

**Borough of Cresskill
Zoning Board of Adjustment
Public Meeting
Minutes Sept. 27, 2018**

Present: Mr. Kassis, Ms. Schultz-Rummel, Ms. Westerfeld, Mr. Cleary,
Mr. Van Horne (Board Attorney), Ms. Bauer (recording secretary)
Absent: Mr. Merzel (resigned), Ms. Furio, Ms. Batistic, Mr. Corona, Mr McCord
The meeting was called to order at 8:01 pm.

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

Minutes of the Aug. 23, 2018 meeting were approved. (Ms. Schultz-Rummel, Mr. Cleary)
Mr. Kassis chaired the meeting.

Applications

1332 Lior and ILanit Noy	65 Engle St		B92 L 8 - 11	
Description	Required	Existing	Proposed	Variance
Front Yard Set Back	25 ft	23.6'	23.6'	1.4'
Side Yard Abutting/Lot	15 ft	10.2'	10.2'	4.8'
Other Side Yard	20 ft	23.8	16.9'	3.1'
Combined Side Yards	35 ft	34'	27.1'	7.9'
Rear Yard Set Back	30 ft	62.3'	48.9'	
Max. Livable Fl. Area (FAR)	30%	23.1%	27.58%	
Lot Frontage	100'	103'		
Lot Depth	100'	122'		
Bldg. Coverage	20%	16.6%	19.26%	
Impervious Coverage	30%	45.1%	44.38%	14.39%
Height of Bldg	28'	27.8'	27.8'	
Lot Area	10,000 sq.ft	12,843sq.ft		

The applicants propose to construct a new addition.

Raul Mederos (Architect, Imagen Architecture) represented the applicants

Mr. Mederos was sworn in .

Mr. Mederos testified that the house was an existing 2 story dwelling and we are proposing, primarily, to do a 2nd floor addition over the current 2 car garage and a small one story addition to the left rear corner of the house. And a proposed rear deck, that does not exist there now, which is proposed to be built over what is currently an impervious rear patio. There are miscellaneous decorative updates that we are making to the house, but on the whole what we are looking at is in the R10 zone. It conforms in terms of lot coverage, width and depth. The 2 car garage, on the site plan, a little over the right side set-back, the requirement being 15'. Right now the 2 car garage is approximately 10' from the side yard there. The second story addition we are proposing continues the existing non-conformance . On the left side, the smaller one story addition to enlarge the current living space on the first floor, conforms in terms of the individual 15' side-yard setbacks. It would conform in terms of the combined set-back except if you count the right side, the garage side, as 10' for the 35' combined requirement, that would leave 25' on that side where currently 23.8' exists. So the small left side addition that we are proposing at the rear is approximately a foot into that side-yard. A little more drastic, in terms of the numbers, is the mechanical equipment, in particular the generator that we are proposing on the left side.

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Right now, the mechanical equipment exists along side the driveway in the front yard which is non-conforming. We are proposing to relocate the mechanical equipment to the left side in what I would consider to be a more conforming manner in the side-yard although it would violate the 35' combined side-yard set-back. The Impervious Coverage currently doesn't conform. What we are proposing to do for the additional coverage, created primarily by the one story addition, is to remove the patio that exists to the rear left of the property. This ultimately reduces the current non-conformance of Impervious Coverage on the property. So we are improving that Impervious situation. There is no Building Coverage variance and no FAR variance involved. We conform to FAR by over 300 sq.ft. We are not changing the height of the building. We are keeping the current roof framing. It is primarily the 2nd story addition over the garage to accommodate and additional kid's bedroom and bathroom.

Mr. Kassis asked regarding the relocation of the equipment on the side-yard which would become more of a nuisance to the neighbor on the left. Could the equipment be relocated within the set-back on the rear property so as not to create a nuisance for the neighbors.

Mr. Mederos said sure, you can see the set-back lines here and so it could viably be located to the rear of the garage. I would leave it up to the home owners to discuss why they would prefer the units located on this side. I would say that that particular side-yard there is currently almost 25' where the house is and so to the mechanical equipment it's approximately 20' to that side so there is a considerable distance to that particular neighbor. In fact there is a shed that currently exists right in between where the mechanical equipment would be from that neighbor to kind of buffer that particular location.

Mr. Van Horne asked is this the neighbor's shed?

Mr. Mederos said that is actually on our property. You can kind of see it there.

Members of the commission said that it should be removed.

Mr. Mederos said that's soon to be done. So its just a matter of the distance from the neighboring property of considerable 20'. So if the home owners are willing to consider moving the equipment to the rear of the garage. I prefer to let them let you know the design intent here and direction.

Mr. Van Horne said do you want to consult

Mr. Mederos and the applicants discussed the moving of the equipment

Mr. Mederos said the owners would like to know if just moving the generator would be acceptable. To keep the mechanical equipment which technically would be allowed to be located closer to the house, whereas the generator itself has a requirement of 3' to the building wall. So the generator will always be the closest component if we are talking about that neighbor on the left side. So they are wondering if it could be split up so that the generator could be behind the garage with the mechanical equipment on that side.

Mr. Ilanit Noy was sworn in.

Mr. Noy said my only issue with moving the 2 units behind the garage. Not necessarily the noise, they are quite quiet They generate heat, and where we seat is just by the patio. So it would be great if we could keep them in the side-yard. When the generator is working we will not be outdoors, it doesn't matter where its going to be. My only problem is the heat could be generated by the units.

Mr. Van Horne asked Mr. Mederos what would the distance be from the other mechanicals, not including the generator, to the Side Yard.

Mr. Mederos said so we can see on the site plan where I am showing a 20' Side Yard Set-back line, so that just exists over the edge of the mechanical equipment, if I was to guess by what we

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are proposing, it looks like it would be about 19.8' – 19.9', approximately 20' from the Side Yard there. Including the 10' or 15' that exists, of course, on the neighbors property.

Mr. Kassis asked what is the rational for moving it from its current location to that which would be closer to the neighbor?

Mr. Mederos said from the Board's, lawful, stand point, its not allowed to be there because its technically in the Front Yard and you are not allowed to have Mechanical Equipment in the Front Yard. So in essence, we would be legally improving that condition.

Mr. Kassis said there is a lot going on here. There are other things that are not conforming either. Some of the walkways on the left side, the amount of Impervious Coverage still could be reduced, based on the current application. Besides removing the lower patio slab and the shed, the proposed ...which leaves a very small area to walk along side of- judging by the size of an air-conditioning it looks as if its approximately 3' or so. What use is that if you are going to have a deck. Could some of this impervious coverage be removed ?

Mr. Mederos said of course, but that walkway would continue to have good purpose. There is currently a set of stairs you can see from the front porch there that would direct you to the Rear Yard. At the end of this walkway there is a gate to the private part of the Rear Yard there. We try to do our part to not only bring the Impervious numbers in balance but actually reduce it a little bit more, by removing the components we are proposing to remove. If we remove that, I think there would still be a place where grass would not grow because of the foot traffic that would naturally occur there.

Mr. Kassis said they could just go on the right side- go through the back to the right side. Not every house has 2 walkways going to the back. We are trying to minimize some of these 14% , which is a pretty large number, and you are not really proposing significant changes to that 14%.

Mr. Mederos said we would be willing to remove the left side walkway in that case.

Mr. Kassis asked what would that do approximately.

Mr. Mederos did some calculations

Mr. Mederos said approximately 90 sq.ft by removing that walkway. That would bring it down to 43.7%. That shaves off almost an entire percent. Also Impervious Coverage in this particular case is counted within the first 125' of the lot. Since there is a portion of the lot that extends further than 125' from the Front Yard line, so we are taking that into account with that calculation.

Mr. Kassis asked when was this driveway put in ?

Mr. Noy said the driveway was there when we bought the house. We got there about a year ago.

Mr. Kassis said its relatively new

Mr. Noy said I think it has a good 10 years on.

Mr. Kassis said I've been close to 20 years on this board and I don't recall an application for the Side Yard being encroached by the driveway.

Mr. Noy said I cannot be certain about it.

Mr. Kassis asked what have you done to increase Impervious Coverage since you purchased the house?

Mr. Noy said No

Mr. Kassis said all the site conditions were here at the time of purchase.

M. Noy said all the site conditions were there. What we do is take the shed, we take the patio

Mr. Kassis said what I meant is what has changed since you purchased the house ?

Mr. Noy said nothing.

Mr. Kassis asked does anyone else have any questions ?

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Mr. Medros said what I could tell when I visited and surveyed the property, documented the existing conditions of the house, I do not recall anything say within the last few decades that was done to the house. If I was to guess, by the looks of it, it looked well worn.

The home owner is just pointing out that the rear portion at the pool there is crushed stone and not a solid hard scape. I know that crushed stone counts the same in terms of Impervious Coverage and the information on this survey is taken from a survey produced by licensed surveyor from 2015. I'm sure that they accounted for the fact that its crushed stone at the rear but its still technically counted the same as that what we are reflecting here in our survey.

Mr. Kassis said that still the Impervious Coverage is a very big. Number.

Ms. Schultz-Rummel asked about the walkway extension in the front.

Mr. Mederos said currently there is a very small, narrow step that comes up to the front porch. In the front we are going to relocate the columns to create a wider more pronounced front entry. So we are going to add 6 or 7 sq.ft to make the formal front entry more pronounced. Make it feel more like a primary front entrance. I know we are over on Impervious Coverage by a certain amount, but this is a situation inherited by the lot here. We are trying to not only balance things out but do our part to reduce it within reason.

Mr. Kassis said there is no hardship with the lot per se. There is hardship created by what was done by the previous owner.

Mr. Kassis asked is there anyone here for or against this application ?

Mr. Steven Schuster , 170 Palisade Ave.Cresskill, was sworn in.

Mr. Schuster said there are a number of problems I have with this application as presented. First of all the property, as it presently exists, is substantially over-built for this lot. The Side-Yard abutting is not being changed but it is already 1/3 over what the permitted Side-Yard is. The Combined Side-Yard is being reduced but its still 20% over what its supposed to be. The Building Coverage is still under 20% but its being increased 20% over what it is already. The Impervious Coverage is being reduced slightly, but its still 50% over what is permitted under the ordinance. Now, the other problem I have with this, is I have a question whether the Impervious Coverage has been properly computed here. According to the application, the applicant is supposed to give: *total square foot and percentages of existing and proposed impervious area (separate sheet signed and sealed by the engineer)*. I have not seen anything like that in the file Unless you have one. That's a deficiency right there. In addition, the site plan does not reflect the retaining walls that are very important to this property. There's a retaining wall on the northerly side which at one point is 6' high and runs all the way up to zero feet up the side. There is also a retaining wall in the rear of the property which is 6' high and that's not reflected either on this property as part of the computation. There is no indication of walls on the site elsewhere which are posted on the plan that have also been part of this.

Also there is no certified survey from the engineer. There is a signed plan by an architect but that's not the same thing. Just as a technical matter the notice is deficient because its over 60 days. This notice was sent out more than 60 days before the Hearing date.

But the main issue I have here is the run-off issue. Now, this is not a topographical plan, there is no run-off calculations nor anything like that. But one of the problems with this property, and I have this property with the next door neighbor when I was here last year, when there was a run-off problem down on my property. The property next door, their lowest point is on the southwest portion. Whereas this property- their property – was down to the northwest property. So it sort of

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forms a very and lies off the property, so there is no couch back here about how they figured out the run-off, what the run-off is. I also have some pictures here because there is a substantial problem with retaining wall which effects my property since there is a...bulge....which is of much concern to me. So I will mark these O-1, O-2, O-3. If you look at these pictures, you can see there is bulging here, steel girder is starting to bend, you can see the same thing in this picture, there is more pronounced in this picture you can see that. That's a concern to me if this has to be addressed in some sort of time before its going to be a big problem. The fact that they are going to be building more on the site is going to put more pressure on the property on the retaining wall. That's the most concern to me.

Ms. Schultz-Rummel asked for clarification of the problem with the retaining walls.

Mr. Schuster said the more building you have up the hill the more pressure it puts on the wall. They have already over-built this property by probably 50%. So now you are going to put more on there on top of that. Plus I don't see that the calculations done for the Impervious included the retaining walls and the other walls on the site.

Mr. Mederos said first of all my calculations are accurate in terms of the information that I ascertained from the survey which I believe we did submit. The survey that we derived all of this information which, I feel verified, has been represented here accurately and correctly. There is no engineering involved for what we are proposing. What we are proposing is a continuance of an existing non-conforming condition to primarily the building. The weight of the building, I've never heard of such a thing, honestly, to create additional weight to push on the retaining wall. Now what would create additional strain on the retaining wall is the run-off on the property, but since technically we are reducing Impervious Coverage, Impervious Coverage is what generates additional run-off, where the water has no place to be properly absorbed by the earth and thus runs along the grass and dirt area. Again, no topography would be necessary for what we are proposing. The retaining wall, addressing the current deficiencies with the retaining wall, is a completely separate matter from what we are proposing to do with the house. I'll leave it to the owner if he wishes to discuss this further with his neighbor but I don't think that this has much at all to do with what we are proposing with the primary construction here.

Mr. Schuster said first of all there is no indication how this was calculated. It is supposed to be certified by a licensed engineer. Unless there is something in the file, you don't have that here today.....the survey that you relied on for coming up with the numbers. I asked how you did the calculations. That's what Section 2 of the application indicates what you are supposed to do.

Mr. Mederos said when I prepare a Zoning application, at the bottom of most of the pages of the application it says where the licensed engineer or architect is to sign off on those calculations. Nowhere does it say just engineer.

Mr. Schuster said no, that's not true. You can sign the application, but it specifically states here, must be signed by an engineer. That's exactly what it says.

Give total square footage and percentages of existing and proposed impervious area (separate sheet signed and sealed by the engineer)

Mr. Van Horne said may I see what you are referring to.

Mr. Schuster said it was part of the application.

Mr. Mederos said I'd like to take a look at that. This now would mean that most every application that has been before this board has been improperly prepared. Because I'm sure there are many applications which only involve an architect and in some cases involve only the homeowner on their own or an attorney. I'm very surprised to hear this and if that's really the case,

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obviously we'll make whatever necessary investigations, calculations and get an engineer on board to prepare whatever calculations. As far as how I computed the numbers on my plans, we were able to take an original copy of the survey (it was a digital copy) bring it into our CAD program and we can easily outline all the areas represented by the certified / licensed surveyor. In some cases we get a digital copy that is CAD and there is no need to outline any of the surfaces and everything is completely accurate based on what their professional offices provided to us. As far as the engineering goes, I'm curious to see the ordinance or law....

Mr. Van Horne asked do you know if the retaining walls were included in the calculation or is it your opinion that they do not need to be included ?

Mr. Mederos said the answer to whether the retaining walls should or should not be included in the calculations would be up to the Zoning official. But, looking at the rear of the pool, where this retaining wall exists, there is a small white gap where there is nothing shown. So either the survey that was prepared includes the retaining wall along that straight line that happens at the back of the pool, or it exists in that small area behind the pool and the property line, or the retaining wall exists on the neighboring property. Either way, this small sliver of area here, I'm going to guess, equate to maybe 5 sq.ft- its not anything very substantial. I think in the grand scheme we're talking about a tenth of a percent, maybe 2 tenth of a percent, but nothing significant in a 12,702 square foot area within the first 125'.

Mr. Schuster asked so how wide did you say that would be ?

Mr. Mederos said I can tell you exactly. It does point or wedge, its not a parallel line there. This being a 10 scale, engineering scale, at the widest point it's a foot, at the narrowest point its maybe a few inches, like 2 or 3 inches. On average about 6 or 7 inches, across a distance of 45', its about 22 sq.ft

Mr. Schuster said so you could look at the wood here (*retaining wall picture*) its 6 to 8 inches wide. You can take account of the wall on the other side- on the northern side of the property that's not in there either. Isn't it one of your requirements that it be part of the survey when it was done ?

Mr. Mederos said I don't understand why any of this is being discussed as this really has nothing to do with the improvements we are proposing for the house.

Mr. Schuster said sure it does, we are talking about the Impervious Coverage that is directly related ...

Mr. Mederos said I am not going to make that determination, I'll leave that to the board. The 25% that we are talking about that exists on this property, where the retaining wall exists is 2 tenths of a percent.

Mr. Schuster said you haven't included the other retaining wall.

Mr. Mederos said the other retaining wall exists beyond the 125' so its not computed according to the ordinance.

Mr. Schuster asked for purposes of what ?

Mr. Mederos said for Zoning. For Impervious Coverage and FAR.

Mr. Van Horne asked Mr. Mederos you are saying the proposed is 43.9 on the Impervious instead of 43.7 and the variance required is 13.9.

Mr. Mederos said let me just verify that. 43.9 that's correct.

Mr. Schuster said you are saying it reduces the Impervious- the retaining wall ?

Mr. Mederos said counting the part on this property which would contain the retaining wall, at the worst case of 25 sq.ft adds 2 tenths of a percent to the calculation here and so what we are

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proposing was 44.38. Reducing the Impervious by eliminating the walkway and counting the retaining wall, which maybe already accounted for in the survey, but as a worst case scenario if it did exist in this white area and the surveyor was incorrect, that would put us at 43.9%. Still a reduction from what we were proposing.

Mr. Schuster said so you are talking about reducing that by cutting back those paved areas.

Mr. Mederos said we are removing a patio at the lower rear right of the property. We are removing the shed which exists at the left of the property; and removing the walkway at the right of the property as well. Overall reducing Impervious Coverage by a little over a percent. 43.9%

Mr. Kassis said is there any maintenance necessary to a retaining wall posing a safety risk that has to be addressed with the Building department that has the authority to enforce that repair. That is a separate issue.

The driveway that's being proposed. Are you replacing the driveway with different material ?

Mr. Mederos said we are not touching the driveway.

Mr. Kassis said you have a 2 car garage and you have a double wide driveway at the front and then it goes to triple wide on the side which brings you inches away from the side yard which is not permissible. Now, the Impervious Coverage is probably going to be an issue for me than just myself here. This driveway is significantly larger than it needs to be. If you were just slightly over Impervious Coverage, the discussion of the driveway would not be coming up. The percentage even with the reduction is a little much. The house is going to be very large when its done. Right now you have a one story garage on the right which balances off the property, there's some dimension to it. You are going straight across and then you are encroaching into which is a one story – using the one-story 15 set-back- encroaching into the 15 set-back- with a much taller structure with a peak...

Mr. Noy said its actually not that much. The garage is not really one story, the peak of the gable is over halfway in the 2nd story. Everything now is pretty tall....

Mr. Mederos said regarding the increase that we are proposing, what the owner is trying to say is that the current garage the wall plates are already quite high up and in addition to that the roof has a decent slop, currently..

Mr. Kassis said right, depicted in your drawing , you can see the height difference, a significant difference from the first one..

Mr. Mederos said this part of the house is further set back than the main portion of the house, by almost half of the distance of the main portion of the house. So its well removed from the front, also, again, we are in conformance in terms of FAR by over 300 sq.ft., and in addition to that, we are not that far away from more prestigious part of town where this will look like a speck on a map. I don't think in the grand scheme, or in the street scheme for what is expected of a house, today in any part of Cresskill is out of place with its context as we are proposing.

Mr. Kassis said we are talking R-10 zone. Not other parts of town that are not R-10

Mr. Mederos said we are within the requirements of R-10 with the structure we are proposing.

Mr. Kassis said the driveway - its proximity to the neighbors; while we have seen applications with that proximity, our goal here is to make adjustments where necessary and having a triple wide driveway in the front of the house and also having a substantial overage on the Impervious Coverage poses a bit of dilemma for the board- for trying to make adjustments where necessary. Yet, while there are other adjustments like for instance the sidewalks or the garage, arguably its there, we are working within the lines that are existing, but something that could be easily corrected. Most houses, I don't think I saw a single house on that street with a triple wide

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driveway. So, we are talking about creating a property that looks fitting within the neighborhood. It should be fitting in multiple ways not only in its size but the size driveway that other people have. You are not on an extremely busy street like Knickerbocker or County where you have to back-up out at your own peril, where you need a K-turn driveway like this. The main purpose is getting this Impervious Coverage down. The concerns about the neighbor and his concerns about Impervious Coverage. We are here to try make an adjustment and sometimes it goes 2 ways. I'm still somewhat puzzled by the rear deck. Great to have a rear deck why 4' ?

Mr. Mederos said its full height it's a walk-up basement.

Mr. Noy said we have no way onto the back-yard, today, from the main floor. We have to go to the basement in order to go to the back-yard.

Mr. Mederos said right now they have to go into the basement to go to the rear, so this deck provides a connection to the back-yard.

Mr. Kassis said the deck itself I don't have an issue with, it's the patio below which is affecting the Impervious Coverage.

Mr. Mederos said its existing

Mr. Kassis said so is the driveway existing, so is the house the way it currently sits. So we are looking to what we can do to minimize this Impervious Coverage.

Mr. Mederos said technically the patio that exists under the proposed deck, if we were to remove that, that does not affect the numbers technically.

Mr. Kassis said I'm talking about the area either on the front or on the side...why wouldn't it ?

Mr. Mederos said its already counted by the deck. The deck actually counts towards Building Coverage and Building Coverage also means Impervious. So they overlap and one cancels the other out.

Mr. Kassis said you have that area around the sides. The front area, if you were to cut that driveway within the building line of the current house. What would that do, besides creating a much more desirable side-yard, to Impervious Coverage ?

Mr. Mederos said the garage being 10' from the side-yard, and the driveway riding along the property line, I'm going to go with worst case of 9', because its within a foot along the side-yard, going back towards the garage, it would be just shy of 25', average of 24'. So 9 times 24 is 216 sq.ft. counting the Retaining Wall, which may or may not already be reflected in the information I'm showing based on the survey. Worst case, adding that, another 25' to the computation, and then removing 216 from this portion of the driveway against the lot size brings it down to 42.2, almost 3 %.

Mr. Kassis said to re-cap, the computation includes removal of the *wall plan* to the left, having the driveway be no closer to the side-yard than the plane of the house, with the exception of the walkway necessary to get to the driveway.

Mr. Mederos said yes, that makes sense to us.

Mr. Kassis asked where did you say you were putting the generator ?

Mr. Noy said it can go behind the garage.

Mr. Kassis said its rarely going to be used, but when it is being used, the neighbor, with no electricity, its going to be much more of an aggravation than an air-conditioning unit.

Mr. Kassis said before we proceed do we have to confirm anything regarding the engineering it is subject to. In regard to Mr. Schuster....

Mr. Van Horne said we should.

Mr. Kassis said if it is subject to and it turns out that the accuracy is suggested, it requires a simple certification by a licensed engineer to confirm...

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Mr. Schuster gave Mr. Mederos a copy of the application requirement of: “percentages of existing and proposed impervious area (separate sheet signed and sealed by the engineer). “

Mr. Mederos asked is this part of the Zoning application? Its clearly stating engineer, so I got to get back to the Construction Official on this. It seems.....

Mr. Kassis said it would be fair enough to make this- if you believe strongly that your numbers are correct and we have no reason to doubt you, we could make this subject to the services of verification.

Mr. Mederos said yes, this sounds good.

Mr. Kassis said as soon as that verification is provided, and you have between now and the Memorialization of this, and you can’t do anything anyway for 30 days, so within that 30 day period you can confirm, and come back with the final numbers on the Impervious Coverage. Check with the town to make sure that thecome back with the real in fact number. So anytime you say something in the future we can be fairly sure of what you are going to be proposing, as we believe you have done in the past.

Mr. Mederos said I think that this is a typo that should say surveyor, so I will check with Bob Rusch to verify that. That’s my assumption there. That’s the first I’ve ever seen or heard of such a thing in any municipality. So I think that it’s a typo...

Mr. Kassis said it seems logical.....So any other questions for the applicant or the neighbor’s issues. Is there a motion for this application from any member of the board ?

Mr. Cleary made a motion of approval subject to changes made.

Mr. Van Horne said subject to modifications to the application as discussed and a certification from the engineer confirming Impervious Coverage calculations. If so a surveyor, whatever the ordinance requires.

Mr. Mederos said which, by the way, if it is a surveyor, that’s what all of this is based on. A licensed surveyor which is referenced on my plans; and in fact, I believe the original survey was provided in the application packages.

Ms. Westerfeld seconded.

Ms. Schultz-Rummel said so its going to be in line with the existing garage driveway, and removing the left side walkway, and moving the generator behind the garage.

The members of the board looked for the original survey among their copy of the application but could not find it.

Mr. Van Horne advised the application to submit the original survey with the confirmed Impervious Coverage Calculations.

The Resolution was Approved

