind that in the background as well as in the foreground.

One other thing that I just want to mention to you and you will see in a picture, in some of the pictures that I gave you, there are 4 small minor deciduous trees right in this area where the pool is, they are non-thriving trees. They haven't grown in 15 years since they have been put in. I think that it is poor planting and poor maintenance. We are not going to remove those trees. We are going to transplant those trees and there are places allocated for them already on the landscape plan. We won't be demolishing or we won't be killing any trees. We will just be transplanting 4 and preserving the Beech.

That is really the conclusion of the presentation.

CAPILLI: Thank you very much. Mr. Ludwig, did you have any questions.

LUDWIG: We need to know where the pool equipment is and that may require a variance also if it is front yard.

HAKIM: It would be, and we are, it is right here.

RUPP: Is that setback 50 feet? It is hard to tell from the plans here.

HAKIM: This is the landscaping. This is a little gravel area where the pump, and that pump sits right on the 50 foot setback from Spring Valley Road.

RUPP: Again, the site and zoning plan doesn't seem to show where the pool equipment is. My concern is, is it set back at least 50 feet from the street line?

HAKIM: The pump is right at the 50. It may be 48 feet.

RUPP: That might be another issue than. That would be another variance.

HAKIM: We would be willing to slide this slightly to the northeast, because really, this is, what you are looking at here is just a fence, and there will be a gravel area with a pump. If we slid it in this direction, we could get it out the 50 feet. Again, the impact is it will never be seen. By doing that, to meet that dimensional requirement, puts it out of the screening, it is hidden behind the slide and it is hidden behind the waterfall, so by doing that, yes, we would maybe.....

RUPP: As long as you haven't asked for that variance, and it is hard to tell from your plan, that even required that, for the Board's benefit, this is a rather unique property because it is on the corner and with the house setback way further than the front yard setback on either street. The provision of the ordinance that comes into play, there is one that says you shouldn't have it in the front yard, which means that is the required front yard. So, that is actually the 50 feet. That is why where the pool equipment is, is an issue.

There is another provision which is worded a little strange but it is probably better to think of not a corner lot, think of a regular lot, where you have just a rectangular house and you want to build a pool in the rear yard. You can't have that pool located outside of the lines of the rear of that building. That is the purpose of it is. It is supposed to be shielded by the building. In this case, it comes out a little bit from that little projection of the house. That is the variance that is being sought. But, again, the pool equipment might be another variance if it is within that 50 feet, because that is another provision.

HAKIM: We will substitute that for the one that we gave to you.

RUPP: It would help if the Plans actually showed that, so that we would know because you show it for the rear yard but you don't show it from the other street, right? In other words, according to, in other words, pool equipment to rear you have is as 35 feet shown here. But, you don't have

HAKIM: In other words, you are saying that this is a variance for intrusion into the front setback.

RUPP: The required front yard setback, which is 50 feet.....

HAKIM: Just for the pump. A pump would be an intrusion?

RUPP: Right, yes. There is a special provision, which is actually less, for the rear yard, right. The pool accessory equipment, right? But, so that is not the issue here, the issue is that 50 feet off the street. So, if it is located within that 50 feet, it is just another variance. I am hearing the Board, not necessarily asking you to move it, but they need a variance from that if you are doing it.

HAKIM: We did ask for whatever variances were to arise at this hearing. So, we would be willing to amend the plan to identify that on the plans.

RUPP: But, it is not shown on the plan and that is why....

HAKIM: We will show it.

CAPILLI: Okay, thank you very much. Is there anybody else before we wrap this up?

HAKIM: Mr. Rupp, may I ask a quick question? Is there any question about the fence and the existing fence and whatever? Is it in.....

RUPP: I will just note that based on both the survey and your plans, there is an existing steel fence, which is not close to the property line, it is actually, it looks, roughly 5 feet into the public right of way.

DIBELLA: On Spring Valley Road?

RUPP: Glenbrook Drive. In other words, it is not even something that one can say is like close.

HAKIM: That is an existing fence. I mean that is there and we are not proposing any changes to that.

RUPP: I know. The real question before the Board, since you are before us on an application, it is probably easier to have that corrected now, then...the real bottom line is there is an encroachment into the public right of way, which I don't think that this Board even has the authority to grant, even if it wanted to. That is a Mayor and Council issue.

HAKIM: What are you suggesting, that it be moved?

RUPP: I am just indicating that I am not, it kind of stood out like a sore thumb on these plans.

HAKIM: This is not just an ordinary fence. These are decorative concrete pillars connected by steel bars fence.

RUPP: Yes, yes, okay, from a municipal right of way issues, that probably makes it worse not better.

DIBELLA: But it is hard to move it.

HAKIM: It is hard to move and it is a dead-end street. The only people who drive down that street are, I think there is one more house after yours, right?

DIBELLA: On my side there is 3, but they like the fence.

HAKIM: There is 3, total.

RUPP: A lot of municipalities, I know, under these circumstances, and again, I could talk to the Borough Attorney about this, sometimes permit the encroachments, but they do it under a license agreement, so that there is not adverse possession and then there is an indemnity requirements. I will talk to the Borough Attorney, that might be a way to resolve it.

HAKIM: So could you describe to us what the next step is, what your procedure is from this point?

CAPILLI: We will discuss this after we wrap this up here, and usually you can call Mrs. Beer in the morning.

RUPP: Unless you want to, there were some suggestions made, this Board won't direct you as to what to do, okay, alright, there are a number of issues, I just want you to know that are interrelated. The no increase in surface drainage. The soil movement and the impervious surface coverage, are interrelated issues, that may or may not be able to be resolved in one way or another, based upon some other alterations to the property to address those.

Again, I am not going to direct you to do anything. I am just saying there were some issues that may be intertwined there. Any approval of the Board, if it does grant approval, would have to be conditioned upon the engineering approval on the surface water runoff, probably a soil movement permit...

LUDWIG: See, that is going to delay you. In as much that if it is over 300 cubic yards, which many foundations of a house are, so, I mean I don't know the pool depth or the size, but it is possible that it may be, which means that you would have to come back to the Board and you have to file another application if Mr. Rupp had already presented a resolution, and then you have to come back to get a soil moving permit.

That is why Mrs. Beer was trying to suggest that if you could get it done all at once, rather than make another application.

RUPP: For example, if you were to take a look at that, and continue this hearing, you would not have to republish. You wouldn't have to renotify, right, you can file that application and come back.

HAKIM: In order for us to do that, we would have to send a surveyor out to get topography. We haven't done that yet. We had this discussion when we started this project about whether this could be done step by step, because it was our opinion that if the dimensional requirements, variances, were not going meet with your liking....

CAPILLI: I don't mean to cut you off, I don't think anybody is saying you can't do this step by step, I think they were just saying if you wanted to kind of a move on this, that is what they were saying. You can do it step by step, there is no.....

HAKIM: If it is under 300 yards?

BEER: 299 and less.

CAPILLI: Yes, so I mean, you can do it step by step, I am assuming that with the winter and everything coming, you want to move

RUPP: For example, one of the things that we don't have, based on this application, we don't know what the size of that pool is. We don't have anything in the record that tells us that.

HAKIM: The only excavation would be for the pool itself. My guess is that it is going to be 300 yards.

RUPP: Then you are talking about adding 6 inches, and I am not quite sure because we don't have any topographical maps or anything like that either.

LUDWIG: Soil calculation is for plus and minus. It is movement on the site, even if you take it from one place and put it elsewhere. It is still, for example, he was talking about drainage issues. If you are talking a seepage pit, and you will be talking about it, that adds to the 300, so it is total movement of soil. It is not just the hole for the pool.

HAKIM: Right, so okay, so, if it is under 300?

LUDWIG: Then it can go to the Construction Department and they can issue the soil moving permit.

HAKIM: Other wise, we need a soil moving permit. And, you are suggesting that it might behoove us to hold this meeting over until such time as we get a surveyor out there. We will get topography for all of it.

CAPILLI: If you want, so you don't have to renotece.

RUPP: And for example, on the surface runoff, right, this issue about the impervious surface, which may have an impact on drainage pits, right, in other words, we will be able to look at those calculations and make a judgment, well instead of digging additional seepage pit, what if we took away that little tongue of a driveway for example, and maybe just put a little walkway. I am just saying, is they are all interrelated, those issues.

LUDWIG: So, if we don't close this hearing, you could come back and provide us that soil calculation. If we do close the hearing, then you have to start all over again, with another application for soil moving.

CAPILLI: I think the Board is looking, I don't want to speak for anybody, but you know, favorably. I don't see any, as of this point, without speaking out of turn, issue here, you know, so I don't want you to feel like you are going to go out and have this done and spend this money and it is going to be for naught.

HAKIM: Thank you, that was obviously our concern.

CAPILLI: So, we are just trying, I think, in general, just trying to give you a little...

HAKIM: I mean if there is generally a favorable response.

FLAHERTY: I just want to say, Mr. Chairman, you have done a good job of explaining away the 2 variances that you are looking for. I agree with him, that I would look favorably on the application but we need those soil calculations.

HAKIM: Okay, we rear you loud and clear.

RUPP: So, is it your request, to continue this hearing?

HAKIM: Yes.

RUPP: Okay, is it also your consent to extend whatever statutory deadlines there may be in rendering a decision based on that extension?

HAKIM: Yes. This will probably take some time, so I don't imagine that we will be back next month. We have to get a surveyor out and we have to do the engineering to do the soil calculations and drainage calculations. So, this could be extended or continued for several months.

BEER: I will send you an extension of time form, that you can execute for us. I will give you a schedule of when the meetings are.

HAKIM: Okay, great. Yes, we agree to that and we will look at your suggestions for the finger and all of that.

CAPILLI: Thank you very much for your time tonight.

HAKIM: I appreciate it.

PENDING CASES:

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. Hearing begun April 17, 2012, carried to May 15, 2012 for revised maps. At applicant's request hearing postponed to June 19, 2012 and again to July 17, 2012. Hearing resumed and continued on August 21, 2012. Determination forthcoming this evening.
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WALKER: This was an approval with conditions. Didn't allow the extension of the front yard as much as the applicant wanted it, but everything else was okay.

RUPP: What the applicant sought to do on this case, is to extend the garage area by another bay. That extension actually encroached a couple of feet into the front yard. That was one of the variances. The other variance was that he wanted to put on an enclosed foyer and then he wanted to put a roof over a porch. The Board agreed to the first 2 and did not agree to the porch.

CAPILLI: We have a resolution in the affirmative for this application.

WHEREAS, ASHOK IDNANI (hereinafter referred to as "Applicant"), being the owner of premises known as 40 Oak Avenue, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also being known as Lot 5 of Block 1808 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 front yard variance to allow the construction of an enclosed foyer, a roofed porch and a proposed addition to the garage to the existing home; and

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

WHEREAS, the BOARD has received the exhibits and documents with respect to this application as more particularly set forth on the list attached hereto and made part hereof; and

WHEREAS, the BOARD held a hearing in connection with the application, upon due notice as required by law, on April 17, 2012, July 17, 2012, and August 21, 2012; and

WHEREAS, the BOARD had 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 40 Oak Avenue in the Borough of Park Ridge, containing 29,185 sq. ft. and currently improved with an existing single family residential structure.
2. Applicant has applied for a variance from the front yard setback to permit the construction of an enclosed foyer measuring 5.0 feet by 12.0 feet, a roofed porch measuring 9 feet 3 inches by 25.0 feet, and a proposed new garage bay with unfinished attic measuring 10 feet 2 inches by 24 feet 4 inches.
3. Within the R-20 One Family Residential Zoning District, the required front yard setback is 40 feet. The existing front of the structure is set back 29.6 feet while the existing attached two car garage is set back 37.4 feet. The Applicant proposes to add an enclosed foyer measuring approximately 5.0 feet by 12.0 feet, set back 24'.6 feet from the front lot line. The addition of the proposed roofed porch further reduces the front yard setback to approximately 20.32 feet.
4. In addition to the enclosed foyer and the roofed porch, the Applicant proposes to construct an extension to the garage extending into the southwesterly side yard and front yard. The proposed addition will extend to within 37.4 feet of the front property line.
5. The proposed width of the building is increased from 67 feet to 77.16 feet. The maximum permitted width of a building within the R-20 Zone is 60% of the lot width measured at the building set back line (40 feet). The subject lot is trapezoidal in shape having a width of 111.40 feet at the front property line and a width of 131.45 feet at the building setback line. The maximum permitted building width is 78.87 feet.
6. Except for the front yard setbacks, all other yard setbacks, and all other aspects comply with the zoning ordinance requirements.
7. The BOARD finds that the construction of the extension of the garage and the enclosed foyer is consistent with the architecture of the neighborhood and that it is also consistent with the residential goal and policy of the Master Plan "to promote the continued maintenance and rehabilitation of the Borough's housing stock." The Board further finds that the aesthetic benefits therefrom outweigh any negative impact from the 5.0 foot additional encroachment into the front yard setback pursuant to N.J.S.A. 40:55D-70(c)(2) or the 2.6 foot encroachment into the required front yard from the garage extension.
8. The BOARD also finds that the requested front yard variance to permit the construction of the enclosed foyer so as to encroach an additional 5.0 feet into the required front yard setback is justified by virtue of the flexible (c) provisions of the Municipal Land Use Law. The granting of the proposed variance will improve the overall appearance of the structure and improve safety in ingressing and egressing the building, in furtherance of the zoning purposes to promote the public health, safety and welfare and to promote a desirable visual environment.

9. Moreover, the BOARD finds that a decision to grant the variance to permit encroachment of an enclosed foyer and the extension of the garage will not result in any substantial detriment to the public good now will same impair the intent and purpose of the zone plan or Zoning Ordinance of the Borough of Park Ridge.
10. The BOARD finds that among the purposes of the front yard setback requirement is to provide adequate open space and to maintain the character and scale within the neighborhood.
11. The BOARD finds that the proposed roofed porch to extend to within 20.32 feet of the front property line, diminishes the front yard setback to approximately 50% of that which is required in the R-20 Zone and that based upon the photographs submitted, will not be consistent with the character and scale within the neighborhood.
12. By reason of the proximity of the front lot line to the proposed roofed porch, the BOARD finds that the granting of the variances to permit the encroachment into the front yard setback will result in a substantial detriment to the public good and will impair the intent and purpose of the zone plan or Zoning Ordinance of the Borough of Park Ridge.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE, by virtue of the foregoing, and pursuant to the authority of N.J.S.A. 40:55D-70(c), the BOARD does hereby deny the Applicant's requested variance from the front yard setback requirements of the Zoning Ordinance with respect to the proposed roofed porch; and be it

FURTHER RESOLVED, that the condition upon the removal of the proposed roof porch, the BOARD does hereby grant the Applicant's requested variance to permit construction of the enclosed foyer to extend up to but not beyond 24.6 feet from the front lot line and the construction of the proposed extension of the garage to extend up to but not beyond 37.4 feet from the front lot line, as more particularly set forth in this resolution and as shown on the plans submitted to the BOARD.

EXHIBIT LIST

- 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
- Item 9 is 4 photographs undated.
- Item 10 is Board secretary letter dated 4/18/2012.
- item 11 is applicant's letter dated 5/2/2012.
- Item 12 is applicant's letter dated 6/11/2012.
- Item 13 is Board secretary letter dated 6/11/2012.

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Item 14 is extension of time request dated 6/11/2012.

Item 15 is extension granted dated 6/15/2012.

Item 16 is revised plans dated 7/3/2012.

Item 17 is Planner's review dated 7/10/2012.

Item 18 is Architect's letter dated 7/17/2012.

Item 19 is survey dated 6/02/2012.

Item 20 is Board secretary letter dated 7/19/2012.

Item 21 is an existing conditions survey dated 7/20/2012.

Item 22 is applicant's letter dated 8/13/2012.

Item 23 will be these photos – 4 photos undated- 2 sets.

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

ROLL CALL:

Ayes: Mr. Capilli, Mr. Walker, Mr. Hoskins, Mr. Raman,

Abstain: Mr. Sigillito, Mr. Sandler, Mr. Flaherty,

NEW BUSINESS:

The Chairman entertained a motion to authorize the signing of the **Park Ridge Board of Education Developer's Agreement**. Bonds have been posted and Mayor and Council have executed. So moved by Mr. Flaherty and seconded by Mr. Walker. Carried unanimously.

APPROVAL OF MINUTES:

The Chairman entertained a motion that the June 17, 2012 minutes be approved as submitted. So moved by Mr. Raman and seconded by Mr. Walker.

ROLL CALL:

Ayes: Mr. Sigillito, Mr. Sandler, Mr. Raman, Mr. Walker, Mr. Hoskins,
Mr. Flaherty, Mr. Capilli

Abstain: None

APPROVAL OF VOUCHERS:

Brigette Bogart, PP
Kevin Guarderas \$ 495.00*

(*indicates *insufficient funds* – letters written to all*)

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. Flaherty and seconded by Mr. Hoskins.

ROLL CALL:

Ayes: Mr. Sigillito, Mr. Sandler, Mr. Raman, Mr. Walker, Mr. Hoskins,
Mr. Flaherty, Mr. Capilli

Abstain None

ADJOURN:

There being no further business to come before the BOARD, by motion of Mr. Flaherty, and seconded by Mr. Walker.

Respectfully Submitted,

Margot Hamlin,
Transcriber