

THE BOROUGH OF SEA GIRT
COUNTY OF MONMOUTH
STATE OF NEW JERSEY
MINUTES OF THE MEETING OF
THE SEA GIRT PLANNING BOARD
WEDNESDAY, OCTOBER 19, 2011

A Regular meeting of the Sea Girt Planning Board was held in the Sea Girt Elementary School on Wednesday, October 19, 2011 at 7:30 pm. Notice of the time, date and place of the meeting was transmitted to all members and proper notice had been published in accordance with the provisions of the "Open Public Meetings Law".

After the Salute to the Flag, roll call was taken and the following members were present:

Councilman Fred Buonocore
Larry Benson
Susan Boriotti
Karen Brisben
Paul Cerami

Robert Ferguson (Alternate)
Norman Hall
Donald Laws
Kathryn Matthews
Chris Randazzo

Absent: Councilman Michael Mulroy

Also present were Board Attorney Ben Montenegro and Administrative Secretary Sandra Sears; Board member Karen Brisben recorded the Minutes. There were 10 people in the audience.

OLD BUSINESS:

The Board turned to approval of a Resolution for a Variance for Block 67, Lot 16, 4 Sixth Avenue, owned by John and Karen Peterson, to allow the construction of a two level paver patio to their existing single family home.

All Board members, as well as the applicant, had received a draft copy of the Resolution and, as there were no changes other than some typographical errors that Mr. Montenegro found and corrected, the following Resolution was read into the record by Mr. Montenegro:

"WHEREAS, John and Karen Peterson, whose mailing address is 535 Locust Road, Flemington, N.J. 08822, have applied for variance relief to allow for the construction of a two level paver patio located within the front yard together with evergreen screen planting, replacement of front walkway, new French doors on the north side of the existing dwelling and landscape plan improvements to the existing single family dwelling affecting premises located

on Lot 17, Block 67, as designated on the Tax Map of the Borough of Sea Girt; and commonly known as 4 Sixth Avenue, Sea Girt, N.J.

WHEREAS, a public hearing was held on the said application on September 21, 2011 in the Sea Girt Elementary School in said Municipality and Testimony and Exhibits were presented on behalf of the applicants (G. Kevin Callahan, Esquire – Representing Applicants) and all interested parties having been heard; and

WHEREAS, the said Board, having considered the application, testimony, exhibits submitted, and from its inspection of the site, it makes the following determinations:

1. The tract in question has an area of 8,712 square feet.
2. The tract in question is in the District 1, East Single Family Zone.
3. The applicants are requesting variance relief for the construction of a two level paver patio, evergreen screen planting, replacement of front walkway, new French doors, and landscape plan improvements. Variance relief is required so as to allow for construction of the two level paver patio improvement within the front yard of the subject property where same is prohibited.
4. Applicants submitted the following in support of the application:
 - a. A Landscape Plan Base Map consisting of one (1) sheet prepared by Joseph V. Pillari, C.L.A. of Pillari, LLC, dated March 9, 2011 with the revision dated April 14, 2011. (Exhibit A-1).
 - b. A grading plan consisting of one (1) sheet prepared by Joseph V. Pillari, C.L.A. of Pillari, LLC, dated March 9, 2011, with one revision dated June 22, 2011.
 - c. A survey of property consisting of one (1) sheet prepared by Vincent Lungari, P.L.S. of DSV & Associates, dated October 20, 2009, with no revisions. (exhibit A-2).
 - d. A key map consisting of one (1) sheet and revised June 20, 2011.
 - e. Four (4) photographs as follows (Exhibit A-3):
 - 1) Current view from Sixth Avenue;
 - 2) Northerly view towards adjacent railroad tracks
 - 3) Northerly view toward residence; and
 - 4) Created view from Sixth Avenue showing proposed landscaping.
 - f. June 10, 2011 and September 7, 2011 Board Engineer reports (Exhibit A-4).
 - g. April 18, 2011 letter Report of Zoning Officer Quigley. (Exhibit A-5).
5. John Peterson testified on behalf of the applicants as follows, to wit:
 - a. He and his wife are the owners of the subject property.

- b. They purchased the property approximately two (2) years ago and utilize same as a vacation home with their two children. He testified that same has not been utilized nor is intended to be utilized as a rental property.
 - c. He testified that the survey submitted (Exhibit A-2) accurately depicts the existing conditions at the site and there have been no changes since his purchase of the property.
 - d. Making reference to Exhibit A-2, he noted the unusual shape and dimensions of the subject property, noting that the only reasonable location for an outdoor patio/leisure on the site is on the north side of the property (front yard). This is occasioned by the location of the existing dwelling as well as the garage and driveway location.
 - e. He noted the location of the railroad tracks opposite the subject property across Sixth Avenue.
 - f. He noted that on the Sixth Avenue cul-de-sac there are only three other single family dwellings which minimizes the impact of the proposed development.
 - g. He testified that the air conditioning unit as depicted on the plan submitted for approval is existing and proposed to remain without modification. Said air conditioning unit is also depicted on Exhibit A-2 as an existing condition.
6. Joseph Pillari, C.L.A., testified on behalf of the applicant as follows, to wit:
- a. He is a Certified Landscape Architect engaged to design the proposed two level patio and landscape plan together with front walkway modification at the existing site.
 - b. He noted that based upon the unusual shape and dimensions of the subject property, in conjunction with the existing improvements on the site, the only opportunity to provide a proposed outdoor patio space is to locate same within the front setback.
 - c. He noted that based upon the location of Sixth Avenue, the proposed patio within the front yard together with the landscaped screening proposed will create no substantial detriment to any surrounding property owners; and due to the unique development layout along Sixth Avenue within this cul-de-sac, the variance relief requested will create no substantial detriment to the Zone Plan.
 - d. He opined that the patio plan together with integrated landscape plan for the entire site as well as the improvement to the front walkway will create a significant improvement to the overall aesthetics at the site which promotes the general welfare of the community.

- e. He noted that the landscaping plan provides for adequate screening to the surrounding properties and as well screens the existing air conditioning unit and existing utility box on the site.
 - f. He testified that no plumbing or gas lines are proposed to be run to the patio/grill area as part of the proposal. He noted the existing elevations on site and identified the efforts made in the plan to maintain the patio as close to existing grade as possible.
 - g. He testified that the seat wall depicted on the plan is approximately 20-24 inches in height.
7. No persons appeared in opposition to the application.
 8. Richard Grubaugh testified in favor of the application as follows, to wit:
 - a. He and his wife are the owners of the adjacent property located at Block 67, Lot 18. They have resided at that location for more than 30 years.
 - b. Their home fronts on the Sixth Avenue cul-de-sac.
 - c. They have reviewed the proposed plans and are in favor of the proposed plans and believe that the proposal will be an aesthetic improvement to the site while allowing for reasonable outdoor recreation for the applicant's family.
 9. The Board makes the following findings, to wit:
 - a. The application, as presented, meets the positive and negative criteria for the variance relief requested based on the following:
 1. The need for variance relief requested is precipitated by the unusual shape and dimensions of the subject property in conjunction with the location of the existing single family dwelling with garage/driveway; and the strict application of the relevant Zoning Ordinance regulations would result in undue hardship upon the applicant and preclude the opportunity for any reasonable outdoor patio space.
 2. The proposed application does not modify the dimensions of the single family dwelling on site with the only dwelling modification to be the provision for new French doors on the north side of the home so as to provide access to the proposed two level patio. The proposed patio plan together with front walkway modification and overall landscape plan is a significant aesthetic improvement to the site and surrounding neighborhood and thus promotes the general welfare of the community. This benefit outweighs any detriment from the proposed plan.
 3. Due to the location of the railroad tracks opposite the Sixth Avenue cul-de-sac and the limited (3 additional single family dwellings) development on Sixth Avenue ensures that the allowance of this outdoor patio proposal

within the front yard on the subject property as designed on the plan submitted will create no substantial detriment to the surrounding properties nor to the Zone Plan.

NOW, THEREFORE, BE IT RESOLVED by the said Board, that on this 21st of September, 2011 based on the findings hereinabove stated, it does hereby approve the application subject to the following conditions:

1. Applicants should obtain any other approvals with respect to the submission from any other Federal, County, State or Municipal Agency having jurisdiction over same.
2. Applicants should resubmit this entire proposal should there be any deviation from this Resolution or the submitted documents, which are hereby made a part hereof and shall be binding on the applicants.
3. Applicants shall construct, at applicant's sole cost and expense, all improvements reflected on the submitted documents or required by this Resolution
4. The relief granted hereunder shall be rendered null and void should the applicants fail to commence construction within 1 (one) year of the date of this Resolution.
5. The applicants shall comply with all representations and agreements made by the applicants or applicants' representative during the consideration of this application.
6. The applicants shall comply with all of the requirements set forth in the Board Engineer's Report, dated September 7, 2011, unless specifically exempted by the Board and/or Board Engineer at the time of hearing on the application."

Mr. Laws made a motion to approve this Resolution, this was seconded by Councilman Buonocore and approved by the following roll call vote:

Ayes: Councilman Fred Buonocore, Susan Boriotti, Karen Brisben, Paul Cerami, Robert Ferguson, Norman Hall, Donald Laws, Kathryn Matthews

Noes: None

Not Eligible to Vote: Larry Benson, Chris Randazzo

The Board then considered approval of the Minutes of the September 21, 2011 meeting; a motion was made by Mrs. Matthews for approval, this seconded by Mr. Laws and unanimously approved by voice vote, all aye.

NEW BUSINESS:

The Board then turned to an application for a Minor Subdivision for Block 96, Lots 6-7, 620 and 624 Chicago Boulevard, 620 Chicago Boulevard owned by Ronald and Amanda Dornowski and 624 Chicago Boulevard owned by Matthew and Melissa Mastrorilli, application to create three buildable lots from two existing lots. Applicants are Matthew and Melissa Mastrorilli.

The proper fees were paid, taxes are paid to date and the property owners within 200 feet as well as the newspaper were properly notified.

Before this started, Chairman Hall noted that a memo had been received from the Subdivision Committee with questions on possible errors on the plans submitted. Those errors were corrected and new plans submitted showing the proper lot coverage & sizes of homes. Mr. Greg Vella, Esq. then came forward to represent the applicants and explained they wish to subdivide two lots to create three lots. The existing home on lot 7 will remain and the home on the corner of Chicago Boulevard and Route 71 will be moved. He did agree that there were two errors on the plans and they were corrected; they also agree with the Engineer's report that was received and will comply. Mr. Montenegro asked that the issue of ground water recharge be addressed and Mr. Vella said they will agree to the stipulations, as noted in the Engineer's report, for new lot 6.02, they agree to all the recommendations and commented that when they do a submission for the building permits they will show the electric lines.

Mr. Montenegro asked about the home to be moved and Mr. Matt Mastrorilli came forward and was sworn in to answer this. He said they are going to move the home; Mr. Montenegro felt this should be done prior to the subdivision and Mr. Mastrorilli said he would like to have this done by the end of the year depending on the weather. Mr. Vella explained that they cannot pay the neighbor the money for their part of their property they are purchasing until the subdivision is perfected, so they would like to move on this and have the subdivision done as soon as possible. Mr. Montenegro suggested having the Resolution read a time period of one year to do this, he just did not want to see a house straddle two lots.

Mr. Randazzo asked about a setback change shown on the map and Mr. Vella said that was a typographical error and was corrected, thus the change shown. Mr. Randazzo said he was talking about the front setback and it's changed on the new map. Mr. Mastrorilli said they had to change the plans to get the house back 40 feet to meet the setback, he also noted the third story counts as part of the house. Chairman Hall asked that this be noted on the Resolution to show it now complies. As there were no further questions or comments from the Board, Mr. Vella summed up; he said he likes to come in with "clean" applications and this is one of them - there are no issues here and this will benefit the town.

The hearing was opened to the public for questions or comments and, as there were none that portion was closed. As the Board did not have any further comments as well, Mr. Laws made a motion to approve the application as presented with the corrections noted, this seconded by Councilman Buonocore and approved by the following roll call vote;

Ayes: Councilman Fred Buonocore, Larry Benson, Susan Boriotti, Karen Brisben, Paul Cerami, Norm Hall, Donald Laws, Kathryn Matthews, Chris Randazzo

Noes: None

Not Eligible to Vote: Robert Ferguson

The Board then turned to an application for Variance relief for Block 9, Lot 5, 649 Ocean Avenue, owned by Keith & Lynn Horn, request to demolish existing home and replace with new 2 ½ story dwelling. Variances requested for side yard setback, building height and deck in front yard. The proper fees were paid, taxes are paid to date and property owners within 200 feet as well as the newspaper were properly notified.

Mr. C. Keith Henderson, Esq. came forward to represent the Horns and he asked that Keith Horn come forward and be sworn in and this was done. He testified that he is one of the owners and his wife is the other owner, they have owned this property since September of 2010. On the east side of the property is the boardwalk and paper street, the access to the site is from The Crescent (also now known as Carriage Way). They want to demolish the existing home and put up a new one.

Christopher Rice, Architect, was next to be sworn in. He has been an Architect for 15 years, is licensed in NJ and has been before this Board many times; the Board accepted him as an expert witness. Mr. Rice said he did the architectural plans and had the colored rendering of the proposed home as Exhibit A-1. He explained they are asking for a height variance due to the fact that, in this part of town, there are slopes from The Crescent up to the ocean, there is about a 10 foot difference here and most homes in The Crescent are over the height limit.

There was a discrepancy as to where to measure this height from, the town says the paper street is the front but they measured from The Crescent and the Engineer thought they should measure from Ocean Avenue which, in this part of town is a paper street (if they had there would be a 32 foot high house). Because the ocean side is considered by the applicant to be the "back yard" they would like to have a deck and hot tub, but the town states this is the front yard so there is a need for a variance here. Also, the outdoor shower is to

be enclosed according to the Ordinance but they want an open one, however, they will comply to stop the need for another variance and he noted the hot tub will be fenced. Mr. Montenegro asked about the locations of the hot tub and shower and Mr. Rice said that this can be seen on the plans done by Ray Carpenter, the shower will be under the deck and the hot tub will be in the front yard. Mr. Montenegro asked if the hot tub will be free-standing and Mr. Rice said he did not know as yet, they would like to avoid fencing, this will be just east of the deck.

Chairman Hall noted there are two references, one a deck and one a patio, is the ground level a patio or deck and Mr. Henderson said both terms are correct and are referencing the same area, he commented that the Letter of Denial from the Zoning Officer referred to it as a patio so they used that wording.

Mr. Rice continued on and said there is a hardship here due to the topography, this will be a traditional 2 ½ story home with modest ceiling heights and, to be architecturally pleasing, will be 34 feet high. Mr. Henderson asked an explanation on the side yard setbacks. Mr. Rice said anything 17 inches or higher is part of the structure, the basement is below grade and the Zoning Officer did not mention the side yard setbacks as he felt they complied, however, the Engineer, Mr. Avakian, brought this up and said there is only a one foot setback but they feel it is really a six foot setback. This view from the Engineer prompted a request for a variance, however, they still feel they have 9 feet on one side and six feet on the other, the edge of the stairs is one foot back but that is below grade. Mr. Henderson felt it was up to the Board to tell them if this is a variance or not and they will comply.

Mr. Montenegro asked if the wood fence will remain and Mr. Rice said it may be modified, there is no passage here. Mr. Ferguson asked if they knew the height of the home just south of this one and Mr. Rice said that is a new home that is 38-39 feet as well as other homes going south, he did not know about the homes going north but did not feel this new home will be higher than those, they are asking for a 3.4 foot variance and this will be keeping up with the other homes here that are around 38-39 feet in height measured from the roadway.

Mr. Cerami remembered giving a height variance to a house to the north on the corner of Philadelphia & Ocean but he could not remember the height and no other Board member could either. He then asked if the hot tub will be visible from the boardwalk and Mr. Rice said no, it will be lower than the boardwalk.

Chairman Hall asked about the elevated deck and is that subject to a variance also; Mr. Rice answered no, it's just the bottom deck, the upper deck is

not part of a variance due to the wording in the Ordinance about a balcony on the second floor being allowed. Mr. Cerami then asked how far back the pillars are at the front of the home and Mr. Rice said they are 106 feet back, this according to CAFRA requirements. Chairman Hall did not want to see someone come in and say a second floor deck is not a violation and felt the Board maybe should allow a variance for this also. Mr. Henderson said they had no problem with this but noted it's just the way it was written up. Mr. Montenegro went back to the pillars and said the architectural photo shows the ground deck in front of the pillars; Mr. Rice checked this and agreed it looks like the patio/deck will extend a little in front of them.

Chairman Hall asked about the garage issue, it being 616 square feet where 500 square feet is allowed and Mr. Henderson said the Engineer wrote it up as "pre-existing". He emphasized it is not a garage apartment, it's just a garage that is over 16 feet in height and felt this was an irrelevant issue as they are leaving it as it is. Mr. Montenegro did not know if it was irrelevant or not but the Board may want to know what it actually is. Mr. Rice said Mr. Carpenter will address this when he is sworn in to give testimony. Mr. Henderson again referred to the Engineer's report. Mr. Randazzo asked if the garage is in the back yard and Mr. Rice answered the town has it in the back yard but they consider it the front yard. Mr. Henderson said that, as the Ordinance is written, they have the worst of everything - due to the paper street, the back yard is the front yard and vice-versa.

In going back to the upper deck, Mr. Randazzo commented there is no mention of a "balcony", just deck or patio and Mr. Rice agreed "deck" is a better term. Mr. Rice also said it cannot be enclosed due to CAFRA, they want it to be "a deck over a deck" so that is the term they are working with.

At this time Mr. Ray Carpenter came forward and was sworn in, he is a Licensed Professional Engineer & Planner, he has been in business for 35 years and has been before this Board before; the Board accepted him as an expert witness.

Mr. Henderson asked about the C-1 & C-2 height variances needed and Mr. Carpenter said there is an anomaly here as the property goes dramatically up from The Crescent to Ocean Avenue. As they measured from The Crescent, there is a hardship due to the topography in this area. There will be no negative impact, the house to the south is the same height and the house to the north is lower but sits right on The Crescent; there will be no impact on the Zoning Ordinance or Zone Plan.

Mr. Henderson wanted to offer two Resolutions to the Board, approved by them for other sites showing height variances. One was for Block 7, Lot 11 and

one for Block 20, Lot 15 – he felt these show the Board anticipated these height issues and asked that they be marked as Exhibits A-2 and A-3.

He asked Mr. Carpenter to address the variance needs for the patio/deck and Jacuzzi and Mr. Carpenter said as Ocean Avenue is a paper street, they have to use The Crescent for measurements, this creates a front yard/back yard reversal as has been testified to already. He also said there will be no detriment to the public good and the Jacuzzi will not be seen from the boardwalk as that is higher than the property of the home, there also is a dune here which is even higher than the boardwalk. The only part of the home that will be seen from the boardwalk will be the second story.

He then went on to speak about Flood Drainage Prevention, the property between Ocean Avenue and the structure is at FEMA 12, they are doing all work on the home outside of the Flood Zone. Mr. Henderson asked about drainage on the property and will they comply with the Engineer's report and Mr. Carpenter said yes. Mrs. Brisben noted the Engineer's report on flood zone concerns and Mr. Carpenter said he sent Mr. Avakian information on where the flood zone is in this area and showing no restrictions are necessary here. This was not shown on the original plan and Mr. Avakian was okay with it after seeing this report.

Mr. Carpenter then went on to the existing garage which he said he did not measure, but felt it was about 18-20 feet tall, it does exceed the 16 foot requirement. Mr. Cerami asked Mr. Montenegro if they need to grant a variance for this garage and the answer was no, it is grandfathered in so the garage is okay as is. The Board is reviewing plans for a new home and the existing garage goes with it. If the Board decides this plan does not work with the existing garage they can deny it but the garage can stay.

Mr. Cerami noted the paver patio is by the 40 foot front yard setback and is it a patio and does it affect anything. Mr. Carpenter said it will remain and is permitted by CAFRA, it is an existing non-conformity. Mr. Cerami said that every time the Board is confronted with a height issue, they are given a plan showing the line of homes and their heights and asked if they had such a plan to show the Board; Mr. Rice said no.

Mr. Cerami also commented on some footage statements on Mr. Carpenter's plan, it says 250 feet to Trenton and 239 feet to Philadelphia, he felt that was wrong, it's a lot longer than 239 feet to Philadelphia Boulevard and Mr. Carpenter agreed; Mr. Henderson looked at the survey and said it states 1,294 feet to Philadelphia which would be correct.

Mr. Henderson also told the Board this lot is 50 feet wide on Ocean Avenue but is only 47 feet wide on The Crescent, the lot requirement in this zone is for 7,500 square feet and they have over 12,000 square feet.

Mr. Laws asked about the lower deck and if it is more than 17 inches high and Mr. Carpenter said no, it is at grade but they could still go up to 17 inches and comply. Mrs. Boriotti asked about the Zoning Officer's letter in regards to the Jacuzzi, the code says a 4 foot fence is required and a three foot fence is permitted in the front yard. Mr. Henderson said the new Jacuzzis have a self-locking mechanism and a fence is not required, however, they are asking for the four foot fence but they do not think they will have to put it in. Mrs. Boriotti asked where the fence will be if it is done and the answer was as close to the Jacuzzi as possible. Mr. Rice said it may be partially in the ground to which Chairman Hall commented the Board would like to know the plans. Mr. Rice said they feel there will be a Jacuzzi with the self-locking device but would like to have the four foot fence option. Mr. Montenegro said they can grant the four foot fence but no further eastward than the patio/deck and it will surround the Jacuzzi.

Mrs. Boriotti then asked if they were taking the outdoor shower out of the equation and Mr. Rice said no, the shower will stay under the deck but it will now comply with the regulations and be enclosed.

At this time the hearing was opened to the public for questions and, as there were none, that portion was closed. The hearing was again opened to the public, this time for comments and there also were none so that portion was closed and the Board went into discussion.

Councilman Buonocore had no comments at this time and Mr. Benson felt everything had been explained and due to the topography he was not concerned, the deck has been expanded but he did not see anything objectionable and would vote for it. Mr. Laws agreed with Mr. Benson and Mr. Randazzo had no comments at this time. Mrs. Matthews felt it was a unique property and felt it will work very well. However, Mrs. Boriotti thought this was a lot of variances to ask for and the non-compliance was an issue for her, she was not sure at this time. Mr. Cerami said, in light of the nonconformity with the garage and patio, height and hot tub all were questionable and it stops him. He still had concerns for the garage and felt it should be fixed to conform, he did not see the hardship.

Mr. Ferguson felt the witnesses were forthcoming with their answers, the height bothered him the most but he walked the boardwalk and noted there are all kinds of large structures along the ocean. As he did not envision Ocean Avenue ever coming there he would support the application, Mrs. Brisben was also in support of the application and commented that this cannot even be

seen from The Crescent, it will go along with the other homes along the boardwalk. Chairman Hall shared Mr. Cerami's thoughts about the garage nonconformity and he could see the garage turning into a garage apartment as it is hidden from the street; it's a two story garage with windows and he saw problems. Mr. Benson asked if it has heat in it and Mr. Henderson said it is not an apartment, there is no plumbing, no heat and no electricity; Mrs. Boriotti said someone can always cheat.

Mr. Henderson then summed up the application and felt the height issue had been addressed, it is a recognized problem in this area. A Jacuzzi has been approved in the front yard in a previous application, he knew because he was the attorney for that application as well. He said he is not an expert in Jacuzzis but they are bringing in a new type, if they put this in the "back yard" it will be on The Crescent and then it will be higher than the street and will be seen by all, they could do that. The garage is well built and covers only a small area, he did not see any negative impact to the Zoning Ordinance or Master Plan. With respect to the front yard variance this is an area where this is done and they do not want to put everything in the back yard, which to them would be The Crescent. He felt it was a good application to be done this way. Chairman Hall noted that the Resolution presented for an application for the Jacuzzi in the front yard was for a property that does not front the boardwalk.

At this time Mr. Benson made a motion to approve this application, this seconded by Councilman Buonocore and approved by the following roll call vote:

Ayes: Councilman Fred Buonocore, Larry Benson, Karen Brisben, Norm Hall, Donald Laws, Chris Randazzo

Noes: Susan Boriotti, Paul Cerami, Kathryn Matthews

Not Eligible to Vote: Robert Ferguson (Alternate Member)

OTHER BUSINESS:

Chairman Hall wanted to tell the Board members that the application for William Sitar that had been received in the Planning Board office, they are asking to not hold a hearing until January, which is good as it gives time for all reports to come in and the Board to be prepared. He also would like to see the air conditioning zoning changed as now the units can only be in the back yard. Mrs. Brisben reminded him that there are still the other Zoning Ordinance changes that not been finalized, it's been a year; perhaps the air conditioning issue can be added to that before finalization and Chairman Hall agreed, he asked that a discussion be held on this for the December meeting.

He was also concerned about improved and unimproved streets as the Board saw tonight and he questioned who the final authority is here, the Zoning Officer, the Board Engineer or the Board, he wanted to see the right information on the reports. He wanted to know if the Board has the right to question whether or not there is a variance as with the garage example of tonight. Mr. Montenegro said the 50% rule deals with nonconforming use, in case of a fire if the use is totally destroyed they have to start from scratch; towns try to create rules on this issue. What was discussed tonight dealt with an accessory structure, not a principal structure, if the majority of the Board felt the way Mrs. Boriotti and Mr. Cerami did it may be sustainable; this was a close call and everyone who voted was right, every application stands on its own merit.

Chairman Hall still felt that, going forward, they need to be made clear of some issues, there seems to be different interpretations and these need to be addressed. Mr. Montenegro said the Zoning Officer, Mr. Quigley, is the first determination and we will hear, next month, an appeal by a neighbor of his Zoning decision as well as an Engineer's report. Chairman Hall commented that he felt this was a great Board and we want to make sure we have it all okay when we meet.

Mr. Cerami asked if a neighbor can appeal the variances granted this evening and Mr. Montenegro said that anyone can. Mr. Cerami said he was against having a Jacuzzi in the front yard.

As there was no other business to come before the Board a motion to adjourn was made by Councilman Buonocore, seconded by Mr. Randazzo and unanimously approved, all aye. The meeting was adjourned at 9:18 p.m.

Approved: