

**Borough of Cresskill  
Zoning Board of Adjustment  
Minutes July 28, 2011**

Present: Mr. Amicucci, Mr. Merzel, Ms. Batistic, Mr. McLaughlin, Ms. Westerfeld, Mr. Corona, Mr. Van Horne (Board Attorney)

Absent: Mr. Moldt, , Mr. Kassis, Ms. Furio

The meeting was called to order at 8:04 pm.

Mr. Amicucci announced that the meeting had been published as required by the Sunshine Laws of the State of New Jersey.

The minutes of May 26, 2011 were approved.

Mr. Van Horne said that there were only 6 board members present. Any applicant that preferred to have his application heard by a 7 member board, can have his application rescheduled for the next meeting of the Zoning Board.

Application: 1193 (DiStaulo 135 Truman Drive Block 91.08 Lot 22) was carried to the August Zoning Board meeting upon consultation (by phone) of the attorney for the application with the applicant.

**1189 Shoulman 188 E. Madison Block 92.08 Lot 12**

The applicant was seeking the following variances in the R-10 Single Family Zone. He proposed to construct a second floor addition..

<b>Description</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance Required</b>
Front Yard Set Back	25 ft			
<b>Side Yard Abutting/Lot</b>	<b>15 feet</b>	<b>10 feet</b>		<b>5 feet</b>
<b>Combined Side Yards</b>	<b>35 feet</b>	<b>30.7 feet</b>		<b>4.5 feet</b>
<b>Rear Yard Set Back</b>	<b>30 feet</b>	<b>28.10 feet</b>		<b>1.2 feet</b>
Max. Livable Fl.Area	variable			
<b>Lot Frontage</b>	<b>100 ft</b>	<b>75 feet</b>		<b>25 feet</b>
Lot Depth	100 ft			
Bldg Coverage %	20%			
Impervious Coverage	variable			
Height	28 feet			
<b>Lot Area</b>	<b>10,000 sq.ft</b>	<b>8,250 sq.ft</b>		<b>1,750 sq.ft</b>

*Proof of Publication was provided prior to the hearing.*

Mr. Shoulman (applicant) and Mr. Mederos (architect Imagen LLC) were sworn in.

Mr. Mederos testified that the variances were 'technical' ie existing, and the design conforms to all other Zoning requirements.

Mr. Mederos reviewed the existing variances.

Mr. Amicucci asked what is the height of the addition ?

Mr. Mederos said the proposed addition is 26.5'.

Mr. Merzel asked about the addition to the foot print.

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**1189 Shoulman (cont.)**

**188 E. Madison**

**Block 92.08 Lot 12**

Mr. Mederos said that on sheet A01, the shaded area shows the new addition. To the back of the house, the shaded area shows the new addition. There is an additional small area over the existing front stoop.

Mr. Merzel asked about the frontage.

Mr. Mederos said it was 35.29'.

Mr. Merzel asked if the extension to the house was over the patio and the steps.

Mr. Mederos explained the extension.

Mr. Amicucci asked if there was anyone in the audience for or against the application.

Mr. Charles Ham (105 Palisade Park) asked why is there a requirement for 'combined side yard' size ?

Mr. Amicucci said that the ordinance has been on the books for a while. Many of the homes in Cresskill do not meet this requirement and have to come before the Zoning Board.

Mr. Ham why is a variance required for 75' ? Most of the houses on his street have 75' frontage.

Mr. Amicucci said that the ordinance states that a 100' frontage is required, but about ½ the houses in Cresskill have less than 100'. Allowances are made for lot frontage less than 100', because the lots pre-date the ordinance.

Mr. Van Horne asked Mr. Ham if he had any objections to the application.

Mr. Ham said he did not.

Mr. Merzel asked about the Impervious coverage.

Mr. Mederos referred to the chart on the plans A01. The required is 32.4% , the existing is 19.18% , the proposed is 24.64%.

Ms Batistic said that rear yard set-back was measured including the patio.

Mr. Mederos said that the building official requested that he measure it including the patio.

Mr. Amicucci said that normally it would not be measured including a slate patio, but if the building inspector requested it, that was fine.

Ms. Batistic said that if we approve the application, someone in the future might think that they could extend the building over the patio.

Mr. Amicucci said that we could make a note to exclude the patio in the variance.

*There was a discussion among the members of the board as to how the resolution was to be worded in regard to the patio.*

Mr. Merzel made the motion to approve the application disregarding the rear yard set back, as it is not needed.

Mr. Corona seconded.

Ms Batistic complimented the architect on his presentation.

The application was granted.



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**1190 Spina and Cutro (cont.) 16 Woodland Ave Block 191 Lot 4**

Mr. DiTomasso said there was none.

Mr. DiTomasso described the fence as made from aluminum with a decorative piece on top. He showed the location of the fence.

Mr. Amicucci asked if it could be made to 4' with the decoration on top.

Mr. DiTomasso said no, because according to the code, from ground to 48" there can be nothing where someone can grab on to.

Mr. Van Horne read the zoning code regarding the fence around the pool. It states that the fence must be at least 48".

Ms. Batistic said that the decoration on top of the 48" must be removed because a child could grab on to it.

Mr. Amicucci said that he has no problem with the pool, but he has a problem with the fence.

Mr. Urdank said that this was a very open 'estate' type fence with an aesthetic touch to the top, and on the property line near the front there is mature foliage all around. There is no intrusion on the neighbors. There is only a difference of 6".

Mr. Mark Spina was sworn in.

Mr. Spina showed the catalogue where the only fence with the decoration was 54".

Mr. Spina said that the whole yard was surrounded by evergreens, the fence itself will not be visible or intrusive to the neighbors.

Ms. Batistic asked if the Impervious was not calculated at 125' in 2008, was the Building Coverage variance granted ?

Mr. Urdank said both variances were approved in 2008, but he does not know how that happened.

Mr. Amicucci asked who approved it.

Mr. Urdank said the Zoning officer.

Mr. Urdank said that he spoke with the architect and that it was an honest mistake.

Ms. Batistic asked if the patio was covered in 2008.

Ms. Cutro was sworn in.

Ms. Cutro testified that the house was constructed in 2002 and that everything was in compliance because all calculations were based on the whole lot depth. In 2008 the patio was covered. The architect was unaware of the change in rules and the application was based (and approved) on the whole lot depth. Stephanie Pantale was the architect.

Ms Batistic said so the numbers used by the architect was based on the entire lot.

Mr. Amicucci asked if anyone in the audience have any questions about this application.

Mr. Amicucci said that he has a problem with the fence but not with the pool.

Ms Batistic said that she also has a problem with the fence because if the next owner does not want the pool, the fence stays.

Ms Cutro said that the 4.5' fence is safer and beautiful. The 48" fence is less attractive.

Ms. Cutro said that she will settle for a 48" fence to get approval for the pool.

*There was discussion between the applicants, Mr. Urbank and the board on what was permitted and how to change the application.*

Mr. Urdank said that they are withdrawing the request for the fence variance from the application.

Ms Batistic made the motion to approve the application (with the request for the fence variance withdrawn). Mr. Corona seconded.

The application was granted.

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**1191**

**15 Woodland Ave**

**Block 190 Lot 9**

The applicant was seeking the following variances in the R-10 Single Family Zone. He proposed to construct a second floor addition.

<b>Description</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance Required</b>
Front Yard Set Back	25 ft			
<b>Side Yard Abutting/Lot</b>	<b>15 feet</b>	<b>14.73 ft</b>		<b>0.27 ft</b>
<b>Combined Side Yards</b>	<b>35 feet</b>	<b>34.92 ft</b>		<b>0.008 ft</b>
<b>Rear Yard Set Back</b>	<b>30 feet</b>		<b>18.71 ft</b>	<b>11.29 ft</b>
Max. Livable Fl.Area	variable			
<b>Lot Frontage</b>	<b>100 ft</b>	<b>97.70 ft</b>		<b>2.30 ft</b>
<b>Lot Depth</b>	<b>100 ft</b>	<b>91.17 ft</b>		<b>8.83 ft</b>
Bldg Coverage %	20%			
Impervious Coverage	variable			
Height	28 feet			
<b>Lot Area</b>	<b>10,000 sq.ft</b>	<b>8,377 sq.ft</b>		<b>1,623 sq.ft</b>

Mr. Sokol Lumaj, Mr. Raul Mederos, Architect Imagen LLC, and Mr. Marc Flusche, attorney Ridgewood NJ, were sworn in.

Mr. Mederos testified that the application design was conforming to the zoning regulations except for the existing variances of side yard, combined side yard, lot frontage, lot depth, and lot area. We are proposing to build a 2<sup>nd</sup> story over most of the existing 1<sup>st</sup> floor, and a 2 story addition onto the front of the property all within the side yard and front yard set backs. Also a patio, which we were told by the building department must conform to the set backs. There is a proposed rear yard set back of 18.71', but, the actual house has 30.72' set back. The existing one car garage will be widened to a 2 car garage, the foundation will be adjusted for a 2 car garage and the driveway widened. There is also an egress area way for a bedroom in the cellar. There will be a finished bedroom in the cellar.

Mr. Amicucci asked for a clarification of the egress area way.

Mr. Mederos explained the area way which includes a window.

Mr. Amicucci asked for the height of the cellar.

Mr. Mederos said it was 7' which is allowed. To count as a story it would have to be more than 50% above grade- which it is not. It is not included in the FAR.

Mr. Amicucci asked if 7' is allowed for a bedroom in the cellar?

Mr. Mederos indicated that it was.

Mr. Amicucci asked is there anything hanging down in the cellar such as pipes and duct work ?

Mr. Mederos said that in the bedroom if there are any, it will be enclosed on the perimeter of the room so that it becomes like a tray ceiling. Nothing should be there because everything should be able to work between the joists in the bedroom area.

Mr. Amicucci said that if you knock down 40% of the house its considered a new house.

Mr. Mederos said that they knew that and were trying to design accordingly.

Mr. Amicucci said that if you knock down more than 40% you are in trouble.

Mr. Mederos said that the Building department had said that they could knock down no more than 2 exterior walls. In this design we are only taking down the front wall,

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**1191 Lumaj (cont.)**

**15 Woodland Ave**

**Block 190 Lot 9**

Mr. Amicucci asked which walls are you keeping up.

Mr. Mederos explained which walls were being kept.

Mr. Amicucci said the side wall of the garage is staying and the back wall and the right side wall are staying.

Mr. Mederos said they were all staying. Three and a half walls are staying, The existing front of the garage remains but we are adding to it.

Mr. Mederos explained on the drawing which walls are new, which are proposed, and which are existing.

Mr. Mederos said they are trying to make the 2<sup>nd</sup> floor conform for light and air.

Mr. Amicucci asked what is the proposed patio made of.

Mr. Mederos said pavers.

Mr. Amicucci asked who questioned the rear yard set back.

Mr. Mederos said that he had originally submitted the drawing showing the set back going to the roof area but was told that he had to adjust his drawing to show the set back going to the patio and that would be an additional variance.

Mr. Amicucci asked Mr. Van Horne to check the rules for set backs in regard to patios.

Mr. Flusche said that he thinks the Building department is being overly cautious. Definition of the rear yard is unoccupied ground area fully open to the sky. If an in ground patio counts for rear yard set back, then driveways and sidewalks should also require front yard setbacks. For a patio to count it should be considered as a building or structure. If there is a cover over the patio, then it becomes a structure. A deck is specified as being a building coverage. The size of the patio is limited by the Impervious coverage. The building is outside the setback- its 30.6'. The proposed 18.71' set back is only the patio.

Mr. Van Horne said that he agreed.

Mr. Amicucci said that he would disregard the set-back variance, but it could not be granted, because someone could take advantage and build over the patio.

Mr. Amicucci asked if there was anyone in the audience for or against this application.

Mr. Amicucci said that he wants to stipulate again that more than 40% of the building must not be torn down. If it is, there will be problems with the town and the Planning Board.

Mr. Mederos referred to the foundation plan on sheet A02, as to which walls were staying..

*There was a discussion among the board members and Mr. Mederos as to what constituted the 3 1/2 walls that were staying, and the definition of the 1/2 wall.*

Mr. Mederos explained what they planned to do with the foundation.

Mr. Amicucci said that he does not want to see just a foundation.

Mr. Mederos said that they were keeping the existing perimeter walls. Even the front of the perimeter wall is remaining. We are just adding a cross face to the front of that to accommodate the 2 story front addition.

Mr. Mederos referred to sheet A03 to discuss the new and existing walls on the first floor. The rear and side perimeters show existing walls.

Mr. Amicucci said that you are keeping 3 walls and taking down the front wall.

Mr. Amicucci asked is more than 40% of the house staying up ?

Mr. Mederos said that it was.

Mr. Amicucci warned the applicants against tearing down more than 40%..

Ms Batistic made the motion to approve the application with the set-back disregarded.

Mr. McLaughlin seconded. The application was granted.



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**Memorialization**

There were no memorializations

**Meeting was adjourned at 9:24 pm**