

**Borough of Cresskill  
Zoning Board of Adjustment  
Public Meeting 8 pm  
Minutes Dec. 5, 2019**

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

Absent: Mr. Corona

The meeting was called to order at 8:00 pm.

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

**Mr. Kassis** approved the Oct. 24, 2019 minutes

**Ms. Rummel** seconded

**Applications**

**1355 292 Concord Associates LLC 292 Concord St. B 14 L 54**

Description	Required	Exists	Proposed	Variance
Front Yard Set Back	25 ft	29.1	29.1'	
<b>Side Yard Abutting/Lot</b>	<b>15 ft</b>	<b>7.5'</b>	<b>7.5'</b>	<b>7.5'</b>
<b>Other Side Yard</b>	<b>20 ft</b>	<b>8'</b>	<b>8'</b>	<b>12'</b>
<b>Combined Side Yards</b>	<b>35 ft</b>	<b>15.6'</b>	<b>15.5'</b>	<b>19.5'</b>
Rear Yard Set Back	30 ft	56.75'	56.75'	
Max. Livable Fl. Area (FAR)	37.0%	25.9%	29%	
<b>Lot Frontage</b>	<b>100'</b>	<b>60'</b>		<b>ENC</b>
<b>Lot Depth</b>	100'	114'		
Bldg. Coverage	20%	15.7%	15.7%	
Impervious Coverage	30%	25%	25%	
Height of Bldg	28'	18' 10"	23' 4"	
<b>Lot Area</b>	<b>10,000 sq.ft</b>	<b>6,896 sq.ft</b>		<b>ENC</b>
Min.Driveway side-yard	10'			

**Mr. Yariv Raich (Mgr. of 292 Concord Assoc. LLC) is before the ZBOA for approval of a 2<sup>nd</sup> story addition.**

**Mr. Jeffrey Kantowitz**, attorney for the applicant introduced himself.

**Mr. Kantowitz** testified that Mr. Yariv Raich (Mgr. of 292 Concord Assoc. LLC) is the principal of the LLC. He plans on living in the house. Next to him is Nelson Parada who is an architect who has prepared the plans and will discuss the proposal. This is an application for 292 Concord St. Its in an R-10 zone, which calls for a 10,000 sq.ft lot. We received a letter of Denial from the Zoning official, Mr. Rusch who has been extremely helpful and acceptable- very nice to see professionals being diligent and helpful. The letter of denial called out our need for variances with regard to two or perhaps 3 criteria. Basically side-yards. We are a 60' wide lot in an R-10 zone that requires 100' frontage, and as you will see in the testimony and the data we present, on this particular property and this particular plot, many of the lots are 60' wide. They are not 100' wide, and we can't get 100' wide. There are houses on both sides of us. With no ability to buy extra land to make ourselves wider in order to meet the necessary criteria. The criteria that Mr. Rusch called out, that we are here for in our application, are side-yard related. Namely, your standard requires a combined side-yard of 35', we do not have a combined side-yard of 35'. We are 19.5' short as Mr. Rusch called out, based upon the existing foot-print of

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our existing house. Your ordinance requires a minimum one side of 15'. We do not have a minimum one side of 15'. Our minimum one side is 7.5'. We are short again, because of the existing fact because of the foot-print of the house on the 60' wide lot. When he pulled out the 3<sup>rd</sup>, but I think is the derivative of the first two, which is what the other one is. One has to be a minimum of 15' and you have to have combined 35' then you need to have the other one to be at least 20'. Obviously if we are short on the combined, we are short on the one, we are short on the other, about 12' short. Those are the variances that were called out. On the Letter of Denial, he also called out the fact that we do not have minimum frontage. Again the existing condition of a 60' wide lot. When I say 60', I am using an approximate, the survey calls it out as 60.23'. A 100' is required and we are not 10,000 sq.ft in size, we are 6,896 sq.ft. So that is the nature of our application. Before I go further, I have not had the pleasure of being in front of this board. I know that its part of the application, I submitted to Ms. Bobbi Bauer the certification of services application, the original green card. As well as, I emailed over to her, the affidavit of publication in the Bergen Record, more than 10 days in advance of this hearing. I assume that I am properly in front of this board and have jurisdiction. For the record I did not want to low pass that.

With that said, we have compiled, in addition to the application material, which shows several sheets that the architect will describe in terms of what's proposed, as well as we have attached a survey... What we have compiled are 2 boards. As we go along, we'll mark those into evidence. Two panels. One of them, and I apologize for the somewhat, and I'll take responsibility, amateurish identification of lots and blocks, but essentially,

**Ms. Furio** said this will be A-1 ?

**Mr. Kantowitz** said yes Madame Chairman I'll mark it.

I took the Tax Map sheet that I got from your records, blew it up. This is the piece of Concord St that we think is most pertinent to what we are talking about. Lot 54 is the application property, street address 292. We took photographs to show you streetscape although I'm sure all of you are well familiar with Concord St., only 2 blocks up the hill .

*Mr. Kantowitz described the streetscape photos.*

**Mr. Kantowitz** said we wanted to show you the streetscape to give you an idea what some of the houses look like because that will play into the argument and the testimony we make about what we are requesting. That is one exhibit, we will mark it as A-1. The other exhibit, which we will mark as A-2, is a similar compilation. Again, the Tax Map blown up, showing the relevant area, Lot 54, and Block 14, 292 several houses to the right left. These sheets are the property record cards that the tax assessor maintains, that I received in response to an 'open ?' request from your office. I want to thank Francesca Maragliano- she's been very helpful and giving of her time, in responding to an 'open ?' Property Tax card which correlates to the property and correlates to the house on the property. Again an approximate size, but for my purposes, its designed to demonstrate to you what you'll hear in testimony, is that several of these houses on these properties are in non-conforming condition. The argument we are going to make, and the point we are going to try to prove to you tonight is what we are asking for falls into line with the character and nature of the street and several of the houses that are on the street. So we are not an outlier showing up in a pristine neighborhood that had no non-conforming structure, and asking for something that is completely unusual or out of character with the street. Each of these documents, I had requested the Property Tax card for the property that I thought we wanted to show in comparison and survey, and the 'open ?' request was only able to provide me with four surveys of the several properties that I requested, but I detached them as well, and then, compiled all that information on a sheet which I will hand out to each of you. Its basic straight forward math. I took the width of the tax lot, as shown on the

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tax card, I simply measured the widest width of the structure, and then just came up with numbers so that I can show you basically what going on. Again, I'm not purporting to tell you the exact tenth or hundreds of a foot, but for my purposes and your purposes I think you don't need exact tenth or hundreds of a foot. You see the point I'm trying to make in terms of demonstrating what exists on the property in terms of size, width of structure, and that there are non-conforming conditions vis a vis your Zoning ordinance. If I may hand out copies of that because we will talk about that.

*Mr. Kantowitz handed out the copies marked as A-3.*

**Mr. Kantowitz** apologized to the audience that his voice might sometimes not be heard clearly..

*Ms. Furio instructed Mr. Kantowitz on the identification markers of the exhibits*

**Mr. Nelson Parada**, architect, was sworn in.

**Mr. Yariv Raich (Mgr. of 292 Concord Assoc. LLC)** was sworn in.

**Mr. Kantowitz** said Mr. Raich let me show what has been marked as exhibit A-1. Do you recognize do you recognize the pictures posted on A-1 ? Are these pictures that you, yourself, took, and when did you take them?

**Mr. Raich** said yes. I took them this morning.

**Mr. Kantowitz** said do the pictures, in each of them, and the numbers co-related to the pictures, faithfully and accurately represent the image that you saw and the object that you took a photograph of this morning.

**Mr. Raich** said he took the pictures on both sides of the house and across the street to show the houses in that area.

**Mr. Kantowitz** OK, the pictures on A-1 are, in fact, what you saw through your lens this morning. If you went there tomorrow morning you'd see the same thing.

**Mr. Raich** said yes.

**Mr. Kantowitz** said next to it there are 2 additional pictures of a road, Concord St., did you take those pictures? And what are those pictures ?

**Mr. Raich** said yes, one facing Madison Ave., and the other one facing the street, my house is on the left and the other one my house is on the right.

**Mr. Kantowitz** said OK, that's what I have from Mr. Raich.

**Mr. Kantowitz** said Mr. Parada could you please describe the nature of the application including what you presented by way of the plan was submitted as part of the application for this project.

Mme Chairman, the plans were submitted in conjunction with the application . He has another set of plans here. I don't know if the protocol here was to mark them with an additional marking.

**Ms. Furio** asked are these the same plans ?

**Mr. Parada** said yes, they are the same plans that everybody has.

**Mr. Parada** testified this is a typical application that I have been doing the last couple of months, these Cape Cod homes. We have 4 rooms on the first floor and an attic that they kind of use as a bedroom. Because of the sloping roof you get an effective long hallway of about 10' wide. My client, Mr. Raich, bought this home, he is looking to move into this beautiful town. Unfortunately, he didn't know that this lot is existing non-conforming. When I gave him the Zoning study, I gave him the bad news. I'm sorry, if you are going to expand on this house, you will have to go through the Zoning board. We are not asking for an enlargement in Bulk horizontally. We are asking to continue up, the house already has a 2<sup>nd</sup> floor. It has a master bedroom up there. All he's asking for is to square off the house, basically the 2<sup>nd</sup> floor. And make use of the floor area that he has up there that's under a sloping roof. Obviously anything less than 7' is no longer considered a habitable room. So my client, all what he's asking for is to square off the house, lets build up the roof, and basically .....Every lot along this street is

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non-conforming. So I guess if you guys approve this, to any other person coming into this town,.....they need some extra room to looking to expand the families, then they know that in a Cape Cod its almost impossible- you need more room. In my opinion what its going to do is make the streetscape ... .. we are not going to present a Mac-Mansion here. Just make something nice and beautiful. In proportion to the rest of the house, with the streetscape . ... Lets present something beautiful and functional that everybody can take advantage of and not look like the sore thumb on the block. Just enough to get the space you need and make the block beautiful. And everybody else can later on start proposing the same thing.....Its basically the side-yards. A 60' lot that needs a 30' side-yard, what are you left with ? almost nothing. So, like we proposed, we'll just continue the house the way it is, no large increase in bulk, not horizontally just vertically, lets go straight up, we already have those walls there. Square it off . Make a nice building. Improve the streetscape and be able to maximize on what we have there already as much as we can.

**Mr. Kantowitz** said Mr. Parada, a couple of questions about the plans you submitted. Could you describe the elevation with an eye to confirm to the photograph with the pictures on the street and relating them so that the public can understand or better understand your comment that its not a Mac-Mansion its really squaring off to fit into the streetscape which is existing on the street.

**Mr. Parada** said correct. Turn to A-5 which is the last sheet, which is the side view of the house. The shading is what we are adding, what we are trying to square off.....The 2<sup>nd</sup> floor is existing, like a Cape Cod, that attic space, that once you take away the sloping roof has got at best 10' of a long hallway that's effective in the upstairs. So what we are doing, we want to square off the 2<sup>nd</sup> floor. Take it to an 8' top plate, half an attic so it will be a two and a half story dwelling. Again sticking with the maximum height of the Zoning regulation and being able to maximize on that 2<sup>nd</sup> floor. Make it more useful. In a Cape Cod, everything is sloping, so you lose all that space. ....

**Mr. Kantowitz** said does the nature of the enlargement of the house, in your opinion,.... conform or meld into and fall into place with what else is on the street, and if you want, you can point to numbered property on the street that have been presented on A-1. In order to give the board some sort of idea of what this might anticipate looking at.

**Mr. Parada** pointed out Cape Cods 293, 289, and 285 that had expanded in height with an 8' top plate on the 2<sup>nd</sup> floor.

**Mr. Parada** said that's what we are proposing. We are not looking to make this thing like 3 floors, 4 stories. Nothing like a Mac Mansion . We want to use the maximum height that we can for the 2<sup>nd</sup> floor and make use of that area, that's under the sloping roof now, that they can use.

**Mr. Kantowitz** said Mr. Parada would it also resemble in scale or in size the property 288 ?

**Mr. Parada** said pretty much that is what its going to end up looking like. Again, like I said, we are noy proposing a Mac Mansion. Squaring off the house, 8' top plate, attic under the roof...two and half story dwelling.

**Mr. Kantowitz** said in the matter of upgrade or visual streetscape. In your opinion would that represent a considerable improvement to the streetscape because of what there exists there now ?

**Mr. Parada** said definitely and I feel that it would serve the demographic demand .....these families that are first time home buyers or maybe 2<sup>nd</sup> home buyers that are looking to expand their families and they need more room. They can't use a 2 bedroom or a one bedroom house. They need a 2<sup>nd</sup> bedroom. Or a Home professional, like myself, I have 2 kids, they each have their bedroom and I have a home office. I need the extra room.....

**Mr. Kantowitz** said let me ask you something, as this has become much more prevalent. Even if this is not an

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“official” office. For example, I’m an attorney. I need to maintain an “official” office where there is a mail place, a constant presence to answer the phone etc; but is it your opinion, in working in this field, that many more people telecommute, work from home, juggle time and wind up using a room or dedicating a room to their working hours, if not 24 – 7, or half the day, or split with a playroom for a child, or something like that.

**Mr. Parado** said the majority of my clients nowadays are 2 ways: a) work at home half the time to take care of their children and work at an office the other half the time so need a home office. Or, nowadays, also, they have an ailing parent or in-law and they ask for that extra in-law suite, because they are no longer able to take care of themselves so they bring them into their home to take care of them.

**Ms. Furio** said I understand that how you need a home office, or you need the extra space, however you intend to use the home is up to the owner, we understand that. But what we are here to hear is what you intend to do with it. Are you going straight up, you are not expanding one part nor the other, you have a slightly smaller lot, and the few things you are asking for are pre-existing, understood. So all of the other niceties, are not really what we choose to consider at this point, because that doesn’t really sway one way or the other- nice to know but not need to know.

**Mr. Kantowitz** said Ok great.

**Ms. Furio** said I do have a few questions. Thank-you for the pictures, thank-you for all that information. There is a garage which I have seen listed on the color copy. It’s a large garage, you have 7’ on one side and 8’ on the other. There is no visibility at all. Is that structure going to remain ? Is it actually a shed ? Was it ever a garage ?

**Mr. Parado** said I don’t think it was.

**Mr. Kantowitz** said that’s what we got from the surveyor. He labeled it that way.

**Ms. Furio** said that structure is there in the back.

**Mr. Kantowitz** said yes it exists right now.

**Mr. Raich** said I can try to answer. we don’t have access to it. I have not seen any vehicles there. Maybe it used to be a garage. I don’t know..... We bought it as is. Most of the chance, if we don’t really need it in the future, we gonna to knock it down because we don’t really need it.

*Discussion between Ms. Furio, Mr. Kantowitz, and Mr. Parado concerning the garage.*

**Mr. Kantowitz** said Mme Chairman when I made my request to the borough, I asked for any prior Zoning or Planning Board resolutions in order to learn about the history of this particular property. The Borough clerk could not find any Zoning or Planning Board resolutions. So I cannot report to you anything more about the history much as I would like to have more information to answer your question.

**Ms. Furio** said when you add the 2<sup>nd</sup> floor to the home, there is really no garage, just a driveway ?

**Mr. Kantowitz** said I believe there is just a shed, they labeled it wrong.

**Ms. Furio** said whatever that thing is in the back, it is in the back. The home has no garage. There is not going to be a garage. Its going to be what it is, and the act of the car is just the driveway. Currently it’s a 2 car width. And that remains, nothing is changing, that is the way it is.

**Mr. Kantowitz** said correct’

**Mr. Parado** said nothing in the landscape, everything is going to remain the same. Just squaring off the 2<sup>nd</sup> floor.

**Ms. Furio** said the patio, the deck, the concrete....

**Mr. Parado** said everything will stay as is.

**Ms. Furio** said the masonry curb that is in the back. Is that raised in the back ?

**Mr. Parado** said it slopes down the grade. So if you have sort of a small retaining wall here-that’s all there is.

**Ms. Furio** said so I see what looks like 3 bits of retaining wall back there.

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**Mr. Parado** said correct. That cannot be a garage, the way it slopes. Its really just a shed.

**Ms. Furio** asked does anyone on the board have any questions and comments ?

**Ms. Batistic** said I have a question regarding the driveway. You said there was no prior approval.

**Mr. Kantowitz** said let me be as precise as I can- I don't need to be pedantic . I made an 'open ?' request, and in the 'open?' request- I'll read to you what I requested and I quote: ' For each of the following properties listed, all construction building and plans and permits and approvals, all resolutions for approval or denial of the Cresskill Zoning Board of Adjustment and the Cresskill Planning Board. All property tax cards and all surveys. And I gave the list of several properties- 298, 294 so on and so forth. This is what came back.

**Ms Batistic** said so the driveway is on the property line should we add that waiver or variance for the driveway ? The requirement is 5' from the property line but its right on.

**Mr. Parado** said the width of the driveway is 7' 6".

**Mr. Kantowitz** said I noticed in my notice . I called out the variances that I was aware of, and then the catch-all phrase 'pending all other variances that would be necessary'. So if the board feels that this is an existing condition in a non-conforming state that requires a variance, then we are comprehending that request as well.

**Mr. Van Horne** said continuation and ....

**Mr. Kantowitz** said yes sir.

**Ms. Batistic** said this is an existing, and you are not planning to do any improvements to the driveway ?

**Mr. Kantowitz** said not at all. With 7' we are not going to get a car back there. Its ridiculous ....

**Ms. Batistic** said the driveway stays the way it is shown on the plan. You are not going to make it bigger, wider..

**Mr. Parado** said said if it needs re-paving because it is damaged that's about it. That's the extent of the work that I will do there.

**Mr. Raich** said if I'm on the property line, and I need to move it, I don't have any plans to do so but I don't have anything to do with the driveway..

*Discussion among board members and Mr. Kantowitz .*

**Ms. Furio** asked any more questions or comments from the board ?

**Mr. Kassis** said I appreciate all the thoroughness of your application, the dimensions, everything is properly shown, even the dimension to the house next door, where the property is very close to the property line- makes decision making a lot easier.

**Mr. Kantowitz** said thank-you very much, and as I said its not exactly precise to the tenth or hundreds of an inch, but I think for this purpose, and our purposes, what I need to show you is that what we are seeking to do, by way of variance relief, of course several of the other properties including one on our side that already exist. So we are not an outlier, and you heard that from the architect. We're just going up. I should say this, and obviously you are all more familiar than I am, it would appear, and I think Mr. Rusch said this, it would appear that in the absence of Planning or Zoning Board approval for other houses on the block, all of which would seem to be relatively recent, perhaps within the last 10 or 20 years. I wasn't quite sure why there weren't other variance applications. I can only surmise one thing from my knowledge of Land-Use law. There has been, for a long time, a debate as to whether a non-conformity in a side-yard at ground level which is extended vertically, demands a variance or doesn't demand a variance. One view, I think Mr Poxies?? 's book, says you do not need a variance. Another view, I think is written by John Harris when he sat in Bergen Superior Court, .....was no, you are changing a property and creating a condition that did not exist, you should go for a variance. So obviously, we're here because we need a variance, it was called out. I can't explain why those other properties, but its not significant to me other than by way of filling in background.

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

**Mr Aavid Levin-gur, 298 Concord St.**, was sworn in.

**Mr. Levin-gur** said he lived next door to the applicant. I'm all for, and I'm very sympathetic with what he wants to do. My only question is, that it just doesn't align with the fact that they are proposing a variance to decrease the existing side-yard which is extremely small as it is. And that's what worries me.

**Ms. Furio** said decrease :?

**Mr. Levin-gur** said yeah. Right now they list it as 7.5' on 8.3', and the variance is not to use existing conditions but to keep both sides at 7.5'.

**Mr. Parado** said no, we are keeping everything in the house staying where it is. The 7.5' is staying, I always go by the worst conditions, the 7.5' on the side we are keeping that. We are going straight up. We are not moving the house at all horizontally.

**Mr. Levin-gur** said so this one is 8.3'

**Mr. Parado** said yes

**Mr. Levin-gur** said your request is for 7.5'.

**Mr. Parado** said which is this side here.

**Mr. Levin-gur** said why wouldn't you just list it as 'existing condition' ?

**Mr. Parado** said that's how we label. We go by the worst condition that we have

**Mr. Kantowitz** explained to clarify, the governing officer when he listed the 7.5', listed the shortest side-yard which is on the other side of the house away from you. Your side-yard is the larger side-yard and will remain because the testimony on the record (if this board sees fit to approve) is going to say that applicant has committed and testified that the addition will go straight up, and will not in any way, shape or form come closer to the property 298.

**Mr. Levin-gur** said OK we have no objection.

**Ms. Furio** asked is there anyone else in the audience for or against the application ?

**Mr. Christopher Kelly, 288 Concord St.**, was sworn in

**Mr. Kelly** said that he lived on the other side of the house. I am here because I was wondering if the foot-print of the house was going to change at all. It sounds as if you are going up but not out. As far as the driveway, if it doesn't encroach any further, I'm fine with it as well.

**Ms. Furio** asked anybody on the board have any further questions or comments about the application

**Ms. Furio** asked would someone like to make a motion to approve or deny the application ?

**Mr. Kassis** said I'll make a motion to approve the application in addition to whatever variances are necessary.

**Furio** asked do I hear a second.

**Ms. Batistic** said second.

The application was granted.

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**1356 Marbella Apparel LLC      123 Westervelt Place      B 75 L 1.01**

Description	Required	Existing	Proposed	Variance
Front Yard Set Back	25 ft	19.15 ft	25.06 ft	0.06 ft
Side Yard Abutting/Lot	15 ft		10.04'	4.96'
Other Side Yard	20 ft	10.04	9.13'	10.87'
Combined Side Yards	35 ft		19.17'	15.83'
Rear Yard Set Back	30 ft		25.83'	4.17'
Max. Livable Fl. Area (FAR)	39 %	26.83%	36.80%	
Lot Frontage	100'	50.0'	50.0'	Enc.
Lot Depth	100'	145.49'		Enc
Bldg. Coverage	20%	23.51%	23.98%	3.98%
Impervious Coverage	35%	78.51%	76.86%	41.86
Height of Bldg	28'	23.62'	25.98'	
Lot Area	10,000 sq.ft	7277 sq.ft	7277sq.ft	Enc

*Non-Conforming Use. Variance 275-72A(1). Cannot enlarge a non-conforming use.*

**The Prulello's are before the ZBOA for approval of an addition**

**Mr. Matthew Capizzi esq.** introduced himself as attorney at 11 Hillside Ave., Tenafly, NJ, representing Marbella Apparel LLC.

**Mr. Capizzi** testified this is a property at 123 Westervelt Ave. Its an existing 2 family residence. What we are seeking to do this evening is really just to clean up the existing house. The manner in which the 2<sup>nd</sup> floor unit is accessed is through a stairwell along the driveway side of the property, which head is in conflict with some of the access to the back of the house. We are seeking principally to remove that means of access to the 2<sup>nd</sup> floor unit to the opposite side of the house by creating a separate stairwell for that unit. The front porch is in disrepair so we are seeking actually to close that and bring it back to a front-yard set-back that conforms; and we are seeking to really increase the ceiling height at the 2<sup>nd</sup> floor to provide some additional head room for the 2<sup>nd</sup> floor unit. Because of the nature of the property, it is under-sized as to width, we do require a side-yard set-back variance to a new stairwell. The existing dwelling is non-conforming as to the right Side-Yard set-back. By virtue of placing a stairwell along the right, we are exacerbating that non-conforming condition on the right Side-Yard. As I noted the Front-Yard set-back is not conforming today. It will actually be brought into conformance as a result of tonight's proposal. The Impervious Coverage is also a non-conforming condition, which will be decreased as a result of tonight's proposal. So the only real new variance is the right Side-Yard set-back issue for the stair-well. Stephanie Pantale has her architectural plans on the easel. She'll go through them. Mike Hubschman has his Engineering plan.

**Mr. Van Horne** said do you agree with me that this is the expansion of a specification for a Non-Conforming Use ?

**Mr. Capizzi** said I do, by virtue of adding that stair-well there, we are adding some additional usable area to the existing building, so I would agree that it is an expansion of a non-conforming use. As you will hear from Ms. Pantale, each unit has 2 bedrooms, it will continue to have 2 bedrooms. From an operational stand point, it won't have any more of an intensification of use than what's there today, but technically speaking, because we are adding some more floor area to the building ....

**Mr. Van Horne** said aside from that, it's a 2 family which is not permitted in the Zone .

**Mr. Capizzi** said we acknowledge the fact that we need a D-2 variance.

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**Ms. Stephanie Pantale** (70-H Chestnut Ridge Rd., Montvale, NJ) introduced herself as architect for the application.

**Ms. Pantale** was sworn in.

**Ms. Pantale** testified Basically if you can see the dashed lines, you have a first floor. There is a rickety wooden staircase that goes up to the 2<sup>nd</sup> floor that we are moving. It's a small staircase. There's a small staircase coming in from the back from the first floor. It has a heavy issue because of that staircase, and they can't go down to the basement. So basically we have a 2 bedroom first floor apartment, a kitchen, a dining room and a large front porch, that we are asking to push the living-room into to the point where we stop at the set-back line of the front yard. Currently the front porch extends about a foot into the front yard. Currently the porch extends into the front yard set-back, so we are reducing the Front Yard variance. The 2<sup>nd</sup> floor currently has 2 bedrooms- one is in this area, one is in the front and we are renovating that.....we are putting bedrooms with egress windows .....kitchen, we are bringing up the laundry which was in the basement....so we needed a staircase. This staircase sits in the middle of the driveway, encroaching into the driveway...The conversation was to put the staircase on this side- give them a real staircase with a straight run. There is access to the back-yard. There is a landing that they enter and go up the steps- over here on the side away from the driveway. Ultimately the house stays the same with 2 bedrooms on each floor, a kitchen, a bathroom. And we are keeping it simple. The addition is 86 sq.ft. and we are bumping into the existing porch area approximately 97 sq.ft.

**Mr. Capizzi** said so on the 1<sup>st</sup> floor the foot-print actually kicks in slightly because we are eliminating that 9' former condition.

**Ms. Pantale** said in the front yard. Yes.

**Mr. Capizzi** said and the only other change to the foot-print is relative to the stairwell in the back right.

**Ms. Pantale** said correct.

**Mr. Capizzi** said as far as the arrangement, you said that each unit has 2 bedrooms, and that condition is being maintained.

**Ms. Pantale** said yes.

**Mr. Capizzi** said as far as the elevation are you going to be putting a new façade on the building ?

**Ms. Pantale** described alterations to the façade, including new windows.

**Mr. Capizzi** said as far as the height is concerned, this is a few feet lower than what is allowed in the zone. Correct ?

**Ms. Pantale** said about 2' lower.

**Mr. Capizzi** said and the FAR conforms.

**Ms. Pantale** said the FAR conforms.

**Mr. Capizzi** said any other components of the architectural plan you want to reference to the board.

**Ms. Pantale** said no, unless there are questions.

**Mr. Capizzi** said thanks Stephanie.

**Michael Hubschman** ( 263A s. Washington Ave., Bergenfield, NJ) introduced himself as Engineer & Planner for the application.

**Mr. Hubschman** was sworn in.

**Mr. Hubschman** displayed the colored site plan

**Mr. Capizzi** said that A-1 was the proposed plan.

**Mr. Hubschman** said the lot is 50' by 145' deep. It contains an existing 2 family structure in the center of the lot. There is a porch in the front. Two car garage in the rear of the property. Here there is gravel. The remainder of that grey is all asphalt parking area – that's all existing. There is a wood ramp that runs up the side that

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connects to the front porch here- that's also colored grey. There is some gravel on the side. The gravel and the ramp are supposed to be removed during the renovation. The existing front yard measured to the porch is 20' or so. *Mr. Hubschman displayed the proposed plan.*

**Mr. Capizzi** said the front porch is at 19'.

**Mr. Hubschman** said at 19' right. The existing wood stairs are kind of projected to the driveway- that cuts down that area. That's one of the main reasons for the renovation. To remove those stairs- they kind of have a winding stair on the inside. So the proposal is to remove that front porch, to remove that stairs that go to the 2<sup>nd</sup> floor, construct that small stair structure and masonry outside the stair, remove that whole front porch, and then move it back to 25' set-back, and then truss the addition and there'll be a small covered porch in the front .... We are adding 34sq.ft to the foot-print by removing the front porch and adding the other structures. So there is net additional 34 sq.ft to the foot-print. The parking area in the rear. We are proposing to stripe it . There are 2 spaces in the garage, 3 spaces on the (grade ?) so that meets the requirements of 2 spaces per unit. Removing that stair that projects into the driveway that make it so low and narrow.....will be able to make the turn a lot easier.

**Mr. Capizzi** asked the renovations as proposed- how does that effect the Bulk table ?

**Mr. Hubschman** said we are here requesting 4 variances: the Side-Yards, 9.13', just for that stairway which has no windows. The east side, the total Side-Yard 21.2', its existing at 23.4'. The existing Side-Yard on the left is 10'...

**Mr. Van Horne** said on the summary of the application, we have Side-Yard variances of 4.96', combined Side-Yard variance 15.83', Proposed at 19.17.

*Discussion among Board members and applicants what to do about discrepancy between the Letter of Denial table and the proposed plans.*

**Mr. Hubschman** said minimum Side-Yard proposing 9.13', minimum Total Side-Yard 21.23', 35' total required, the existing 23.4', we are requesting 21.2'. The combined Side-Yards proposed is 21.2'. The variance would be 33.8', sorry that should be 13.8'. Building Coverage 20% required we're at 23.98 %. That's a 4% variance.

**Mr. Capizzi** said I think its important Mike, when we give the numbers, to just tell us where we are from an existing stand point, so we can appreciate how the numbers are changing from existing to proposed conditions.

**Mr. Hubschman** said OK. I thought they were just correcting.... The existing is 23.5% and we're going to 23.98% that's only a 34 sq.ft additional net increase. Removing the front porch and adding that side stairway. The Impervious Coverage is reducing but we still listed that as a variance. 35% is required where existing is 78.5% and proposed is 76.8%. We're reducing that by approximately 1.9%, by the removal of the ramp..... and the impervious areas on the east are being removed. The rear-yard is 25 and we are at 74.

**Mr. Capizzi** said I think there are only 2 errors with Bob Rusch's schedule: the Combined Side-Yard should be 21.23', not 19.7' and the Rear-Yard Set-Back is conforming, and there is no need for a variance there, it is not being requested. The Building Coverage is correctly reflected at 23.98%. Impervious Coverage is 76.86%. So I count just 2 corrections.

**Mr. Van Horne** said to a member of the board that no variances were needed for the Rear-Yard set-back.

**Ms. Batistic** asked if one Side-Yard is 10.04', correct ?

**Mr. Capizzi** said right.

**Ms. Batistic** said and the other is 9.13', How is the 'Combined' 21.23 ?

**Mr. Capizzi** said I was just looking at Mike Hubschman plan, I apologize.

**Ms. Batistic** said so 19.17' is still correct.

**Mr. Capizzi** said correct. So lets go back on track. We were going though the proposed additions and I was asking you to describe to the Board how the renovations affected the Bulk table. We have gone through it now and we have told the Board what the proposed Bulk table will read. Can you just give us a comparison for clarity, what's existing versus what's proposed.

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**Mr. Hubschman** said for the Front-Yard, we are going to move the porch back to 25' , the Side-Yard 9.13'. On the east 15' is required. On the side existing is 13.5' on the side, not including the ramp that is on that side. Building Coverage existing is 23.51%, we are proposing 23.98%, again that's just 34 sq.ft net addition. The Impervious Coverage is existing 78.51% and we are proposing 76.86% by removing the ramp and some other the net decrease of the front porch area.

**Mr. Capizzi** said could we go through some of the variance justifications, Mike. As far as the side-yards are concerned, the total side-yard that's driven by the short fall width of the lot. Correct ?

**Mr. Hubschman** said right. It's a hardship due to the short fall width. So you have a 35' total side-yard, so you are only able to build a 15' house. So 9' - 10' is pretty normal on the 50' lot. Again we need a certain width for that stairway going up. Driven by that, the total side-yard and the existing side-yard driven by the undersized nature.

**Mr. Capizzi** said and what's the impact of having that stairwell in the side-yard to our neighbor to the right.

**Mr. Hubschman** said their house is approximately 30' off the property line. That's the garage, it sits about 6' – 7' lower, so there is no impact on them. There's a row of trees there, and we would be able to add more, if it was required.

**Mr. Capizzi** said did you say that that house is 30' ...

**Mr. Hubschman** (*measured the plan*) said the house on the right is 40'

**Mr. Capizzi** asked from the stairwell ?

**Mr. Hubschman** said from the property line. (*he re-measured*) I'm sorry, its 29' from the stairwell.

**Ms. Furio** said and 20' from the property line.

**Mr. Hubschman** said and 20' from the property line. This is a penciled drawing, and we blew it up.

**Mr. Capizzi** said as far as the Building Coverage, you noted that's an existing non-conforming condition, correct ?

**Mr. Hubschman** said right. Slightly over, and again the net increase of removing the front porch and adding that is 34 sq.ft, net increase.

**Mr. Capizzi** said by virtue of the additional Building Coverage, we were able to eliminate the conflict in the driveway.

**Mr. Hubschman** said right, we are removing the stairway in the driveway, and adding the masonry and a well-lit new stairway to the 2<sup>nd</sup> floor apartment.

**Mr. Capizzi** said the safety improvements should not only be for the occupants but also for guests coming to the property.

**Mr. Hubschman** said right, safety improvements, fire safety, even the renovations – we have egress windows now, on a plot where probably nothing really meets code on that old, older house.

**Mr. Capizzi** said as far as the last variance on the Bulk table being Impervious Coverage, how does that impact this application.

**Mr. Hubschman** said we are decreasing that slightly. The group leader leads out to a small pipe in the curb here, so everything drains out to the street. It doesn't appear that there is any run-off on the neighbor . That's a small rarer type curb likely created from the street.

**Mr. Capizzi** said as far as the D-2 variance, the Expansion of a Non-Conforming Use, can you talk about the special reasons that are furthered as a result of this application.

**Mr. Hubschman** said yes, the reasons are the safety of the property, the aesthetic improvement. The aesthetic improvements are part of the special reasons. The new egress windows on level one, have a fire rating now between floors. The safety hazard of having the wooden stair is being removed.

**Mr. Capizzi** asked would it also create a more desirable visual environment through the new façade, windows, roof etc.

**Mr. Hubschman** said yes. That's one of the purposes of zoning is to create a more desirable visual impact.

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**Mr. Hubschman** said To create different types of housing units is also the purpose of Zoning. And safety in the morals of the public, fire safety.

**Mr. Capizzi** said even though the building itself, containing a non-conforming use, has complied with the FAR requirement .

**Mr. Hubschman** said under the FAR requirements we are at 36.8% where 39% is allowed on a 50' lot.

**Mr. Capizzi** said thank-you Mr. Hubschman.

**Ms. Furio** asked do you know how long this has been a 2 family house ?

**Mr. Capizzi** said I don't know. We purchased it in 1994. At that point in time we obtained a C.O, which lists it as a two family. My clients actually retained the original C.O from 94. Just for purposes of the record, I can have this marked as A-3, and provide the Board with a copy.

**Ms. Furio** said yes that would be very good. OK, my second question, probably along the same lines. Everything is paved. You have got 2 spaces in the garage and 3 more along the side. Do you intend 2 spaces per apartment ? Which would mean you only need 4 not 5, and that gravel corner next to the garage with the paper pad on it, can that be reduced to more green space ? The concrete pad that's behind the house...

**Mr. Capizzi** said the gravel we would remove that whole gravel.....

**Ms. Furio** said you said the gravel along by the ramp, so that's coming down

**Mr. Capizzi** said we would remove that whole gravel and maybe push the parking more southerly and then relieve some of that...

**Ms. Furio** said and the concrete patio ?

**Mr. Capizzi** said the concrete patio, right, we can probably cut that in half

*Discussion between Ms. Furio and Mr. Capizzi about removal of the gravel to reduce the Impervious Coverage.*

**Ms. Furio** asked how much do you think you can pull that back. There's the sidewalk in the front, there's the gravel in the back, there's the pull-back.....I understand the driveway needs to be there, but it goes all the way to the property line. I guess it needs to be until you pass the house. Can you reduce the line-up.....at a certain point so there is still the ability to turn- get in, get out. Can you take some of this out, it's a lot. There are no leaders that drain to the street, but there is a lot of 'hardscape'.

**Mr. Capizzi** said the driveway is 2500 sq.ft. The concrete is almost 3000 sq.ft. The patio and the whole driveway and parking

**Ms. Furio** said there's got to be a way to make it more aesthetically pleasing and reduce it. Are the spaces ample or are they tight.

**Mr. Capizzi** said they are 10'wide because of the tarring . You could probably move them at least two....The gravel

**Ms. Furio** said and the paver pads.

**Mr. Kassis** said you made them 10'. I'm somewhat confused.

**Mr. Capizzi** said the whole paved area they are not stripes.

**Ms. Furio** said they are not stripes....

**Mr. Capizzi** said that whole area is paved. Striping should show ten but it maybe nine.

*Mr. Capizzi indicated that they could reduce the Impervious by 400 sq.ft.*

**Mr. Van Horne** said you could reduce the parking by 400 sq.ft.

**Mr. Capizzi** said 400 sq.ft. The space would be 200 sq.ft approximately and then another 200 from somewhere-patio, along the westerly property.

*Mr. Hubschman indicated where the space might be found.*

**Ms. Furio** asked does the Board have questions or comments ?

**Mr. Kassis** said part of site planning do you know of any houses that are similar in size in the neighborhood Are there any properties with similar Impervious Coverage in the general vicinity of that house ?

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**Mr. Hubschman** said we are working with an existing condition but I may have an aerial . It does appear that there are a lot of lots with pools in the rear yards and patios, but not that 60%, but that's been in existence .

**Mr. Kassis** said I know that you have testified at plenty of applications in the past about the need for 'strange tanks'. What are the plans for correcting this Impervious Coverage issue ? Since you are here looking for an application.

**Mr. Hubschman** said we are reducing the 400 sq.ft., bringing it down to about 60 , and we could add a seepage pit which would also mitigate any run-off from the property.

**Mr. McCord** said question, sort of along the same lines. Is there a possibility of moving the stairs towards wherever the patio is. Is there a reason why the stairs have to be on the side of the house rather than the middle of the house ?

**Mr. Hubschman** said that's more of an architectural question .

**Ms. Rummel** said I actually have a follow up to that as well. Because you are asking for 86' on the side of the house for the stairwell, but you are also adding 97 sq.ft on the front of the house as a closed addition. So between what you want to do in the front or, to Morgan's point, do you need the concrete patio in the back ? There is no other alternative to the staircase ?

**Ms. Pantale** said I checked the back. My concern was making the turn in this area. The house is missing approximately 24', and this is about 23', and we have to come to the edge, and where do I put the stairs ? That's the Front, that doesn't include the landing and the steps. So how does that work ? and the question was: do I run it this way, and then go this way. At some point, it was just becoming ridiculous, do we make a big 'U' ? .....There was a ramp here anyway. So, they got rid of the ramp . Maybe you look at it at this side, because its going to be tighter to the house-..... I didn't want a 3' staircase with railings encroaching, and then we have a 6 inch wall. Lets just make it a 4' addition out, and run up. This way they can actually get in without banging everything. So there is sort of this much space wasn't worth shrinking your 3" or whatever. In my opinion, architecturally. And it just ran very neatly on this side of the house. As far as the question in the front, but there's already a covered porch here, so we are pushing into that volume currently. So that 97 sq.ft we are talking about in front, we are adding it into a space that is already existing.

**Ms. Rummel** said you are adding it to what would be say a living room or bedroom , whatever it is on the 1<sup>st</sup> floor.

**Ms. Pantale** said yes, and taking away the covered porch that was there..

**Ms. Rummel** said right. I understand that, but my point is, you have to have a run to the ground and then you have a run for the staircase. You know it seems like it was already on the side. And I know there was concern because the driver was there, and there was 'Cindy ??'; but the house was pushed in on that side so the house was a little more narrow where the stairs currently are according to these plans

**Ms. Pantale** said I'm sorry.

*Mr. Capizzi ?, Ms Pantale and Ms Rummel discussed the details of the incident.*

**Ms. Rummel** said given the whole conversation we had on Impervious Coverage and maybe compromising and giving some of that. Would that change the dynamics of the tension of putting the staircase in the back ?

**Ms. Pantale** said it still doesn't solve the problem this way, and that's my run. I have a landing when I walk in, I have steps, that's my run to get upstairs.

*Ms. Rummel and Mr McCord spoke simultaneously.*

**Ms. Pantale** said and then I have to turn it, and even if its there I'm still encroaching in that area. And then I could turn it this way but I'm still asking for a variance.

**Mr. Kassis** said its possible though ?

**Ms. Pantale** said yes.

**Mr. Kassis** said OK. And you had a discussion about or testimony that you will eliminate one of the parking spaces. Which would free up space for a return staircase, if there is no parking there. Correct ?

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**Ms. Pantale** said yes.

**Mr. Kassis** said so there are alternatives that are feasible for that property without putting it on the side and encroaching with yet another variance.

**Ms. Pantale** said yes

*Several persons spoke at once.,*

**Mr. Kassis** said .....its feasible to put the staircase in the back, and then make a return. To use the space that was now freed up for that parking space and not encroach to the side-yard.

**Ms. Furio** asked any other questions for Ms. Pantale.

**Ms. Batistic** asked I'm concerned with the expansion of 2 family units. Is it possible to find out at what point was it pre-zoning law ? two family, or at one point someone decided to make it 2 family and when they purchased it, it was 2 family.

**Mr. Van Horne** said I don't know the answer to that question. I would have thought that this zone would have been established by 1994'

**Mr. Capizzi** said we bought it as a 2 family. Its taxed as a 2 family. I don't have many historical records beyond what was provided to me by the borough. And the tax card that shows as a 2 family of John Marx, which I will give to Van Horne. This drop of the application process is not about any issues about the legality of the usage as a 2 family. As far as we are concerned it's a legal conforming use and we are entitled to maintain it. Its our intention to clean up the property. We want to continue to use it as a 2 family and we want to take care of the housekeeping to address some of the issues that exist on site.

**Mr. Van Horne** said you basically have to decide if the application and the proposal serve the public and the purposes of Zoning. You have to balance positive criteria which stem from feeling what was established with regard to the safety issues, and the aesthetics, and so forth. Versus the negative criteria which is that they are encroaching on the right side. There are mitigating circumstances with regard to the right side of the property. They offered to reduce the impervious. They are reducing the Front Yard encroachment. So it's a tough balancing act.

**Mr. Capizzi** said the only proviso I have for Mr. Van Horne's commentaries to the Board is that the analysis is only limited as to the new features. This is not a D-1 variance case, where we are seeking to put a 2 family into a single family zone anew. The distinction there is that we are really just looking at the features about this proposal that qualify as an expansion. And here, really, we've spent a fair amount of time talking about the staircase, which is really the principal change being made to the foot-print. I think if the board has any further comments, I'd like to hear them. I think in all likelihood what we may do is take a break.

*Mr. Van Horne suggested a 5 minute recess.*

**Mr. Capizzi** said well we may. I don't know how the Board would feel about it, if we re-oriented the staircase. Whether they would deal with it by way of revision this evening, or they would want to see a revised plan before they continue to deliberate on the application.

**Mr. Kassis** said I for one . There has been a lot of discussion about reducing the Impervious Coverage, about the possibility of re-locating the staircase. The numbers are changing to a significant amount, and I think it would be easier to vote on an application with very precise numbers, some of which were incorrectly stated here on the application.

**Mr. Capizzi** said that would make sense to do what we can to address some of the Board's comments relative to the staircase location as well as to Impervious Coverage. Amend the plans accordingly, make sure everything jives with Mr. Rusch and his take-offs, and then come back and see you at the next available date.

**Mr. Van Horne** said can you be sure that the amendment plans are in with the Borough at least 10 days before the next hearing.

**Mr. Capizzi** said absolutely. If we could Mr. Van Horne, since our neighbor is here this evening, if we could hear from him and perhaps, whatever concerns he might have, we can incorporate them.

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**Mr. Kassis** said I have one more question regarding the Impervious Coverage. Was this Macadam here at the time of purchase ?

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

**Mr. Van Horne** said so you bring in the plans 10 days before, you won't have to re-notice, and we'll hear from the neighbor right now.

**Mr. Brenner, 127 Westervelt Place**, was sworn in.

**Mr. Van Horne** said just so we are oriented, which side of the property ?

**Mr. Brenner** said on the right side.

**Mr. Van Horne** said on the right side. Do you have any questions for the witnesses...

**Mr. Brenner** said I welcome the improvements to the property because it has been an eyesore. We've accepted this double family thing since we've been there. We've been there since 99. But I do have a problem with the stairwell. I've a problem already with drainage from the elevation is higher from their property. There's a long line of large trees approximately on the building line. If they are going to encroach on those trees tomorrow, are those trees going to be sound ? It's already a very tight property line. We are not 40', I think its 20'.

*discussion among applicants and Board as to distance of property line.*

**Mr. Brenner** said my big objection to the staircase, it encroaches even closer to our side of the property . There's lots involved, and I think they need to speak to us. Drainage is a problem. It drains right into our basement. We had to dig a 'swell' there already and now they are going to change the drainage again. Is it possible without compromising the trees. Those are large trees.

**Mr. Capizzi** said I think if we are able to re-work the location of the stairwell, the concerns relative to disturbing that landscape...

**Mr. Kassis** said and there was discussion regarding a drainage pit...

**Mr. Brenner** asked if he could have a copy of the new plan ?

**Mr. Capizzi** said sure.... We will end you a copy.

**Mr. Van Horne** said Thanks Mr. Brenner. Is here anyone else ?

**Mr. Lee Rappaport, 56 Churchill Rd.**, was sworn in.

**Mr. Rappaport** said I am the owner of 56 Churchill Rd., which is in the back. I am also an architect. You did talk about the Impervious. I'm here because 66% cover is crazy. I'm glad that you fixed on that and they will amend the plans. So lets see what they are going to do and we will talk about it later. That's the whole reason I am here.

**Mr. Capizzi** said we are going to address that, thank-you. Cover is coming down and we are going to add a seepage pit.

**Ms. Furio** said Okay, no amends and we will see you.....Jan. 23, 2020.

**Mr. Capizzi** said its Jan. 23, without any further notice.









