Borough of Cresskill
Zoning Board of Adjustment
Public Meeting 7:30 pm
Minutes Feb. 22, 2024

Present in Person: Mr. Bancroft, Mr. McCord, Mr. Sutera, Ms. Westerfeld, , Mr. Van Horne Esq.(Board Attorney), Ms. Bauer (recording secretary)
Absent: Mr. Kassis, Mr. Corona, Mr. Cleary, Ms. Wehle
Mr. McCord substituted for Mr. Kassis as Chairman of the Board.
Mr. McCord said Good Evening, we are calling the Feb. 22, 2024 Zoning Meeting to order. This meeting had been published as required by the Sunshine Laws of the State of New Jersey. A notice was properly given. We will start with application docket number 1418. (3.41)

Application

1418 Majid Syed & Deeba Patel 62 Merritt Ave Block 28.01 Lot 4

	Required	***Existing***	***Proposed***	***Variance***
Front Yard Set Back	*25 ft.*	*25.5 ft.*	*25.5 ft.*	
Side Yard Abutting/Lot	***15 ft.***	***7.5'***	***7.5***	***ENC***
Other Side Yard	***20 ft.***	***9.6'***	***9.6'***	***ENC***
Combined Side Yards	***35 ft.***	***17.1***	***17.1***	***ENC.***
Rear Yard Set Back	***30 ft.***	***28.3 ft.***	***28.3 ft.***	***ENC***
Max. Livable Fl. Area (FAR)	*34.2%*	*NA*	*NA*	*NA*
Lot Frontage	*100 ft.*	*75 ft.*	*75 ft*	*ENC.*
Lot Depth	*100 ft*	*100.7 ft.*	*100.7 ft.*	
Bldg. Coverage %	*20%*	*26.2%*	*26.2%*	*ENC*
Impervious Coverage variable	***32.4%***	***39.9% (3016 sf)***	***41.5% (3136 sf)***	***9.1%***
Height of Bldg./stories	*28'/ 2.5 .*	*NA*	*NA*	*ENC*
Lot Area	*10,000 sq. ft.*	*7,558 sq. ft.*	*7,558*	*ENC.*
Min. Dist. House to pool	***15'***	***NA***	***6.4'***	***8.6'***
Min. Side yard (pool)	*15'*	*NA*	*17.4'*	
Min. Rear Yard (pool)	*5'*	*NA*	*17.4'*	

1418 Majid Syed & Deeba Patel (cont.) 62 Merritt Ave Block 28.01 Lot 4

Mr. Mark D. Madaio representing the owners was before the Oct 26 Zoning Board for approval. They would like to construct a pool / patio.
The application, for the Oct. 26,2023 Zoning Meeting, was incomplete.
A revised application was delivered to Boro Hall on 11/01/2023.
The data in the above table was copied from the 'Zoning Notes' on the revised application.
On 12/20/2023 Mr. Madaio wrote the attached letter addressed to Chairman & Members of the Zoning Board of Adjustment.

Mr. Madaio Esq. introduced himself, and Mr. Gadanski, the project engineer..
Mr. Madaio Esq. the plans have been updated by what we talked about at the last meeting.
Mr. Madaio Esq. reviewed the attached letter, including: *the Resolution on Application 1531. This was the Builder's Application for the construction of the home and improvements on the lot that my client purchased "as is".*
Mr. Madaio Esq. said the pool, which has no patio, has an edge, a coping……..that coping, if you measured the entire circumference of the pool, comes out to 88 sq.ft. I need a variance to put another 88 sq.ft of coverage on the property. If you did that, it's probably around the size of this table ……it is a minuscule amount of additional coverage; and if we do have a pool, the pool equipment can't just sit on the ground. Traditionally, they either pour a concrete pad or they now make these plastic pads that they drop on the ground ……..That's the only reason I'm here. The pool is a little extra close to the rear yard, because it has to be further away from the house. The pool is closer to the house than it should be, because we wanted to maximize, make sure, we have a conforming rear-yard set-back. (8:27)
(*someone yelled 'that's it!'*)
Mr. Madaio Esq. said somehow, and again if you go to the second page of my letter, there is a variable table that I think is helpful. The driveway is in the resolution that you have .
The driveway was supposed to be 800 sq.ft. It was actually built by the builder, not us, at 884 sq.ft.
It's over, we didn't do it. The town inspected it, and the town issued a C.O, so that my client could close…..
If someone had a problem with this construction, that the builder built the driveway a little too big……my client spent nearly a million dollars in loss of property, based on that document, and we do not get to all that time now, because I showed up and asked for a court *call* ..…The rear deck, the mysterious rear deck, was approved in resolution at 307 sq.ft. It was actually constructed at 321 sq.ft.

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It was constructed 14 sq.ft larger than approved.
I don't know if they squared off a corner. I don't know what the builder did, but there is no question that the rear deck is 14 sq.ft larger than it's supposed to be……patio chair, I don't know how you want to conceptualize 14 sq.ft.
The side set-backs were approved at 7.5 and 9.6.
They were actually constructed at *7.9 and 5.6*, and this application doesn't ask for anything to do with them anyway. The application also doesn't ask for any change to the rear deck, or the driveway.
The Lot Coverage, the total side-yards, it was approved at 17.1, it was built at 17.1. And this application has nothing to do with that…….The Lot Coverage which was seemingly the question. The Lot Coverage, lets go to the resolution. The Lot Coverage was approved in paragraph 4, on page 4 of the resolution. Maximum Impervious Coverage is 39.79%, where 38.58 is proposed. The maximum permitted is 42 , which is what you think as well. (11:33)
We received this variance- not 'we', the builder, but the guy before us- got a variance for Lot Coverage of 39.79. We all have to go to the plan and add in the deck, *the subtract out the deck, figure out…*
The deck between what is permitted at around 32 and 39.79, is because we got a variance for that from the Planning Board. I'm not saying it's good or bad……
So that's how we got and we built, or the builder should have built 39.79% Coverage. That's because he got a variance to build 39.79% coverage. We are not going back to 32. My base line is what the Planning Board approved. Now I think because we should all be honest with each other. The builder was approved at 39.79 and he actually built 39.9. One tenth of a percent….It's bad, we've got to Feel, but there is nothing weird about how we got from 32% to 39%. Not any deck stacking……The simple reality…….Okay, so we are speaking 41.5.Which is the 39.9, which the builder actually built and got a CO for, plus the 88 sq.ft for my edge of my pool, because I can't figure out how to got to a pool without an edge and the 32 sq.ft for the piece of plank that is sitting on lawn on the ground for the pool pump. That's the only thing we are here for, and that is how we get from 39.9, which the builder built to 41.5, which is what we are seeking, and how it got from 32 to 39.79 approved is paragraph 4. It was approved by the Planning Board. Okay ? Building Coverage 25.6 was approved. 26.2 was constructed. The builder built too much Building Coverage by 456.7…….but none of that is being changed by this application. We're not touching that. So what I hope to accomplish by this letter, having marked in this letter.

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Now, Jack, if you haven't already done so, I don't mean to be too informal with Mr.Van Horne, if we would mark also the CO. Which my client received from the ……when he bought the house. That Accounts for the mystery coverage, so when I got here at the last meeting, I thought I was seeking a point one and a half increase in ..…Coverage, …..Impervious Coverage . Somehow at that (15:32) meeting, it became that I am asking for 10 or 12 percent more. Because nobody seemed to have the best solution in real lives, that 9 or 10 percent of what I was asking for was granted already, and that seemed to open up a can of worms……. So, I hope we are on a much better sort of…….I think you have heard plenty of testimony on this. I think that you all live here and can vote. It is not my intention of going back and raising the plan. I feel that we were all due an explanation, and I am glad that the Board and the girl was so cooperative about providing me with documents.

So very quickly with Mr. Gadanski, who remains sworn, I assume. So

Mr. Gadanski, who I often have to check with engineers and my wife, is there anything that I said that was stupid ?

Mr. Gadanski said No, your answers were correct .

Mr. Madaio Esq. said If I haven't said anything stupid yet, I'll try not to. But your numbers are in compliance with everything that the Board talked about.

Mr. Gadanski said correct.

Mr. Madaio Esq. asked *for verification of the numbers and calculations***.**

Mr. Gadanski said correct.

Mr. Madaio Esq. said and do you agree that what we are seeking, and (17:06) yes**,** the builder over-built several things ? My client, the innocent purchaser, who comes to the Board and applies for a CO, bought a house. Do you agree that all we are here for is the percentage of coverage related to an 88 sq.ft coping ? and the 32 sq.ft of equipment pad ?

Mr. Gadanski said yes.

Mr. Madaio Esq. said that's it.

Mr. Madaio Esq. said that's it.

Mr. Madaio Esq. said and that 1.6% brings the existing, which is 39.9 to 41.5.

Mr. Gadanski said that's correct.

Mr. Madaio Esq. said okay. And we are also speaking of variance to bring the pool a little closer to the house because we want to preserve the Rear Yard Set-back.

Mr. Gadanski said that's correct

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Mr. Madaio Esq. said and what were the dimensions of that ? ……..6.5' distance from house to pool, 6.4' sought, and 15' required.

Mr. Gadanski said that's correct

Mr. Madaio Esq. said and that did not change.

Mr. Gadanski said no it has not changed.

Mr. Madaio Esq. said Mr. Chairman, unless there are questions……the last meeting was brought to a 'fare thee well' as they say. Since then we've got an explanation: 88 sq.ft, 32 sq.ft the only reason I was here again.

Mr. McCord said I have one question……The resolution also provides that there will be a 1000 gallon Seepage pit

Mr. Gadanski said that is there.

Mr. McCord asked that is on the property?

Mr. Gadanski said yes

Mr. Madaio Esq. said that was put on the property by the builder, so we didn't do it. We wouldn't do it. And you would never been issued the CO if you hadn't. I know the engineer comes out and checks on it

Ms. Westerfeld asked how close the pool can be to the house ?

Mr. Gadanski said 15' is the Zoning Requirement. Its not part of the (19:31) state pool code.

Mr. Madaio Esq. said the State Pool Code describes the……*pool requirements…* Your Zoning code says 15' between house and pool. We don't want a Rear Yard variance, which we don't want to inflict on our neighbors. So we would rather have a bottle neck 6' between the pool and the house, than pull the pool back and have the neighbor complain its got too close to their property. But its not part of the state policy……..

Mr. McCord said one other question will the seepage pit that is existing on the property be impacted by the pool ?

Mr. Gadanski said no. If it is, because its underground, we don't know exactly where it is,……we can relocate it.

Mr. McCord said to put in a pool, it cost me almost as much to move my seepage pit.....You can't put a pool on top of a seepage pit.

Mr. Sutera said I have one question. Describe the make-up of the driveway. Is it quartz cement ……..

Mr. Gadanski said ……its paver……

Mr. McCord said is there anyone in the audience here tonight for or against the application **?**

Mr. Bancroft said I'll make a motion to approve it.

1418 Majid Syed & Deeba Patel (cont.) 62 Merritt Ave Block 28.01 Lot 4

Ms. Bauer took the Roll Call. The application was approved.

Mr. Madaio Esq. thanked the Board. (22:25)

Mr. McCord said The next application is Docket 1420

1420 Adi Levi 135 4th Street Block 49 Lots 615, 616, 617, 618

Description	Required	Existing	Proposed	Variance
Front Yard Set Back	25’	25.1’	25.1’	
Side Yard Abutting/Lot	**15’**	**14.7’**	**14.7’**	**ENC**
Other Side Yard	20’	25.8’	25.8’	
Combined Side Yards	35’	40.5’	40.5’	
Min. Rear Yard	30’	Deck **24.77’** House 37.13’	**24.77’** 37.13	**Deck ENC**
FAR	30.0%	14.73%	14.73%	
Height of Building	28.0’	16’	16’	
Lot Frontage	100’	100’	100’	
Lot Depth	100‘	100’	100’	
Bldg. Coverage %	**20%**		**21.70%**	**1.7%**
Impervious Coverage	**30.0%**		**32.23%**	**2.23%**
Lot Area	10,000 sf	10,000 sf	10,000 sf	

The applicant installed a new walkway, driveway, and shed without permits at the above referenced property, requiring the following variances :

	Required	Proposed	Variance
Min. One Side Yard	**5’**	**3’**	**2’**
Fence	**4’ (side yard)**	**6’**	**2’**
Bldg. Coverage %	**20%**	**21.7%**	**1.7%**
Impervious Coverage	**30%**	**32.23%**	**2.23%**

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Mr. McCord said for the record Mr. Levi is here with us. For the record, the applicant is represented by Mark D. Madaio ESQ.

Mr. Mark D. Madaio ESQ**.** said my offices are on Legion Drive here in Bergenfield. With me is Architect Pantale Stephanie, the project architect, who will outline some of the plans, but **t**his is not, in a nutshell, also has some hair on it, but I think is a little less hair. The applicant purchased this home a few years ago. In the purchase of this home there are a few deviations that currently exist. The applicant had created a patio and a pergola, but the pergola has continually moved. All that is there is the patio, therefore there is no…….to mess it up. ……..The roof of the pergola will be removed. It will no longer be a covered structure. It will no longer alter Building Coverage in any way. So the Building Coverage deviation is 20% is required. It exists at 21.7. It's going to continue at 21.7, and no other portion of it has changed.

The Impervious Coverage…….*rustling of paper, movement of chairs……..*

Ms. **Stephanie Pantale (Architect)** was sworn in.

Mr. **Mark D. Madaio ESQ** said why don't you explain the variances.

Ms. **Stephanie Pantale (Architect)** I'll start with the background. The house was finished. My client is renting his home. It's finished, it's beautiful. He starts renting the home, and I think he needed a continuation certificate, CO for the people who were living there. The inspector goes to do that and says 'Hey, when did you build this pergola, or covered porch' and he had conjured that the construction official about the structure, without the pergola. I call it pergola because it has become a pergola, it is a covered porch. It had clear black plastic on top of it. Right now it's a roof, and that now makes it Building Coverage. So if the plastic roof comes back, it will be a pergola. So these plans, that I have prepared, are, for the most part, a retrofit structure. And, my client takes them, makes all the changes and he hands them to ……. Town, and the Town *reviews* them and no analysis ……So we went and did a Zoning analysis. And what is clear today, that is minus the plastic roof, because this was a proposed plan. And that's where all of a sudden we had Building Coverage problems and Impervious Coverage problems, and Bob said to just do it.

Okay, that's what brings us here today.

Mr. **Mark D. Madaio ESQ** said ……go over the deviations that exist. Lets start the dialogue without reference……..Just so we can get started, I'm going to mark in the shadow over-drafts. I have two *sets*. I will put one on this side and one on this side. We will call one set A-1 and the other set A-2.

…….*described the contents of A-1 and A-2……*

Mr. Sutera asked is he the renter or the owner of the property ?

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Mr. Mark D. Madaio ESQ said he's the owner. (27:30)
Ms. **Stephanie Pantale (Architect)** said the owner is here.
Mr. Sutera said you said he had to get another CO to rent the building ?
Ms. **Stephanie Pantale (Architect)** said No, he called me up. He got me as a recommendation to come and review the structure of the covered porch /pergola. That's what I was hired to do. And then it has grown and gotten bigger……..So, the Front Yard Set-Back is fine. The Side Yard abutting the lot. It's supposed to be 15 but it's 14.7. *It's a recorder*, it's not conforming. The other Side-Yard is conforming, its 25.8. The Combined Side Yards complies. Minimum Rear Yard is …… (28:37)
The house actually is 37.13……..it is not square, it is skewed ……..so that corner here is 37.13, and there is the deck……at 24.77……..
Mr. **Mark D. Madaio ESQ** said… so the deck, I want to quantify that. The Rear Yard is supposed to be 25. ……..Its 24.77 existing at the time of purchase……. (29:16)
Ms. **Stephanie Pantale (Architect)** said FAR, we are significantly under. The height of the house we are significantly under. Lot Frontage is 100. Lot Depth is 100. Building Coverage Required is 20%, we are at 21.7% . The Impervious Coverage is 30%, and we are at 32.23%.....
Mr. **Mark D. Madaio ESQ** said isn't that the same existing as proposed ?
Ms. **Stephanie Pantale (Architect)** said yes
Mr. Levi said yes, that's the condition its always been.
Mr. Mark D. Madaio ESQ said that's the same problem, were variances granted
Ms. **Stephanie Pantale (Architect)** said no. I'm just here telling you what's there to get, and once he did that……..also on your, I guess your minutes,…….there is just the variances.
One Side Yard by 5'. The applicant installed a new walkway, driveway, and shed without permit.
Mr. **Mark D. Madaio ESQ** said what we know is that real walkway that goes around the house (*indicated walkway on exhibits A-1 and A-2)*
Ms. **Stephanie Pantale (Architect)** said here around the deck and pergola……..
Mr. **Mark D. Madaio ESQ** said so that walkway was added, without permit by the current owner. There was no prior owner who did that. So, we wanted to be candid with you about that. That walkway was added. That walkway, Stephanie was not able to quantify how much of the increased Coverage that represents……
Ms. **Stephanie Pantale (Architect)** *explained the walkway location* **.**
Mr. **Mark D. Madaio ESQ** said and that first part of it was there already.
Ms. **Stephanie Pantale (Architect)** said**……**on the side of the house……..

299 sq.ft. or 300 sq.ft. (33:06)
Mr. **Mark D. Madaio ESQ** said 300 sq.ft on a lot area of 10,000 sq.ft. That accounts for 23% of the coverage.
Ms. **Stephanie Pantale (Architect)** said As far as the Building Coverage is concerned, the house is there and a new shed. 21.7% Building Coverage.
Mr. **Sutera** said which deck ?
Ms. **Stephanie Pantale (Architect)** said the wooden deck
Mr. **Mark D. Madaio ESQ** said there is only one deck
Mr. **Sutera** said patio or pergola ?
Ms. **Stephanie Pantale (Architect)** said the patio has the pergola over it.
Mr. **Mark D. Madaio ESQ** said if you would, if you look at the photo set, there is a page that shows the steps down to the basement. If we can, lets go to the front page.
Ms. **Stephanie Pantale (Architect)** said you can see here that the deck goes almost to the edge, where the stairs are supposed to be. It goes from the corner of the house all the way down.
Mr. **Sutera** said the matte google photograph is not from today ?
*Ms. **Stephanie Pantale (Architect)** said the date, 2018.*
Mr. **Mark D. Madaio ESQ** said when he purchased the house. That represents the condition at the time of his purchase.
Ms. **Stephanie Pantale (Architect)** said…..the shed is no longer there, and has been re-constructed on the other side
of the property. *Description of shed location.*
Mr. **Mark D. Madaio ESQ** said the shed requires a variance due to the proximity to the Side Yard ……. (35:50)
The area is supposed to be 5'
Ms. **Stephanie Pantale (Architect)** *continued with description of exhibits A-1 and A-2*
Mr. McCord asked do you have somewhere the plans from when he actually bought the house ?
Ms. **Stephanie Pantale (Architect)** said I do not. …….
Mr. McCord asked there was no survey conducted ?
Ms. **Stephanie Pantale (Architect)** said I do not.
Mr. McCord said you can certainly ask the owner, if a survey was done at the time of closing ……
Mr. McCord spoke to Mr. Levi : if you have your closing statement that would tell you if you paid for a survey.

Ms. **Stephanie Pantale (Architect)** *continued describing the property and the changes that were made by Mr. Levi.*

Mr. **Mark D. Madaio ESQ** said a third of the deck is in the patio. The patio then had supposedly ……..put on it, which would no longer have the roof. So what he did, he took a third of the deck and made it a patio. That's what happened here.

*Mr. **Mark D. Madaio ESQ** displayed another picture*

Mr. **Mark D. Madaio ESQ** said if you look at this picture, the basement staircase, you will see to the left of that stairwell is a concrete plaque. Okay. There was, or appears to have been……..a patio already under the deck.

You can see that concrete patio right where my finger is. On the far left edge of the ……deck. So, again, I can't tell you how much of that patio exceeds that patio, but what occurred was that a portion of the deck was turned into a patio. And when that portion of the deck was ripped off, what was under it was already, to a greater or lesser extent, a patio. If we could as well, Stephanie made two other points. If we see this one *smoker,* that shows that additional after the facts……That is no question additional Coverage. It brings up what it says on the……but it might be just a little easier for me to visualize it, rather than just a high-lighter, you have a photograph. And if you would, if we could back to – *Madaio Esq searched for the picture. Could not find one with pergola* -

Ms. **Stephanie Pantale (Architect)** said the pergola was destructed .They took the patio down and then came back *to cook wood*…… (41:40)

Mr. **Mark D. Madaio ESQ** said the final picture that may be of some relevance to you, is this is the old fence.

Okay. This is the fence that was built…….It's a six foot fence which is not permitted…..He did tear down this wooden…..fence, and put in a PVC white, very neat looking fence, at exactly the same height. No higher nor lower.

Stephanie, is there a white PVC fence on the property at this point ?

Ms. **Stephanie Pantale (Architect)** said yes.

Mr. **Mark D. Madaio ESQ** asked and is it at the same height and location as the prior stockade fence ?

Ms. **Stephanie Pantale (Architect)** said yes.

Mr. **Mark D. Madaio ESQ** asked is there a photograph that depicts the ……..

Mr. McCord asked is *Warren* here to testify ?

(43:12)

Mr. **Mark D. Madaio ESQ** said we certainly going to have him here for a trial.

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Mr. McCord asked Ms. Stephanie Pantale (Architect) if the applicant replaced the stockade fence **.**

Ms. **Stephanie Pantale (Architect)** said yes.

Mr. McCord asked did he have a permit ?

Ms. **Stephanie Pantale (Architect)** said No. I don't think that he realized that he had to, since he was replacing an existing fence

Mr. McCord asked do you agree with me that the good side of the fence is facing the applicant's property ?

Ms. **Stephanie Pantale (Architect)** said **…..**

Mr. McCord asked isn't it customary that the owner of the fence, has the good side of the fence facing out ?

Ms. **Stephanie Pantale (Architect)** said that is what is supposed to happen but the fence was on his property.

Mr. McCord said the survey……

Ms. **Stephanie Pantale (Architect)** said the survey shows that the fence is entirely on our property. I don't think it was the neighbor knew it was 100% on our property. If he did, and we could do anything we want to it.

And if that's the case, there is the corner as well……..

Mr. **Mark D. Madaio ESQ** said it was our fence, I don't think there is any question……

Mr. McCord said this survey was done in 2023. Correct ?

Ms. **Stephanie Pantale (Architect)** said correct

Mr. McCord said we don't know if the pre-existing fence is or is not on the property, right ? We don't have the 2019 survey.

Ms. **Stephanie Pantale (Architect)** said correct. I used the new survey for my plans.

Mr. Van Horne Esq. asked who drew the survey ?

Ms. **Stephanie Pantale (Architect)** said some guy.

Mr. Van Horne Esq. said I think we need him here.

Mr. **Mark D. Madaio ESQ** said I don't know…….Richard Zinn ? I don't know if we could get him, but we can certainly try. But I'm curious about the question. He can testify when the fences were swapped out. (46:10)

Right ? Why don't we call him up.

……*discussion among Board members and applicant team……*

Mr. Adi Levi was sworn in

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Mr. **Mark D. Madaio ESQ** asked Adi, when did you put in the white fence ?

Mr. Adi Levi said somewhere in 2019……

Mr. **Mark D. Madaio ESQ** said so the survey done in 2023 the fence on that survey, is mostly the white fence ? Is that correct ?

Mr. Adi Levi said yes

Mr. **Mark D. Madaio ESQ** said you said in the front though there is still some wooden fence ?

Mr. Adi Levi said yes

Mr. **Mark D. Madaio ESQ** said Okay, so if you look at the white property line, the fence in the front yard says wood. If you look at the white property line in the rear it is depicted as a vinyl fence. So Mr. Levi can you explain on the right side of the property where does the wooden fence go ? From and to.

Mr. Adi Levi said from the front side of the property all the way to the street .

Mr. **Mark D. Madaio ESQ** said so in your testimony, that the wooden fence is in the front yard.

Mr. Adi Levi said yes.

Mr. **Mark D. Madaio ESQ** asked and is that wooden fence six feet ?

Mr. Adi Levi said No.

Mr. **Mark D. Madaio ESQ** asked how high is that one ?

Mr. Adi Levi said it's the shorter one. I think it's three feet, I really don't know the height of it.

Mr. **Mark D. Madaio ESQ** said but from the back of that area directly across from the back of the driveway, is that where the vinyl fence starts?

Mr. Adi Levi said yes.

Mr. **Mark D. Madaio ESQ** said and that vinyl fence then goes the entire length of that property.

Mr. Adi Levi said yes.

Mr. **Mark D. Madaio ESQ** said okay. Then the vinyl fence then goes far back of the property

Mr. Adi Levi said yes

Mr. **Mark D. Madaio ESQ** said does the vinyl fence go on the left of the property? (*48:23)*

Mr. Adi Levi said yes

Mr. **Mark D. Madaio ESQ** said how far forward does the vinyl fence come on the left side of the property ?

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Mr. Adi Levi said to the back of the house. The set-back of the house.
Mr. **Mark D. Madaio ESQ** said he took the rear corner of the house and went to the property line. Is that the point where the fence switches from vinyl back to wood ?
Mr. Adi Levi said yes
Mr. **Mark D. Madaio ESQ** said and that wood fence is still there.
Mr. Adi Levi said yes
Mr. **Mark D. Madaio ESQ** said the vinyl fence, is it fair to say, is around the back-yard and the right side of the house, and the 2 fences, in the front yard areas, are wooden fences.
Mr. Adi Levi said right, yes .
Mr. **Mark D. Madaio ESQ** asked is there any wooden fence in the back-yard **?**
Mr. Adi Levi said it's all vinyl .
Mr. **Mark D. Madaio ESQ** asked and when did you say that you switched the wood to vinyl ?
Mr. Adi Levi said around 2019.
Mr. **Mark D. Madaio ESQ** asked and when did you build the new patio area ?
Mr. Adi Levi said before I moved into the house. Before I got the CO.
Mr. **Mark D. Madaio ESQ** asked you mean the patio. Right ? I mean the thing that you now have a pergola over ?
Mr. Adi Levi said you mean the pergola ?
Mr. **Mark D. Madaio ESQ** said that area**.**
Mr. Adi Levi said that area, before I moved, before I got a CO.
Mr. **Mark D. Madaio ESQ** said give a date. Is there a date ? When approximately did you change part of the deck into a …….You built it before you owned the property ?
Mr. Adi Levi said no,no,no, when I moved into the property. That's what I meant. I bought it and then I built it, and then I moved into the house…..Before I moved into this house in April 2019.
Ms. **Stephanie Pantale (Architect)** said you bought the house and then you renovated
Mr. Adi Levi said yes. I renovated for a couple of months and then I moved in April
Mr. **Mark D. Madaio ESQ** asked and when was the picture with you, or somebody, standing next to the smoker ?
Mr. Adi Levi said ……..I can look it up. I can know the date exactly.
Mr. **Mark D. Madaio ESQ** said …… and the reason I ask is there is obviously a wooden fence in the back here, not a PVC.

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……*Mr. Adi Levi looked for the date*…….

Mr. Adi Levi said April 24, 2019. I changed the fence after I moved in 2019. That's when I changed it.

Mr. **Mark D. Madaio ESQ** said so you bought it in April

Mr. Adi Levi said after I moved in 2019, I changed the fence after I moved in 2019.

Mr. **Mark D. Madaio ESQ** asked when did you purchase the home ?

Mr. Adi Levi said 2018,

Mr. **Mark D. Madaio ESQ** asked did you then commence renovations of the home ?

Mr. Adi Levi said yes, I did renovations…….

Mr. **Mark D. Madaio ESQ** asked and in April did you apply for a CO ?

Mr. Adi Levi said yes, before I moved into the house I applied for a CO**.**

Mr. **Mark D. Madaio ESQ** asked and is that when you found out that there were issues. Or. when did you find out that there were issues.

Mr. Adi Levi said ……the pathway in the back was……..before I got a CO so I did get……. In the back is a High-Rise…

Mr. **Mark D. Madaio ESQ** said Okay. So, you built it**,** and after you purchased the property before the CO. Prior to the CO, before you lived there, did you get a permit……

Mr. Adi Levi said no.

Mr. **Mark D. Madaio ESQ** said Okay. You did ……You swapped out the fence sometime after April, as the photograph indicates. You changed the fence around the back-yard.

Mr. Adi Levi said yes

Mr. **Mark D. Madaio ESQ** said and that was after you were denied the Certificate of Occupancy. Right ?

Mr. Adi Levi said No I was not denied……but after that I changed the fence**.**

Mr. **Mark D. Madaio ESQ** said after that. Okay, Okay.

So, the fence, some point after you got the CO, you switched the fence around the back-yard, the three sides of the back-yard from six foot stockade to six foot vinyl. Correct ?

Mr. Adi Levi said yes

Mr. **Mark D. Madaio ESQ** asked did you re-locate the shed ?

Mr. Adi Levi said yes

Mr. **Mark D. Madaio ESQ** asked and where was the shed ?

Mr. Adi Levi said the shed was on the left side of the property **.**

Mr. **Mark D. Madaio ESQ** asked and where did you move it to ?

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Mr. Adi Levi said to the right side of the property. (53:33)
Mr. **Mark D. Madaio ESQ** said you understand that that shed is supposed to be five foot from the property line. It is only three feet from the property line. Correct ?
Mr. Adi Levi said yeah……I don't know if it's three feet or five feet……..
Mr. **Mark D. Madaio ESQ** asked is there a reason why you can't move that shed over two feet ?
Mr. Adi Levi said it's going to be too close to the walkway ……..
Mr. **Mark D. Madaio ESQ** said it's all too close. Can you move the shed over two feet and make it conforming ?
Mr. Adi Levi said yes.
Mr. **Mark D. Madaio ESQ** said Okay. So eliminate that variance request please. The shed will be moved over two feet and will be conforming.
Mr Van Horne ESQ said you stipulate that the shed will be moved five feet from the property line.
Mr. **Mark D. Madaio ESQ** said correct. And the closest point on the shed will be greater than five feet from the property line. I don't care if he catty-corners it, spins it around. Whatever he'd like to do.
Mr Van Horne ESQ said you are also stipulating that you are removing the plastic covering on the pergola. (54:35)
Mr. **Mark D. Madaio ESQ** said the plastic cover on the pergola will be removed. Accordingly, it will simply be a patio .
Mr. **Mark D. Madaio ESQ** said when you purchased the property, wasn't there a charge……when you did the work on the property, this is the basement steps, the picture of the basement steps, what is this concrete slab on the left side of that picture ?
Mr. Adi Levi said it was under the deck, that was existing there for cover the deck…..
Mr. **Mark D. Madaio ESQ** said so you removed the wooden deck. Why is that piece of concrete there ?
Mr. Adi Levi said ……
Mr. Mark D. Madaio ESQ asked and how big was that piece of concrete **?**
Mr. Adi Levi said seven feet.
Mr. Mark D. Madaio ESQ said okay, I need a number. You did significant renovations on the home. You bought windows, you did things, you know approximate dimensions . You know how big a door is. Was it bigger or smaller than …….

Mr. Adi Levi said bigger than a door……there were a lot of things measured. I don't really know. But I know that it was a long piece, that was at least half way of the existing deck. (56:13)
Mr. Mark D. Madaio ESQ said and that was there.
Mr. Adi Levi said yes.
Mr. Mark D. Madaio ESQ asked did you pull that out when you put down your …….stone ?
Mr. Adi Levi said no, just covered it.
Mr. Mark D. Madaio ESQ..……so some portion of that area, that is now the patio, has the old patio under it.
Mr. Adi Levi said correct
Mr. Mark D. Madaio ESQ said okay, and some portion is here.
Mr. Adi Levi said yes.
Mr. Mark D. Madaio ESQ said okay. And if we look at the picture with the smoker. Please describe that's the new path that you put in, but are you standing on the patio ? *and that's the staircase*
Mr. Adi Levi said yes……..
Mr. Mark D. Madaio ESQ *remarked about staircase*
Mr. Mark D. Madaio ESQ said I will show you the final picture. Does that picture show the staircase which now has the……wrought iron fence around it. The patio which now has the plastic cover that's coming off, and then behind that, furthering your side-line, if that was the gap.
Mr. Adi Levi said yes (57:34)
Mr. Mark D. Madaio ESQ said Okay. And all of that is not …….. generated, it is really what it looks like ?
Mr. Adi Levi said yes, *in the summer.*
Mr. Mark D. Madaio ESQ said okay. So you would like:
number one: you move the shed ,
number two: you replace an existing with a vinyl fence ,
and you would like variances for Lot Coverage and Building Coverage for what's there today.
Mr. Adi Levi said yes.
Mr. Mark D. Madaio ESQ said and that's what's shown in this picture.
Mr Van Horne ESQ said *indicate* where we are .
Mr. Mark D. Madaio ESQ said in the rear yard, of course. Well again, it is our position, the Rear Yard, he didn't change that to *modernize* the deck. If you go to page 1……..The corner of the deck that's too close, is the other corner. And this

1420 Adi Levi (Cont.) 135 4th Street Block 49 Lots 615, 616, 617, 618

is the *Google Earth* from the month, or around the approximate time of his purchase,

Mr Van Horne ESQ said and that exists ?

Mr. Mark D. Madaio ESQ said that was existing when…….

Mr. McCord asked can you have a survey when you purchased the property ? Is there a survey between 2018, when you bought it

Mr. Adi Levi said I have a survey it is at home. I can look for it.

Mr. McCord said you said you bought it in 2018. Correct ?

Mr. Adi Levi said yes……but in 2019……you know what, I think I remember back then, after, until the walkway, I needed to do a confirmation of the city again,….and it was fine.

Mr. McCord said who said you had to do a re-calculation ?

Mr. Adi Levi said Bob.

Mr. McCord said the town ?

Mr. Adi Levi said yes .

Mr. McCord asked why …….

Mr. Adi Levi said because of the……..

Mr. McCord said but you hadn't applied for a permit.

Mr. Adi Levi said I really don't know……..*gave possible explanation*….. But I know I have the survey.

Mr. McCord said personally I would like to see the survey

Mr. Mark D. Madaio ESQ said we would be happy if you had a look, and I don't think we have an option……..we'll get everything to you ahead of time. When we come back we'll show you the old survey …….*listed the items to be reviewed at the next meeting…..*

Mr. McCord said and you could look into whatever communications may exist with the Building Department.

Mr. Mark D. Madaio ESQ said also……if variances were granted, for example variance for the encroachment of the rear yard. There is approval for that. That would help.

Mr. McCord said so let's try to do that.

Mr Van Horne ESQ said you don't have to re-notice .

Mr. Mark D. Madaio ESQ asked about the date of the next hearing.

Mr Van Horne ESQ said it is held on the 4th Thursday of the month. The next meeting is March 28, 2024.

Mr. McCord said is there anyone here that wants to be heard on this application ?

Mr. McCord said *the records should reflect that we extended the time for the Board to consider the application, to the March 28,2024 meeting of the ZBOA,*

1420 Adi Levi (Cont.) 135 4th Street Block 49 Lots 615, 616, 617, 618

to give us the time to collect the required documentation.

Mr. McCord said there is one more thing. It says something about a driveway which was altered in some fashion. Is that also part of the application ?

Ms. **Stephanie Pantale (Architect)** said its not. It was retained over the existing….*much paper rattling……*it's exactly where it exists today.

Mr. McCord said the survey would presumably show that as well.

Mr. Mark D. Madaio ESQ thanked the Board and expressed his appreciation.

At the request of the applicants the following applications are carried to the March 28,2024 ZBOA meeting| :

1421 Avi Lavon 159 Seventh St Block 34 Lot 266

He proposes to add 1472 sq.ft 2nd floor and 2 story rear addition to the existing 1 1/2 story frame dwelling

1422 Tal Topaz 8 Douglas Drive Block 1.05 Lot 14

He proposes to install a 208 sq.ft in ground, and a 51 sq.ft. rear pool bathroom addition to the existing dwelling

Borough of Cresskill
Zoning Board of Adjustment
Public Meeting 7:30 pm
Minutes Feb. 22, 2024

Memorialization

1419 Assaf Muller **98 Heather Hill Rd.** **Bock 1.05 Lot 5**

	Required	**Existing**	**Proposed**	**Variance**
Front Yard Set Back	25 ft.	24.7’	No change	
Side Yard Abutting/Lot	**15 ft.**	**17.6’**	**No change**	
Other Side Yard	**20 ft.**	**17.3’**	**No Change**	**ENC**
Combined Side Yards	**35 ft.**	**34.9’**	**No Change**	**ENC**
Rear Yard Set Back	**30 ft.**	**34’**	**No change**	
Max. Livable Fl. Area (FAR)	34.32% (2574 sf)	38.7% (2903 sf)	No change	ENC
Lot Frontage	100 ft.	75 ft		ENC
Lot Depth	100 ft	100 ft		0
Bldg. Coverage %	20% (1500 sf)	21.34% (1601sf)	No change	ENC
Impervious Coverage variable	**32.4% (2430 sf)**	**38.62% (2897 sf)**	**38.33% (2875 sf)**	**Decreases existing non-conformity**
Height of Bldg./stories	2.5 sty./ 28.0’	2.5 sty./ 28.0’	No change	
Lot Area	10,000 sq. ft.	7,500 sq.ft		ENC
Min. Dist. House to pool	**15’**			
Min. Rear Yard (pool)	5’			

The applicant was granted the above variances to construct a new Hot Tub.

Meeting adjourned at 8:42 pm

418 Majid Syed & Deeba Patel (cont.) 62 Merritt Ave Block 28.01 Lot 4

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December 20, 2023

Chairman & Members of the Zoning Board of Adjustment
Borough of Cresskill
67 Union Avenue
Cresskill, New Jersey 07626

RE: 62 Merritt Avenue (R-IO One Family Residence Zone) Block 28.01 Lot 4
Public Hearing — January 25th, 2024

Dear Chairman & Members of the Board:

These offices represent the Applicant in this matter. As you may recall, my client is seeking to install a swimming pool on the undersized lot (7,558 v. 10,000 sf) that requires two variances:

1. *The distance between the proposed pool and the house — 6.4' is sought and 15' is required. My client seeks this variance to maximize the distance between the proposed pool and the rear property line.*
2. *My client requires a variance as to Maximum Impervious Coverage — 38.58% was previously approved. 39.9% (3016 sf) was constructed and is existing. 41.5% (3136 sf) is proposed. The sole purpose of this additional coverage is for the installation of the pool coping (88 sf) and the equipment pad (32 sf).*

for the construction of the home and considerable discussion as to what items on the existing plan were included on the plan presented to the Board during the

Developer's Application. You may recall, there was some discussion of "adding" coverage items during the prior Public Meeting that were alleged not to have been included in the prior Application. The Board seemed to believe that the Builder had exceeded what was permitted and, specifically, that original plans submitted in connection with the Application to build the home did not include a deck. In short, reference to plans that were presented by the Board appeared to indicate that what was actually constructed significantly exceeded that which was permitted and, therefore, our requests and calculations were well below that which was actually being sought.

I have attached hereto the Resolution on Application 1531. This was the Builder's Application for the construction of the home and improvements on the lot that my client purchased "as is", from which he has made no changes, and for which he obtained a lawful municipal Certificate of Occupancy and for which the Developer received all permits, inspections and approvals at the time of construction. At the outset, I note the following from the Resolution:

> *Paragraph 2 — The Applicant is proposing to demolish the existing home and erect a new 2 story single family home of approximately 2,586 square feet with an attached two bay front entry garage. The proposed development will also have an 800 square foot paved driveway, a 307 square foot deck in the rear a 2 foot landscape wall along the west elevation of the proposed dwelling and a 1,000 gallon seepage pit.*

I trust this puts to rest any question as to whether the rear deck was proposed or included in the approval to construct the existing home that was purchased by my client.

Resolution paragraphs 3 and 4 discuss the variances requested by the Developer and approved by Resolution 1531. I believe they can best be summarized as follows in relevant and in comparison, to what was constructed and is currently on the Property.

Please view next page

1418 Majid Syed & Deeba Patel (cont.) 62 Merritt Ave Block 28.01 Lot 4

	Res. 1531	*Constructed*	*Proposed*
Driveway	*800 sf*	*884 sf (Builder may have exceeded amount stated by 84 sf)*	*No Change Proposed in the Present Application*
Rear Deck	*307 sf*	*321 sf (Builder may have exceeded amount stated by 14*	*No Change Proposed in the Present*
Side Setbacks	*7.5/9.6*	*7.5/9.6*	*No Change Proposed In the Present Application*
Total Side Yards	*17.1*	*17.1*	*No Change Proposed in the Present Application*
Lot Coverage	*38.58% (No variance Required — Resolution says 39.79% is Permitted) Note: Current Plan says only 32.4% Permitted*	*39.9% (3016 so Exceeds that which was approved*	*41.5% (3136 so which is only the addition of the coping (88 sf) and the equipment pad (32 sf) above existing. It is 1.6% over existing.*
Building Coverage	*25.60% Approved*	*26.2% Exceeds that which was approved*	*No Change Proposed in the Present Application*

1418 Majid Syed & Deeba Patel (cont.) 62 Merritt Ave Block 28.01 Lot 4

I again note, that everything was constructed by the Builder prior to sale to my client and he obtained every approval and inspection during construction and received a Certificate of Occupancy - as did my client at the time of closing.

Thank you for your attention to this matter.

Very truly yours,

Mark D. Madaio, Esq.
CC: Client
Jack Van Horne, Esq.