

**Borough of Cresskill
Zoning Board of Adjustment
Public Meeting 8 pm
Minutes Mar. 22, 2018**

1320 John Finetto 159 Magnolia Block 32 Lots 363-364

| Description | Required | Existing | Proposed | Variance |
|---|---------------------|-----------------|-----------------|-----------------|
| Front Yard Set Back Magnolia | 25' | 17.62 | 20' | |
| Front Yard Set Back 8 th St | 25' | 17.36' | 17' | |
| Side Yard Abutting/Lot | 15' | | | |
| Combined Side yards | 35' | | | |
| Rear Yard Set Back | 30' | 10.19' | 10' | |
| Max. Livable Fl.Area FAR | Variable 39% | 25% | 43.8% | 13.8% |
| Lot Frontage | 100' | 50' | | Tech |
| Lot Depth | 100' | | | |
| Bldg Coverage % | 20% | 18.1% | 25.9% | |
| Impervious Coverage | Variable 35% | 29.2% | 34% | |
| Height | 28' | | | |
| Lot Area. | 10,000 sq.ft | 5,000sq.ft | | Tech |
| Driveway from Prop. line. | 10' | | | |

The applicant would like to construct a new family home. He is requesting an FAR Variance.

He is before the Zoning Board for an FAR variance.
He will apply for his other variances at the Planning Board.

The application was carried from the Jan. 25, 2018 ZBOA meeting.
The application was carried from the Feb. 22, 2018 ZBOA meeting.

This application has the following history:

- | | | | | | | |
|------|--------------|----|---------|------------|-----------|---|
| 1283 | 159 Magnolia | 32 | 363-364 | 7/23/2015 | carried | |
| 1283 | 159 Magnolia | 32 | 363-364 | 8/27/2015 | carried | only 5 members present- needs 5 of 5 for FAR |
| 1283 | 159 Magnolia | 32 | 363-364 | 9/24/2015 | carried | applicant warned only 5 members maybe present |
| 1283 | 159 Magnolia | 32 | 363-364 | 10/22/2015 | dismissed | Applicant did not show |
| 1283 | 159 Magnolia | 32 | 363-364 | 5/26/2016 | carried | architect came, but not applicant |
| 1283 | 159 Magnolia | 32 | 363-364 | 6/23/2016 | cancelled | applicants did not attend |

Neither the applicant nor his representative was present.

The application was dismissed.

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1326 Masahiko Fukano 41 Allen St Block 73.01 Lots 35.01

| Description | Required | Existing | Proposed | Variance |
|-----------------------------|---------------------------------|--------------------|---------------|--------------|
| Front Yard Set Back | 25 ft | | | |
| Side Yard Abutting/Lot | 15 ft | | 15.7' | |
| Other Side Yard | 20 ft | | 9.2' | 10.8' |
| Combined Side Yards | 35 ft | | 24.9' | 10.1' |
| Rear Yard Set Back | 30' | | | |
| Max. Livable Fl.Area FAR | (variable) 36.12% | | | |
| Lot Frontage | 100 ft | 50' | | Tech |
| Lot Depth | 100 ft | 180' | | Tech |
| Bldg Coverage % | 20% | | | |
| Impervious Coverage | (variable) 35% | | 43.58% | 8.58% |
| Height | 28 ft | | | |
| Lot Area. | 10,000 sq.ft | 9,000 sq.ft | | Tech |

The applicant would like to construct a pool.

Mr. David Watkins esq. introduced himself as attorney for the applicant.

Mr. Watkins said that the property in question was surrounded by property belonging to the borough. There is only one house that will be impacted by this. (*Mr. Watkins described the borough properties*).

Mr. Watkins said that the Impervious Variance was the result of the ordinance requiring the calculation to be limited to the first 125'. The applicant's property is 180'.

Mr. Watkins introduced the engineer for the project, Mr. Tom Skrable.

Mr. Skrable was sworn in and gave his credentials.

Mr. Skrable described the property. Macadam Driveway, small walkway to the front porch, small walkway to the side..... commercial properties across the street, and surrounded by municipal type properties... school property and school buildings..Only Allen St has residential properties towards the west. The property is screened by arbor vitas on the right and in the rear, more will be planted to fill in the gaps. Pool will be 750 sq.ft.

Mr. Skrable said Impervious Coverage is analogous to drainage especially when you are talking about pool patio structures that are at ground level that are not visible from perspectives around the lot. Whatever runs off will have no impact on neighboring properties.

Mr. Skrable described the permanent drain around the patio- a 375 cu.ft 'Cultec' chamber for run-off storage. The Impervious Coverage pre-pool is 31%, required is 35%, with the pool it is 43.58%.

There is 1100 sq.ft of patio. The pool does not need a patio, we can go with zero patio. My opinion is that with smaller children, if the pool is surrounded by grass, a running child could slip on the wet grass. I'm not a fan of no patio.

Mr. Skrable said that the Side Yard of 9.2', requiring a variance was on the side of the library property.

Mr. Skrable said that he could reduce the Impervious to under 40% by taking 400 sq.ft off the patio. The patio would be just under 700 sq.ft which sounds like a decent sized patio. The pool is 47 ½ by 16' that's primarily due to the long thin lot creating a long thin pool. To get a patio around that you get that 600 to 700 sq.ft number. By doing that we are going to have a small walking area around it and then an area to

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put some chairs. We will remove the bulk of what is shown on the left. If we took off 412 sq.ft we get down to 39%.

Ms. Furio asked that would be where the fire pit is ?

Mr. Skrable said towards the pump house, yes.

The drainage system (design) will be left as is and the Pumping equipment will be moved closer to the library.

Mr. Skrable and Mr. Watson *discussed the merits of the pool design .*

Mr. Van Horne said can we be clear about the modifications. You are going to eliminate the patio on the left side ? The 2 bump-outs ? Could you tell us exactly.....

Mr. Skrable said the Impervious will be 39%, I don't have the exact numbers. (*using the plan Mr. Skrable indicated what would be removed*).

Mr. Watson said he will have to discuss the modifications with the applicant.

Ms. Furio asked about the fence around the property.

Mr. Kassis said you would like the board to leave open how the Impervious Coverage will be reduced. If there are members of the board that have concerns about a rain out, you would be circumventing ..

Mr. Watson denied that he had any intentions of circumventing anything

Mr. Merzel asked about the current set-back of the house.

Mr. Skrable said 10' on both sides of the house.

Mr. Merzel asked if the side-yards are 10' and 10', how do you propose that one of them is going to be 15' ?

Mr. Skrable said the side-yard to the pool is going to be 15'. The pool has its own set-back requirement.

Mr. Merzel asked what is the requirement for the side-yard of a patio ?

Mr. Skrable said its just the set-back for the pool.

Mr. Merzel asked the reason you are counting 9.2 for the SPA ?

Mr. Skrable said it is part of the structure.

Mr. Merzel asked was any consideration given to pavers that are pervious ?

Mr. Skrable said we did talk about it, and its that same safety concern in my mind. I don't think it is appropriate to have open-faced pavers on a pool patio where you are going to be running around playing, plant growing through them get slick, opening where you can stub your toes. Its not something that's suitable for a pool.

Ms. Furio said talk to us about the fence. What are that requirements ? What you intending on using ?

Mr. Skrable said I don't have a spec. from this particular client. You are open to it. What I would suggest is the Jarrow fence, which is basically a wrought iron type but it is aluminum, black. Maybe a pool fence with some latching, closing gates. Is that something the board would like and stipulate to that.

Ms Furio said the Basket Ball court is right next to the kindergarten of the school. Its right up against the elementary school, K to 5 , and the library . So concerns for safety. Being mindful of the fact that right behind you are very young children.

Ms. Batistic said for a 6' fence, if you go more than 25' from the back property line you will require a variance. So 6' can be only in the back and 75'....

Ms. Furio said 25' from the front.

Ms. Furio said my concern is: I know that its municipality, I know that its basketball but still in fact it is an elementary school, it is a library, it is across the way where you have the other lots for the municipality, it's the soccer fields, where all the little little kids hang-out. The parents are there and everyone is mindful of who they are but I'm just saying that this is right there.

Mr. Watson asked what are you saying ?

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Ms. Furio said I'm saying that just be mindful of the fact that although you are saying that its just a basketball court behind the pool, and don't worry about noise, and don't worry about the neighbors, but just 25' from the Basketball Court is the kindergarten.

Mr. Skrable said 25' back from the front building line we can do a wire?

Ms Furio said right. How much of your lot did you use to calculate your Impervious Coverage ?

Mr. Skrable said 9000 sq.ft of Lot Area.

Ms Furio said so you used the whole lot.

Ms. Batistic said usually 125' based. 50' by 125' for building an accessory buildings and coverage, but being that its a grade level and it's a pool... the coverage is calculated based on the first 125'. So any area beyond that should not be part of the over-all area for the lot coverage. That would bring you to 67% however, the fact that the entire structure is in the back and cannot be counted for the coverage is kind of counter..

Mr. Skrable said the vast majority of the patio would not be included, its all beyond the 125'.

Mr. Merzel asked what is the width of the patio ?

Mr. Skrable said 3'

Mr. Merzel asked what is the length of the pool ?

Mr. Skrable said 47 ½ '

Ms. Batistic asked what is the set-back to the pool equipment. Is that considered an accessory structure ?

Mr. Skrable said no.

Mr. Merzel asked what is the distance from the end of the deck to the pool ?

Mr. Skrable said 15'.

Mr. Merzel asked for fire regulation, is that OK.

Mr. Skrable said yes.

Mr. Skrable said he was not sure whether they could fit in the fire pit.

Mr. Kassis said he wants to go back to the foliage in the back. There is a fence there right now. The proposed fence will chop right through the center of the arbor vitas that are currently existing.

Mr. Skrable said we are not taking those down. We will just slide our fence forward. I do not have a survey of the arbor vitas, so I can't tell if we could put the fence just behind them, or worst case, if they are right on the line we will put the fence in front of them.

Ms. Batistic asked do you know the size of the existing seepage pit that's being relocated outside of the pool area ?

Mr. Skrable said that he did not know.

Mr. Kassis asked how old is this house ?

Mr. Skrable said 5 years.

Ms. Batistic asked did the house have variances when it was being built ?

Mr. Watson said that Mr. Rossi was the building official. The building was proposed as new construction.

Mr. Kassis and Mr. Watson discussed the fact that the house was granted variances as new construction that would not have been granted if the pool had been included in the original proposal.

Mr. Merzel said they could have a pool without a variance. The problem is not the pool, it's the patio. The house itself has variances with set-backs on both sides and the pool would fit within that. This is a large pool. I have seen pools in back-yards half the size. The problem is the length- it's a very long pool.

Mr. Watson suggested making the pool 45'.

Mr. Merzel said cutting back by 5% is a sizable variance.

Mr. Skrable said that would leave less patio all around.

Mr. Skrable and Mr. Merzel described ways of reconfiguring the patio.

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Mr. Merzel said the question is what's your hardship. Your hardship is that you want a pool, you want it to be 47 ½ ' long, and you want a lot of patio around it.

Mr. Watson said that's not true, its misrepresentation, we have taken most of the patio out .

Mr. Merzel asked how much would you have to take out to remove the variance.

Mr. Skrable said there is a safety issue when you have no patio. I think the best way is to come up with some reasonable compromise. If you have a pool, you have a serviceable patio that is safe and serves the purpose that its intended for...

Mr. Merzel asked what's the average size of a pool in Cresskill ?

Mr. Skrable said pools are usually not rectangular, people like different shapes. 750 sq.ft is average, within 50 sq.ft., because there is no true standard...

There was a discussion among board members, Mr. Watson and Mr. Skrable as to the size of an average pool.

Mr. McCord said what if you removed the Spa. You would probably have the side-yard issue resolved and also probably the Impervious Coverage resolved. You are taking out what's around it.

Mr. Skrable said if you take the Spa out, now instead of 200 sq.ft less, you would have 200 plus whatever the size of the Spa is – you would have 260. If you guys consider that a reasonable amount of to have, I think I'm losing my argument. I don't think that's a reasonable number. Its not safe. I don't think you can properly supervise on 260 sq.ft of patio.

Mr. Watson and members of the board discussed whether the board intended to compromise.

Mr. Van Horne asked Ms. Batistic what do you think about the 2 seepage pits.

Ms. Batistic said that they were adequate.

Ms. Furio said so the seepage pits are adequate for the proposed deck area. You are moving the equipment to the other side. You are making sure that the fence is appropriate for the fact that it is next to the kindergarten. What were the other issues we discussed ?

Mr. McCord said we talked about the side yards too.

Mr. Watson asked the board to define for his client and himself the appropriate fencing. I know that you cannot tell me what to have. You don't have to tell me.

Mr. Van Horne said she just wants his client to be made aware of the children in the neighborhood, close by.

Ms. Westerfeld said that it would also would be good if the kids can't see what's over the fence .

Mr. Van Horne summarized the modifications : Moving the equipment to the right side; eliminating the bump-out; squeezing back the area between the deck and the pool; reducing the size of the patio on the side; being mindful of the fence in proximity to the kindergarten and grade school children.

Ms. Batistic said no removal of the Abor Vitas

Ms. Furio asked if there were anymore questions or comments from the board.

Mr. Merzel I just think that the pool is too big.

Ms. Furio would someone like to make a motion to approve or decline the application with the stipulation we just discussed.

Mr. Kassis made the motion to approve with the stipulation.

Ms. Batistic seconded.

The application was granted

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Memorializations

The applicant was denied an FAR variance to construct a new home.

1323 Ilan Doron 27 Clark St Block 194 Lots 7

| Description | Required | Existing | Proposed | Variance |
|-----------------------------|----------------------|------------|----------|----------|
| Front Yard Set Back | 25 ft | 28 | 25.2' | |
| Side Yard Abutting/Lot | 15 ft | 14.9' | 12.3' | 2.7 |
| Other Side Yard | 20 ft | | 12.3 | 7.7' |
| Combined Side Yards | 35 ft | 31.8' | 24.6' | 9.4' |
| Rear Yard Set Back | 30' | 30.7' | 32.3' | |
| Max. Livable Fl.Area FAR | (variable) 33.78% | | 34.4% | 0.62% |
| Lot Frontage | 100 ft | 78.73' | | Tech |
| Lot Depth | 100 ft | 95' | | Tech |
| Bldg Coverage % | 20% | 25% | 22.1% | 2.1% |
| Impervious Coverage | (variable) 32.1% | 32.7% | 34.2% | 2.1% |
| Height | 28 ft | 17.8' | 27.7' | |
| Lot Area. | 10,000 sq.ft | 7,479sq.ft | | Tech |

The applicant was granted the following variances to construct an addition.

1324 James Lee 35 Oak St Block 85 Lots 97

| Description | Required | Existing | Proposed | Variance |
|-----------------------------|-------------------|-----------------------|----------------------|----------|
| Front Yard Set Back | 25 ft | | | |
| Side Yard Abutting/Lot | 15 ft | | 16' | |
| Other Side Yard | 20 ft | | 12.23' | 7.77' |
| Combined Side Yards | 35 ft | | 28.23' | 6.77' |
| Rear Yard Set Back | 30' | | | |
| Max. Livable Fl.Area FAR | (variable) 39% | | 40.99% | 1.99% |
| Lot Frontage | 100 ft | 50' | | TECH |
| Lot Depth | 100 ft | 136.38' | | |
| Bldg Coverage % | 20% | 23.98% | 24.67% | 4.67% |
| Impervious Coverage | (variable) 35% | 2,555 sq.ft 40.88% | 2,044 sq.ft 32.7% | |
| Height | 28 ft | 28.3' | 27.9' | |
| Lot Area. | 10,000 sq.ft | 6814 sq.ft | | TECH |

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Other Business

Ms. Batistic said my question is in regard to the Impervious Area and the law that covers it. Is it true that someone could cover an entire lot with pervious pavers ? They make pervious material that look like asphalt. Is it true that in Cresskill you can put the entire lot under asphalt, that drains through, and you are OK. Is that how we interpret the ordinance. If the material is pervious you can cover the entire lot.

(There was a discussion among board members as to the interpretation of the ordinance.)

Mr. Van Horne suggested referring the ordinance question to the borough council. Describing the application where an alternative was to have this enormous patio that was going to be pervious. Maybe you recommend that the council consider modifying the language.

Ms. Batistic said or maybe ask the Planning Board because that's their role to look at the ordinance and see if it can be qualified. Because as far as the Impervious Coverage, one thing that it concerns is the drainage. That's a separate issue, that's an engineering way of handling the additional run-off. But when it comes to zoning its really the way of the look of it. How we like to see the town to look. Do we want grassy areas or do we want ...*(several council members named alternatives to grass)*

Mr. Kassis said we have a 10' requirement for driveways. Would driveways made with pavers engineered for water migration, be allowed to go right to the property line ? A driveway, with a garage in the back, can you now go directly to the property line with these pavers ?

Mr. Merzel said that in the front it looks like a driveway and the code wants us to be 10'. So it would still apply.

Mr. Kassis said unless it's a driveway, you can go wall to wall with it.

Mr. Kassis said another thing that needs clarification, the 25' rule, from my recollection, was from the back of the property line going towards the front for the fence. It was always 25', you had to drop down to 4'. It doesn't make sense. We had one property on County road that went back 250'. And he was only allowed 25' of fence..

(there was a discussion among the members whether the rule applies from the back or from the front.)

Ms. Batistic said the ordinance states that it is 25' towards the front.

Mr. Van Horne said so its lower in the front

Mr. Kassis described how his neighbor who lives on a corner lot could not go further than 25' from the back and then he had to drop down to 4'.

Ms Furio said that has to be changed or amended.

Meeting closed at 9:07 pm