



**Borough of Cresskill  
Zoning Board of Adjustment  
Public Meeting 7:30 pm  
Minutes Apr. 28, 2022**

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**1390 Jason Bender (cont.)**

**85 Grant Ave**

**B 18 L 3**

**Mr. Kassis** said the fence on the east side of the property is that proposed at 6', or is that proposed in accordance with what you were told by the Building Dept.?

**Mr. Bender** said the east side of the property is the back in the borough property, so that was also 6'.

**Mr. Kassis** asked what was explained to you on where you needed to have 4' ?

**Mr. Bender** said the 6' fence would have to have run according to the recent laws / rules, I guess, is that it goes to the edge of the house on the back end of the property, and then we have to run 4' along the side of the house.

**Mr. Kassis** asked was it explained to you the reason for the transparency of the fence ?

**Mr. Bender** said why the rule was changed. I assume because it creates a barrier / obstruction for disabilities on that corner for .....homes, because we are a corner unit that side of the property is considered 2<sup>nd</sup> front on the home.

**Mr. Kassis** said so it is my understanding, from what was explained, the nay on this variance, when it was 1<sup>st</sup> passed, was for our first responders. They need to, if they receive a 911 call, and it is has something to do with your property, and there is someone that is injured or there is a burglar in the back-yard, the Police Dept. if there was a burglar, would be able to have an ability to see into the yard, to be able to take themselves from harm's way. Same with the Fire Dept., or Emergency Services that would come if someone was there. They could quickly see somebody. If you had a pool there, they could be able to see whether or not they are in the right place. So there is a safety aspect built into this zoning requirement. And, as a result unless there is a real hardship, the safety and welfare of our first responders is very important. Could you explain how you feel the request for the variance would be more important than the safety and welfare of our first responders.

**Mr. Bender** said I certainly wouldn't propose that the safety and welfare of first responders should ever be put back. I think what we are actually doing to the fence, which we are designing now, is a 5' picket fence with a 1' topper on it. Which is see thru at the top of the fence. So it looks like we are talking about people who are quite short. They would be able to see into the back-yard. I think that for our children, playing in the back-yard, who are 3 and 6 years old respectively, they would not be visible for the on-coming traffic and the people walking by on the street, but I don't think that would be an obstruction for an average height person who came out of the street.

**Mr. Kassis** said nor an adult burglar who is ducking.

**Mr. Bender** said yes. I would say that. That indicates for the 4' fence...

**Mr. Kassis** said he is here to look over a 4' fence. I'm sure you would agree.

**Mr. Bender** said sure.

**Mr. Kassis** said so there is some concern that I have. The rest of the Board, if they want to ask anything, at this point we'll open it up to the Board members. Any questions for the applicant.

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**Ms. Batistic** said I have a question. Along the east side property line, is it going all the way to the back. Because the plan that was submitted like there is a yellow high-lighting, does it go all the way to the property ?

**Mr. Kassis** said the fence does not appear to go completely to the west side of the property.

**Mr. Bender** said if you are looking at the property from the plan, because of the fence that my neighbor has on the other side, it extends about 10' from the edge of the property. So it's possible that you are looking at that line, but the fence goes to the end of our property.

**Ms. Batistic** said all the way to the north, the east property line comes to the north property line

**Mr. Bender** said yes, correct. What you are looking at is correct.

*Mr. Bender discussed the plan drawing with Ms. Batistic*

**Mr. Bender** said there is already a pre-existing fence that the neighbor has. We are matching it, so it will look the same- a 5' fence with a 1' topper.

**Mr. Kassis** said would you explain again the south side of your fence. That south side which is 30' or 40' long, that can be 6'.

**Mr. Bender** said the south side of the fence. That is Cottage street on that side.....that's where the variance is that we are requesting.

**Mr. Kassis** said the part that is going and touching the house that is 4' ?

**Mr. Bender** said that's not very right exactly. That would need to be 4' and 50% open all the way back to the corner. That whole area that is not covered by the variance stat.

**Mr. Kassis** said but the fence along Cottage Street was allowed to be 6'.

**Mr. Bender** said No, its also .....That whole piece that you are holding there is primarily where the variance is being requested.

**Mr. Kassis** said so you were given a copy or made aware of the zoning requirements regarding the height of the fence ?

**Mr. Bender** said yeah, from Bob, the first time I was there.

**Mr. Kassis** said and you are aware that bushes could be planted to augment the fence and at the same time give you privacy without violating the requirements on transparency ?

**Mr. Bender** said for sure. And if I was to plant tall trees, it would be, like you said, an obstruction for emergency workers. Much more than the fence would. But, I could, certainly, put trees up instead. What I would really like to do is just have the fence incorporated with the landscaping design. I do not believe that it would be an obstruction whatsoever. There is already a 6' fence, we deal with it already.

**Mr. Kassis** said there are fences in the town of Cresskill that did not receive proper permitting when they were installed. I think that yours is one of them, but its hard to say whether or not it was. If it was in front of this Board today, it would be dealing with the same scrutiny as it is tonight.

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**85 Grant Ave**

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**Mr. Kassis** asked is there any other question for the applicant ? We have struggled with this, and it also applies to people who are not on a corner property. They too have a large sized yard, they cannot put a fence of 6' and it requires a transparency requirement as well. Which makes the 75 % open. So I don't see any other questions.

**Mr. Kassis** said is there anyone here in the audience for or against this application. Let the record show that there is no one here. There is no change to the application as of right now.

**Mr. Bender** said the people here have been very helpful in helping me to put that together. I tried to do the best I could. Go through the proper channels. I don't know what I needed to change. That what happens.

**Mr. Kassis** said yeah. I believe that you were going to put a nice fence up, but the concerns that I personally have for first responders is one of the reasons that the significance was put on this Zoning requirement.

**Mr. Bender** said I understand.

**Mr. Kassis** said so there are alternatives which could be bushes which will not interfere, or require any Zoning adjustments to be made to plant bushes. I did that on my own house, I have 3 children as well.

**Mr. Bender** said just to clarify on that. We had Chris Karach who did the landscaping design for us, and initially also on top of the fence suggested that we put green giant arbor vitae plants there, which would be 20' tall plants behind that. I don't want to do that. Not looking to create that kind of barrier. But we could obviously do that, if that's what you are suggesting that we should do. I would prefer to have a nice fence, that I don't believe creates an unsafe obstruction. Again we will do what we need to do, of course. We will follow whatever that you suggest.

**Mr. Kassis** said anything else to add at this point ? So are there any other questions from Board members ? None seen. May I have a motion to approve or apply this application.

**Mr. McCord** made a motion to deny the application.

**Mr. Cleary seconded .**

*Ms. Bauer took a roll call.*

*A 'yes' was to deny.*

*Mr. Kassis, Ms. Batistic, Mr. Cleary, Mr. McCord voted 'yes'*

*Ms. Westerfeld voted 'no'*

**Mr. Kassis** said the application has not been approved, so you are going to say to your landscaper to find an alternative.

**Mr. Bender** said ok. Thanks a lot.

**Mr. Kassis** said the next application for the evening is #1387 for 74 Hillside Ave.

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**1387 Teri Augustine (cont.)                      74 Hillside Ave                      B 85 L 52**

<b>Description</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance</b>
Front Yard Set Back	25'	31.5'	31.5'	
<b>Side Yard Abutting/Lot</b>	<b>15'</b>	<b>10.7', 11.0'</b>	<b>10.7', 11.0'</b>	<b>4.3'</b>
<b>Other Side Yard</b>	<b>20'</b>	<b>11.0'</b>	<b>11.0'</b>	<b>9.0'</b>
<b>Combined Side Yards</b>	<b>35'</b>	<b>21.7'</b>	<b>21.7'</b>	<b>13.3'</b>
Min. Rear Yard	30'	70'	70'	
FAR	37.02%	29.98%	29.98%	
Height of Building	28'	25'	25'	
Lot Frontage	100'	60'	60'	<b>enc</b>
Lot Depth	100'	150'	150'	
Bldg. Coverage %	20%	18.52%	18.52%	
Impervious Coverage variable	33.9%	32.5%	32.5%	
Lot Area	10,000 Sq.ft	9000 Sq.ft	9000 Sq.ft	<b>enc</b>

**The applicant is before your board for approval. The structure in the rear of the above referenced address was removed with no permits nor zoning approval.**

**This application was scheduled for the March 24<sup>th</sup> meeting of the ZBOA. The application was dismissed because neither the applicant nor a representative attended the meeting.**

**Ms. Teri Augustine** was sworn in.

**Ms. Augustine** testified I submitted plans to enclose a bathroom but it was not supposed to be modified.

Like the roof line was not supposed to be changed. It was supposed to be just like a direct replacement. And you can see like I purchased the windows for the bathroom that was above the roof . I guess the contractor, and I am the home owner so ultimately its my responsibility but

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**1387 Teri Augustine (cont.)**

**74 Hillside Ave**

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they changed the roof line to a non-conforming screened-in porch, thinking that their design was better than what was originally submitted. That caused a big problem.

You can't do that. And I now need a variance cause the roof line on the original screened in porch was raised. That was the change that was made to the non-conforming existing covered porch.

**Mr. Kassis** said This screened in porch that existed, was that screened in porch built by you ?

**Mr. Kassis** asked So the answer is 'no' ?

**Ms. Augustine** said no.

**Mr. Kassis** asked the screened in porch, I'm assuming, did not have a foundation ?

**Ms. Augustine** said yes it did.

**Mr. Kassis** asked a suitable foundation for building a constructive structure over the top of it ?

**Ms. Augustine** said yes. The foundation is not changed, was not changed, remains the same.

**Mr. Kassis** said So the original walls were removed.....

**Ms. Augustine** said 3 walls were removed.

**Mr. Kassis** said so the exterior portion of that enclosure was removed. New walls were installed, a new roof was installed.

**Ms. Augustine** said exterior, yes

*Mr. Kassis and Ms. Augustine spoke simultaneously. Transcription impossible.*

**Mr. Kassis** said so everything was removed, it wasn't just the roof. Everything was removed and everything was replaced, with the exception, from your testimony, the foundation which was existing.

**Ms. Augustine** said and modified. Yes.

**Mr. Kassis** asked was the foundation existing or was it modified ?

**Ms. Augustine** said no, no I am sorry. The foundation wasn't modified, it was existing, it remains the same, it still is the same. What got modified from the original plan, that was approved, was the roof line. So then the new plan had to be submitted, and that what got me into a very .....situation.

**Mr. Kassis** said so all of this occurred, the submission of the plans, after the Building Dept. became aware of this unauthorized addition to the house.

**Ms. Augustine** said my understanding is that the original plan was submitted, but then the change of what it became, got done, and it happened before the change got submitted. So they had to resubmit a set of plans. These were the approved plans. But these were not followed. So the re-submission is what you all have. With the modified back existing porch, framed in, roof line changed, up stakes made, screened in door in the back. If you want to see this original ?

**Mr. Kassis** said well we don't, we were not provided with a set of plans

**Ms. Augustine** said that's the Variance plan. The Variance plan that Bob told me to submit is what you have before you.

**Mr. Kassis** said so we'd like to stick with what we were submitted for this part of the application.

**Ms. Augustine** said OK.

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**1387 Teri Augustine (cont.)**                      **74 Hillside Ave**                      **B 85 L 52**

**Mr. Kassis** said so just so that I understand- I'm a little confused- you originally hired an architect, somebody who made plans,

**Ms. Augustine** said an architect

**Mr. Kassis** said and that person provided you plans. Those plans were submitted when to the Building Dept. ?

**Ms. Augustine** said I don't know

**Mr. Kassis** said if it was submitted there would be a stamp in the corner with a signature from the Building Dept.

**Ms. Augustine** said Hold on. Stamp in the corner- there is a stamp up here. Where would the date be ?

**Mr. Kassis** said it would be very obvious- so those are not submitted plans what we have in front of us. Those are plans that your architect provided.

**Ms. Augustine** said here they are. Sorry. 5/6/21 was the date that the Construction official approved- about a year ago.

**Mr. Kassis** said and on that plan

**Ms. Augustine** said it was received on March 26, 2021.

**Mr. Kassis** asked on that plan did it show the addition in the back ?

**Ms. Augustine** said yes it shows an existing covered porch and it shows 'provide new windows, exterior door, back insulations, stud cavities' whatever all that means, but again, unfortunately.....

**Mr. Kassis** asked does the plans that were submitted in 2021, were not followed

**Ms. Augustine** said correct.

**Mr. Kassis** said I am assuming the architect, at some point in time, visited the property during construction ?

**Ms. Augustine** said I cannot testify to that. I don't know.

**Mr. Kassis** said let me re-phrase the question. Did you, at anytime, meet with the architect between 2021 and 2022 while the work was being done on the site.

**Ms. Augustine** said no I did not.

**Mr. Kassis** asked did the architect meet with your contractor between the submission of the plans and 2022 ?

**Ms. Augustine** said yes. When Bob said that these were not followed and we needed to re-do the plans. He came back and met with the G.C. Re-measured everything, re-did everything and re-submitted over there.

**Mr. Kassis** said there are some notes here regarding fees that are owed to the town. They have been paid for as of right now ?

**Ms. Augustine** said I have no awareness of fees that are owed to the town, that I am aware of. I know I have paid my taxes thru June.

**Mr. Kassis** said no that would be regarding the reason you are here, the fact that there were fines or penalties issued.

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**Ms. Augustine** said not that I was provided. I paid for the submission of the variance. I guess now to that address, my PSE&G bill comes and my Rockland Electric bill comes.

**Mr. Kassis** said you are not aware of any fines or fees that were charged by the municipality ?

**Ms. Augustine** said no I am not. I was told by Bob that he could do it, but he said he wasn't going to do it as long as I filed for a variance and I followed the rules so I did.....

**Mr. Kassis** said sub-code official. You are saying Bob

**Ms. Augustine** said Bob, the inspector person.

**Mr. Kassis** said you are also aware that if this isn't approved tonight, you will have to remove that wall.

**Ms. Augustine** said I'm aware. I am learning this whole lesson the hard way.

**Ms. Westerfeld** asked if you took the floor plan that you had before, and just took it down, and built it in exactly the same spot with the modified roof line.

**Ms. Augustine** said its lower than the rest of the house but they raised the roof line with the existing screened in porch.

**Mr. McCord** said the variances are being exacerbated.

**Ms. Batistic** said I'm not sure exactly what are the approval *impediments*. There was an existing roof over the porch with walls inside. It was screened in porch

**Ms. Augustine** said but non-conforming. This was how it was explained to me, anyway. Let me see if I can explain. A non-conforming screened in porch existed

**Ms. Batistic** said was there.

**Ms. Augustine** said was there. When I bought the house there was this non-conforming screened-in porch. You stepped down to it from inside the house. You opened the door and you were in a very lovely screened in porch. The house had no dining room. I'm a formal dining room person, I wanted to have like a dining room. So I said, can I put windows and make this livable square feet ? Just leave the foundation, and everyone was like you could 'raise the foundation '. I was like, I don't want to do any of that. I want to leave it exactly the way it is. I just want you to submit a set of plans that shows the electrical and the HVAC. So I can consider it livable square feet, that's it. The.....was not committed , the roof line was not supposed to change, there was supposed to be a window in the bathroom, which I bought and paid for. Next thing I know, they not only take the thing down, but they modify a non-conforming structure, that they did not have plan approval to .....just do. Had they left the roof line at the seven and a half feet that it was, instead of making it a 9' ceiling , we wouldn't be here.

**Ms. Batistic** said but the roof height is not the question, and there is no variance for height.

**Ms. Augustine** said the variance is for whatever was non conforming before.

**Mr. Kassis** said what you have here. You have a non-conforming structure but its not a dwelling. It became a dwelling by modifying what was there. Then the dwelling got removed- the structure got removed, and it was replaced with a dwelling. As a result, the applicants are here tonight to get approval, that they would have had to reprieve if they hadn't done what they did, by removing the existing structure, they wouldn't be here tonight for this application.

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**Ms. Batistic** said OK, alright, I understand now. Because no conforming structure was existing and replacing in kind was just not triggered.

**Mr Kassis** said right.

**Ms. Batistic** said Because they took it down.

**Mr. McCord** said they left one wall up.

**Ms. Batistic** said 2 walls were left up. 2 of the 4 walls, because the back wall connects to the house, connects to the kitchen and this wall here connects to the house. So only 2 walls were changed. But no conformity on the side yards, that's correct ? That's the only co-relation, right ?

**Mr. Kassis** said yes, encroaching in the side-yard set-back.

**Ms. Batistic** said everything else appears to conform, right ?

**Mr. McCord** said this one perplexes me. She is not exacerbating the side-yards or the combined side-yards . If the entire structure were removed, you lose those pre-existing non-conformities. But apparently 2 walls were up, so you don't lose those pre-existing non-conformities but in any case

**Mr. Kassis** said they are in front of the Board because the town has determined that its necessary to be in front of the Board. So we are going to have to make a decision as to what is in front of us.

**Ms. Augustine** said I understand that.

**Mr. Kassis** said, to repeat what I said before, the foundation is the pre-existing.

**Ms. Augustine** said correct.

**Mr. Kassis** said If we do have a motion tonight to approve this, it may be subject to the existence of the original foundation. If there is a change, then the approval tonight, would disappear.

**Ms. Augustine** said I'm fine ... .. I'm happy with...

**Mr. Kassis** said you testified that the foundation always existed.

**Ms. Augustine** said absolutely.

**Mr. Kassis** said OK. Any other questions for the applicant ?

**Ms. Westerfeld** said we don't think the height has changed.

**Mr. Kassis** said the height has changed.

**Ms. Augustine** said the height of the ceiling did indeed change

**Mr. Kassis** said but its not.....*several persons spoke at once*....

**Ms. Augustine** said .... But it is not part of the side-yard variances. It is basically taking a non-conforming exterior room and turning it into an interior.

**Mr. McCord** asked in your regular plans have you a .....

**Ms. Augustine** said it did

**Mr. McCord** said but no-one told you .....

**Ms. Augustine** said no, but the contractor , I don't like to talk about anyone that way, but I'm learning that I should have known a lot more about when you renovate and all sorts of things as a home owner. Cause ultimately I'm responsible, but things were not done in the correct order and, you know, here I am.

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**1387 Teri Augustine (cont.)                      74 Hillside Ave                      B 85 L 52**

**Mr. Kassis** asked are there anymore questions for the applicant ?

**Mr. Kassis** asked is there anybody else, on your behalf, that you would like to testify regarding this application ? Not putting aside any neighbors at this point.

**Ms. Augustine** said no. Everyone here is neighbors.

**Mr. Kassis** said are there anymore questions for the applicant before we bring the neighbors in on this ?

**Mr. Kassis** asked are the people in the room here for the application ? If so, one at a time, if you could, for or against, you come to one of the microphones. If not, you don't have to.

**Audience member** said I don't have a problem with it. I live on Hillside, and I have been watching from afar what was being done. I heard there was a problem. I don't really understand what the problem was.

**Mr. Mondello Esq.** said so the record is clear, I'm sorry, could you please state your name, spell your last name, and give us your address.

**Audience member** said Robert Lippman 65 Hillside.

**Mr. Lippman** said *I just watched from afar. I could not see what the problem was. The porch was already there. It was made higher, but not higher than the whole house. (coughing from audience).*

**Mr. Kassis** said Thank-you. Sir, in the back, is there anything you would like to add ?

For the record: there were 3 people in the room, one had something to say, the others did not.

**Mr. Kassis** said So if the Board would want to make a motion to approve, it would be subject to, as stated at the bottom here, that 'all outstanding issues and fines, in regard to the above property, are resolved'. That would be included in your motion if the Board decided to approve it.

**Ms. Augustine** said and the room is built on the pre-existing foundation, not changed.

**Mr. Kassis** said correct. Is there anybody ready to make this motion ? Mr. Cleary made the motion. Ms. Westerfeld seconded.

**Ms. Bauer** took a roll call.

*Mr. Kassis, Ms. Batistic, Mr. Cleary, Mr. McCord, and Ms. Westerfeld voted 'yes'.*

**Mr. Kassis** said this will be memorialized, with whatever applications are necessary, to be picked up, will be available after the memorialization next month; and the next day, as soon as feasible, the town will provide the permit. And it would behoove you to make sure that everything is covered, or they will not issue the permit.

**Ms. Augustine** said so do I come back next month. No, I just go to the town.

**Mr. Kassis** said memorializations will be next.

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**Memorialization led by Mr. Mondello Esq**

**1388 Peter & Dana Luppino                      66 Pershing Place                      B 136 L 310**

<b>Description</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance</b>
Front Yard Set Back	25'	25'	25'	
Side Yard Abutting/Lot	15'	15.43'	15.43	
Other Side Yard	20'	25.0'	25.0'	
Combined Side Yards	35'	40.43'	40.43	
Min. Rear Yard	30'	32.83'	32.83'	
FAR	30%	18.5%	18.5%	
Height of Building	28'	27.7'	27.7'	
Lot Frontage	100'	100'	100'	
Lot Depth	100'	135'	135'	
Bldg. Coverage %	20%	19.99%	19.99%	
<b>Impervious Coverage variable</b>	<b>30.1%</b>	<b>29.13%</b>	<b>32.61%</b>	<b>2.61%</b>
LotArea	10,000 Sq.ft	13,500 Sq.ft	13,500 Sq.ft	

**The applicants were granted the above variances subject to approval by the Building Department for the replacement of pavers.. They propose to extend their patio in the back-yard by 375 s.f. at the above referenced address.**

**Memorialization vote was taken and passed.**



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**Mr. Kassis** asked Mr. Lippman if he had a question.

**Mr. Lippman** said yes, does 74 Hillside have a CO ?

**Mr. Kassis** said yes, that will occur now that the variance is....

**Mr. Lippman** said she's one of the owners using her house as an RB&B.

**Mr. Kassis** said that would be a 'use' variance that would change, and that would be something that the town would have to put in front of the Planning Board. That wouldn't be something we would hear. Its not part of our application tonight.

**Mr. Lippman** said do you think the house has a CO. There are people living in there now.

**Mr. Kassis** said even if we knew that information, we can only vote on the variances that are put in front of us. So if there is an issue like that occurring, you do have to speak to the Zoning official, and he would be able to guide you on what would be done.

**Mr. Lippman** said OK and thank-you. Good night,

**Mr. Kassis** said Good night.

**Re-organization**

**Mr. Kassis** said the next thing on the agenda is the re-organization. The position of vice-chair. (*Ms. Batistic has resigned as vice-chair because of her job travel commitments*).

**Ms. Batistic** said I will be gone for June, August and October, and I don't think its fair to the Board if I'm not here, to have that position.

**Mr. Kassis** asked the other Board members if they would take the position of vice-chair.

**Mr. McCord** agreed to be the vice-chair.

The Board elected Mr. McCord for vice-chair.

**Mr. Kassis** said there is no other business before us today. Somebody can make a motion to adjourn the meeting.

**Ms. Westerfeld** made the motion to adjourn the meeting.

The meeting was adjourned at 8:20 pm.