

**Borough of Cresskill  
Zoning Board of Adjustment  
Public Meeting 7:30 PM  
Minutes Mar., 23, 2023**

**Present in Person:** Mr. Kassis, Mr. Cleary, Ms. Wehle,  
Mr. Van Horne Esq.(Board Attorney), Ms. Bauer (recording secretary)

**Absent :** Mr. Corona, Mr McCord, Ms. Westerfeld

**Mr. Kassis** called the meeting to order at 7:35 pm

**Ms. Bauer** did the roll-call

**Ms. Bauer** said that Applications 1400 and 1401 on the Feb, 23 minutes were transcripts from the recording. But because of the poor quality of the recording, Applications 1402 and 1403 were documented from notes taken during the meeting.

The Feb. 23, 2023 minutes were approved by Mr. Cleary and seconded by Ms. Wehle.

**Application**

**1400 Joseph Cartagena 351 E. Madison B 91.05 L20**

Description	Required	Existing	Proposed	Variance
Front Yard Set Back	50'	50'	NA	
Side Yard Abutting/Lot	30'	30'	NA	
Other Side Yard	30'	30'		
Combined Side Yards	60'	64'	NA	
Min. Rear Yard	75'	167'	NA	
FAR	20.1%	<20.1%	NA	
Height of Building	32'	32'	NA	
Lot Frontage	150'	173'	NA	
Lot Depth	200'	261'	NA	
Bldg. Coverage %	12.51%	28.1%	NA	
Impervious Coverage variable	35%	10%	NA	
LotArea	40,000 sf	40,151 sf	NA	
Fence Height	4'		6'	2'
Gates	75% open		solid	

**Mr. Cartagena has applied to the ZBOA to construct a fence with gates. The application was carried from the Feb. 23, 2023 ZBOA meeting.**

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**1400 (cont.) Joseph Cartagena 351 E. Madison B 91.05 L20**

**Mr. Capizzi Esq.** represented the applicant, in lieu of **Mr. Madaio Esq.** who was the attorney for Docket # 1400 at the ZBOA meeting on 02/23/2023

**Mr. Capizzi Esq.** said Good Evening Mr. Chairman please forgive me if I don't recall all of the details of the first meeting as accurately as the Board members.

By the way of history, this property is occupied by a pretty well known personality, and there have been instances of people walking about the property. Coming onto the driveway, without invitation.....otherwise snooping around, and causing a nuisance. What we're thinking to do by way of this application is put up a fence *engaged system* to help discourage people from coming off.....

The.....that was discussed in the earlier application was a combination of a 6' high fence engaged system along Madison with the variance pro being two fold, the height of the fence, the height of the gate, as well as the percentage of openness of the gate.

We heard some feedback from the Board, in the earlier application, and what we are proposing by way of modification, here and .....the driveway along the right side of the property, that would be the southern east side, initial gate system was proposed open in, and there was some concerns about traffic circulation and providing opportunity for a vehicle traveling north / south along E. Madison would see that vehicle in time. In a word, to make sure that there was a safe transition of traffic, which changed the orientations, and now, instead of opening out, it will open in an inward direction.

As far as the style of the gates. Obviously the desire here is to create to enhance the..... and also to discourage people from entering onto the site without permission. We would change the gates to a vertical pattern, over a higher degree of openness.

We have tried to solicit *the* home owner for some options, but were unable to do so. But I would like to propose the *forwarded*: if the Board were inclined to turn the application, relative to the variances for openness and fence height, between now and before the adoption of the approval resolution, we can present 3 options with different Gate styles with a vertical nature, to them, for the Board to select one of the three that *they judge* is most appropriate to the streetscape.

Again I apologize.....I know we are prepared tonight for some modification.

Second line of modification we will make is changes to the gate to a vertical pattern. But, again, I wouldn't be in a position to stipulate to a degree of openness, because we don't have a modified design for presentation.

**Mr. Kassis** .....conferred with **Mr. Van Horne esq.** .....

**Mr. Van Horne Esq.** said we feel that the applicant should choose the style of the fence. I've been doing this for 12-13 years. We never made an election of anything for an applicant. So you can understand we are opening ourselves up to criticism in a number of different ways. And what if somebody did challenge the approval, and we were the ones that had chosen the fence style.

**Mr. Capizzi Esq.** said.....the gate was 63% open where 75% was required. If we proposed a gate style that was at least 70% open, could we stipulate to that ?

**Mr. Kassis and Mr. Van Horne Esq** said yes.

**Mr. Kassis** said the design isn't our decision, and the comments that were made at the last meeting were observations, they weren't recommendations. One of the observations was that the fence portion, which was horizontal, appeared to create a ladder affect, making it very easy to traverse. If the applicant is deciding to go vertical on that area too, you would have to stipulate that, as far as the approval for tonight, if you choose to move forward with that.

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**Mr. Capizzi Esq.** said as far as the fence itself, we would like to keep that in a horizontal pattern. The spacing for that was a 3" separation, we could increase that to a 6" separation.

**Mr. Van Horne Esq.** said did you not say before that you were going to present 3 styles of vertical fencing ?

**Mr. Capizzi Esq.** said the gate.....

**Mr. Van Horne Esq.** said so its just for the gate ?

**Mr. Capizzi Esq.** said the fence is conforming as to the percentage of openness.

The fence itself just requires a variance of height. The gate is a two fold. A percentage of openness and its height. What I was suggesting, and I apologize if I miss-spoke , The gate itself is now 63 % open. We can stipulate a gate that is at least 70% open, at a 6' height, and again putting a vertical pattern, with the, in comparison to the fence, that remain a horizontal pattern, as depicted on the plan, with the exception of going from a 3" separation to a 6" separation.

**Mr. Kassis** said so we are staying with the 6' fence. The gate to the right is opening in instead of out, and you are converting whatever the final design is, which is up to the applicant, but it will be 70% , instead of what was previously committed.

**Mr. Capizzi Esq.** said.....

**Mr. Van Horne Esq.** said so it will be at least 70% open ?

**Mr. Capizzi Esq.** said that's right.

**Mr. Kassis** said alright. Does the Board appreciate the consideration of what he is saying? Are there any questions or concerns for this application

**Ms. Bauer** said if that was the only house in the neighborhood with that kind of a fence. I wonder if anybody would mind ?

**Mr. Kassis** said well, I was just going to ask that gentleman in the back there. We're looking to see if anyone is here, in the audience, for or against this application ?

**Mr. Kassis** said let the record show that no one responded. If there are no more questions, is there a motion to approve or deny the application ?

**Mr. Cleary** made a motion to approve.

**Ms. Wehle** seconded.

**Ms. Bauer** did the Roll Call of ZBOA members.

**Mr. Kassis** said OK, looks like your application has been approved. You know the routine. Next month that will be available, and, at that point, provide whatever documentation designed.....  
*to list infractions for approval and to make sure its conforming within the specifications.*

**Mr. Kassis** said next application for tonight is application 1404. That is the address of  
**15 Phelps Ave. Block 150 Lot 701.**

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**Application**

**1404 David Renner                      15 Phelps Ave.                      Block 150 Lot 701**

<b>Description</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance</b>
Front Yard Set Back	25'	25.15'	25.15'	
<b>Side Yard Abutting/Lot</b>	<b>15'</b>	<b>14.12'</b>	<b>14.12'</b>	<b>0.88'</b>
<b>Other Side Yard</b>	<b>20'</b>	<b>12.19'</b>	<b>12.19'</b>	<b>7.81'</b>
<b>Combined Side Yards</b>	<b>35'</b>	<b>26.31'</b>	<b>26.31'</b>	<b>8.69'</b>
Min. Rear Yard	30'	62.68'	43.75'	
FAR	30%	18.78%	25.71%	
Height of Building				
<b>Lot Frontage</b>	<b>100'</b>	<b>60'</b>		<b>ENC</b>
Lot Depth	100'	110'		
<b>Bldg. Coverage %</b>	<b>20%</b>	<b>17.36</b>	<b>24.28%</b>	<b>4.28%</b>
Impervious Coverage variable	33.9%	23.75%	30.15%	
<b>LotArea</b>	<b>10,000 S.F</b>	<b>6,600 S.F</b>		<b>ENC</b>

**Mr. David Renner has applied to the ZBOA to construct an addition.**

**Mr. Capizzi Esq.** said he was testifying on behalf of the applicant. This is a project at 15 Phelps Ave. It is an undersized lot in the Boro R10 zone of 6.600 square feet of area where 10,000 square feet is required. Only 60 feet of frontage where 100 feet is required. The existing home is nonconforming as to the side-yards set-back requirements. I raise that because that's the only variances that are at issue this evening.

What we are proposing to do by way of this application, is a one story addition off the rear of the existing single family dwelling. The current home is quite modest in size, around 677 square feet.....we're looking to expand upon that by way of the 1<sup>st</sup> floor addition. The variances that will be required, by way of the addition, are continuation of non-conforming side-yard set-backs. We're not worsening them in any regard, we're not coming any closer, the *either side-yard* are continuing the new building wall along side the existing building wall, in a variance as Building Coverage. It's important to note, if the lot did have a conforming area. The area as required by the Zone, the Building Coverage variance would not be required. That essentially is the variance as required by the application, Mr. Chairman. Martin Santini, to my left, is the architectural planner. If the Board has no further .....

**Mr. Martin Santini** (architectural planner) was sworn in.

**Mr. Santini** cited his credentials. I am a licensed architect in the state of New Jersey, as well as several other states

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**Mr. Van Horne Esq.** said you have testified here before. Is your license in good standing.

**Mr. Santini** said it certainly is, and I am also a licensed professional Planner in the state of New Jersey.

**Mr. Van Horne Esq.** said we accept your testimony as an expert.

**Mr. Santini** said Thank-you. Ladies and Gentlemen, as Mr. Mateus stated this is a very modest project. 15 Phelps is a very small house. Its only 1237 square feet and its total area on two floors. Very small. It has 1 ½ bathrooms and 2 bedrooms.....what we could do intelligently with this, considering when, and came up with a solution that I think we have.....some existing non-conformity. So I looked at this, and came up with a solution that I think may fit criteria.....So I thank-you very much for..... Getting back to this site. This is a very, very modest site. All the drawings that have been submitted, and I'm sure everybody has a copy, on the left side of this drawing, is the exact site plan that has been prepared by my.....office, Hubschman Engineering, which shows that the site is 50' wide by 110' long, with a total of 5600 square feet. It shows the existing small house, and in the darker gray area, it shows the proposed addition we are seeking approval by the board. The two photographs that were submitted generally give the architecture character of the *rear* portion of this house. Its an old Dutch *gambol* style house.....We have illustrated our client's - the diagram goes very much to the left side of the drawing indicating the yellow line, shows the actual foot print of the first floor, and then the balance of the space that's illustrated in the dark gray format is the proposed modest addition. ....an expansion over the kitchen, has a very small kitchen, we are gaining a primary bedroom on the ground floor, with a small bathroom and a small closet. The total addition is 457 square feet, and now, *weighing* the house in total, is two floors of the existing plus the addition is 1697 square feet. Which is rather small. Rather modest. Obviously this is a small lot. There are other adjacent small lots in the area. As you know, .....on the south side..... in which the houses in Cresskill *have smaller lots*.....

**Mr. Capizzi Esq.** said The architectural character of the proposed addition is a one story addition that fits very nicely with the existing character of this gambol house. We are proposing a small deck which is 129 square foot triangular shaped deck that fits nicely with the property . And we do have the exterior conforming to, the addition, conforming basically to the existing character of the house. Which I term functionally modest, in the sense that we are trying to upgrade the house so that it becomes functionally better for the people *that live alone* , they want a bedroom on the first floor, *they are older in age*, and they would respectfully request that we consider that particular plan arrangement. Now, we've also looked at all of the Zoning data that Mr. Santini *already* stated. And zoning that would be

*issued* .....is that we have one variance technically, which is the coverage variance, That variance requires that in the Zone you are allowed to have 20% coverage from the building, and since we are a smaller lot, the existing coverage is 17.36% coverage, and the proposed will be 24.28%. Its 4.28% more than what would be allowable in the Zone. Now in this particular Zone, in the R10 Zone, in the sliding scale that have been adopted.....for the maximum Impervious Coverage and the maximum FAR, for this particular type of residential. And if there were a sliding scale for the Building Coverage, I think that that would make it we would not have any variance.

**Mr. Van Horne esq.** said there is none.

**Mr. Capizzi Esq.** said so we are respectfully requesting the variance that we have for the maximum lot coverage. We are respectfully that you consider the physical features: the lot area, the 6600 square feet, the minimum frontage is only 60 feet, those are the two existing non-conformities, and

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the two side-yards, that are almost at 15' for one side-yard, its 14 plus 0.12. Its 0.18% shorter than what the ordinance allows. We are requesting a continuation of that yard variance along the western side of our property. The building is a one-story addition, it will not have any negative impact on the light, air and open space on adjacent property. The adjacent property on the west side of this property has a two car garage, that is the only part of the adjacent building that is closest to our property. So, with that said, I'm respectfully requesting that the court consider this variance application that we are requesting, since it will not be detrimental to the intent and purpose of the Zoning plan, to the Zoning ordinance, or the public good. (22:06 The benefits of this is that it will be an aesthetically pleasing addition. The character will be the same as is there, with the white cedar shakes. And we are trying to compliment everything about the existing architectural style of this house, so as to make it fit.....in that part of our community. Thank-you.

**Mr. Santini** said *Martin*, I just want to ask you if the lot is 6600 square feet and you're allowed 20%, that would be an allowed Building Coverage of 1320 square feet

**Mr. Capizzi Esq.** said that's correct

**Mr. Santini** said and we are proposing 1603 so the difference is 283 square feet.

**Mr. Capizzi Esq.** said right.

**Mr. Santini** said because the lot is so small, that 283 translates to 4%.....

**Mr. Capizzi Esq.** said that's exactly correct, and we respectfully request that this was considered as part of the application.

**Mr. Santini** said as part of the Building Coverage number, the detached garage is included in that.

**Mr. Capizzi Esq** said that is absolutely correct.

**Mr. Santini** said..... if the lot were wide enough that garage obviously would be attached.

*Discussion between Mr. Santini and Mr. Mateus on the implications of detached vs attached*

**Mr. Capizzi Esq** said as far as the additional management fee, the re-purposing and the revitalization of this existing *albenstot* , could you tell us your thoughts on that.

**Mr. Santini** said I think this would be a welcome addition in the area, it would certainly complement the area, the residential characteristics of this part of our community. I think the other aesthetic benefit is that.....as I stated....track route. It will look attractive, it will be softening.....we will all be proud of .....and I think that the purposes of zoning will be advanced by this particular approval. If you will.

**Mr. Capizzi Esq** said if we were to report conforming set-backs, as the addition, do you think that would have a negative effect on the appeal of the overall residence ?

**Mr. Santini** said if we were to provide a conforming set backs.....I think that that would just disrupt the actual character of the house. I think that the variance is a very very small, tiny addition. I think that the way we have it planned, the design, would be much more beneficial to the property than a continuous wall.

**Mr. Capizzi Esq** said Thank-you.....

**Mr. Kassis** said Okay. Comment, .....made to see your client *has* survived without a 30 foot wide bedroom. Which seems to be pretty popular these days.

*Mr. Kassis chatted with an audience member.*

**Mr. Kassis** said I walked my dog down that street, for exploratory purposes. I know the house well and I think it is worthy of an upgrade, as my neighbor thinks my house is. Any questions from the Board regarding this application? Well, I see no-one in the audience for or against this application. Okay, so, with that being said is there a motion to either approve or deny this application?

**Mr. Cleary** made the Motion to approve.

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**Ms. Wehle** seconded the Motion to approve.

**Mr. Kassis** asked for a Roll Call.

**Ms. Bauer** did the Roll Call of ZBOA members.

*All Board members answered 'yes'*

**Mr. Kassis** said Okay, two in one night, that is pretty good.

*Jocular conversation among Board members, and Applicant representatives and witnesses.*

**Mr. Kassis** said next on the agenda is memorialization.

**Memorialization**

**1401 Yaniv & Shelly Kalish 8 Mountain View Rd. B 1.03 L 2**

Description	Required	Existing	Proposed	Variance
Front Yard Set Back	25'	25.1'	25.1'	
<b>Side Yard Abutting/Lot</b>	<b>15'</b>	<b>16'</b>	<b>16'</b>	
<b>Other Side Yard</b>	<b>20'</b>	<b>16'</b>	<b>16'</b>	<b>ENC</b>
<b>Combined Side Yards</b>	<b>35'</b>	<b>32'</b>	<b>32'</b>	<b>ENC</b>
<b>Min. Rear Yard</b>	<b>30'</b>	<b>34.5'</b>	<b>34.5'</b>	
<b>FAR</b>	34.32%	32.9%	32.9%	
Height of Building	28	28	28	
Lot Frontage	100'	<b>75'</b>	<b>75'</b>	<b>ENC</b>
Lot Depth	100'	100'	100'	
<b>Bldg. Coverage %</b>	<b>20%</b>	<b>20%</b>	<b>23.27%</b>	<b>To be determined</b>
<b>Impervious Coverage variable</b>	32.4%	30.2%	34.04%	<b>To be determined</b>
LotArea	10,000 sq.ft	9677 sq.ft	9677 sq.ft	<b>ENC</b>

**Mr. & Mrs Kalish were granted the above variances to construct an addition to their home.**

**The applicants were granted variances for Building Coverage and Impervious Coverage to be determined with the removal of an impervious walkway on the right side of the house.**

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**Memorialization**

**1402 Adam Pitt 266 Concord St. B 14 L 60**

<b>Description</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance</b>
Front Yard Set Back	25'			
<b>Side Yard Abutting/Lot</b>	<b>15'</b>		<b>7.9'</b>	<b>7.1'</b>
<b>Other Side Yard</b>	<b>20'</b>	<b>21.7'</b>	<b>7.9'</b>	<b>12.1'</b>
<b>Combined Side Yards</b>	<b>35'</b>	<b>27.1'</b>	<b>15.8'</b>	<b>19.2'</b>
Min. Rear Yard	30'	88.1'		
FAR	37.02%	15.28%	27.23%	
Height of Building	28'	20.2'	22.5'	
Lot Frontage	100'	60'		ENC
Lot Depth	100'	142.23'		
<b>Bldg. Coverage %</b>	<b>20%</b>		<b>25.27%</b>	<b>5.27%</b>
<b>Impervious Coverage variable</b>	<b>33.9%</b>	<b>23.70%</b>	<b>38.94%</b>	<b>5.04%</b>
LotArea	10,000 sf	8,695 sf		ENC

**Mr. Pitt was granted the above variances to construct an addition to his home.**

**Mr. Pitt will make a modification to his roof line.**

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**Memorialization**

**1403 Marco Benhaim 101 Hillside Ave B 76 L 53**

<b>Description</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance</b>
Front Yard Set Back	25'	50.76		
<b>Side Yard Abutting/Lot</b>	<b>15'</b>	<b>11.81</b>		
<b>Other Side Yard</b>	<b>20'</b>	<b>12.15'</b>		
<b>Combined Side Yards</b>	<b>35'</b>			
<b>Min. Rear Yard</b>	<b>30'</b>			
<b>FAR</b>				
Height of Building	28'			
Lot Frontage	100'	75'		
Lot Depth	100'	194'		
<b>Bldg. Coverage %</b>	<b>20%</b>			
<b>Impervious Coverage variable</b>	<b>32.4%</b>	<b>37.86%</b>		<b>5.46%</b>
LotArea	10,000sf			

**Mr Benhaim was granted the above variances to construct a patio.**

**Meeting adjourned at 8:14 pm**