



**Borough of Cresskill  
Zoning Board of Adjustment  
Public Meeting 7:30 PM  
Minutes Aug. 24, 2023**

Lot Area	10,000 sf	12,332 sf		<b>ENC</b>
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**A representative for the owners is before the Zoning Board for approval. They would like to construct a new single family home at the above address that includes an FAR.**

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**1414 Ofer Sharon (cont.)                      4 Fenway Court                      Block: 200 Lot: 18**

**Mr. Matthew Capizzi esq. of Capizzilaw** introduced himself as representative on behalf of the applicant . This application is to redevelop 4 Fenway Court. They do single family dwelling. 4 Fenway Court is on a cul de sac. The lot is a very awkward T shape.

*Mr. Capizzi indicated the lot on the Tax map.*

**Mr. Kassis** asked are you here for 4 Fenway or 165 Knickerbocker ? Is anyone here for 165 Knickerbocker.

*There was no reply.*

**Mr. Capizzi** *described the lot shape.* Most lots are rectangular in shape and have 4 lines, this one has five. As a result of the unique shape and having 5 property lines, the lot has 2 rear yards, The yard to the south is crossed by the rear yard. The yard to the westerly portion is considered a rear yard . The northerly property line is considered a side-yard. The westerly line

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a side-yard, and the street line, a front-yard. So I will go around in rotation clockwise. We have side yard, front yard, side yard, rear yard, and rear yard. Because the lot is affected by 2 rear yards and has essentially that long narrow shape, the building envelope is quite constrained. So what we want to do is a new single family dwelling, that Mr. Rappaport will discuss momentarily. That single family dwelling is seeking variances for FAR, Impervious Coverage, and Rear Yard Set-Back. We are seeking from the Board to treat the Southerly property line as a Side-Yard, and we are providing the typical required Set-back of 15', and again, because it is considered a Rear-yard, subject to a 30' set-back requirement, and again because of the shape of the lot, the home itself has to take somewhat of a unique shape. Your typical home is somewhat rectangular. Here because of the constraint *building lot* the house needs to meander a bit on the site, and that is causing some additional floor area and Impervious Coverage..... not divided *along the line of utility* it is necessary to try to transition the dwelling around the shape of the lot in this *direction*, as we have discussed. As far as references in support of the application: Uri Rapaport is our architect, *Michele McCloud*.....is our civil engineer, and David Spatz, our planner is also here this evening. If its OK with you Mr. Chairman, I'd like to start with Mr. Rapaport and stress the home, and then we can.....

**Mr. Rapaport** (achitect) was sworn in.

**Mr. Rapaport** gave his first name, spelled his last name and presented his qualifications.

**Mr. Capizzi** said Mr. Rapaport, I have the site plan from Mr. McClennan on the easel, would you mind just using that for reference, just to discuss the site itself. some of the difficulties how the lot orientation gave rise to the home that you designed.

***Mr. Rapaport** described the short comings of the lot in designing a house that met the Zoning regulations.*

*Mr. Rapaport described the exterior plan for the house ,and the considerations made in the plan to comply with the Zoning rules.*

**Mr. Capizzi** said Thank-you Mr. Rapaport. As far as the footprint itself, can you describe the design that and take us through the first and second floors.

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*Mr. Rapaport described the exterior plans for the first and second floors.*

**Mr. Capizzi** said as far as the plan set that we filed with this application, *if you don't mind describing that*.....

*Mr. Rapaport described the plans for the interior of the house.*

**Mr. Capizzi** said when you are looking at the foot-print you are inside the walls of the house, broken up into two separate pieces, you have main drawn portion and the garage appendix, is that correct ?

**Mr. Rapaport** said right. Continued to describe the plan for the first floor

**Mr. Rapaport** described the plan for the 2nd floor.

**Mr. Capizzi** said as far as the porches, on the first and second floor is within the rear yard set-back, that's along the south. Could you give us some approximation about how much area there

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may be within that area, and indicate to the Board where that set-back line intersects with the first and second floor.

**Mr. Rapaport** gave a detailed answer, and continued to describe the plans.

**Mr. Van Horne** said excuse me Mr. Capizzi, you are aware that this court is only going to rule on the FAR application, correct ?

**Mr. Capizzi** said I spoke to Mr. Stamos, this afternoon, the variances are all prior to one another, so its impossible for the Board just to vote on the FAR, and not the other variances. So I told Mr. Stamos that certainly filing the typical site plan application for the Planning Board would be a none issue, but clearly the Board has jurisdiction over the FAR variance.

**Mr. Van Horne** said yes we have exclusive jurisdiction over that, and that's what we were going to take here tonight. My conversation with Mr. Stamos was that they wanted to hear the site plan application and the other variances so..

**Mr. Capizzi** said it would be impossible for this Board..... Jurisdictionally its not a problem. Secondly, its impossible for our staff to say, hypothetically, to the Board vote yes on the FAR.

**Mr. Van Horne** said well that's your opinion, but we're only going to vote on

**Mr. Capizzi** said that's not my opinion that's the law. Its impossible for the Board to grant the FAR, and another Board to say 'no' to Impervious Coverage or a Set-Back.....

**Mr. Van Horne** said we can bifurcate this application, which is what we are going to do, and that's what we do in Cresskill. You have had this before, and I am befuddled by your interpretation of what happens with the *conversation in this system*.

**Mr. Capizzi** said maybe we should call a break, and call on the state to join us.

**Mr. Van Horne** said Okay.

**Mr. Kassis** said we're going to take a quick recess here, to show we can get a couple of issues worked out.

**Mr. Van Horne and Mr. Capizzi** went out of the court room into the hall, to resolve the issue. They returned to the court room 11 minutes later.

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**1414 Ofer Sharon (cont.)**

**4 Fenway Court**

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**Mr. Van Horne** said Let me advise the Board what occurred. Mr. Capizzi and I discussed the issues. We talked to the Planning Board attorney, who suggests that we, being Mr. Capizzi, myself and Dean Stamos, continue to discuss the issue, and give better sense of whether or not the Planning Board is going to appeal. Like they really want to hear the other variances along with the site plan application. The other variances are related and unrelated with the FAR issue, which Mr. Capizzi has already *discussed*, and he does not want his client to incur the cost of this hearing and then another hearing, although he's going to have the site plan application..... but we want to go forward tonight with the architect. You all can get a sense for what you think of the plan, as it relates to the issues. Focus on FAR, but also the other issues as well. And then we're going to continue hearing in September, with hopefully 7 members, because he doesn't want to vote with just 5 members, and that's his right. He can ask for continuance , and then the

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other members will have to listen to the testimony and then they will be allowed to vote in the September meeting on the FAR, or on all the variances. Okay ?

**Mr. Capizzi** said Thank-you Mr. Van Horne. If I may just elaborate a little further. I only stood for the routinely *years* applications for single family homes. Sometimes they had FAR variances, sometimes they had code variances, sometimes they had both. In an existing single family dwelling there is no issue with this court hearing that application, where an FAR variance, and other code variances are involved. The difference between an existing single family home application and this one, is this one is a new home. My position has been that a new home or an existing home should not change the jurisdictional issue, but I respect Mr. Van Horne's opinion on the Board's procedure and history procedure. So we thought it best just to take a moment. Lets get some of the design tasks before we finish up this evening. Take a moment to collectively go back to our own offices: myself, Mr. Greenhorn, Mr.....to talk about the jurisdictional issue. If it is the consensus that we just have FAR variances before this Board, great, we'll just finish the presentation and have that variance before the Board. If it's the determination that all the variances will be collectively before the Board, great, *we will have a presentation based on that application*, but as far as the procedure from us, we'll have all that worked out for the next meeting. The Board is also aware, because this is a FAR variance, the Law requires me to get five affirmative votes, regardless of how many members are in attendance. I need five 'yes' votes. Since there are only five members in attendance this evening, it would be the applicant's preference to come back when there are a full composition of Board sitting members and would take a vote. So, hopefully, carrying the application to September, or such a date as may become available, we can get full membership here. It's possible and we'll have, and we'll have that procedural issue sorted out as well. It took some time to sort out that issue. *Mr. Rathway*, I believe we were discussing the Front elevation, if you wouldn't mind, taking us back to the beginning of the front elevation and explaining to us some of the attributes.

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**1414 Ofer Sharon (cont.)**

**4 Fenway Court**

**Block: 200 Lot: 18**

**Mr. Rapaport** said OK. The shape of the house makes it look smaller. I tried to create a house that would not impose on the property because of the narrow opening to the street.

**Mr. Rapaport** described what the plan is for the appearance of the front elevation, Including the use of stucco on the wall.

**Mr. Capizzi** asked about any other treatments that maybe applied to the windows, or detailed arrangements that may be provided.....

**Mr. Rapaport** described additional features .

**Mr. Capizzi** said as far as the 1st floor, I know there is a dining-room door where we have to walk out to a pool, a patio area and a pool. Can you discuss with us a little bit about the flow, what you were looking to achieve there, off the first floor, how that leads to the elements in the rear yard.

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**Mr. Rapaport** described the features and layout of the Back-yard.

**Mr. Capizzi** said the patio area and pool are directly off the living / dining room area.

**Mr. Rapaport** explained the design.

**Mr. Capizzi** said Thank-you Uri. I have no further questions Mr. Chairman.

**Mr. Kassis** said Okay. I'll try to address just with the design of the house. In particular, you have a request for FAR of 2.27%. Which may seem small or narrowly on the normal rectangular lot. The particular concern, we typically have here, is the Rear Set-back, especially how it intersects other homes. You have Lot 2 and Lot 3 which abut the property on the left-hand side or the south side. What is the distance, are you aware of the distance between the shared property line, and the houses where they are currently located on lot 2 and 3 ?

**Mr. Rapaport** said we don't have the full plan of this house, so if you are asking me how far they are from their border ?

**Mr. Kassis** said yes.

**Mr. Rapaport** I don't have that information at this time.

**Mr. Kassis** said OK. If you reduce the total size of this house by 2.27. That could be used to reduce the overall rear variance. Could it not ?

**Mr. Rapaport** said yes, that would reduce the 2nd and 3rd floor as well.....Actually we can reduce the 2nd floor and keep the footage of the 3rd floor as well.

**Mr. Kassis** said so would that affect the rear set-back?

**Mr. Rapaport** said in this case it is very difficult to design a house that we have 2 rear set-backs.....This is the longest lot line that we have,..... leaves us a building envelope that is very narrow and long. Very challenging to design anything. Its like a railroad type house. That's why we are asking for variances. Also, it is unusual for a lot to have 2 rear yards. So to the extent that we have more room and we can keep the house closer to the street, so we have something very long and narrow.

**Mr. Rapaport** indicated the measurements on the plan used in the design.

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**1414 Ofer Sharon (cont.)**

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**Mr. Kassis** said my one concern is that the 20' here is difficult to track.....Considering the depth of the lot, the depth is not unusual. That's one concern. Shrinking that back could be used to eliminate the two points.

**Mr. Rapaport** said eliminate the Rear Set-back.

**Mr. Kassis** said reduce the Rear Set-back.

**Mr. Rapaport** said to comply with the two rear set-backs, that would be impossible..... could we make it more than 15. The answer is yes.....I don't know how much it would be.....

**Mr. Kassis** said it would be a challenge, where there is a will there is a way. While there is a house there now, while there very long time, it is relatively in compliance with the Zoning requirements. So, both houses were designed to change on bigger lots there is a lot more

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flexibility. Unusually shaped lots like this, sometimes require thinking outside the box. And my question, which may not need any answer tonight, would be, if you reduce that set-back by some amount, that would eliminate the 2.27%, how much would that yard be ?

**Mr. Rapaport** said.....

**Mr. Kassis** said OK, that is one concern. The other concern which would be on the right side of the property, would be north, where you show 15 foot to the house but to the basement stairs there is 6' . What is the distance from that property line to the house next door , to the neighboring house ?

**Mr. Rapaport** said.....Lot 17.....

**Mr. Kassis** said both of these things would be very important information in making a decision. Whether or not that house happens to be close to that odd box shape in that neighborhood. If that house to the right on Block 200, also has a very narrow yard, it would be very difficult for us to approve something that would give the extremely narrow area. Part of the application, does ask whether the proposed distance between the house and the adjoining structure. And when I take 30 and 57, I'm not sure which one is black. Is this lot 19? White is Block 200? You know, we have so many rights and lefts here, So many back yards. What are these two numbers, Right 30 and Left 57.

**Mr. Rapaport** replied. ....Lot 17and Lot 51.....

**Mr. Kassis** said Maybe I will ask this question to the Planner. This is not to deal with the design. There is the basement stairs going at that location. Irrespective of the distance between the structure next door. Those leave a very narrow space with those bushes there. Are those trees or arborvitae along the right wall ?

**Mr. Rapaport** said cedar trees.

**Mr.Kassis** said they are cedar trees.

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**Memorialization**

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**1413 Sally Cummings & TJ Gnncling 168 10<sup>th</sup> St. Block: 43 Lot: 841**

<b>Description</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance</b>
Front Yard Set Back	25'			
Side Yard Abutting/Lot	20'			
Other Side Yard	15'			
Combined Side Yards	35'			
<b>Min. Rear Yard</b>	<b>30'</b>		<b>27.18'</b>	<b>2.82'</b>
FAR				
Height of Building	28'			
Lot Frontage	100'	75'		<b>ENC</b>
Lot Depth	100'	75'		<b>ENC</b>
<b>Bldg. Coverage %</b>	<b>20%</b>		<b>27.24%</b>	<b>7.24%</b>
<b>Impervious Coverage Within 125' lot line</b>	<b>33.9%</b>			
Lot Area	10,000 sf	5625 sf		<b>ENC</b>

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**Sally Cummings & T.J Gnnndling were granted the above variances to construct a deck**