

**Borough of Cresskill  
Zoning Board of Adjustment  
Minutes Apr. 28, 2016**

Present: Mr. Merzel, Mr. Kassis, Mr McCord , Ms. Batistic, Mr. Corona, Ms. Westerfeld  
Mr. Van Horne (Board Attorney), Ms. Bauer (recording secretary),  
Absent:, Mr. DePalo, Ms. Furio  
The meeting was called to order at 8:01 pm.  
Ms. Furio was absent . Mr. Kassis chaired the meeting  
Kassis announced that the meeting had been published as required by the Sunshine Laws of the State of New Jersey.  
Minutes of the Mar. 24, 2016 meeting were approved.

**Applications**

**1279 Ramirez-Moreno/Gomez-Osorio                      155 Jefferson                      Block 33    Lot 316**

	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance Req'd</b>
<b>Height</b>	<b>28 ft</b>	<b>30.76 ft</b>	<b>30.76 ft</b>	<b>2.76 ft</b>
Side Yard Abutting/Lot	15 ft.	12.24 ft.		Granted 2/27/14
Combined Side Yards	35 ft.	22.24 ft.		Granted 2/27/14
Max. Livable Fl. Area FAR	Variable 38.82%	44.92%		Granted 2/27/14
Lot Frontage	100 ft.	50 ft.		
Lot Depth	100 ft.	144 ft.		
Bldg Coverage %	20%	22.21%		Granted 2/27/14
Impervious Coverage	Variable 34.90%	47.73%		Granted 2/27/14
Lot Area	10,000 sq. ft.	7365.78 sq. ft.		

Applicants are applying for an existing height variance .  
The other variances were granted on 2/27/14 Docket # 1236.  
Application carried from March 24, ZBOA meeting, pending review by Borough Engineer.  
**Mr Matthew Capizzi** introduced himself as covering for Mr. Watkins office representing Mr. Ramirez of 155 Jefferson Ave. I understand that the applicant was before the board last month and there was discussion about additional grade changes that could be made to help offset the overage on the height.  
Mr. Hubschman has modified his plan. To do that he has discussed his plan with Mr. Azzolina.  
**Mr. Van Horne** asked Mr. Hubschman are you still under oath ?  
**Mr. Hubschman** said based on what we discussed last meeting the board was looking for something more permanent to mitigate the overage in the height. The architect came up with the 2' keystone wall, and planting area that would be in the front. I had reviewed this with Paul Azzolina. There was concern about the definition- how they measure the height- at the last hearing. Paul agreed that this would mitigate the height down to 29.8'. 28' is required. It is 1.8' over. The roof is not a steeply pitched roof its only 3 on 12. Its caused by when the architect had done the site plan, it was miss-measured with the definition of the height.

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He had taken the average, when Cresskill takes the front. The rear is about 3' to 4' higher. He had averaged that in his architectural plan.

**Mr. Capizzi** asked what kind of plantings were proposed.

**Mr. Hubschman** said there are regular foundation plantings azaleas, rhododendrons, and arborvitaes in the front. The house is a little more set-back than the other houses. It's a small, narrow house.

**Mr. Capizzi** asked are there any other revisions to the plan ?

**Mr. Hubschman** said no other revision.

**Mr. Kassis** said while on site inspecting the location, I ran into one of the neighbors who had concerns about drainage. Could you explain whether or not drainage would be an issue under the current proposal.

**Mr. Hubschman** said no, every thing would drain towards the street. Mr. Ramirez would make sure that the landscaper that puts the walls in. It does drain to the street now.

**Mr. Kassis** said so there would be no grade change towards the house on the left hand side.

**Mr. Hubschman** said no grade change.

**Mr. Merzel** said if the height was not an issue, would that whole thing on the left side be done?

I feel that this is being done just to correct a problem that should not have been there from the beginning. So basically I have no doubt in my mind- I also drove by and took a look. So on the right side of the property, the driveway shows the true level of the grade. On the driveway side you see what the normal level looks like. On the left side, you see something sticking up. Which when looking at it with the untrained eye looks like: why is that done, there is no reason for it; other than to mitigate a problem with the height. So as far as I'm concerned, I believe 100% , if you had gotten the C.O and As-Built, and no one had made an issue of the height, that whole little addition on the left side would not be there. To me it looks like its done to mitigate a problem with the height. Normally you have a height requirement, and you build based on those requirements. You don't change the grade to accommodate a height and that's exactly what is being done here. So, I'm not comfortable with that. I feel that that wouldn't be there under regular circumstances.

**Mr. Hubschman** said the engineer who originally did this, and the architect had done the site plan and it was basically an error. It was approved, the house was built. They had an As-Built done and the height was incorrect. We were hired to check the height, which are the true numbers on the plan. It was built that way and we are trying to mitigate that error.

**Mr. Merzel** asked why build an embankment, what does that do ? As far as I am concerned, if I am being asked to give a 3' . What would the variance be if the whole thing were not there.

**Mr. Hubschman** said about 3'.

**Mr. Merzel** said so basically as I see it, I'm being asked to agree to a 3' variance, and to make it look a little better we'll add some dirt over here and say that its not 3'. It feels like mockery of the zoning laws..

**Mr. Hubschman** said not at all, we are sort of obligated to try to mitigate

**Mr. Merzel** asked so how does it mitigate, what does it do?

**Mr. Hubschman** said basically it would look a lot...

**Mr. Merzel** said but on the right hand side it doesn't so when you look at it you see the right side. The street level..

**Mr. Hubschman** said its lower at the street

**Mr. Merzel** asked there is no difference in grade from north to south ?

**Mr. Hubschman** agreed.

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**Mr. Merzel** said you stand looking at the house, what I see is the normal height of the house on the right side and then a big bump on the left side which is being proposed. It kind of feels to me like you know it when you see it. Like a famous Supreme Court Justice once said.

**Mr. Capizzi** said the situation is not ideal, we recognize that.

**Mr. Merzel** said I understand but I have a question for the applicant. Did they build it.

**Mr. Capizzi** said that is my understanding. I am not familiar with their resume but they are builders.

**Mr. Merzel** asked how many homes in Cresskill have 12 steps going up to them? In a colonial home with 2 floors. Very, very few that I know. You stand in front of the house and there are 12 steps that go up to the front door. Unless you go to 8<sup>th</sup> street or some street, where the whole street is a huge up hill, there are some homes where you go up 20 steps.

**Mr. Hubschman** said this was an addition, this part was an inside rectangle, an addition was put on the front and on the rear..

**Mr. Merzel** said the board was extremely generous with the original variances. You call this a small house, its actually a huge house. I'm trying to understand one thing. The applicant is a builder. The applicant has built many properties, I'm assuming. You look at a property with 12 steps going up to the front door and 2 stories. Its going to be over 28'.

**Mr. Hubschman** said we relied on the architect's plan and the Building department did approve the plans.

**Mr. Merzel** said the Building Department was told it was going to be less or equal to 28'.

**Mr. Hubschman** said the actual plan, submitted to the Building Dept., showed 28' but showed it to the average grade. He did build according to the plan. We are trying to mitigate it by planting.

**Mr. Mertz** said I don't see how that mitigates, I don't understand how that does.

**Mr. McCord** said personally, I would be slightly more sympathetic if we knew that this property was owner occupied. Is this an investment property?

**Mr. Capizzi** said its not going to be owner occupied.

**Mr. Corona** said I do recall (at the last ZBOA meeting) that they were talking about remodeling it. They were going to move into town. It was going to be an owner occupied property. I feel the same way as you (Mr. Merzel) about the height. I always thought it was too tall from the day it went up. Its just unfortunate that we have had another situation like this just a couple of months ago. So, I think the wound is just a little bit tender for us as far as trying to rectify a builder error. Be that as it may, the rules are the rules.

**Mr. Capizzi** said forms were filed, permits were obtained. The project did under go municipal review through out the course of construction, albeit based upon some incorrect data initially supplied on the plan. Its not as though we tried to do this without anyone taking notice of it. We under went the process as required by the municipality and there was just some error on our site plan data, on the architectural site plan that unfortunately was not picked up until the As Built survey was done in accordance to the municipal ordinance.

**Mr. Van Horne** asked do you have the plans ?

**Mr. Hubschman** said yes.

**Mr. Van Horne** asked did it provide for 9' ceilings on the first floor ?

**Mr. Merzel** asked is it the job of the town to do the math on the architectural drawings ?

Does the Building Dept have to check that the math is correct ?

**Mr. Capizzi** said yes, that is one of their functions.

**Mr. Merzel** said the architect puts a seal on their plan- is the function of the Building Dept to make sure that the architect did it correctly ?

**Mr. Capizzi** said that's what Mr. Azzolina does. He cross checks the engineer's work. So we just don't take the site plans done by an engineer and accept it.

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We have a Boro professional review that, critique it, comment on it, and ask for revisions . So, yes, that is one of the functions of the Building Dept.

**Mr. Kassis** said The job of the ZBOA is to review what is presented to us.

**Mr. Capizzi** said for what I understood from Mr. Watkins and Mr. Hubschman, there was a back and forth on how to deal with this issue. Clearly, we are not looking to by-pass the ordinance. There was a mistake made and we were trying to find a means to offset some of the visual bulk of the property. Now whether this is ideal, clearly its not, but the options we have are limited. So Mr. Azzolina and Mr. Hubschman spoke about the situation and this was what was recommended based upon the situation.

**Mr. Hubschman** said the code does allow measure from proposed grade too. That was the question at the last meeting. The Chair woman and I did have a discussion about that. How to be reasonably proposed grade. You could not go 6' and not have a variance.

**Mr. Kassis** asked did you have a discussion with the town engineer about this.

**Mr. Hubschman** said yes, twice. I emailed him the plan.

**Mr. Kassis** said could you repeat how you concluded that discussion regarding the grade change and the finality of the height of the structure, and how it relates to the new grade at the front.

**Mr. Hubschman** said my discussion concludes that this was the proper way to measure the grade. He was satisfied that the house would be 29.8'.

**Mr. Van Horne** asked did you find the answer to that question I asked.

**Mr. Hubschman** said my plan shows 10' floor to floor, probably a 9' ceiling.

**Mr. Van Horne** said then your testimony is that with the permanent planter on the left side of the house and the grade on the right side that the average height ..

**Mr. Hubschman** said the average height measured in the front is 29.8'.

**Mr. Van Horne** said not 30.76'.

**Mr. Hubschman** said no, that was measuring what was out there now with the mulch.

**Mr. Merzel** asked what accounts for that change ?

**Mr. Kassis** said the board deferred to seeking the opinion of the town engineer, and the town engineer has given some credence to the new height change based on the submission of these plans.

**Ms. Batisic** said I think the question last time was whether this was going to be a 'D' variance requiring super majority of the Board or a 'C' variance, because this was just a small, like half an inch, that would bring it to a 'D' variance. Still a variance.

**Mr. Van Horne** said a 'C' variance if we accept the measurement of the engineer. Apparently Mr. Azzolina did. But if he accepts the measurement of the engineer then it's a 'C' application.

**Mr. Merzel** asked was this ever intended to be an owner occupied property ?

**Mr. Ramirez** was sworn in.

**Mr. Ramirez** testified that he was living at 7<sup>th</sup> St., Cresskill for 15 years. The plan was to move there But a lot of things happened in the construction of this project. It took me 2.5 years, so everything changed. At this point I can't afford it. I delayed too much the project, and I put too much money in that project. I am a small contractor. I am not a builder, I am a contractor. It was a mistake. We are trying to minimize the problem. At this point the house is built. It was a combination of wrong measurement, and also we did the back fill, I think we lower more the grade. We didn't notice til it was pointed by the town engineer. So at this point, I just try to minimize the problem as possible. The idea was to move there, but at this point I can't do it. I am still living in 7<sup>th</sup> St. I have to sell one of the house. I think the one that is finished, is ready to be sold, is the one on Jefferson, and I need it as soon as possible. That's my situation now.

**Mr. Merzel** asked how many houses have you built ?

**Mr. Ramirez** said this is my second house. I do remodeling and additions but this is my 2<sup>nd</sup> house.

**1279 (Cont.) Ramirez-Moreno/Gomez-Osorio      155 Jefferson      Block 33 Lot 316**

**Mr. Merzel** asked the construction was stopped for a long time. There was a red sticker there that said the town orders a Stop Work. The sticker was there for many, many months.

**Mr. Ramirez** said that was the time that I was here in Planning Board because we demolished some walls. One of the framing guys did a mistake. In this period I did many mistakes. One of those is this and the other one was the demolish of the stone wall.

**Mr. Merzel** said that's when you went to the Planning Board, you had to re-submit the plan? Did you re-submit the original plan to the Planning Board?

**Mr. Ramirez** said I think so. We went to Planning Board in August and we filed the permit in April.

**Mr. Merzel** asked when you went in front of the Planning Board which plans did you give them.

**Mr. Ramirez** said the original plans.

**Mr. Kassis** asked is there anyone from the neighborhood that would like to speak regarding this application ?

**Ms. Westerfeld** asked is there anyway that instead of doing this little flower box , you could fill in a much bigger area ? To make the grade different.

**Mr. Hubschman** said you could build a larger area in the front. Pull it out more towards the street.

**Mr. Kassis** said then we would have to refer back to the town engineer. There would be concerns with drainage. The Town Engineer is OK with that drawing and has no concerns.

I think we are going to move on this tonight. So we are looking for a variance of 1.8'.

Do I hear a motion regarding the approval for a variance of 1.8' based on the valuation of the Town Engineer ?

**Mr. McCord** made the motion to approve.

**Mr. Corona** seconded.

**Mr. Merzel** said I feel bad that I know that this thing is a mistake, I feel uncomfortable voting yes to this.

*The other Board members voted for the motion.*

**The Application was granted.**

*Mr. Kassis asked the applicant, Mr. Yu Zhou Chen Zhang ,for case 1280, if he was willing to switch positions on the agenda with case 1268. Mr. Yu Zhou Chen Zhang agreed to switch..*

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**1280 Yu Zhou, Chen Zhang      35 Lexington Ave    Block 108    Lot 25**

<b>Description</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance</b>
Front Yard Set Back	25ft			
<b>Side Yard Abutting/Lot</b>	<b>15 ft</b>		<b>10'</b>	<b>5'</b>
Combined Side yards	<b>35 ft</b>		<b>18' 8"</b>	<b>16' 2"</b>
Rear Yard Set Back	30 ft			
Max. Livable Fl.Area FAR (variable)	37%		36,8%	
<b>Lot Frontage</b>	<b>100 ft</b>	<b>60 '</b>		<b>40' tech</b>
Lot Depth	100 ft	100.12'		
<b>Bldg Coverage %</b>	<b>20%</b>		<b>29.59%</b>	<b>9.59%</b>
Impervious Coverage (variable)	33.9%		33.6%	
<b>Height</b>	28 ft		24' 4"	
<b>Lot Area.</b>	<b>10,000 sq.ft</b>		<b>6,007 sq.ft</b>	<b>tech</b>
Driveway from Prop. line.	10'			

The applicant proposes to construct a 2-story addition and deck to the rear of the above referenced home.

**Mr. Yu Zhou** was sworn in

**Mr. Zhou** testified that they moved to Cresskill from Illinois 3 years ago. They have 3 children. They like the town and the neighborhood. They wants to add rooms. He proposes to replace the back yard deck to be two story. No other changes. The only variance is the building coverage . All other requirements remain the same. Either no change or meeting the requirements.

**Mr. McCord** asked will the 2<sup>nd</sup> floor be the same height as the front of the house ?

**Mr. Zhou** said the same.

**Mr. Corona** asked there are 3 bedrooms now ?

**Mr. Zou** said yes 3 bedrooms.

**Mr. Corona** asked will this end up being 5 ?

**Mr. Zou** said yes it will be 5 .

**Mr. Kassis** asked are you following the building line straight back, and the north east corner is going to be a deck ?

**Mr. Zou** said yes.

**Mr. Kassis** asked is there a deck there right now, behind the garage ?

**Mr. Zou** said yes.

*Mr. Zou explained the location of the deck on the drawing.*

**Mr. Corona** asked the deck is off the 1<sup>st</sup> floor.

**Mr. Zou** said yes it is.

**Mr. Kassis** asked there is no second floor deck.

**Mr. Zou** said no there was not.

**Mr. Merzel** said I have a question about the plans. Are these architectural ? I don't see any stamps nor calculations.

**Mr. Zou** asked which calculation do you need.

**Mr. Merzel** said Impervious Coverage.

*Mr. Zou showed Mr. Merzel the Impervious Coverage calculation. It was marked A-1.*

*The Board discussed the calculation.*

**1280 (Cont.)**

**Yu Zhou, Chen Zhang 35 Lexington Ave Block 108 Lot 25**

**Mr. Kassis** said this is what was sealed by their architect, that's what we are going to approve. Those plans, as you saw on previous applications, deviate from what you are submitting here- you could find yourself with some difficulty. So we are going with these because those are not sealed.

**Mr. Kassis** asked they are both by the same architect ?

**Mr. Zou** said that they were by the same architect.

**Mr. Merzel** asked what is the proposed and required Impervious ?

**Mr. Zou** said the required Impervious is 33.9%

**Ms. Batistic** said the proposed is 33.6%.

**Mr. Merzel** made the motion to approve the application because the side yards remain the same.

**Ms. Batistic** seconded.

**The application was granted.**

**Mr. Kassis informed the applicant on the memorialization procedure.**

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**1281 Andrija & Margita Batistic 140 Phelps Ave Block 151 Lots 19-22**

<b>Description</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance</b>
Front Yard Set Back	25ft			
<b>Side Yard Abutting/Lot</b>	<b>15 ft</b>	<b>11.25'</b>	<b>11.25'</b>	<b>3.75'</b>
Combined Side yards	<b>35 ft</b>	28.25'	<b>28.25'</b>	<b>6.75'</b>
Rear Yard Set Back	30 ft	53.4'	53.4'	
Max. Livable Fl.Area FAR (variable)	33.42%	23.4%	32.62%	
Lot Frontage	100 ft	80 '	80'	20'
Lot Depth	100 ft	125'	125'	
<b>Bldg Coverage %</b>	<b>20%</b>	<b>19.94%</b>	<b>21.19%</b>	<b>1.19%</b>
<b>Impervious Coverage (variable)</b>	<b>31.9%</b>	<b>34.05%</b>	<b>34.05%</b>	<b>2.15%</b>
Height	28 ft	24'	28'	
Lot Area.	10,000 sq.ft			
Driveway from Prop. line.	10'			

The applicant proposes to construct a 1-story addition and add-a-level to the above referenced home.

**Ms. Margita Batistic** was sworn in.

**Mr. Daniel Dressel (architect)** was sworn in.

**Mr. Dressel** testified that the existing home was a Cape Cod with a finished attic and dormers in the front. They are proposing an add a level addition to the house. They are adding 4 bedrooms with 8' high ceilings. They require a Building Coverage variance because on the first floor they are adding a small addition behind the garage that bumps us over the allowed Building Coverage. All the other numbers are existing and conform to the ordinance. The Impervious Coverage remains the same because we are replacing pavement with a small foyer and a partial, small piece of the pantry at the first floor. The FAR is below the requirement. They are requesting a coverage variance of 1.19%.

**Mr. Kassis** asked are there comments, questions, concerns regarding this application ?

**Mr Corona** made a motion to approve the application.

**Ms. Westerfeld** seconded.

**The application was granted.**

**Memorializations**

None

**Meeting adjourned at 8:52 pm**