

**Borough of Cresskill
Zoning Board of Adjustment
Public Meeting
Minutes July 26, 2018**

Present:, Ms. Batistic, Mr. Kassis, Mr McCord, Mr. Corona, Ms. Schultz-Rummel, Ms. Westerfeld, Mr. Merzel, Mr. Cleary, Ms. Furio, Mr. Van Horne (acting Board Attorney), Ms. Bauer (recording secretary),

Absent:

The meeting was called to order at 8:01 pm.

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

Minutes of the June 28, 2018 meeting were approved. (Mr. Kassis, Ms. Batistic)

Applications

1329 Ms. Lehavit Lapid 199 9th St B31 L 417-419

Description	Required	Existing	Proposed	Variance
Front Yard Set Back	25 ft	21.2'	25.1'	
Side Yard Abutting/Lot	15 ft	9.1'	15.8'	
Other Side Yard	20 ft			
Combined Side Yards	35 ft	46.1'	33.3'	1.7'
Rear Yard Set Back	30 ft	42.1'	34'	
Max. Livable Fl. Area (FAR)	34.32%		34.32	
Lot Frontage	100'	75'	75'	TECH
Lot Depth	100'	100'	100'	
Bldg. Coverage	20%	17.4%	20.52%	.52%
Impervious Coverage	32.4%	33.7%	32.1%	
Height of Bldg	28'		30.7'	2.7'
Lot Area	10,000 sq.ft	7,500 sq.ft		TECH

The applicant proposes to construct a single family home.

The applicant was before the ZBOA because he is requesting a height variance.

Mr. Uri Rapaport, Architect. was sworn in. He had testified on previous occasions before the board and was accepted as an expert witness.

Mr. Rapaport testified that the applicants would like to construct a new house on 9th and requires a variance for the height.

Mr. Rapaport explained that the property was sloped. The ordinance states that the height may be no more than 28' from the average of two points in the front which works for a flat property, but in this case its very difficult. We are coming here for relief. I have prepared a one sheet of graphics that summarizes the whole thing.

Mr. Rapaport distributed Exhibit 1A to the board.

Ms. Furio asked this is not part of the plan on Page 5, this is something different ?

Mr. Rapaport said yes.

Mr. Rapaport said if you look at the existing right now you will see that it is 102 in the rear and 92 in the front. So we have 10' difference between the front and the back. That is the whole story why we are here. This is an existing house there today. The house today does not comply with the existing ordinance, but we are going to remove the house. What is required on the center, that

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you can see on the red line that I marked, which would be the height if we were to comply, but the point is if you see the proposed, the roof pitch fall on 12 which is the most pitch that we can have when we do shingles. We cannot do less than that. So then we have to go to a flat roof. That solution doesn't fit the area. So this explains why we like to get this variance.

Ms. Furio said you are looking for 2 ½ feet.

Mr. Rapaport said 2 ½ feet which is less than what is there today. Today, the height is more, about 4" higher. So we will be slightly less than the existing.

Ms. Furio said currently its 127.3 and you are looking for 124.25

Mr. Rapaport said correct.

Ms. Furio said based on the front being 96.2. What is the grade difference between the front and the back ?

Mr. Rapaport said 10' difference.

Ms. Furio said anything less than a 4/12 is flat.

Ms. Furio asked what is the height of the first floor.

Mr. Rapaport said 9'.

Ms. Furio asked and the 2nd floor

Mr. Rapaport said 8'.

Ms. Furio asked if you were to make it 8' and 8' ?

Mr. Rapaport said even then we would exceed so. We are at 2.5 but it will be 1.5. But 9' today on the 1st floor is almost standard. To do 8' would be old fashioned.

Ms. Furio asked has anyone on the board have any questions or comments based on the application ?

Ms. Batistic said the height is measured from the average grade at the front of the building. You put in retaining walls. What prevents you to build instead of 5', 7' high retaining walls to bring the grade higher...

Mr. Rapaport said according the board engineer you have to use the existing grade. We cannot change the grade when it comes to calculation of the height. We can do the retaining wall and raise the whole thing, but they will not accept it as calculation of the height.

Mr. Rapaport said because definitely we can push some dirt against the house and make the whole thing artificially higher but they will not accept it for the height.

Ms. Furio asked anyone in the audience for or against the application as presented.

Mr. Merzel asked isn't the height calculated as an average. So...

Mr. Rapaport said the average of the 2 points to the front not around the house.

Mr. Merzel said so if the street were to slope, we measure the average between the 2 spots on the right and the left of the house. But in this case we are talking about a slope of the lot going backwards. There is no averaging the depth ?

Mr. Rapaport said I have the survey that was done before and you can see on the survey that it is almost uniformly from the front to the back.

Mr. Van Horne said his question is can you take points around the property not just in the front but I think that the ordinance says its across the front.

Mr. Merzel said so basically the ordinance talks about averaging the 2 front points.

Mr. Rapaport said just let me say to the board in most towns around here, we take the average around the house- makes maybe more sense because it depends on the topography we can work something around it. In Cresskill this is unique, and anytime that...

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Mr. Merzel said we've had many cases where we took the average of the 2 front points and we've had problems with planters spaced in strategic spots so you could measure – that's what Margita was talking about...

Mr. Van Horne said that was a house that was already built.

Mr. Merzel asked what's the height inside the garage ?

Mr. Rapaport said the garage in this case is on the basement level. The garage in order to have a garage door that opens you need to have 9' ...

Mr. Merzel said for clearance. Is that existing ?

Mr. Rapaport said its going to be brand new. For the basement, part of it will be the garage.

Mr. Merzel said you are seeking a variance for the height but there are also the other things.

Mr. Rapaport said yes, what happens in Cresskill, for new house you have to go to the Planning Board. It used to be that the Planning Board did also the height, and now this changed and they said for FAR or height we have to come here first- so all the other items will be addressed over there.

Mr. Merzel said so we are just addressing the height.

Mr. Van Horne said if its 10% or more the Zoning Board has exclusive jurisdiction . But this is less than 10%, so you can actually take it to the Planning Board.

Mr. Rapaport said OK. I'll be in front of the Planning Board. This time is the first time for height that we have to come in front of this board. I had a discussion with the Construction Official, and I told him how it was done before and he said that's how we see it now and that's it..

There was a discussion among the Board members and Mr. Van Horne on how to proceed.

Mr. Van Horne said then you go to the Planning Board for...

Ms. Furio said for everything else anyway.

Mr. Rapaport said in Cresskill you have to go to the Planning Board regardless of variances or no variances.

Mr. Van Horne said right.

Ms. Furio said so I think that, based on your information, this whole plan should be seen by them.

Mr. Van Horne said it makes more sense

Ms. Furio said it makes more sense.

Mr. Van Horne said if the application has to be approved by the Planning Board, including these other variances which are part of your plan, then they should rule on everything, including the height.

Mr. Rapaport said that was my opinion to begin with, but the Construction Official insisted on us being here.

Mr. Van Horne said the law is, you only have to come here if the application for the variance exceeds 10% over the height limitation- so if it was 3 ½ ' and it was a 28' height limitation then that's more than 10% so you would have to come here. This is less than 10%, so you don't have to come here. I actually thought, when I was looking at it, that you did that deliberately, but then I thought but why did you come here, because you could have gone to the Planning Board for a resolution for this.

Ms. Furio You have to go to them anyway..

Ms. Lehavit Lapid said we did not want to come here.

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Mr. Van Horne said I suggest we carry this, so that you are not dismissed and don't have to re-notice . I'll try to resolve this with the Planning Board attorney.

Mr. Rapaport said but also may I suggest that maybe you can talk to the Construction Official that it doesn't happen again..

Mr. Van Horne said right.

Ms. Furio said you won't be penalized.

Mr. Van Horne asked are you on the Planning Board agenda ?

Mr. Rapaport said its complicated. You are much easier than them.

Mr. Van Horne said you haven't applied yet ?

Mr. Rapaport said the Planning Board actually asked us to be done with this variance, and then try. So we haven't applied at all because they wouldn't take it.

Mr. Van Horne said alright, so we need to resolve this very quickly.

Mr. Merzel said so the Planning Board told them to come here first.

Mr. Rapaport said the way you apply, is to apply to the Construction Official and he gives you a letter and he tells you, you have to apply to the Planning Board, the Board of Adjustment.

Mr. Merzel asked do we take a vote ?

Ms. Furio said if the information was given to him that he had to come here, but he really did not have to and the next meeting is the 2nd Tuesday.

Mr. Rapaport said the Planning Board the way we work, is the board engineer has to review the plan first and only after he declares the plan as complete, only then they put you on the schedule...

Mr. Van Horne said so we still have to resolve this as soon as possible...

Mr. Merzel asked is it possible that he goes to the Planning Board and then gets sent back to us again...

Several people spoke at once about this possibility

Mr. Van Horne said this won't happen, I will resolve this with the attorney.

Mr. Merzel said it is not their fault that they were sent in front of us, the last thing that should happen is that they come back here again.

Mr. Rapaport said I'm sure that Mr. Schuster heard many cases that the height was part of it.

Mr. Van Horne said I think that you might have gotten some incorrect information...

Ms. Furio said we'll try to make it good for you.

Mr. Van Horne said this application will be carried to the next meeting. Then we will either hear it or dismiss it.

Ms. Furio said in the meantime we will try to make sure that the Planning Board is notified of the situation and try to get you on without having to wait.

Mr. Van Horne asked for Mr. Rapaport's card.

Mr. Rapaport said I have it in the car.

Mr. Rapaport thanked the board.

Mr. Corona said by us not voting on your case today, if we were to, there would be a month delay before it would be memorialized, and you could apply to the Planning Board. This way with the attorneys speaking, maybe they can get you into the Planning Board sooner, so that you do not have such a long of a process to wait.

The board assured the applicants that they would expedite the application.

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Memorializations

The applicant was granted the following variances to widen an existing 10' driveway by 8'

1327 Robert & Milanka Lippman 65 Hillside Ave B 76 L 59

Description	Required	Existing	Proposed	Variance
Front Yard Set Back	25 ft	57.4'		
Side Yard Abutting/Lot	15 ft	7.4'		
Other Side Yard	20 ft	12'		
Combined Side Yards	35 ft	19.4		
Side Yard Set Back For accessory building	5 ft	1.6'		
Max. Area of accessory building	600 sq.ft	487 sq.ft		
Lot Frontage	100 ft	50 '		
Lot Depth	100 ft	294.18 '		
Bldg Coverage %	20%	15.58%		
Impervious lot Coverage	35%	54.88%	57.28%	22.28%
Height of accessory bldg	15 ft	13'		
Lot Area.	10,000 sq.ft	14,709 sq.ft		
Driveway from Prop. line.	10'	0'	0'	10'
Driveway Encroachment	10' from side yard	0'	0'	10'

The applicant had been denied an application for a circular driveway on 04/26/2018

Meeting was adjourned at 8:26 pm