

**Borough of Cresskill
Zoning Board of Adjustment
Public Meeting 7:30 pm
Minutes May 27, 2021**

Page 1 of 8

Present in Person:, Mr. Kassis, , Mr. Cleary,. Mr. McCord, Ms. Schultz-Rummel, Ms. Westerfeld, Ms. Bauer (recording secretary)

Present on ZOOM:, Mr. Jack Van Horne (Board Attorney) , Ms. Batistic

Absent : Mr. Corona

Mr. Kassis hosted / directed the ZOOM.

Mr. Kassis chaired the meeting on ZOOM..

The meeting was called to order at 7:35pm. to accommodate adjustments required by ZOOM

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

The March minutes were approved by Ms McCord and seconded by Mr. Cleary.

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	Variance
Front Yard Set Back	25 ft	22'	22'	ENC
Side Yard Abutting/Lot	15 ft	12.25'	10.5'	4.5'
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'
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	33.7%	33.6%	36.11%	2.41%
Height of Bldg	28'			
Lot Area	10,000 sq.ft	6250 sq.ft		
Min.Driveway side-yard	10'			

The applicant proposes to construct a deck and patio.

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

Attorney Khorozion said he was covering for the office of Peter Belsano.

Problem with ZOOM.

Attorney Khorozion said he is representing the applicant, Michael Brusco, who is also the owner of 106 Morningside Ave., in Cresskill. He is proposing to build a wooden deck and patio within the R10 residential zone. He is requesting a few variances Side Yard, Rear Yard, Maximum Impervious Coverage and Building Coverage

**Borough of Cresskill
Zoning Board of Adjustment
Public Meeting 7:30 pm
Minutes May 27, 2021**

Page 2 of 8

1379 Michael Brusco (cont.)

106 Morningside Ave

B 164 L 601

Attorney Khorozion said I have one witness it is the owner / applicant, himself, and if I could just bring him up here.

Mr. Van Horne (*on ZOOM*) said (to Mr. Michael Brusco) could you move over a little., right here, perfect. Would you raise your right hand.

Mr. Michael Brusco was sworn in.

Attorney Khorozion said Michael, when did you move into the property ?

Mr. Brusco said June 2019.

Attorney Khorozion said you are planning on living here ?

Mr. Brusco said definitely, we love the town.

Attorney Khorozion said do you have family coming along ?

Mr. Brusco said we have a baby on the way in June / July.

Attorney Khorozion said Great, congratulations. Could you just give us the dimensions of the deck and patio.

Mr. Brusco said it was 14' deep by 19' wide. We are trying to keep it within the lines of the house, that's there now. We don't want to extend any further than it is.

Attorney Khorozion said and the patio ?

Mr. Brusco said the patio, 14' deep by 11'.

Attorney Khorozion said great. The side yards theproperty itself, the house, the 2 family house, how far away is it from the side yard ?

Mr. Brusco said on the right side its 12 ½ feet from the fence.

Attorney Khorozion said so the deck and the patio are the same distance within the lines of the property ?

Mr. Brusco said right, I'm trying to keep it within that line. So you don't see it from the front.

Attorney Khorozion said but for the Rear Yard, you are how far away from the boundary line ?

Mr. Brusco said 30' from the fence now.

Attorney Khorozion said for both the deck and the patio ?

Mr. Brusco said with the patio it would be 16' from the fence.

Attorney Khorozion said 16', and the deck the same distance ? Correct ?

Mr. Brusco said right.

Attorney Khorozion said great. And the next-door neighbor how far are they from the fence- from the rear yard ?

Mr. Brusco said from the rear yard probably about 30' from my side, but they are also like a lot lower, so its kinda hard to tell exactly how far they are.

Attorney Khorozion said thats all the questions I have for the witness.

Mr. Kassis said could I just clarify his testimony. The *account* is 12.6' on the right hand side, and right in the back what you had presented to us, there is in red ink, 11 ½ '. You do see 12 ½ ' from the original surveyor, could you explain that ?

Mr. Brusco said I had someone that did a design, and they had submitted the original application and they were wrong, and we redid it with my lawyer with the correct dimensions. So this might have been the wrong dimension there. It should be on the application I filled out. The Existing was 12.25' . On the survey you can see that 12.25, and it will be in line with that same structure

Ms. Batistic asked is it .25 or .11

Mr. Brusco said 12.25 away from the fence. The same as the house.

Ms. Batistic and Mr. Brusco discussed the discrepancy .

Mr. Kassis said for the Board, could you explain , on the drawing you have 2 shaded areas. Could you explain both shaded areas and what they represent, please.

**Borough of Cresskill
Zoning Board of Adjustment
Public Meeting 7:30 pm
Minutes May 27, 2021**

Page 3 of 8

1379 Michael Brusco (cont.)

106 Morningside Ave

B 164 L 601

Mr. Brusco said the darker shade area would be the wooden deck, and the lighter shade area would be the patio. We did that because the yard is not exactly level, So its easier to have two levels and do it that way.

Mr. Kassis said what currently exists in that location ?

Mr. Brusco said there's a little concrete slab. I sent a picture of it.

Mr. Kassis said was that what was depicted on the survey that little slab.

Mr. Brusco said its underneath the darker shaded area.....The other little box there is like a window for the basement.

Mr. Van Horne asked are the Board members going to be able to locate that.....

Mr. Kassis said its in the drawing if you look closely .

Mr. Van Horne said OK

Mr. Brusco (showed a photo) I don't know if you can see it from here. Its a little concrete slab on which we put 2 chairs on for now.

Mr. Kassis said are there any questions from the Board for the applicant ?

Dog barking loudly on ZOOM

Ms. Batistic asked.....*level of the deck versus the Patio 2', 3'...*

Mr. Brusco said might be about a foot, maybe a foot and a half something like that. Maybe 2 steps.

Ms Batistic said you will have 2 steps from the deck going down to the patio.

Mr. Brusco said right.

Ms. Batistic said I think there is a seepage pit

Mr. Brusco said right.

Ms. Batistic said you are putting the patio over it ?

Mr. Brusco said it would be level with that up to that point.

Mr. Kassis said the application says, according to question number 9, that there were no prior applications to the Board that you are aware of.

Mr. Brusco said none that I know. I know that the builder had a variance to build a house in the first place-*builder over-built for the lot starting out.*

Mr. Kassis asked when was that house built ?

Mr. Brusco said we were the first ones to move in, June 2019, so it must have been 2019 – 2018 when they were building it.

Ms. Batistic asked a question.

Mr. Brusco answered no.

Mr. Kassis asked currently the Back-yard is 30' from the house to the fence ?

Mr. Brusco said right yes.

Mr. Kassis said so the conforming Back-yard and you are looking to shrink that conformity down to 16'.

Mr. Brusco said yes I'd like to have some area on the deck to be able to sit out there.

Ms. Westerfeld asked if they put the patio in a different material that is permeable would that make a difference ?

Mr. Kassis said the Impervious Coverage in the application is 2.41%. I'm not sure that that's any significant amount.....

Ms. Westerfeld said it might make it less intruding

Mr. Kassis said I did have a concern that you are going that far to the back as you said you just stayed.....put a fair sized home on that lot and with the knowledge that there was a 30' set-back. Any consderation to possibly shrinking that deck a couple of feet.

**Borough of Cresskill
Zoning Board of Adjustment
Public Meeting 7:30 pm
Minutes May 27, 2021**

Page 4 of 8

1379 Michael Brusco (cont.)

106 Morningside Ave

B 164 L 601

Mr. Brusco said I kinda planned it out just to be able to fit a table out there, so if we wanted to go and eat. That's about the size that we would need for that. I thought it would help to kinda explain it. (showed photo on telephone screen)

Mr. Kassis said we can't enter a picture into evidence that's on your computer.

So to answer my question, you are not willing to consider...

Mr. Brusco said I am open, I would like to have something there. If you have a suggestion I am open to hearing it. We would like to be able to use our back-yard in some way instead of just having grass. There's a door up to the deck, that's in the back there. There is a door there, where that red square that's underneath the dark shaded area that little concrete slab is where the door is. It would be a step down onto the deck from where that door is. Right now there's two steps down onto that concrete slab.

Ms. Westerfeld said *you basically.....28' by 9' deep or that's a lot 28'. Its 9' or 11'. Patio material ?*

Mr. Brusco said the patio will be stone like pavers. We're hoping to making that the same as the decking, if that's better.

Mr. Kassis said another option would be to put something on the ground of the patio, patio pavers. For instance, a structure that does not encroach into the 30' set back. Has that been considered ?

Mr. Brusco said I'm not sure I understand what that means.

Mr. Kassis said for a paver patio, instead of a deck and a patio.

Mr. Brusco said the reason I went with the deck, the decking, because I thought I couldn't pick up too much of the Impervious (*ZOOM noise*).....I would use pavers if that was considered using up more of that Impervious percentage. That's actually originally what I wanted to do, was just do a whole patio. But I figured this might be better for the town.

Mr. Kassis *Noise from ZOOM.....willing to change the deck to be part of the patio, correct ?*

Mr. McCord said if the decking has spacing between boards then it is not considered pervious. There is no engineer / architect here that can tell us that's the way they calculated Impervious here, but I sure hope that's the way they did.

Mr. Kassis asked are there anymore comments from the Board ?

Attorney Khorozion said just to follow up on the Board's questions and to make sure I'm clear on this. You potentially would be willing to make the lighter purple, whatever that paver material is, extending the entire way forward ?

Mr. Brusco said yeah, I could do the whole thing out of pavers, definitely.

Ms. Margit said the decking facing is the key, underneath you have sod. The water goes into the sod. The pavers are somewhat pervious. Over time they get *noise from ZOOM*. Its not like we have a structure up in the air. Whether its a deck or a patio, as far as the neighbors, and as far as closeness of the property line, I don't think it makes a difference. If it was a 4' high deck, then it would probably be, but I think the decking is, for the drainage purposes, better than the pavers. In my opinion. The decking is part of the building coverage.

Mr. McCord asked is there a fence, what is between you and the neighbor in the back ?

Mr. Brusco said yes there is a fence.

Mr. McCord asked what is it made of ?

Mr. Brusco said a white vinyl fence.

Mr. McCord asked you can't see thru ?

Mr. Brusco said no. Its completely closed all around and they are kinda lower, so I'm kinda looking at their roof. Kind of a drop-off after my fence.

Ms. Margit said there is a retaining wall about 4' high. Then to the south of it you have a fence. So there like looking at the neighbor's roof.

Mr. Kassis asked is there going to be a rail on the side of that fence ? On the side of the deck ?

Mr. Brusco said yeah absolutely.

**Borough of Cresskill
Zoning Board of Adjustment
Public Meeting 7:30 pm
Minutes May 27, 2021**

Page 5 of 8

1379 Michael Brusco (cont.)

106 Morningside Ave

B 164 L 601

Mr. Kassis asked a 36" rail ?

Mr. Brusco said a railing all around so nobody drops off that one – two ft.

Mr. Kassis asked any other questions for the applicant ? I see someone here in the audience. Are you here for this application ? Are you a neighbor ?

Person in audience answered yes he was a neighbor.

Mr. Kim of 39 Elmore Street was sworn in.

Mr. Van Horne said Mr. Kim you are free to make a statement now, if you want. Are you for or against the application. You can question Mr. Brusco if you so desire.

Mr. Kim said I just want to see how they are changing it, because I live right next to it. We have a fence but still we can see each other. That's why I was wondering what they are doing. I didn't see the plans so that's why I'm here to see the plans. Now I could see the plans, so that's the reason I came here, yes.

Mr. van Horne asked are you for or against the application ?

Mr. Kim said I'm looking for the first time. You are planning to put some trees next to it ?

Mr. Brusco said *its part of the plan.*

Mr. Kim said OK. It gets closer ,so. What is the distance between the fence and the15' or something ?

Discussion between Mr. Brusco and Mr. Kim about distance between patio / deck and property line.

Mr. Kim said he was not against the application.

Ms. Rummel said I just have a question on the clarification to the yard. You testified that it was 30 ' from the back of the house to the property line.

Mr. Brusco said yes, to the property line, it should be 30' ,

Ms. Rummel said you are saying there is an existing concrete patio,

Mr. Brusco said there is like a little square.

Ms. Rummel asked but how deep is that ?

Mr. Brusco said I'd say about 3' – 4'.

Ms. Rummel said OK. So realistically you are not 30'. Realistically, right now, you are 26' – 27'.

Mr. Brusco said I thought that was part of the plan, I was not sure if that was really in there.

Ms. Rummel said now you are proposing to bring it down to 16'.

Mr. Brusco said right.

Mr. Kassis said you are not able to say whether or not the Impervious coverage was calculated in full by the deck and the patio, or just the patio .

Mr. Brusco said it was my understanding after speaking with the Building Inspector , that the decking would not be considered Impervious because the water can drain through. Impervious is only factoring the left side, the stone pavers .

Mr. Kassis said I personally have concerns over the railing and the structure of being 16' when you have a conforming property, and the only hardship is that you want a deck.

Mr. Brusco said if I was to do it all out of the pavers and made it level to the ground and no railing. Would that be better ?

Mr. Kassis said I cannot propose I can only express my concern. The decision for you that would change the Impervious Coverage. If you were to make a change, you would have to come back to the board. You don't have to notify everybody again. But we would need to know exactly what that dimension / area is.....We could also move forward with the vote.

Mr. Brusco said I had split it this way to try to not take up as much of either as the Building Coverage and the Impervious. So I tried to kind of split it- that would be better for both sides. I'm open to doing it either way- all deck, all patio.

Mr. McCord said have you been across the street where the Dante Pizza is ?

Mr. Brusco said that he had.

**Borough of Cresskill
Zoning Board of Adjustment
Public Meeting 7:30 pm
Minutes May 27, 2021**

Page 6 of 8

1379 Michael Brusco (cont.)

106 Morningside Ave

B 164 L 601

Mr. McCord said what the Parking Lot is made of is perfect. If you made a patio out of it, you would have no issues at all.

Mr. Brusco said he is not sure what that is.

Mr. McCord said pavers with spaces in between not sand, they make a product that you can use.

Mr. Kassis said would you want to consider coming back with this application to be heard next month ?

Mr. Brusco asked would I have to re-compile everything ?

Mr. Kassis said the attorney will explain this to you. If the vote is 'no' you can't come back with the same application. There has to be significant changes. If you come back with a modification to the existing, and it was to be reheard, there would be a vote at that point to be reheard.

Ms. Rummel said and you do not need to re-notify everybody.

Mr. Van Horne said Mr. Khorozion and Mr. Brusco, you do not need to re-notify everybody .You do have to submit any amendments to the plan within 10 days before the next meeting. But you don't have to re-notify andre- publish.

Mr. Khorozion and Mr. Brusco said OK.

Mr. Van Horne said we will announce tonight that this application is going to be carried. If that's what you want. Or we can submit it to a vote tonight. If it passes it passes. If its rejected then you would have to amend your plan, and then re- notify, and then it might not be next month, it might be the following month.

Mr. Khorozion said I think the consensus is that the stone pavers are the best way to go. So lets make it carry the meeting over. Its up to you.

Mr. van Horne said Mr. Khorozion its your client.

Mr. Brusco said sure, I just wanted everyone's opinion on it. I'll take a look at Dantes there to see if that is something I can do.

Ms Westerfeld asked if sand between the Pavers counts as Impervious.

Mr. Kassis said we don't want to get into the designing of this. So I think if he consults with the Building Dept. and his contractor and his attorney. If the decision is to come back, under the parameters you just heard from the town Attorney, that you just have to submit the paperwork 10 days before.

Mr. Van Horne said 10 days before with the required number (10 or 14) copies of everything.

Mr. Khorozion said a question Mr. Van Horne. You mentioned if its not next month it would be the following month- I missed that.

Mr. Van Horne said if he is rejected and then has to have new plans drawn and then file and republish . He might not get it all done in time for the next agenda.

Mr. Brusco said I guess I'll come back next month and try to re-do it with the stone pavers.

Mr. Van Horne said OK, so you understand that you are going to amend the plans. Get those plans in at least 10 days before the next hearing.

Mr. Brusco said OK.

Mr. Van Horne said alright, this matter will be carried at the request of the applicant. Thank-you sir.

Mr. Khorozion and Mr. Brusco said Thank-you.

The application was carried.

**Borough of Cresskill
Zoning Board of Adjustment
Public Meeting 7:30 pm
Minutes May 27, 2021**

Page 7 of 8

Memorialization

1378 Brian Glantz

488 12th Street

B 102 L 52

Description	Required	Existing	Proposed Mar.25	Variance Mar.25	Proposed Apr..22	Variance Apr.22
Front Yard Set Back	25'	25.7'				
Side Yard Abutting/Lot (pool)	15'		5.2	9.8'	5.2'	9.8'
Other Side Yard						
Combined Side Yards						
Min. Rear Yard (pool)	5'		3.2'	1.8'	5.2'	0'
Min. Rear Yard (covered patio)	30'		12'	18'		
Min. Rear Yard (stair system)	30'		19.4'	10.6'		
Lot Frontage	100'	120'				
Lot Depth	100'	104'				
Bldg. Coverage %	20%	19.34%	22.62%	2.62%	22.6%	2.6%
Impervious Coverage variable	30%	38.05%	43.77%	13.77%	41.5%	11.5%
Min. House Set-Back (pool)	15'				11.3'	3.7'

**The
applica
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granted
the
above
variance
s to
construc
t a pool
and
patio**

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**Borough of Cresskill
Zoning Board of Adjustment
Public Meeting 7:30 pm
Minutes May 27, 2021**

Page 8 of 8

Memorialization

1375 Seongsoon & Soohyon Kim 9 Crest Drive South B 92.05 L 27

Description	Required	Existing	Proposed	Variance
Front Yard Set Back	25 ft	28.3'	25.6'	
Side Yard Abutting/Lot	15 ft	19.4'	5.75'	9.25'
Other Side Yard	20 ft	14.5	14.5	ENC
Combined Side Yards	35 ft	33.9'	20.25'	14.75'
Rear Yard Set Back	30'	33.4'	33.4	
Max. Livable Fl. Area (FAR)	35.94%	NA		
Lot Frontage	100 ft	60'		ENC
Lot Depth	100 ft	105'		
Bldg. Coverage %	20%	NA		
Impervious Coverage variable	33.7%	NA		
Height of Bldg	28'			
Lot Area	10,000 sq.ft	6300 sq.ft		ENC
Min.Driveway side-yard	10'		1.4'	8.6'

The applicant was granted the above variances, subject to review and approval of the Construction official.

The applicant proposes to construct an attached garage (30.66' by 13.66').

Note: According to ordinance, Garage space equal or less than 440 sq.ft is not included in the FAR.