

**Borough of Cresskill  
Zoning Board of Adjustment  
Public Meeting 7:30 pm  
Minutes June 24, 2021**

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

**Present on ZOOM:** Ms. Westerfeld,

**Absent :**

**Mr. Kassis** hosted / directed the ZOOM.

**Mr. Kassis** chaired the meeting on ZOOM..

The meeting was called to order at 7:29 pm

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

**Problem with ZOOM during Roll call**

The May minutes were approved by Ms Batistic and seconded by Mr. McCord

*NOTE: Because of the feed-back echo from ZOOM, the recording was difficult to understand.*

*Italics are used to indicate that an interpretation was used instead of the exact words.*

**Application**

**1379 Michael Brusco**

**106 Morningside Ave**

**B 164 L 601**

Description	Required	Existing	Proposed May 27	Variance May 27	Proposed June 24	Variance June 24
Front Yard Set Back	25 ft	22'	22'	ENC		
Side Yard Abutting/Lot	15 ft	12.25'	10.5'	4.5'	12.25'	2.75'
Other Side Yard	20 ft	12.25	12.25	ENC		
Combined Side Yards	35 ft	24.5'		ENC		
Rear Yard Set Back	30'	30'	16.1'	13.9'	18'	12'
Max. Livable Fl. Area (FAR)	35.94%					
Lot Frontage	100 ft	62.5'				
Lot Depth	100 ft	100'				
Bldg. Coverage %	20%	25.23%	29.82%	9.82%		
Impervious Coverage variable	33.70%	33.6%	36.11%	2.41%	37.54%	3.84%
Height of Bldg	28'					
Lot Area	10,000 sq.ft	6250 sq.ft				
Min.Driveway side-yard	10'					

**The applicant proposes to construct a patio. 12' by 20.5'**

**The application was carried from the May 27, 2021 ZBOA meeting.**

**Attorney Zare Khorozion LLC** introduced himself as attorney for the applicant and owner.

**Mr. Brusco** was sworn in.

**Attorney Khorozion** said at the last meeting applicant was before the Board. He was proposing a patio and deck in the back-yard. After the meeting the Board suggested that he create a more permeable surface. And just a patio, instead of a deck and a patio. The applicant revised his plans accordingly, and submitted to the Building Dept. and was told by the official there, that the engineer would not accept a permeable surface.

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**1379 Michael Brusco (cont.)**

**106 Morningside Ave**

**B 164 L 601**

And had suggested to the applicant to create a more impervious.....to basically build a patio with an impervious surface. So the applicant revised again and submitted those plans and the application before you. With that stone paver that is impervious not impermeable. I'll have the applicant testify as to what has transpired between the last meeting and now.

**Mr. Brusco** said I spoke to Bob, the Construction Official, and he mentioned that the permeable surface would not be approved by Paul (the engineer). I tried to reach out to Paul, he gave me a phone number, and I spoke to him briefly but he said he would look into it and I never heard back from Paul about it. I revised my drawing. It would just be a patio and I made it smaller than what was proposed last time. In hopes that we could have it approved and move forward.

**Mr. Kassis** asked are there any questions for the applicant ?

**Mr. Corona** said I wasn't here for the last meeting. I read the minutes.....*Are you saying that the construction official said that he didn't want to do it in paver stone ?*

**Mr. Brusco** said he said I wanted to look at a permeable type of paver, he said that its like a drainage system, and all that, and even if I did all that and it wouldn't get approved by Paul, the engineer. And I had limited time to revise the plan, so I decided to do a smaller patio.

**Ms. Batistic** commented *you don't have a deck anymore, the Rear-Yard Set-back is no longer necessary. Correct ? .....*

**Mr. Kassis** asked any other questions regarding the application ? Gail do you have any questions ?

Is there anyone in the audience here, for or against this application ?

Let the record state that there was no one here for or against it.

Is there a motion to approve or deny the application in front of us ?

**Ms. Batistic** made a motion to approve

**Mr. Corona** seconded

**The application was granted.**

**Mr. Kassis** said your application is subject to final review and will be available next month. And all applications are subject to engineering review as well.

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<b>1380 Erland Castillo</b>		<b>22 Jefferson Ave</b>		<b>B 66 L 5</b>
<b>Description</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance</b>
Front Yard Set Back	25'	24.3	55.7'	
<b>Side Yard Abutting/Lot</b>	<b>15'</b>	<b>4'</b> <b>Left side</b>	<b>4'</b> <b>Left side</b>	<b>11'</b>
<b>Other Side Yard</b>	<b>20'</b>	<b>16.56</b> <b>Right side</b>	<b>16.56</b> <b>Right side</b>	<b>3.44'</b>
<b>Combined Side Yards</b>	<b>35'</b>	<b>20.56'</b>	<b>20.56</b>	<b>14.44'</b>
Min. Rear Yard	30'	120'	120'	
FAR	35%	24.39%	29.38%	
Height of Building	28'	22'	27.5'	
Lot Frontage	100'	50.84'	50.84'	
Lot Depth	100'	195.17'	195.17	
Bldg. Coverage %	20%	14.5%	14.5%	
Impervious Coverage variable	35%	26.5%	26.5%	
Lot Area	10,000 sq.ft	9,922.45 Sq.ft		

**The applicant proposes to construct an addition**

**Matthew G. Capizzi Esq. of Capizzi Law Offices**, representing the applicant, sent a formal request to adjourn from the June 24, 2021 agenda and carry same to the Boards July 22, 2021 agenda.

**Mr. Kassi** said application 1380 for 22 Jefferson Ave. will be heard at next months' meeting. Is anyone here for that application ? Record to show no one here. We have accepted the request on behalf of the applicant....

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<b>1381 Antonio Manfredonia</b>	<b>15 East Madison Ave</b>	<b>B 80 L 9.01</b>		
<b>Description</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance</b>
Min. Lot Area	10,000 sq.ft	10,750 sq.ft		conforms
<b>Min. Lot Frontage</b>	<b>100 ft</b>	<b>64.33'</b>		<b>ENC</b>
Lot Depth	100 ft	102'		conforms
Front Setback w/ Parking in Front	40 ft	71.3'	No change	conforms
<b>Rear Yard Setback</b>	<b>30'</b>	<b>2.17'</b>	No change	<b>ENC</b>
Side Yard Setback	0.0'	4.5'	No change	conforms
Total Both Side Yards	30 ft	59.24'	No change	conforms
Max. Building Coverage	50% (5,365sq.ft)	14.17% (1523sq.ft)	No change	conforms
Max. FAR – 1 <sup>st</sup> floor of 2 Story Bldg	13.95% (1500 sq.ft)	9.9% (1068 sq ft)	No change	conforms
Min FAR for Business	3.72% Min (400 sq.ft)	14.17% (1523 sq.ft)	No change	conforms
Min Room Width for Businesses	12'	TBD	No change	conforms
Off-Street Parking Spaces	1 per 5 seats	10	No change	conforms
Building Height	2 story/ 31'	22.02	No change	conforms

**The applicant proposes to build a Pergola in front of the Farmhouse Café**

**Mr. John Manfredonia** said for clarification purposes the applicant is The Farmhouse, and I'm here to represent the Farmhouse in this application. For transparency I am also the owner of the property in question, and also the owner of the property next to it, the Manfredonia Law Offices, which is within 200', and also 2 other properties which are within 200' of this property 18 Union Ave and 14 Union Ave. I am representing the applicant, and I am also a property owner within 200' of the subject property. So we are here today to get a variance from Ordinance 275-42 which says that for commercial property there can be no accessory structure in the front yard. And here we are asking for an exception to that ordinance to allow for construction of an outdoor pergola. This outdoor pergola would be for decorative purposes only, and for like shade for people that are eating outdoors. It would not be enclosed. It will not have a roof on it. So when it rains it will all go through it.

**Mr. Van Horne** asked are you .....*acting as an attorney for the applicant, or is this testimony that needs to be sworn to ?*.

**Mr. Manfredonia** said yes. Do you want to do a swearing in then ? This was an introduction.

**Mr. Van Horne** said this is an introduction. OK, then you can continue and when you want to give sworn testimony or testimony, then please tell me.

**Mr. Manfredonia** said OK, very well, good point. So basically that's what we are asking for. So I have here today the applicant who will testify as to what the proposed construction is. But the architect will not be here today. We believe we don't need expert testimony for this application because its a simple construction of an outdoor pergola for decorative and shade purposes .So, I'd like to now swear in the applicant so that he can testify as to what construction is proposed.

**Mr. Nathan Kipperman** was sworn in.

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**1381 Antonio Manfredonia (cont)      15 East Madison Ave      B 80   L 9.01**

**Mr. Manfredonia** said Mr. Kipperman I would like to ask you to explain to the Board as to what you propose to construct in front of the Farmhouse property.

**Mr. Kipperman** said you know that we had a fire here a year ago and we are now renovating the restaurant. You realize that during the epidemic, everyone wants to have outdoor seating. We know that everybody has been content outside, and that's when the idea came up in my mind, to add a pergola in front of the place. If constructed from columns 6' by 6', want to be.....2' by 10'. The architect put all the specifications so its structurally done right. The top is going to be 1' by 3' with space in between for the snow to go thru, the sun to go thru. So its creating a nice designed shade. We are going to have some lanterns on the side, and have some ivy and maybe grapes- the same way I have on my garbage cabana which is made from cedar and we are growing grapes on it. And basically, I am trying to make the corner nicer. The place will survive without me, but I always like to create nice things. For me its basically an opportunity to enhance the space and make it nicer and this is really what its all about.

**Mr. Manfredonia** asked will the structure take up any parking space ?

**Ms. Westerfeld ( on ZOOM)** said it does not come in on this one.

**Mr. Kipperman** said its not going to make any difference.

**Mr. Manfredonia** said what I am saying, you have existing parking. Does any of the structure encroach on that parking ?

**Mr. Kipperman** said no

**Mr. Manfredonia** asked and currently are you using the outside for outdoor dining ?

***Several unintelligible ZOOM interruptions***

**Mr. Kipperman** said in the summer, when the weather is nice, actually its a very short time because its too hot. Nobody sits outside. So basically our outdoor seating is limited, I would say, to maybe to two months of the year, if we are lucky. But its a nice addition to the front of the restaurant, because there are tables there, there are umbrellas. And its also a waiting area, we have a lot of take-out business, and when people are coming for take-out, and they have to wait for the food, they sit and wait there. But, my idea is to create a nice garden. I would almost, I mean in Europe, you go to Greece or Italy, there are pergolas everywhere and people are growing grapes there and beautiful, and I just don't see any reason why I shouldn't do the same. Its allowed by the administration of the laws. That's why .....*drowned out by rattling of paper*.....

**Mr. Manfredonia** said OK. Now on the plans first page, there is a measure. How far is this proposed pergola from East Madison Ave.?

**Mr. Kipperman** said 25.55'

**Mr. Manfredonia** asked is there any room in the rear yard of this property to place this pergola ?

**Mr. Kipperman** said no, this is the only place that we can put it. This is why also it is a triangle, because that's how that's a given. And it will flow nice with the balcony and the parking spot so it will be like an organic art of the design of the state.

**Mr. Manfredonia** said thank-you very much for that testimony. I think that I'd like to conclude the testimony section, open it up for public comment and then do my summation at the end.

**Mr. Kassis** said do any Board members have any questions, comments or concerns ?

**Ms. Batistic** asked are there any tables and people are going to be sitting ?

**Mr. Kipperman** said yes. They were sitting there before'

**Ms. Batistic** asked what is the surface material, is it grass or .....

**Mr. Kipperman** said its Bluestone. The ground is Bluestone which was there before. We had some benches from stone there, and we have trees all around. We have a landscaper that comes once a week to take care of it. I take care of the gardening of the flowers, and basically its about creating a nice place. As you all know, or if you don't know, the Farmhouse is actually a successful business. We are busy.

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**1381 Antonio Manfredonia (cont)      15 East Madison Ave      B 80   L 9.01**

**Mr. Kipperman** said We are doing very well, and basically I am willing to invest the money and the effort in a property which is not mine, just to make it more beautiful. Because this is really what's driving me, my partner and my wife in this business. You know, as long as we are in the restaurant business, my goal is to create- to do the best we can, that's what it is.

**Ms. Batistic** said and the surface, the ground surface, the Bluestone, that's going to stay ?

**Mr. Kipperman** said yes, that stays. Everything is the same. The same table, the same chairs. We are creating basically a structure, so I can worry growing these grapes and Boston Ivy. You know, I would like to create a nice green pergola. I think it going to look really beautiful. Simple as it is.

**Mr. Corona** said I just want to make sure to the Board that we will find in a couple of years that this will be an enclosed space to add more seating.

**Mr. Kipperman** said no it wouldn't and I will explain why.

**Mr. Manfredonia** said and we would stipulate in the application that that would never happen. So for purposes of this request, we will stipulate that the pergola will never be enclosed or a roof be put on top, as a condition. So, its in writing in the record.

**Mr. Kassis** said .....I don't know the table arrangement. Is there going to be any expansion of tables or seating, because there is concern about parking.....it is often difficult to maneuver that area. Is the pergola going to create more customer space or just utilize the existing space that is currently only reserved for good weather ?

**Mr. Kipperman** said its going to be the same.

**Mr. Kassis** said so there will be no increase in car traffic.

**Mr. Kipperman** said no, it would not.

**Mr. Van Horne** asked the number of tables now in this area on the Bluestone ?

**Mr. Kipperman** said yes, its going to be the same tables and the same chairs.

**Mr. Van Horne** asked how many tables does it have ?

**Mr. Kipperman** said give me a second and I'll tell you exactly. 15 tables.

**Mr. Van Horne** asked and do they seat 4 people or 6 people or 8 people ?

**Mr. Kipperman** said no, its all two.

**Mr. Corona** said this is in lieu of putting up a tent, or something like that. This will make it a little bit more aesthetically pleasing.

**Mr. Kipperman** said that's correct. I would not put up a tent. I don't find it aesthetically pleasing

**Mr. Corona** said I agree with you.

**Mr. Kipperman** said look at Tenaflly. All the tents around- then I find it very unappealing. I understand that there's a need for that, because restaurants are really suffering now. So they do it. but definitely, it doesn't make it nicer. If you go to Manhattan, then actually its unbearable. Because everybody put tents and they are blocking all the streets. Its a necessity.

**Mr. Kassis** said, before I open it to the public are there any other questions, comments or concerns ? At this point I am going to entertain any comments, questions or concerns regarding this application. *Anyone that wishes to speak should step forward. I would just ask the two of you to shift over, so that whoever is here is seen in the camera.*

Mr. Kassis directed the member of the audience towards the ZOOM laptop in front of the podium.

**Mr. Van Horne** asked do you wish to ask the witness a question or do you wish to make a statement.

**Mr Shreyas Shah** said maybe both.

Mr Shreyas Shah was sworn in.

**Mr. Van Horne** said Mr. Shaw do you want to make a statement first, or do you want to question the witness first. ?

**Mr. Shaw** said he wanted to make a statement first.

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**1381 Antonio Manfredonia (cont)      15 East Madison Ave      B 80   L 9.01**

**Mr. Shaw** said I'd like to know how we are going to address the parking. We have a problem with parking with the Farmhouse for many years. I'd like to address that. I'm all for Mr. Kipperman to have a pergola but how are we going to address the parking. We've had problems with parking, my tenants complain to me, and I don't know how to quite address that, because for years, people who go to the Farmhouse, they park in my parking spaces.

**Mr. Van Horne** asked which property do you own ?

**Mr. Shaw** said 29 East Madison. 48 Union Avenue and 29 East Madison.

I just want to know how the town plans to address that issue. There is limited parking. The town allowed him to put the Farmhouse there, and I knew there would be a problem with the parking situation. We've towed many cars from our parking lot- which I don't like to do- but I had to do it, because its reserved for my tenants and their patrons. And what Mr. Kipperman has done, and he's parked many times himself, as the owner, knowing that the parking is for my tenants and their patrons. I have my staff that comes in mid shift or late shift. So they come in the mid afternoon or late in the afternoon, or as early as 11 o'clock in the morning, and they can't find parking spaces themselves. I've contacted ..... many times. One time I caught him right before he was about to be towed. He ran into his car and left my premises. I just don't want to do business this way. I want to know how we're going to address the parking situation. And with the addition of a pergola, which I think is a great idea, there will be less parking spaces available. So therefore there will be more coming over into my parking.

**Mr. Van Horne** asked why do you think there will be less parking ?

**Mr. Shaw** said the pergola is a structure that will take space, its going to be on a space, its not going to be on land. I assume, I have not seen the architecture. I'm assuming its going to take space. You can't have a car that is going right up to the building. I just assume there is going to be less parking, and already I have a parking situation problem with the Farmhouse. I don't want to be the bad guy and keep towing cars away, especially when a lot of them are my patrons. My patrons are my pharmacy and my tenants. I just want to know how we are going to address this.

**Mr. Van Horne** said Mr. Chairman why don't you ask the witness, if the pergola is going to be located, if that breakdown is .....

**Mr. Shaw** said I have the Google map right here, if someone could kindly, Mr. Manfredonia, show me where the pergola is going to be laid out or .....here.

**Mr. Manfredonia** showed Mr. Shaw the drawing A.1, upper right hand corner. The pergola is going to be in the triangular area, that's all in the grass area, this is the existing parking for the pergola

**Mr. Shaw** said what grass, I don't see any grass at all.\

Mr. Kipperman indicated the grass area.

**Mr. Shaw** said underneath the trees. Yes, I see.

**Mr. Manfredonia** said so its not exposed.

**Mr. Shaw** said I see, so then will parking be permitted ?

**Mr. Manfredonia** said the existing parking is not changing. Parking will be the same, and the pergola is going to be in front of the Farmhouse on the Bluestone area. So you can clearly see it from here.

**Mr. Shaw** said so I am assuming that cars are not be able to park right in front of the pergola.

**Mr. Manfredonia** said yes, there is plenty of space, so they can park here, and the pergola doesn't encroach upon the parking at all. So the cars can still park .....

**Mr. Shaw** said you are going to have more customer base, more clients coming here, so its going to add to the problem of my parking.

*Several persons commented*

**Mr. Kipperman** said its not going to change his thinking because we had those tables there before. We used this as a garden. Apparently you did not see the plans, before you are coming and you are saying that you are going to lose parking spots. Obviously, I wouldn't do anything that.....

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**1381 Antonio Manfredonia (cont)      15 East Madison Ave      B 80   L 9.01**

**Mr. Shaw** said you didn't show it to me.

**Mr. Kipperman** said you see it now. I decide in my place to tell customers to not park in your property. Its up to them to do whatever they want....

**Mr. Shaw** said that's not the point. And what about the owners. The owners know that very well...

*Mr. Kipperman and Mr Shaw spoke simultaneously.*

**Mr. Kassis** interrupted the argument.

**Mr. Kipperman** said you have the right to tow them away, you have towed away a few customers before. They happen to be eighty year old customers, that I ordered for them a cab to take them back to their nursing homes. But its fine, this is your right, its your parking spot.

**Mr. Shaw** said they are driving and they are in a nursing home.

**Mr. Kipperman** said the point is that for the last year, things were not ..... that parking lot was empty. Because your mini-mall there is 80% empty. There's no customers there, you know, so its fine. But I'm not saying that my customers have the right to park there. I am also saying that its there, and nobody is parking there. People feel that they can park there. They don't understand why its an empty space and they cannot park there its not .....But again, I can tell my customers not to park there, and you have the right to tow them away, and to make a point that its the same customers that come to your pharmacy. So it is your business and you do whatever you like. I just make the point that all the other places on the main street do not have any parking. So people that come to Cresskill for business, they park wherever they can. I thought that was very American, but at this point I don't know what's American anymore.

**Mr. Shaw** said if I had the space, Nathan, I would allow you and I would allow the Farmhouse. I want everyone to succeed . I want you to succeed, and I want all my tenants to succeed, but there is limited space, the space is full. Late in the morning, mid-afternoon, and late in the day...

**Mr. Van Horne** said Mr. Shaw you made your point. I think *Mr. Manfredonia.*, correct me if I'm wrong, but aren't you going to go to the Planning Board, or are you planning to go to the Planning Board for site plan approval ?

**Mr. Manfredonia** said no, I don't believe its required.....The construction official told me that no site plan approval is .....There is no change to Building Coverage, Impervious Coverage, its simply a decorative pergola structure.

**Mr. Van Horne** said thank-you Mr. Shaw.

**Mr. Shaw** said If I may, I have a question. When was this outdoor *ceiling* allowed or when did you put it out there. I didn't know that you had it out there to begin with.

**Mr. Kipperman** said there, I would say for the last 7 years.

**Mr. Shaw** asked and how many seatings are out there ?

**Mr. Kipperman** said about 30 seats.

**Mr. Shaw** said thirty !

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

**Mr. Shaw** said wow !

**Mr. Kipperman** said I want to make a point. People sitting outside in the summer, this is because they don't sit inside. So usually I can't even handle the whole business, if people are sitting everywhere. When its very, very nice nobody want to sit upstairs because its too hot, because I have sky-light its impossible to sit there. They usually, its a trade-off, its either they sit outside or they sit inside. Like I said, its for a very limited amount of time. And again, with the pergola or without the pergola, if they were sitting there anyway, I'm doing it just for the point because I'm really driven by passion to create nice things. I build nice restaurant, I build nice structures. I look at it almost as an art installation, and it couldn't make any difference if it wouldn't be there, because I'm going to have umbrella which I had before. Very nice unbrella. Again, I'm willing to spend the money, its a lot of work, but I honestly believe that its going to be really beautiful.



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**Mr. Kipperman** said and its going to serve the customers and the people of Cresskill that come to the *play-land*. For the last year, we are closed, we are bombarded by phone calls, when are we going to open the place, And, again the parking, I see your point, but people can park wherever they want. You can tow them and do whatever you want.....

**Mr. Shaw** said I know that, but the way I run my business, it starts from the top. The leadership starts from the top. So you when have the owners parking in my parking space, which I have continually see you guys do. You know and your employees park in my parking spot, and that's fine if I have the availability. I don't have the availability. So, you know, it starts from the top, Nathan. So that's my problem, you know, and that's our problem.

*Mr. Kipperman and Mr Shaw spoke simultaneously.*

**Mr Kassis** said gentlemen, we are a Zoning Board here, we deal with adjustments to zoning regulations, and we vote on them, when deemed appropriate. In regards to enforcement matters, regarding private property and parking, that's outside of our jurisdiction. We can't introduce any aspect of that enforcement into any decision that the Board decides. So its possible that any testimony going forward should be germane to the approval of the application structurally and how it impacts the property, not how it may affect parking. The point was made, and its a valid point, and one of my concerns I had, if you heard my testimony,

**Mr. Shaw** said I did Thank-you.

**Mr Kassis** said would be properly attended to, but it is outside our jurisdiction .

**Mr. Van Horne** asked does anyone else have any questions or comments ?

**Mr. Shaw** said if I were to contest the parking going forward, I apologize, what are you going to ?

**Mr. Kassis** said that would be the Police Department .

**Mr. Shaw** said OK, thank-you. One more question. The outdoor you say, is approximately 30 people seating outdoors. Indoors, how many people are allowed to seat indoors ?

**Mr. Kassis** said tonight's application will have to be subject to any requirements of the Planning Board should apply. So as far as we are concerned, we don't have a use variance in front of us. If there is some use variance deemed to be necessary, again that would be outside of our scope and would in fact be up to the Planning Board. So as of right now, we are approving the to be structure, subject to any limitations that possibly could be found by the Planning Board.

**Mr. Shaw** said you are saying that if I have any further objections to address it to the Police Department. This will all be on record. They have access to like the minutes.

**Mr. Kassis** said yes, the minutes are available under the Freedom of Information Act, the minutes of any public meeting can be obtained that way.

**Mr. Shaw** said thank-you, thank-you for your time.

**Mr. Kassis** said is there anyone else here for the application or against the application ? Anyone would like to make a statement regarding this application. For the record there is nobody .....

Gail, is there anything you wanted to add ? Gail indicates that she does not.

Unless the Board has any additional questions, we need a motion to either approve or deny this application. And as previously stated, would be subject to any hearing for Planning Board approvals that are outside the scope of the application here today. So that being said could I have a motion for against this application'

**Mr. McCord** said I'm for it.

**Mr. Kassis** said OK. We have one vote for, is there a second ? We have a second.

Mr. McCord made the motion and Mr. Cleary seconded. Roll Call please.

**Ms. Batistic** said I make a motion with the condition that no more than 30 patrons be at the outdoors area. Fifteen tables and two people at a table.

**Mr. Van Horne** said that was subject to the Planning Board.....

**Mr. Kassis** said it does not apply. We are not using the Use Variance, we are just approving the structure.

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**1381 Antonio Manfredonia (cont)      15 East Madison Ave      B 80   L 9.01**

**Mr. Kassis** said It has a side affect in parking. Its just the structure. The testimony we heard so far was that there was going to be no more patrons there than currently. As far as we are concerned there does not appear to be any encroachment into any larger jurisdictions. Whatever we do, as we always did, its subject to engineering or any other municipal regulations that the Planning Board made.

**Ms. Batistic** said can we add the provision that the structure cannot be enclosed or covered.

**Mr. Van Horne** said its going to be a stipulation in the resolution.

*Roll Call was taken all members voted 'yes'*

**Mr. Kassis** said the application has been approved, at least on our end of things, and it needs to work its way through the Borough, and you know what the next steps are.

**Mr. Manfredonia** said yes, and thank-you very much.

**Mr. Kassis said** the next application is # 1382 for 121 6<sup>th</sup> Street

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**1382 Chris Forgione                      121 6<sup>th</sup> St                      B 47 L 704-707**

Description	Required	Existing	Proposed	Variance
Front Yard Set Back	25'	25.17		
Side Yard Abutting/Lot	15'	11.07		
Other Side Yard	20'			
Combined Side Yards	35'			
Min. Rear Yard	30'			
FAR	35%			
Height of Building	28'			
Lot Frontage	100'	100'		
Lot Depth	100'	100'		
Bldg. Coverage %	20%			
Impervious Coverage variable	35%			
Lot Area	10,000 sq.ft			
Fence (side yard )	<b>4' high 50% open</b>		<b>6' high solid</b>	

**The applicant is seeking approval for his existing 6' PVC fence.**

**Mr. Christopher Forgione** was sworn in.

**Mr. Forgione** testified the application is for a 6 foot solid fence. The material is white PVC. Myself and my fiancée are first time home owners. We were living in an apartment in Queens for about 10 years. We just moved into Cresskill last August. We have 2 dogs and we wanted to put up a fence because the property previously was not fully enclosed. In the back-yard, along the back fence, there is the property owner behind me, but not my property fence. So we put in a fence, *we went through Wayne's Fence, over in Wayne*, and we put in a 6', filed away PVC fence. We had a couple of different options, but eventually chose the 6' as more of a privacy, and also the solid for our dogs. Specifically our one dog who is a 7 pound Chihuahua, who can slip thru pretty much anything. She's gone thru *my uncle's iron clad* fence a couple of times, so we just want to make sure that she can't escape in any way. We built the fence, or the fencing company built the fence. We found out afterwards from a flyer from the town that the fence needed a permit. Which we previously were ignorance of not. We had no idea that we did need a permit for that. So we had the sense to apply for a permit, and ultimately it was rejected as the terms of it was the front-yard fence, and this was what the variance is about. It needs to be 4 ½ feet tall, not 6' tall, and 50% open, as opposed to 100% closed. And, I guess, we would put in the variance request for a solid fence because we probably would have never built the fence in the first place if it wasn't 100% solid. And, the only reason we wanted 6' was we wanted to make it the same as the rest of the yard. Also too, moving out here from the city, we didn't want our dog, that looks similar to a *Briar rabbit*, so we didn't want a fox or any type of animal to hop over a smaller fence, or anything of the sort. Right ? That's pretty much the reasoning for it.

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**1382 Chris Forgione (cont.)                      121 6<sup>th</sup> St                      B 47 L 704-707**

**Mr Forgione** said but, that being said, we've kinda gone through a pretty elongated process with the fencing company to get it here today. So I'm just happy to be in front of you all and answer any questions you might have for us.

**Mr. Kassis** asked did you speak to Bob Rusch, the Construction Official ?

**Mr Forgione** said yes.

**Mr. Kassis** said how did Bob explain to you the front fence and the purpose of having the front fence with some ability of being transparent 50% ?

**Mr Forgione** said I never received an actual explanation as to why it would be 50% open or 4 ½ feet. I was just pretty much explained to me that the front facing fence had to be 4 ½ feet tall and 50% transparent. My sense was against regulations for it.

**Mr. Kassis** said from what was explained to me, as chairman of the Board, by Mr. Rusch, is that the front area is open for safety in the event of the First Responders needs to be able to make a determination of who is in the back-yard for safety reasons. It does pose an issue for the Board to jeopardize the health and safety of our First Responders to have a closed off front fence. I understand the 6 foot requirement would be permissible if it were on the back side of that house, but because you are on the front side of the house it is now 4 feet. Does that reason explain it to you ?

**Mr Forgione** said yes. They do have a gate. On that side are two gates – one on the right.....

**Mr. Kassis** said is there any question for or against this application or the nature of this application from the Board members.

**Mr. Corona** said sure. I just wanted to know, to be clear. The 6' fencing in the front is the only disputed part of the whole thing ?

**Mr Forgione** said yes.

**Mr. Corona** said *wouldn't it be simpler just to replace that with a 4' high fence that is visible. You have on Madison, near the firehouse, he just replaced his fence with a vinyl PVC. I think those flats are little wires and probably what you are looking for, but I bet that fence would remedy that situation. Its just that one part.....because along the back you are allowed to have 6'. That complies with the rules so I'm not so sure...*

**Mr Forgione** said in the front facing and side would it have to be 50% open still ?

**Mr. Corona** said that is currently on the books. I don't think that it has always been. I think that it has changed in the last ten or five years. But for safety reasons.....I don't want to suggest what to do but you could do that 50% open and put up a chicken netting or some sort of metal mesh, you won't run out of that, and that saves you the hassle

**Mr Forgione** said right.

**Mr. Corona** said that would be a quick fix.

**Mr Forgione** said okay. My only counter point there was, I think for us putting up a fence or structure that works would be pretty much in hopes of preventing our dogs from leaving. And putting up a fence, and then running chicken wire in front of it, aesthetically, I don't think would be the nicest looking thing in the world. But also, you know, kinda defeats the purpose of what the fence is there for.

**Mr. Corona** said yes but to comply with what the town wants, as a property owner, you're going to have to end up probably doing the 4' fence there, or take the fence down, That's what you don't want to do. We are not here to advise you, or anything, but the issue is that 6' front fence. They are a pretty good town its not really favorably looking on folks who have that. I know there's a couple of them around town who recently put those up.....

**Mr Forgione** said understood.

**Mr. Kassis** said so, we can go on this application, I'm not going to suggest on my statement, that its going to be either approved or denied.

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**Mr. Kassis** said Just so that we are clear, there are two questions- there are two ways this may be resolved. One of which, would be to move that front fence to the back of the house which may allow you to have a 6' fence there. *Do you know what I mean by that ?*

**Mr Forgione** said just like move it in more ?

**Mr. Kassis** said so if you were to move that fence back 20'

**Mr Forgione** said flush with the very back .....

**Mr. Kassis** said its my interpretation, that's in the official interpretation, Mr. Rusch will have the official interpretation, that a 6' fence is permissible at that location, if there is a concern of your dogs getting over the fence.

**Mr Forgione** said right.

**Mr. Kassis** said as to the safety of the First Responders, I can make a point that I have serious concerns about that, and would be concerned about approving such an application. If it is moved back, and you are allowed to have a 6' fence, but the open aspect of is still required, that would be a decision you would have to make. If you had some time frame to get this resolved, the extension of this to the next meeting would be viewed in a fair, proper way by the town, if you would be getting a resolution from this. So there are some options that haven't been fully investigated. The fence is up right now

**Mr Forgione** said right.

**Mr. Kassis** said you do have to bring it to compliance, but I think you may want to come back, before we vote. I can't sway you either way on that, and speak to Mr. Rusch about the options of pulling that fence back, how it would change the application. You would not need re-notification. You are reducing, whatever, but you might be able to get some of what you want, but not the whole cake but maybe half the cake.

**Mr Forgione** said I think if I had to rank this in any importance, I would make the sides over 6', in both of our opinion, and if we brought it down to a 4' fence, I think, at the end of the day, we'd both would be completely okay with that. I think more so than just any type of opening where the dog could get through, this is what worries us truthfully. Six foot or not, would not help our dog.

**Mr. Kassis** said based on what we just heard, what would you like to do. Would you like the Board to move forward with this application, or would you like to come back next month after you had the opportunity to speak to Mr. Rusch ?

**Mr Forgione** said I would say, if I would go back to the fencing company with just that front portion in question,

**Mr. Kassis** said you would first have to have that conversation with the borough official.

**Mr Forgione** said OK

**Mr. Kassis** said and whether or not there is a way to do that, which doesn't require you to even come back next month. I believe there are ways you can resolve this.

**Mr Forgione** said OK. I agree that..... probably of course.

**Mr. Van Horne** said so you are asking that the application be carried to the July meeting.

**Mr Forgione** said Yes.

**Mr. Van Horne** said OK, thank-you. Again you don't have to re-notice; and if you end up by withdrawing the application, just make sure to notify the Board secretary.

**Mr Forgione** said absolutely.

*Mr. Kassis informed Ms. Westerfeld on ZOOM.*

**Mr Forgione** said Thank-you very much.

**The application was carried**

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**Memorialization**

**Mr. Kassis** announced There are no Memorializations for this meeting

**Ms. Margit** made the motion to adjourn the meeting

**Mr. McCord** seconded.

**Meeting adjourned at 8:24 pm**