

REGULAR MEETING

Salute to Flag: 8:04pm

OPENING STATEMENT:

This is the Regular Meeting of the Wanaque Board of Adjustment and adequate notice has been given and it has been duly advertised by the placement of a notice in the Herald News and the Suburban Trends on January 7, 2018 respectively, and a notice thereof has been posted on the bulletin board in the Municipal Building in the Borough of Wanaque and a copy thereof has been on file with the Borough Clerk

ROLL CALL: Chairman Jack Dunning, Vice Chairman Bruce Grygus, Members Peter Hoffman, Donald Ludwig, Michael Levine and Bridget Pasznik, and Attorney Ronald Mondello and Engineer Christopher Nash

**Application #ZBA2018-01 – Kabakci, Abibe
1095 Ringwood Avenue (Block 437/Lot 3)**

Chairman Dunning advised that we have a letter received today from the Applicant stating that they need to complete some more paperwork by the architect and engineer and are asking to be carried until our next meeting in October.

MOTION TO CARRY APPLICATION TO OCTOBER 3, 2018 MEETING: made by Member Ludwig, seconded by Member Pasznik. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Hoffman, Ludwig, Levine and Pasznik.

Attorney Mondello: If anybody is here on 1095 Ringwood Avenue, Kabakci Application, it is carried until October 3rd. There will be no further notice.

Application #ZBA2018-04 – Covelli, Frank
906 Ringwood Avenue (Block 309/Lot 21)

Application for a Use Certification/Interpretation

Applicant's Exhibits

- A-1 Frank Covelli's Application, ZBA2018-04**
- A-2 Handout of Applicant, Frank Covelli, totally 23 pages, regarding 906 Ringwood Avenue and dated September 5, 2018**
- A-3 The Covelli Property Architect Plans prepared by Richard W. Nelson, AIA, and dated July 11, 2018**

Attorney Mondello questioned how is the application going to be conducted with respect to testimony this morning?

Mr. Covelli answered I have a handout, a witness and a professional reference in the audience.

Attorney Mondello questioned are you going to be testifying?

Mr. Covelli answered certainly I can testify to what I know about the property in the 3-1/2 months I have owned.

Attorney Mondello, having heard that, obviously Mr. Covelli is a Board Member of this particular Board and just a cautionary warning that if you feel that because Mr. Covelli is a Member of this Zoning Board that you would be bias either way; either for or against for whatever reasons, you would have to recuse yourself. On the other hand if you firmly believe that you can vote and render a decision without any type of bias, in either direction, then you certainly should and can remain active through this application. Are there any issues?

Vice Chairman Grygus questioned, just to get it on the record, there is no case law history that prohibits and would make this have to go to a different Board in another town?

Attorney Mondello answered no. It doesn't work that way. You don't go to another town because another town would not have the unique knowledge that the Board Members in this town have with respect to the property. If a sufficient amount of Board Members felt that they needed to recuse themselves and we didn't have a sufficient number of votes, we would ask the Planning Board to sit in your stead. No, it doesn't go to another town.

Hearing None, Seeing None

Attorney Mondello: Do you swear and affirm the testimony you are about to give be the truth, the whole truth and nothing but the truth so help you God?

Mr. Covelli: I do.

Frank Covelli, 19 Graham Place, Wanaque, NJ

Attorney Mondello: I have reviewed the submissions by Mr. Covelli and I would deem the application complete and jurisdiction is vested in the Board to hear this very specific issue

as to whether or not this non-conforming use, or whatever else the Applicant may be presenting, pre-existed the prohibiting Ordinance. Mr. Covelli please tell the Board what you would like to do and why you want to do it.

Mr. Covelli stated I have a handout I would like to give to each of the Board Members in support of the testimony and evidence we're presenting tonight. I would also like to give Jennifer the certification of the legal notice in the newspaper (Affidavit of Publication).

Attorney Mondello stated we typically mark the Application as A-1 so we will mark Mr. Covelli's handout as A-2.

Mr. Covelli's Testimony

When I moved into town about 20 years, I admired a house on Ringwood Avenue at the address of 906, which is a Victorian home built around 1890. This house went up for sale about one year ago and I ended up purchasing the property. I am in situation where hopefully the lovely lady sitting to my right will be my future wife and we will raise our children there and have plans for a long stay at 906 . However, it needs some refurbishment. Part of the plan is to utilize the apartment that is located in the addition to the rear of the main house, and the carriage house, or bungalow, that's located in the rear of the main house as rentals because that is what they have always been.

Attorney Mondello, to your question, if you look at page 1 of the handout, the specific relief I am looking for is under §40:55D-68. Nonconforming structures and uses. I am looking for a Certification of a pre-existing, non-conforming use of a three-family in a one-family zone.

Attorney Mondello commented we are sort of replaying Tree Tavern to some extent. Did this particular structure and use exist before the prohibiting ordinance?

Mr. Covelli continued his testimony which, Attorney Mondello, I understand that to be between 1954 and 1956 so I strike a medium of 1955. So the testimony and evidence that I will present is predicated on that, but you could use the 1954 year if you would like.

Attorney Mondello stated, in fact, and not discussing the merits of Tree Tavern, but one of the submittals from the objector was a publication for when the zones actually came into existence and that publication was July 1958, and I actually submitted that to the judge as part of an exhibit. In fact, you may be able to use July 1958 . Mr. Covelli stated whatever year you would like me to use in that 1954 to 1958 range is fine with me.

Mr. Covelli continued that his first submission of evidence is actually the cover of the handout which is the oldest picture that we've been able to find and it is on the internet. I think you can tell that this is a rather old picture. I think you can see that the old prints deteriorate with age and you can see the darken sections of the print. There is also another significance to this picture besides the fact that I would suggest to you, and hope that you would all agree, that this picture is more than 60 years, and you can actually see the carriage house in this picture. If you look in the corner, you will see the roof line of the carriage house.

Member Levine questioned, looking at the picture, this is the additional house you are looking at.

Mr. Covelli answered correct.

Attorney Mondello commented so the record is clear Member Levine has a recent picture he took himself of the house.

Mr. Covelli commented the picture is similar to one you will see in the packet later on.

Mr. Covelli continued referencing page 2 and 3 are the tax records from the Borough of Wanaque that I obtained this morning.

Attorney Mondello commented they clearly indicates it was built in 1890.

Mr. Covelli commented you will notice that page 2 indicates it is a “2 Family Colonial”, which is consistent with what you will find on the property and what I am maintaining in this presentation, which is there is the main house and then there is an apartment in the addition, which is to the rear of the house. On the first floor there is a kitchen and a second dining room and on the second floor it is an apartment that is isolated from the main house. The only access is from rear steps that are located in the rear house and which have been demolished. Page 3 is the second page of the Assessor Card and this lists the carriage house/bungalow, which is 1S/B and then behind it is AG or attached garage. I also circled that it is a ranch style house, which is correct. It is a one-story, one bedroom little carriage house, with a kitchen, bathroom and living room. Then you go outside to get into the garage, which is separate and apart from the living structure. Even though the Borough records indicate this was built in 1890, I don’t believe so and will have someone else testify to that.

Mr. Covelli continued with page 4 through page 7 are from the tax collector’s files with regard to utilities and the like, repairs made. I think those records go back 20 years and make references to the two-family and the rear house and the like. Again, I am using the town’s records to evidence that there has been this three-family arrangement known and documented, and charged for through taxes and utilities, connections and fees paid by the prior property owners.

Mr. Covelli continued its ashame that the picture on page 8 is not the clearest, but is a very pretty picture of the house when I brought it with all the foliage and trees still there. I cleared the lot since then.

Page 9 is current pictures of the house as we speak.

Page 10 and 11 should really be the steps, but says Apartment. Those are the rear steps going up to the apartment in the rear of the house as is page 12. The top picture is the steps, which are not there anymore. They were demolished since they were unsafe. The bottom pictures on page 12 is the kitchen and the bathroom that is in the apartment in the rear of the house. These pictures are provided to show you the dating of their appearance. Member Levine confirmed those two pictures were of the apartment , not carriage house.

Page 13 is the carriage house. Please note the deteriorated roof.

Page 14 is another picture of the carriage house from a different angle. All of that shrubbery has been removed as we speak today.

Page 14 is the kitchen of the carriage house and page 16 is the bathroom. Again, I am showing you the dated fixtures as a reference point.

Page 17 shows knob and tube wiring, or remnants of it, that exist in the carriage house. There are also remnants of it in the main house in the basement, but I did not take pictures of it, but it is there. I took the picture in the carriage house, because the main house date of construction is not under question; it's the carriage house whether it pre-dates the zoning. So I took this picture, which still exists in the attic of the carriage house. I googled when they stopped using knob and tube wiring and "Knob and tube wiring was an early type of electrical wiring. It was commonly used from the 1880s to the early 1940s." It is abandoned in the house; there is more modern electric in that house, although it is disconnected.

Page 18 is the rear of the carriage house and the garage. That window is actually a window that was in the bedroom of the carriage house, which has since been torn off. You might be able to tell by the condition of the roof. The roof went over both the bedroom and the garage and it was so deteriorated and the walls of the garage were not worth saving so they were demolished last week.

Page 19 is the front of the carriage house.

Page 20 is a picture of what the garage was, which ties into the description you saw before. There is a reference on the second tax card of a shed. There was actually two little shed areas. The one that you see protruding from the side of the garage and then, believe it or not, between the garage and the carriage house in front of that bedroom was a very small storage area; maybe the size of this desk, which has also since been demolished.

Page 21 is a picture of what it looks like today, without the garage there.

Mr. Covelli commented I present all this to you as reference to the property to explain the different areas of the property. Included in my submission was an architectural of the existing conditions when I purchased the property, all of the locations I just described to you are listed in there, as well as the land survey that shows the structures on it. At this time, I do have a witness I would like to call.

Attorney Mondello questioned I know you purchased the house about three months ago, is there anything in the closing documents, the chain of title, title search, the deeds would shed any light on when it was constructed, what type of use.

Mr. Covelli stated I just got the title search the other day and I haven't looked at the policy. However, the listing of the house, when I brought it, a copy of which I have, the listing indicated that it was circa 1890s and it made reference to the living places but it made clear that the seller was not representing that they could be occupied because there was a question in their mind about the fact that they had not been rented. As a point of reference, the main house has not been lived in for 18 years. The apartment and the carriage house were lived in more recently, but I think the last occupant was somewhere around 5 to 8 years. Mr. McCrum who is the individual I am going to ask to testify tonight, who is one of the owners of the property, as well as someone that has lived in town his whole life and lives on the site in a home in the rear, maybe he can shed a little bit more light.

Attorney Mondello: Any questions from Board Members?

Member Hoffman questioned you said the apartment on the main house is only on the second floor, but the first floor of that addition is going to be used by the used house. Mr. Covelli answered yes and it is used by the main house. That is where the kitchen and this almost second dining room.

Member Hoffman questioned in the apartment upstairs there is only one set of stairs down, which have been demolished.

Mr. Covelli answered yes. Pending the proceedings from this hearing, the steps will be rebuilt.

Member Hoffman questioned there is no kitchen in that apartment?

Mr. Covelli answered what you saw in the picture on the bottom of page 12 that is upstairs.

Member Hoffman questioned the galley kitchen against the co-joint wall to the original house?

Mr. Covelli answered correct. So the way you are looking at that picture, you are standing in the living room/kitchen common area of the apartment and then you see that little cut away to your right, there is a little closet there, there is the entrance to the bathroom and then the bedroom is behind that wall. I didn't include a picture of the bedroom, but I do have one if you want to see it.

Vice Chairman Grygus questioned who uses the third floor?

Mr. Covelli answered the third floor is an interesting story. The tower ends at a light switch at the top of the stairs in the third floor and they are just rooms. There is no electric, there is no heat in those rooms. There is evidence that there were pot belly stoves tied into chimneys and I've heard stories, and I'm sure Mr. McCrum can elaborate because he knows a lot more than I do, that those rooms might have been rented to people that worked at Dupont or during the war effort and things of that nature, those rooms were occupied. I don't think they were occupied in a very long time from the family's perspective.

Vice Chairman Grygus questioned there is no intention to convert that to rentable space?

Mr. Covelli answered rental space-no. Living space-yes.

Member Levine, for clarification, the apartment and the carriage house you plan to use as rentals?

Mr. Covelli answered yes.

Vice Chairman Grygus questioned the main house is just going to be occupied to who?

Mr. Covelli answered us and our five kids.

Vice Chairman Grygus questioned you are still seeking to have a determination that it was a pre-existing three-family?

Mr. Covelli answered correct.

Vice Chairman Grygus questioned why if you have no intention to using three separate living spaces why do you want to keep it at three-family?

Mr. Covelli answered the main house is one-family, owner occupied; the apartment is two and the carriage house is three.

Vice Chairman Grygus commented that was my question, but you said the main house you are not going to rent out.

Mr. Covelli stated the main house that is not the apartment. You asked me about the third floor of the main house, which is just rooms.

Vice Chairman Grygus stated you are going to rent out the second floor of the main house?
Mr. Covelli answered the second floor of the addition on the main house, which is the existing apartment.

Member Hoffman questioned that I would assume this house is wood structure?

Mr. Covelli answered yes.

Mr. Covelli, referenced page 1 of the Architect's Plans, indicating that this is existing conditions, existing house basement and first floor, EH1, marked as Exhibit 3, entitled The Covelli Property, prepared by Richard W. Nelson, AIA

Chairman Dunning commented what is confusing everybody is EH1 shows an addition on the back of the main house. The apartment you are talking about is really the second floor of the addition.

Mr. Covelli commented looking on this page you don't see the apartment. You see the first floor of the main house and the first floor of the addition. So the main floor of the main house indicates living room, dining room, bedroom 1, bedroom 2, breakfast area, kitchen, closet, bath and closet.

Chairman Dunning commented on EH2 you are referring to the apartment as coming up the stairs you have living room, bedroom and bath, which is over the addition (breakfast area, kitchen, closet, bath, closet).

Mr. Covelli answered yes.

Chairman Dunning stated, in the apartment upstairs/second level, there is no kitchen.

Mr. Covelli stated it is in the back. He just didn't write the word kitchen.

Member Ludwig questioned it is part of the living room? You can see markings on the side of the wall in the living room.

Mr. Covelli answered yes.

Chairman Dunning commented it is an efficiency apartment where the kitchen is in the living room.

Mr. Covelli answered correct. Then there is the bedroom, bath and closet.

Mr. Levine questioned isn't an efficiency usually a bedroom is part of the living room?

Chairman Dunning answered that is true. So it's a semi-efficiency. According to the prints the apartment is 434 square feet.

Chairman Dunning, referencing EG1, questioned existing garage basement?

Mr. Covelli answered the garage does not have a basement, but the carriage house/bungalow has a basement. There is a full basement in the carriage house with about a 7' ceiling height.

Member Hoffman questioned if it was planned to improve that basement to become part of the rental?

Mr. Covelli answered no. There are hook-ups down there for a washer and dryer.

Member Hoffman questioned it is not going to become living space?

Mr. Covelli answered living space, no. It will always be a basement for the purpose of utilities. The hot water heater and furnace are down there.

Attorney Mondello: Any other questions from the Board Members?

**Chairman Dunning questioned the right-of-way, is that covered in all the paperwork?
Who controls the right-of-way?**

Member Covelli answered yes and we each control our proportionate share of the right-of-way. So I control the right-of-way through my property. The other property owners control the right-of-way to their homes.

**Chairman Dunning questioned if both units were hooked-up to the borough sewer system?
Mr. Covelli answered the main house is hooked-up to the sewer system. The carriage house was hooked-up to a cesspool that, as a condition of sale, I had to abandon, have inspected and closed, which has been completed.**

**Member Hoffman questioned do you have a hook-up permit for the septic system for that?
Mr. Covelli answered I will be applying for a plumbing permit. The homeowners paid the \$825 prior to 1992 so all of the units on the property are.**

Member Hoffman questioned so there is a space for it to hook-up?

Mr. Covelli answered it would tie into the pipe that comes out of the main house. The apartment already drains into the house line.

Vice Chairman Grygus commented I saw some note where it had it was only being charged for one, but now it has been converted to two dated back to April, the date of the sale.

Member Hoffman commented then it will be converted to three when and if you get your permits.

Member Covelli commented I would rather say when then if.

Vice Chairman Grygus questioned who do you intend to have use of the garage?

Mr. Covelli answered me.

Vice Chairman Grygus questioned so designated parking for the carriage house?

Mr. Covelli answered , if you look at the survey, will be in the area between the rear of the main house and the front of the carriage house. There is an area there that we can probably create two spots.

Member Hoffman commented you would have to create four.

Mr. Covelli stated the thinking is that the two for the carriage house would be there and the garage would be two for the main house. The apartment would share or park in front of the garage.

Member Ludwig commented from the looks of the property, you would never know it, but a landscaper used to live there and he got his trucks and trailers and everything else in there.

Member Hoffman commented there is a lot of land and you are not going to have any problems finding parking.

Mr. Covelli stated it is .88 acres; just shy of one acre. I think the right-of-way makes it look bigger.

Member Ludwig questioned if the right-of-way was just for water and sewer or do people actually drive on that.

Member Hoffman stated there are people in the back. There are houses in the back.

Chairman Dunning stated there are a series of homes behind this.

Mr. Covelli stated the name of the unimproved road is Venezia Lane. It has never been dedicated to the town.

Chairman Dunning: Any other questions from Board Members?

Let us open it up to the public.

Does anyone in the public have any questions on the testimony so far?

Kenneth Ambruster, 6 Gardella Place, Haskell, NJ

Mr. Ambruster questioned if you have five kids, where are you going to park all the cars?

Mr. Covelli answered they are probably all not going to be there living at the house at the same time but, if they all were, we have the entire circular driveway in the front of the house, and we can create some parking along the right-of-way. We installed some catch basins along the right-of-way right to catch water and they are set back over 25' from the existing edge of the existing right-of-way, not from the property line. We could create some parking there.

Mr. Ambruster, just for clarification, the bungalow (carriage house) is a separate unit in the back, correct?

Mr. Covelli answered correct.

Mr. Ambruster questioned if that was going to be sewer?

Mr. Covelli answered yes.

Mr. Ambruster questioned how big is your sewer line going to be? A 6" line?

Mr. Covelli answered it is a 4" line and I have been told it should be sufficient. The plumbing inspector and/or plumber will let me know.

Mr. Ambruster commented it will not be made big enough so that the other owners of the properties behind you were to tie in they would not be able to.

Mr. Covelli stated they would not.

Member Hoffman questioned, since you brought this up, on your survey on the driveway it says "Remains of Drive", does that have a separate exit onto Ringwood Avenue.

Mr. Covelli answered yes. There are two curb cuts.

Member Hoffman questioned there is a curb cut on Venezia Lane and one onto Ringwood Avenue?

Mr. Covelli answered correct. If you brought that half-circle around, it has since been cleaned up and stone laid down.

Member Hoffman commented he did see that but I didn't notice the curb cut.

Attorney Mondello: Any other residents have questions? Next Witness.

Attorney Mondello: Do you swear and affirm the testimony you are about to give be the truth, the whole truth and nothing but the truth so help you God?

Mr. McCrum: I do.

Donald McCrum, 6 Venezia Lane, Haskell, NJ

Mr. McCrum testified that I was born there. I grew up at 4 Venezia Lane, which is right next door my residence. The whole property from Venezia's garage to St. Francis, at one time, was all family property.

Attorney Mondello questioned if I may ask how old you are or when you were born?

Mr. McCrum answered I am 74 years old and was born in 1944. As far as I can remember, growing up as a kid, the carriage house was always a rental. There was someone living in there for a couple years and then they would move out and someone else would move in. It has always been used in that capacity.

Attorney Mondello questioned one person, two folks, three folks?

Mr. McCrum answered usually one, but sometimes there were two. It is small for two people but two people can use it without a problem. My daughter lived in it for a while with her husband. It is a cute little apartment.

Attorney Mondello questioned when did your daughter and her husband live there?

Mr. McCrum answered probably around 6 to 8 years ago, something like that, right around that time. They moved into 4 Venezia Lane now.

Vice Chairman Grygus questioned all the years that people lived there, were they family members do you know, or where they paid rentals?

Mr. McCrum answered, when I grew up, I remember as a child, there were all different people lived there. Not family members, it was rentals. I am trying to think that the only family members were my daughters who lived in the one apartment and my other daughter lived in the other apartment for a while. I don't know how long back but from what I remember, from at least 1950 on, and before that even probably.

Attorney Mondello stated you would be about 6 years old if you could remember 1950.

Mr. McCrum answered correct and there were always people living in that apartment/carriage house.

Member Levine questioned this property was owned by how many different people over the years?

Mr. McCrum answered as far as I know, my best knowledge is my grandparents owned it, and then it was left to my one aunt. My aunt owned it until she passed away about 25 years ago, and my two sisters and myself inherited the property and we've had it since.

Member Levine commented since before Mr. Covelli brought the property, it has always been in your family.

Mr. McCrum stated it has been in the family. I know the Shippee Family owned the house prior to my grandfather, my grandmother's first husband, buying it.

Attorney Mondello questioned when did your grandmother's first husband buy it, if you know?

Mr. McCrum answered, I am taking a guess, but I think probably around 1900 maybe something like that. If you really have to know, I can look back in records and see, but I am not sure.

Attorney Mondello questioned since it was always in your family, you are able to testify that the renters were not relatives except for the ones you've explained?

Mr. McCrum answered right.

Attorney Mondello questioned they were individuals, but not related?

Mr. McCrum answered I could give you a list of some of the people that lived there, if you needed that. My aunt always tried to rent it out to older people, but then she got some young people in it and she was happy because they did work around it, they did things, and the rent was always extremely cheap and it gave some young people a good start. That is basically the way it has been for years.

Member Levine questioned both the apartment and the carriage house?

Mr. McCrum answered the carriage house is what I am talking about as far as I can remember. I am not sure when the structure itself was built, but the apartment was renovated in the early 60's. It went through the town and they had permits and everything. There was a design for it and Augie Shutte was the contractor on the main house apartment.

Member Levine questioned prior to 1960 or whatever, it was never rented? When all the work was done.

Mr. McCrum answered no. It was sort of like a second floor storage space in there. Then it was made into an apartment and it has been rented pretty much since.

Mr. McCrum commented I own three of the properties that are on the boundaries of this property and I have no objection to it being carried on the way it has always been. It has always been that way and we've never had a problem with it.

Chairman Dunning: Any other questions? Open to the Public: Does anyone in the public have any questions of this witness? Seeing and Hearing None, we close the public portion.

Attorney Mondello: Anything else Mr. Covelli?

Mr. Covelli answered yes. I failed to mention that because I am a Member of the Board of Adjustment, the Construction Official for the Borough of Wanaque is not reviewing any of the work or permits being issued on this property. Rather, the Construction Official from the Borough of Ringwood is performing those functions. In fact, he is here in the chamber this evening and can verify the statements I have made with regard to what he has witnessed. He has been through the entire property and he has seen things like the knob and tube, both in the main house and in the carriage house. He is aware of the conditions. He has seen the style of the fixtures that lend you to believe that they are older fixtures and that none of that work was done recently. If you have any questions of him, he is here.

Member Levine is requesting a clarification. In the tax document, it states it was built around 1890, but you said you really don't feel it was built at that time?

Mr. Covelli stated I was referring to the addition. So the addition on the back of the house, and Don has been very kind and very sharing with all of his knowledge and historical references on the property, and one of the things he told me was that there was a bigger house that once stood behind the main house and part of the footprint of that bigger house is where the current addition is. I heard him tell me that and then we did some work at the site and did some digging and we have found probably most of the foundation of that prior house and it is actually a larger footprint, as Don said, then the main house. So that house, as I understand it, again Don is better and I am just repeating what he told me, that the larger house stood before, then there was another addition done and then that was rebuilt somewhere probably circa mid to late 40's.

Mr. McCrum stated the addition that is on the house now, from the best knowledge we have, is that was done in the 40's. Prior to that, there was a big old house there that they used that as big kitchen and everything in that part of the house. The house that you see now, the main structure, was actually built onto that. That got rickety so they knocked it

down and they didn't need as much space so they put the smaller addition on. From what I was told, it was in the 40s.

Member Levine questioned where it says two-family colonial, are we talking about the main house built in the 1890s?

Mr. McCrum answered yes.

Mr. Covelli answered yes also, but there is an addition out the back of that.

Member Levine questioned which is later?

Mr. Covelli answered yes.

Member Levine commented the main house was built approximately in 1890.

Mr. McCrum answered to the best of our knowledge.

Mr. Covelli answered yes.

Member Levine commented then I misunderstood you. I thought you said you didn't think it was.

Mr. Covelli commented I didn't think that the carriage house was that old. I don't know that for a fact but based upon where we found the foundation in the yard, and what Don has told me about his recollection it and what he was told, it appears that the carriage house might be somewhere between the 20s and the 40s.

Mr. McCrum stated I am really not sure. I have no idea; it would just be a guess. I guess if you look at the construction of it, it would probably be in the 20s.

Member Pasznik questioned that is the ranch; the carriage house is the ranch?

Mr. Covelli answered correct.

Chairman Dunning stated, based on your electrical knob and tube system, which they stopped using sometime in the 40s, you would think that would date that building earlier than say 1940.

Member Hoffman questioned there was knob and tube in the addition also?

Mr. Covelli answered no, not in the addition on the main house. The carriage house had evidence of it, the garage did not.

Member Ludwig questioned if there was rough, sawed lumber for framing?

Mr. Covelli answered no. No two pieces were the same, but they were pretty smooth.

Mr. McCrum stated if you looked at the garage that he knocked down, a lot of that was pretty rough.

Member Hoffman stated that date things. Full dimensional lumber would date.

Mr. Covelli commented no full dimensional lumber there. That I will say.

Member Levine commented the records we have basically show that all parts were built prior to the date we are looking at for pre-existing conditions.

Mr. Covelli stated that is our presentation.

Attorney Mondello: Anything else from the Board Members? Anything else from Mr. Covelli?

Mr. Covelli answered I rest.

Member Hoffman questioned how are you going to fire separate between your usage and the apartment upstairs since it is a one structure house. Between your downstairs kitchen and an occupied space above being a separate unit, I would think would have to have some

type of fire stoppage between them? I was going to ask the architect but I don't think he is here.

Mr. Covelli answered I don't know the code. I would say it would probably be somewhere the same that will be used between the garage and the bedroom and the carriage house and the garage.

Member Hoffman commented since it is not a use in the garage that is usually just sheet rock. But I would think if something in the house like this, of this age, being a wooden structure and you are using it as an everyday kitchen cooking environment that you would need some kind of fire protection for the people who are going to be renting above you in this new rental space. I would have asked the architect or the engineer if he was here. I don't think it is a Code Official's requirement. That would be something from an architect.

Chairman Dunning stated or the Building Inspector.

Mr. Covelli stated to Peter's point, he may have to look that up. I am going to say that an architect will be involved in it. Right now the architect just gave me the plans for the stairs.

Attorney Mondello commented I thought it would be the Construction Code's duty.

Member Hoffman commented it is his job to make sure that it is done according to the directive. I think an architect or engineer would require some kind of firestop like he would require firestop in any new construction.

Member Ludwig commented if he is not doing any remodeling in the kitchen, it is pre-existing condition. It might be a good idea.

Vice Chairman Grygus commented let us ask the Construction Official if it is an UCC requirement.

Attorney Mondello commented we would have to bring him up, swear him in, but if this is what the Board wants.

Chairman Dunning commented it is not our call. It falls back on the Building Department.

Attorney Mondello commented if there is nothing else, just to sort of sum and put this into a legal issue: Have these structures and, in particular the apartment on the second floor and the carriage house, were the constructed prior to 1958 and were they used as rental units prior to 1958? This is an R-10 Zone which permits single-family dwellings.

Mr. Covelli, as a point of clarification to what said, I don't want to mislead the Board. The testimony we gave is that the carriage house certainly pre-dates the 1955 zoning requirement. The apartment was constructed in the early 60s and, to Don's knowledge, somewhere between 1962 and 1964. With that said, they got permits. Don also told me that he asked the town for an interpretation of the apartment because you had gotten all of the permits and the answer you were given by the town –

Mr. McCrum stated they answered they didn't have the records any more. Apparently, there was a fire in the 60s sometime and the town lost the records on that.

Attorney Mondello commented if it was constructed after the prohibiting ordinance, okay the permits are there, but then at some point a zoning certificate or something with respect to renting that particular unit out.

Mr. McCrum stated my aunt was a retired school teacher and Sunday school teacher and everything she did, she did correctly. When they renovated the house, she wasn't living in the house another aunt and uncle had lived in the house for years, my aunt that ended up owning the house moved to it in the early 60s. They had it renovated after I went in the Army in 1962 and when I came home in 1965 it was done. Between '62 and '65 they did the renovations, the permits, everything with the town had to be certified. You couldn't sneak that in or do anything. I don't know if somewhere there are copies of the meetings but we asked one time about it and we were told that the records didn't exist.

Member Levine questioned, this had to be a pre-existing usage prior to '58 or '55, but it was done in the 60s, how is it a pre-existing use?

Mr. McCrum stated the pre-existing use was for the carriage house.

Mr. Covelli stated that is why I am separating the two with regard to what Attorney Mondello just said. It is a three-family, and has been a three-family. The house and the carriage house pre-exist the zoning. The third unit, being the apartment, is the newest and is in the early 60s and has been used that way and Don has testified that the family got permits to construct it.

Attorney Mondello stated but no permits to rent it.

Vice Chairman Grygus said they had a c.o.

Member Hoffman said they would have to apply for a zoning change in 1964.

Attorney Mondello commented here is what I am wrestling with now. If the carriage house was constructed before '58 and it was rented before '58, fine. If the apartment was constructed after the prohibiting ordinance, okay they got the permits to actually construct this apartment, but it should have been for the family. This is a single-family zone and it became that zone in July of 1958 so we have to assume that maybe there was some approval for the apartment to be rented out.

Mr. McCrum commented if they got the permits to build the apartment, I am the planning board would have said you have to get the zoning change if you needed a variance.

Chairman Dunning commented it has no connection with the main house.

Mr. Covelli stated I think you have to look at the amount of time that has passed, the fact that the borough's own records reference that apartment and the main structure as a two-family.

Attorney Mondello commented the other argument is it may have been rented out after the prohibiting ordinance, but it has been rented out for so many decades that Mr. Covelli would probably have a pretty good estoppel argument to say listen you guys cannot now make me go for a variance.

Member Levine stated the apartment didn't exist; it was renovated in the 60s.

Attorney Mondello commented that is what I am saying. What is your point?

Member Levine again stated it didn't exist prior to 1960.

Attorney Mondello stated I get that. So they got they permits and it is allowed to exist. But the use, what's the use?

Member Ludwig commented I would think that if it was done as strictly as a mother/daughter or family member, I thought one of the requirements was a connection between the two. There is no door from that apartment into the main house.

Chairman Dunning commented there is no connection.

Member Pasznik commented only the stairs that are not there any longer.

Member Ludwig stated they are to the outside and Member Pasznik agreed. I know from jobs I have done in the past there has got to be a common entrance.

Chairman Dunning commented it is a totally separate unit.

Member Ludwig continued if they showed plans that there was no entrance, the intent was there when they submitted plans. Maybe it was an error on the building inspector way back when.

Attorney Mondello commented, see what I am getting at, once the prohibiting ordinance came in and they built this, okay and who is going to live here?

Member Ludwig commented who is to say that they did not get the variance. They were a lot more lax back then as far as paperwork.

Attorney Mondello stated the prohibiting ordinance came into effect July 1958 and it takes a couple of years.

Member Hoffman stated it was testified the work was done between 1962 and 1964 and maybe they did it like Member Ludwig is saying, maybe they did apply for a zoning change or for a variance.

Member Levine stated we have nothing to show that.

Member Ludwig stated if you have nothing to show it either way so to me since the plan showed something that is not a mother/daughter, if those plans were submitted to the building inspector, and I don't know what the building inspector was like back then, but I know the building inspector would want a door to connect the two, and I assume that has been the way.

Attorney Mondello commented given the decades that have gone by, I think that the Board would be hard pressed to say, well for the apartment you have to come back for a variance because we don't know if you got a zoning certificate. It has gone on for so long, it is not something that happened for two or five years.

Mr. Covelli commented, to Member Ludwig's point, from a physical perspective, the main house and apartment do not line up where you could put a door between the two.

Member Hoffman questioned you mean elevation wise for flooring?

Mr. Covelli answered yes. You could make something where you could crawl through, but you couldn't walk through. In other words, the ceiling of the addition is not high enough to meet up with the floor of the second floor of the main house. You wouldn't have the head room.

Attorney Mondello commented we will reframe the issue that the apartment and the carriage house have been operated as rental units for such an extraordinarily long period of time that Mr. Covelli should be given the right to continue that.

Member Levine commented I don't follow. If the apartment was renovated in 1960, how do you say it has been rented for all these years prior to that?

Member Ludwig stated not prior, but since.

Attorney Mondello stated Member Levine is hanging his hat on show me that there was a zoning certificate after the prohibiting ordinance to rent out the apartment. But we don't have it. The Board is going to have to hash that out and say well maybe they got it, maybe they didn't, but in light of the fact for decades that particular apartment has been rented

and used as a rental unit, that we couldn't possibly force him to come back and get a variance for that.

Member Hoffman commented I think an important argument would be that the town has taxed that property as a multi-family home.

Mr. Covelli commented that it has been assessed and re-assessed through the assessment process as a two-family.

Member Levine commented that your witness is saying that the apartment has been rented for all these many years.

Mr. McCrum answered yes. As a matter of fact, when the town did the reassessment, I spoke to them, when they gave you the time to talk to them, and I asked them why our taxes were so high on that house. We were paying \$3,000 to \$4,000 a year more than the two similar colonial houses across from Haskell School and the answer was you have a three unit house there. It is a three-family house and that is why it is more.

Member Levine questioned, prior to the renovation it was being rented out?

Attorney Mondello answered no. What he is saying is the town implicitly by taxing and by knowing that this has been rented out, even though there might not be a piece of paper, or zoning certificate that says you are allowed to do this, they acquiesced and they charged for doing that. Therefore, it is legal. It didn't exist prior to the prohibiting ordinance, but it came later on and the town knew that whoever was renting both the apartment and the carriage house. There is case law that if I know, it is apparent, it is obvious and I am taxing you, then it must be acquiescing to the fact that I am allowing you to have this use. I might now have given you a piece of paper, but the municipality is acquiescing and saying it is okay and we are going to allow.

Member Pasznik commented to the fact that you can't get in there from the main house.

Mr. Covelli stated you can't get in there nor could you without some kind of major redesign because they don't line up. It is just not cutting the sheet rock and putting a door in. They don't' line up. I did ask the architect this already.

Attorney Mondello so your testimony Mr. McCrum is that at some point after that apartment was constructed, you asked the question why are my taxes so high and this was after the apartment was constructed and you were told well because it is a three-family unit or units.

Mr. McCrum answered yes and I brought the re-assessors through that process and they went through the carriage house, apartment and the main house. Then when I went up and asked why the taxes were so high, they explained that to me; that it was because it was basically a three-family house.

Attorney Mondello questioned that this assessors or appraisers knew that the apartment was being rented out?

Mr. McCrum answered I would assume they knew that. They had it written down on the paper that they were rental units.

Member Ludwig commented that I don't see why it is the applicant's fault that there was a fire and there are no records for this. I mean just based on the taxes. Let's get to a vote.

Attorney Mondello: Anybody have any comments with respect to this application?

Hearing None, Seeing None

Attorney Mondello: We need a Motion for or against.

Member Ludwig made a Motion to Approve and Member Pasznik seconded.

Attorney Mondello: Essentially we are saying that certainly for the carriage house that this was constructed prior to the prohibiting ordinance in 1958 and it was rented out prior to the prohibiting ordinance. With respect to the apartment, we are saying that it was constructed after the prohibiting ordinance; however, the use, the rental of that apartment, was open, notorious, the town knew about it, and it was used that way for decades. So either they did approve it with some type of zoning certificate or they implicitly approved because they knew about it (implied consent without action). It could be either one, maybe there was a zoning certificate somewhere. I am sorry that is not succinct, but it is the best I could do.

MOTION TO APPROVE: made by Member Ludwig, seconded by Member Pasznik. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Hoffman, Ludwig, Levine and Pasznik. Motion Carried.

Member Covelli arrived onto the dais at 9:22pm after his application was heard by the Board.

**Application #ZBA2017-01 & 02 – Agostino Properties, LLC
18 Railroad Avenue & 20 Railroad Avenue (Block 236.01/Lots 26 & 21)**

Attorney Edward Martin, 52 Skyline Drive, Ringwood, New Jersey, appearing for the Applicant, Agostino Properties.

When we were last here, Mr. Kidd, who is here tonight, had retained Attorney Michael Walker to represent him in the objector status, and he had also retained an expert. In the ensuing few months, this matter was adjourned for a couple of different reasons and during that time there were communications between my office and Attorney Walker's. I believe the significant objections that Mr. Kidd had advanced are being withdrawn and there was a letter from Attorney Walker to the Board so that is, I believe, why you don't see Attorney Walker tonight, nor do you see Mr. Kidd's expert. That is where we were in terms of testimony at that time. Obviously, that testimony does not need to continue. However, part of the resolution of most of Mr. Kidd's objections involved changing the plans. Plans were resubmitted to the Board and Engineer Houser is here and we would like to have him summarize to the Board the most recent changes that have been made. I believe Engineer Nash did review them and has rendered a letter commenting on those changes. Before Engineer Houser testifies, I would just like to reference the fact that my Planning Expert, Mr. Ochab, could not be here this evening. I did not think it was necessary to carry the whole matter for that reason since it has been carried before and I wanted to proceed this evening. If there is any significant planning issue that does come

up, I would like an opportunity to bring him back, if necessary, but I don't believe that is going to be necessary. At this point, I would like to recall Engineer Houser.

Attorney Mondello: Engineer Houser you remain sworn.

Attorney Martin: Engineer Houser could you provide the Board with a description of what the changes have been and what the status is of the most recent version of the plans.

Engineer Houser Testimony:

Engineer Houser stated since we were last here, I have actually prepared two plan revisions. The first revision we prepared was to incorporate some changes based on comments from Board Members as well as the Objector's Expert. We did some soil testing at the property. We suspected the soils were well draining and about 3-1/2' below the surface there is a nice coarse sand that is suitable for subsurface stormwater recharge. We reconfigured and moved the proposed stormwater seepage pit. There were some concerns expressed about the separation distance between the seepage pit and the neighboring dwellings. We maintained 30' from the edge of the seepage pit to both dwellings. There was also some concerns expressed about the previous configuration of the open grate inlet that will dump directly into the seepage pit, which admittedly, through runoff and debris that could accumulate in the parking lot that could result in premature clogging of that seepage pit, so we added a second catch basin which would have the inlet with all the runoff and any debris that might be in that runoff would go into prior to overflowing into the seepage pit.

There was also a revelation that the existing stormwater inlet, along Erie Avenue, which we thought was part of a collection system, in fact goes nowhere. So we removed the overflow pipe from our proposed seepage pit to that inlet.

Those were the original revisions on the first revision that was submitted back to the Board and Engineer Nash reviewed. Engineer Nash had some comments on that and some of them were some minor adjustments to that stormwater configuration. He also made a suggestion on a change on the proposed lighting fixture. We had proposed a unit that was 4,000 unit and Engineer Nash had suggested a 3,000 unit, which is a softer light and more appropriate for residential sites.

The latest revision that you are all looking at now, last revised August 13, 2018, also incorporated a request from the Objector, Mr. Kidd, and his professionals. I think there was previous testimony about concerns of vehicular traffic and deliveries, essentially ignoring the property line adjacent to Mr. Kidd, and people driving right over and short cutting the corner there. There was also some concern expressed about plowing and cars damaging Mr. Kidd's fence, which is along the property line. We agreed to install our own fence immediately adjacent to Mr. Kidd's to run out within 20' of the property line. We couldn't run the fence all the way to the property line for concerns about sight distances for pulling out, but we wanted to address that situation so, in lieu of that, we proposed two concrete bollards 6' apart, which still allow vision for vehicles pulling out, but it does cut off the opportunity for somebody to short cut and go over onto Mr. Kidd's property.

Those were the primary changes on the plan. All of these improvements aren't necessarily required from a regulatory perspective, they are entirely voluntarily. Now there is an unorganized area where people park and we are organizing it in a safe manner by paving the parking, providing stormwater drainage, lighting, landscaping, replacing the curb and we're trying to accommodate all of the neighbors' concerns that were expressed. In the end, I think it is a more organized, safer and more aesthetically pleasing area than it currently is.

Attorney Martin stated that is all I have.

Attorney Mondello: Questions from Board Members?

Engineer Nash stated there is one point of clarification. Engineer Houser referenced a concrete bollard, which is actually a steel pipe filled with concrete, so a little more robust than provided in the testimony, but his detail is correct. I had "four bites of the apple this time" and usually I only look at it once, but it is very finely tuned and was reviewed by the Objector's Engineer as well, so I have no further comments on this Site Plan.

Chairman Dunning believes we have addressed everything we've questioned of you. The big question is the curb on each street, there has been a lot of flak about delivery trucks backing up into this rear parking lot.

Attorney Martin commented that the Applicant is prepared to have all deliveries come through the front.

Chairman Dunning questioned will the curbing in the back, rear parking lot on Erie Street stop some of that, because right now there is no curb, just remnants of curbing from years ago? There will now be a real curb there that should stop some of these trucks from coming in or they would have to jump the curb and destroy your curb.

Attorney Martin stated that is part of the reason that we don't think it is feasible any longer to deliver in the back.

Chairman Dunning stated I think part of the Board's pitch here is going to be somehow we got to restrict that with either a sign or something. You can't expect Mr. Agostino to be out there stopping every truck coming down the street that used to deliver that way. Some kind of signage: "No Deliveries/Vehicles Allowed In That Lot", whichever it is. I don't care if it is the bread truck. I think some of the neighbors have a valid problem with this and it is a problem.

Attorney Mondello commented fair point. Unless Attorney Martin you can think of another way. Even if Mr. Agostino were to tell all of the deliverymen, they change, it is not always the same person. Even if you warned everybody, every company, what is to say that the next guy.

Engineer Nash commented that there is a standard roadway sign, which is a picture of a truck in a circle with a line through it.

Attorney Martin commented that the only concern I have about that is, and we didn't get into this in that great of detail, but I believe Mr. Kidd was the main objector to that issue, and I believe the objection related to tractor trailers and backing up. We understand that,

but I don't know that it is necessary to restrict any delivery, so someone pulls up in a minivan that wants to drop off something.

Chairman Dunning commented that most liquor delivery trucks are a fairly good size; the man delivering bread for Flip's is a different story.

Member Ludwig also commented that the no truck sign can be seen by a lot of his customers in the construction business that come in pick-up trucks and small mason dumps.

Engineer Nash commented those are not the trucks, but it is based on weight size.

Engineer Houser commented that access is further restricted because we only have a 24' opening. Between the bollards that are going to be placed on the west side, and now the landscaping that we have on the east side, and with the new curbs it is going to be difficult to get in there. The loading zone we have defined here is on Railroad Avenue.

Chairman Dunning stated this has been a concern of the neighborhood and it was brought up a few times and it is a concern.

Attorney Martin stated "I agree" and that is why a lot of the improvements that Engineer Houser just went through were made, so we didn't ignore it. I am just concerned about a sign that says "No Deliveries", and I don't think it is really a condition that was discussed. I don't think it is no deliveries, but certainly the tractor trailers would need to deliver in the front.

Member Covelli commented that I believe it is a matter of a quality of life issue, for the fact that Erie is a residential street, but for that parking lot. Railroad on the other hand, the only houses are one or two as you go down on the right and one guy is a construction/landscaping company so he is bringing in as many trucks as he wants. I think you've done a commendable job throughout the application process and meeting with the neighbors I think was a wonderful thing, I just think for those that were here or weren't here or spoke or didn't speak, if there is no business other than that driveway in a residential area we should do what we can to put the deliveries on a street that nobody cares if there are deliveries on that street.

Attorney Martin reiterated his concern that this is not an application that really technically involves Flip's. Flip's is there and I understand it is part of the site, but there are conditions that I understand have come in because of the application we are making.

Member Covelli questioned if the Applicant is the land owner and Flip's is a tenant?

Attorney Martin answered yes, but what I am saying is, if the application was never brought, this wouldn't be going on. The idea of changing those rooms to rooming houses doesn't directly relate to this issue. Notwithstanding that, we've addressed it in many different forms, which I don't think it is even feasible now for a truck to enter the driveway.

Member Covelli stated I am not sure where you are coming from because before the Chairman spoke, you made a reference that we'll prohibit deliveries on the street. So really your concern is the sign that says it?

Attorney Martin stated I don't know if I said prohibited, I said Mr. Agostino has agreed to --- I thought the objection was the tractor trailer deliveries. I just want to make sure that there is not a prohibition of anybody coming in the back and delivering a minor item.

Attorney Mondello stated to Member Covelli's point, I wrote down what you said Attorney Martin: "All deliveries in the front" and I asterisked it. So that was somewhat limited to tractor trailers; that is what you are talking about? You said all deliveries in the front.

Attorney Martin answered I thought that was the only issue.

Attorney Mondello questioned how does the Board want to resolve this? The Applicant is seeking a Use Variance.

Member Levine asked for a clarification. If it is a Use Variance to approve boarding house situation, if we don't approve it, what does the truck issue have to do with anything?

Attorney Mondello stated that is a good point. My point was, with a Use Variance, which has very, very high standards, difficult to get, no unreasonable condition with respect to the site is off the table. But, you are right; he doesn't have to do this if he didn't file the application, and if we don't grant the Use Variance, he doesn't have to do any of this.

Member Levine commented exactly. Why not get to the Use Variance.

Attorney Martin commented that Mr. Agostino is okay with the condition that says all deliveries in the front.

Member Hoffman questioned with signage?

Attorney Martin answered we haven't discussed the exact signage you want yet.

Member Hoffman stated if he agrees to it, then that will be the next discussion.

Chairman Dunning question does 18 or 20 own that parking lot?

Mr. Agostino answered 20.

Chairman Dunning questioned which is the residential side, not Flip's?

Mr. Agostino answered correct.

Chairman Dunning commented that technically, if Mr. Agostino sold 20 to somebody else, they would have access to the parking lot for deliveries anyway.

Member Covelli stated since they are two separate properties, Applicant could conceivably walk out of here and sell the other one.

Mr. Agostino stated that is not going to happen.

Attorney Mondello tried to summarize the discussions. The Applicant has indicated that the deliveries are going to be in the front and not in the back. The Board is suggesting some kind of signage and Engineer Nash had explained. Why don't we let the Engineers work out what the sign should look at? I am guessing that Mr. Agostino doesn't have a problem with a sign that is not going to be too big.

Attorney Mondello: Any other questions from Board Members for Engineer Houser?

Hearing none, seeing none

To The Public: Specific questions on Engineer Houser's testimony tonight. Not what he spoke about in December or February; there will be a portion for comments. Specific questions on these two plan revisions. That is it.

Dan Huntsinger, 16 Erie Avenue, Wanaque

Mr. Huntsinger questioned how close are the two concrete bollards to Erie Avenue?

Engineer Houser answered they are approximately 2' from the property line, which is set back about 5' from the concrete walkway. (Engineer Houser visually showed the location on the plan on the easel)

Attorney Mondello stated that Mr. Huntsinger is asking the question what is the distance from the curb to the bollards?

Engineer Houser answered approximately 8’.

Mr. Huntsinger commented that he is concerned because it is primarily a residential neighborhood, of which I am a resident, about the aesthetics of these kind of things as well as the no truck sign that was just spoken about. I rather not have any sign that I have to stare out as a homeowner. Just the aesthetics of this is disappointing.

Attorney Mondello commented that the Board will take that into consideration. What is your next question?

Mr. Huntsinger stated, as far as the trucks, there is a large box truck that deliveries beer.

Attorney Mondello questioned is this a question that has to do with the two revisions that Engineer Houser testified to? There will be a portion for comments where you can say, this box truck comes in and I don’t like it and I want you to do something about it.

Member Covelli questioned Mr. Huntsinger. Are you saying that you want no sign whatsoever or you don’t want a big sign?

Attorney Mondello stated he wants no sign whatsoever.

Mr. Huntsinger answered I am concerned about the aesthetics of the neighborhood and lowering the value of my home and neighbors’ home because of unsightly bollards, fences, overhead lighting, etc. I am just concerned as a homeowner, as you would be.

Member Covelli stated that I why I am asking you the question because I am trying to gauge what you are interested in to protect that versus if there was no sign and then the trucks show up again. Mr. Agostino has been nothing but forthright, but to the Chairman’s point, I don’t think he is going to be out there at 6am/7am telling the trucker go around the block and this thing is going to end up sliding back in again. Maybe the bigger trucks won’t come because they can’t fit back there. We cannot put the condition, we can put the condition that it is there, but it is not aggressively enforced, it is aggressively enforced, I don’t know. Then someone says we didn’t do our job because we didn’t make it strict enough. The Applicant has been very accommodating so what is the read that you are giving us as to there was a meeting, you folks came to an agreement, what is the ultimate you want?

Attorney Martin commented that any meeting, and I don’t want to mislead anybody, was not with Mr. Huntsinger, was with Mr. Kidd and his professionals. It really wasn’t a meeting; it was Attorney Walker and I discussed primarily things and the experts got together and Engineer Houser to their expert. We did not meet with the other objectors. I just want that to be clear.

Richard Purcella, 13 Erie Avenue, Wanaque

Mr. Purcella noticed on Mr. Kidd’s side, the western side, they have a proposed high tan vinyl privacy fence. On my side they don’t have that. I would like to see that happen on my side for two reasons. (1) The construction of a vinyl fence gives more privacy than any other type of fence. (2) I figure it will eliminate a lot of noise that comes out of that parking lot as far during the day and especially midnight to 2am/3am. That will definitely help.

Engineer Houser stated we have a 4’ high fence on both sides of the property.

Mr. Purcella commented not tan vinyl; only on one side. I don’t know if that was overlooked or what.

Engineer Houser stated the reason for the more specific notation on Mr. Kidd's property line was that was the color and the choice and fence he made. I don't see why it couldn't be the same on both sides.

Mr. Agostino commented that is fine.

Mr. Purcella stated that would definitely help with noise.

Mr. Purcella commented I have no problem with the lighting set, but I don't know where this lighting is in reference to my house. I have a picture here, but it looks like it is in the center of the house, could that lighting be moved without affecting the coverage.

Attorney Mondello asked Engineer Houser if he could show the neighbor where the lighting is in relation to his house. (Engineer Houser visually showed the location on the plan on the easel)

Attorney Mondello questioned the neighbor, do you see where the lighting is?

Mr. Purcella answered yes. I have that map . Could that be moved further south towards the corner of the house without affecting the lighting in a substantial way? Even 10' south of that or something like that, or the corner.

Engineer Houser answered I don't see a problem with moving it 10'. I don't think it will adversely impact. We will lose some lighting along the entry lane, but there is landscaping there anyway so. 10' equals one parking space.

Attorney Mondello commented that the Applicant has indicated that he can make that adjustment and it won't affect the lighting scheme. Is that correct Engineer Houser?

Engineer Houser answered I would have to look at it a little bit closer, but my gut instinct is that we could move that south and have a configuration that would still work.

Attorney Mondello: Do you see any problems Engineer Nash with moving that light 10'?

Engineer Nash answered no.

Mr. Purcella commented we are talking 10', but it could be more than that to get it away from the window. That is my point. What is the difference between that light and the corner of my building?

Attorney Mondello commented I am confused. Don't these lights shine down, not horizontal?

Engineer Nash answered the LED lights are way different then your common street light that you are familiar with it. All the individual LEDs are engineered to point straight down, and I understand they are 15' high, but the light that shines on the ground is a very specific pattern. The street lights that you know, they kind of fade out. These lights are very specific: it is light here/park here. 2' away it is dark. They do a very good job of efficiently lighting where you want to light. That is the fixture that was specified and that's the pattern that is shown.

Mr. Purcella question that wouldn't affect the second story window in any way?

Engineer Nash answered the light shining on the pavement and what you might see is looking at the light – when you look at a light there is glare but the illumination from that and the foot candles from that won't be outside of the property line.

Mr. Purcella stated the only other think is they have the fencing on my side, the eastern side, it doesn't go all the way to the end of the property line. I don't know what the reason for that is.

Attorney Mondello questioned wasn't that sight-line distance you testified to Engineer Houser, that it would cause some type of a safety issue?

Engineer Houser answered yes, and we ended it at the last parking space.

Attorney Mondello commented for safety reasons that is where it has to end. Is that your testimony?

Engineer Houser answered yes.

Mr. Purcella questioned what safety reasons would that be?

Member Hoffman answered as you pull up to the curb you have to be able to look left and right to see if there is any cars coming before you can pull out.

Mr. Purcella stated no, not the front of the property. I am talking about the southern end of the property towards the garage. Why does that not go to the end of the property line?

Engineer Houser answered I believe you already have a chain link fence there.

Mr. Purcella stated what I am still looking for is noise abatement here, because we're getting noise from all over from the bar patrons, the cars, the alarm systems, etc. This fence would be beneficial to my quality of life living in that area there. It would go right alongside the garage.

Engineer Houser commented we can extend it 5' to the edge of the garage.

Mr. Purcella stated to the edge of the garage would help. Okay. Now if I wanted to talk about the berm, I have to wait to the end.

Attorney Mondello answered yes.

Attorney Mondello: Questions on Engineer Houser's testimony of this evening; the two revisions that he made to the plans? Hearing None, Seeing None

Anything else from the Board?

Ok, that's it for this witness. Anything else?

Attorney Martin answered no.

Attorney Mondello: Open it up to the public Mr. Chairman.

Now is an opportunity for comments. So I would like to swear you in and again you will have to give your name, your address and your will be sworn in and give any testimony, comments, whatever you like, dislike, etc.

Attorney Mondello: Do you swear and affirm the testimony you are about to give be the truth, the whole truth and nothing but the truth so help you God?

Witness answered I do.

Richard Purcella, 13 Erie Avenue, Wanaque

Mr. Purcella stated the last meeting we had they brought up that they wanted to put a berm in to keep the cars from hitting the fences. My understanding at that time was that would be at the end of the blacktop where the parking lot was going to be. I got the paperwork and it says that the proposed berm is between the parking lot and the fence. If you look at this map, it shows you my house and a sidewalk that runs along the side of the house. That property line goes right against my sidewalk. In other words, my sidewalk is the property line. Now they want to raise that 6" above the elevation. Right now from my sidewalk and water that falls on that flows into the parking lot, the whole length of the property. Now they want to put a 6" berm across the whole length of my property and raise the elevation of the property 6". My concern is water coming back into my house.

Between that berm and the fence obviously, because the berm and the fence are the same place, is the width of 12". The sidewalk is 1' wide and the foundation is right there and the clear out for the chimney is right there. I have major concerns with this 6" elevation of the property and how this is going to affect the water flow in that area. Are that 6" going to be a wall? In other words, that's a grassy area right now, the blacktop is about 5' – 5-1/2' from my property line. I'd rather not have a berm there at all; just let the water flow. As far as the parking lot and the drainage, that looks fine. The water flows into the parking lot now which is perfect.

Attorney Mondello stated I think the Board has your point. Do you want to respond to that? Do you have any opinion, comments or further questions for Mr. Purcella? How do we handle this?

Mr. Purcella commented eliminate the berm.

Engineer Houser answered the berm was proposed because concerns were expressed that we would be draining water from our property onto his property.

Mr. Purcella commented no, the berm was put in like a curbing.

Engineer Houser commented it was for a dual purpose. There was concern about what was going to prevent a car from hitting the fences.

Mr. Purcella stated right, but now I have the map and it says the berm is going right on the property line. I was under the impression it was going to be where the blacktop stops and that lawn area, where you want to put all the bushes and stuff, which is fine, would just go in there. But now they want to put this 6" high elevation on the property line.

Engineer Houser stated it's a slight mound with 6" of dirt.

Mr. Purcella questioned how is that going to stay there without eroding?

Engineer Houser answered the grass.

Mr. Agostino stated get rid of the berm.

Attorney Mondello questioned is that acceptable?

Engineer Houser answered if it is acceptable to the Board?

Attorney Mondello questioned does the Board have any objections over this berm?

Mr. Purcella stated I wasn't aware that the berm was going to go from the blacktop to the property line. That's my concern. If the water flows completely into the parking lot the way it is, and the parking lot is fine, we have no problems with that; it looks good.

Attorney Mondello: Any other comments Mr. Purcella?

Mr. Purcella answered that eliminates it right there.

Attorney Mondello: Anybody else have comments? Come up.

Do you swear and affirm the testimony you are about to give be the truth, the whole truth and nothing but the truth so help you God?

Witness answered I do.

Dan Huntsinger, 16 Erie Avenue, Wanaque

Mr. Huntsinger stated I just don't have a great vote of confidence about some items. I am glad that was resolved for the neighbors who have the adjacent properties. As far as the screening of tenants and all of this kind of thing when it comes to the quality of life and the value of our block and of our neighborhood. I just don't get much of a vote of confidence from these meetings about who is going to be living on our block in the capacity of a rooming house. I still object to the proposal. We have elementary school three blocks away and kids walk to and from there. Who is living on our block, we don't know. I just

think that it is all about trying to make more money than what he is currently making and, just in the process, lowering the value of our homes and the safety of our block. If you would like to have a rooming house on your block, please raise your hand. If anybody has one on your block, would you be willing to raise your hand?

Attorney Mondello: Anybody else have comments, anything you want to say? Mr. Kidd I know you are no longer represented by counsel, but you are fine?

Mr. Kidd answered they have addressed all of my concerns.

Attorney Mondello: Hearing None, Seeing None we close this public portion of the meeting, and I have a quick comment.

With your permission Attorney Martin, I am going to read a letter I received from Planner Ochab, who was the Applicant's Planner, and it is dated today, September 5, 2018, regarding this property and affordable housing:

"I have reviewed the State affordable housing regulations to determine the extent that they apply to this application. The regulations do not address required set-asides of affordable housing for this type of use. Affordable housing set-aside requirements were intended to be applied to market rate housing (meaning a developer who comes in, wants to put in 25/50/100 units) particularly new construction. This project is neither market rate nor new construction. The intent of the affordable housing regulations was not to require rooming and boarding homes to come under the set-aside provisions".

Attorney Mondello continued with I don't have an exact answer, but I tend to agree with the Planner's, it's not a report, but his opinion, his letter and assessment, whatever you want to call it. I spoke to Engineer Nash who is also a Planner, by the way, and he concurs with Planner Ochab's opinion. I know we started out with looking for some type of affordable housing component, but I think that the application has migrated to the point that I don't believe affordable housing applies to this type of application. However, the Board is always free to ignore my advice, the Engineer/Planner's advice, and do what they want, but I tend to agree with this advice.

Vice Chairman Grygus commented that still hasn't solved the question about whether the town would get any credit for the units, whether they were set aside or not.

Attorney Mondello commented, I am guessing based on this opinion that there wouldn't be any type of credits, there wouldn't be any type of set aside requirements. Would you agree with that Attorney Martin? We are still trying to figure out if the State would give a credit for this and we don't know. It would help in the grand scheme of things.

Member Covelli commented but how does this relate to the applicant? The State determines if we get the credit, if the town has a roll to apply for the credit, to submit for the credit.

Member Ludwig questioned are getting any credits for the boarding house a couple houses down from this?

Chairman Dunning answered we don't know.

Member Covelli stated at the end of the day I think the assessment is that unfortunately they are looking for new construction and while I can personally disagree with it, those are the rules.

Attorney Mondello commented that the state of affordable housing is in chaos.

Attorney Martin commented that, in connection with this application, I did a tremendous amount of research on this issue. I could not find one case that dealt with anything like this. It is all about new construction; every case I read, every opinion I read.

Attorney Mondello commented that one of the Board Members said by its very nature this is affordable housing.

Vice Chairman Grygus commented because when we went over the requirements with Planner Ochab about meeting income and all that every unit in there is an affordable housing unit.

Attorney Mondello stated we are the point where we need a Motion for or against.

Vice Chairman Grygus asked Engineer Nash to recap the variances. Typically, when we have done this before, even if it was a pre-existing condition.

Engineer Nash stated that are no new variances created for this application. There are existing non-conformities, but they are not adding to the structure. Essentially everything stays the same. The main focus on all of these meetings has been the site plan.

Attorney Mondello added also the use.

Engineer Nash stated my point is that we've spent a majority of the time on site plan and it's a use application.

Vice Chairman Grygus questioned the fence. 4' high within 20' of the front lot line, where is that in relation to the front of the building, because we don't allow 6' fences in the front yard. That 20' back from the lot line, is that before or after the corner of the dwelling?

Engineer Nash answered as we determined, because the lot goes all the way through to two streets, we are calling that as two front yards. You have to follow the fence ordinance. 4' high for the first 20' and then you go up to 6' on both sides.

Vice Chairman Grygus commented I recalled it was in the front yard which was determined by wherever the front of the dwelling was. So if the dwelling is further than 20' back.

Engineer Nash stated that would be for a house that the front of the house is sideways relative to the roadway. This is different; this is all the way through. We are looking at the property and saying it has two front yards.

Member Levine commented since this is basically a Use Variance, can you give a little synopsis of where we stand on the use portion.

Attorney Mondello commented you have heard a lot of planning testimony from Planner Ochab and it always boils down to essentially, in my opinion, the same thing. What are the positive aspects of the application and what are the negative aspects of the application. The negative aspects should be more than I just don't like the aesthetics; there needs to be some detrimental criteria or some detrimental factors or aspects, and which one is greater. If you do the balance and you come up that there's these detrimental which, by the way, we haven't heard that testimony, but if the Board figures that all of these negative aspects are serious enough that they far exceed the positive aspects of the applications, you have to deny it and, of course, the reverse is true. It is very simplistic and Planner Ochab is a very good planner and he really laid this stuff out. I certainly couldn't have done a better job.

Member Ludwig stated he has a question for Mr. Agostino.

Attorney Mondello: Mr. Agostino you remain sworn. One of the Board Members has a question for you.

Member Ludwig commented, I don't go in there that often, but years ago I was in there and you had some families there, but it seems like most of these people that are renting the apartment are like three or four guys that are renting the apartment like roommates. Am I correct that it's not just families that quite often the apartment is shared by three or four people.

Attorney Martin questioned are we talking about the current use of the apartment. On 20, there is a valid apartment on the first floor. Is that what you are referring to?

Member Ludwig answered what he wants to convert into rooms?

Attorney Martin answered that is why I am hesitating. So the rooming house application is with regard to the second and third floors of 18 and 20.

Member Ludwig questioned but they are apartments now?

Member Levine answered no, they are rooms.

Member Ludwig stated then they are basically staying with what it has been.

Attorney Martin stated basically.

Member Ludwig commented I thought you were converting the apartments.

Attorney Martin stated no.

Member Levine commented it is not an approved use the way I understand it. Whether it is being used that way or not, it is not an approved use for the boarding house.

Attorney Mondello answered correct and you go back to what we had Tree Tavern and did this come into existence before 1958.

Vice Chairman Grygus commented that point I think Don is trying to make is by granting this, if it is granted, it is really not going to change what has been going on there for the past 10/15/20 years.

Attorney Mondello stated it gives him the zoning certificate.

Vice Chairman Grygus commented it doesn't change the fact that the building down the street operates as a rooming house. Who is coming and going and what is going on is going to be the same as it has been with respect to concerns or whatever.

Member Levine commented that doesn't mean it is good.

Member Hoffman commented the application is not to convert an existing use. As long as I have been in town, not my all my life, but most of it, this use has been in existence. I have known people who lived in the apartments and have known people that have lived in the rooms and they do come and go, but they are not transient. It is not a week long thing, or a month long thing. Most of them were there for years. To Mr. Huntsinger's concern, unless he had police records of people causing problems, then it would be another concern. But basically it is the same it has been for the 45 years that I have been here.

Somebody said that is not true, and **Attorney Mondello** stated the public portion is over.

Attorney Mondello commented this use has gone on for some period and Mr. Agostino has come here to try and legalize it, much like Mr. Covelli has just done, except they are just different arguments. This existed prior to the prohibiting ordinance, we didn't have that kind of testimony. That wasn't this application. He went above and beyond that and came to you for a Use Variance to legalize what has been going on for apparently decades.

Member Covelli asked **Attorney Mondello** to frame the Motion in the affirmative.

Attorney Mondello stated I don't make motions and I don't know what frame it means.

Member Covelli stated it means what are the elements of the Motion.

Attorney Mondello commented you can make a Motion to grant the relief that the applicant seeks. If you want to go into more detail, you can grant the Use Variance and all the bulk variances.

Member Covelli made the following Motion:

MOTION TO GRANT THE RELIEF SOUGHT BY THE APPLICANT WITH RESPECT TO THE USE VARIANCE CONTINGENT UPON THE CONDITIONS SET FORTH IN THE TESTIMONY AND AS ILLUSTRATED IN THE SITE PLAN APPROVAL BY J.R. HOUSER SUBMITTED ON AUGUST 23, 2018, AND HAVING THE CONDITION THAT THERE BE NO DELIVERIES MADE ON ERIE AVENUE AND WITH ONE OTHER CONDITION WITH RESPECT TO THE TESTIMONY AND THAT THERE WILL BE NO BERM ON THE EASTERN SIDE OF THE PARKING LOT

Vice Chairman Grygus added just to incorporate everything that was discussed tonight: The relocation of the lighting pole; elimination of the berm; the addition of the additional fence to the east side of the property; and the engineers will determine any appropriate signage.

Attorney Mondello commented what I was simply going to say, as I always do, I will go through the unbelievable Minutes that our Board Secretary puts together and I will pull out all of those conditions and will send a copy to Attorney Martin and he will let me know if I missed anything.

MOTION TO APPROVE: made by Member Covelli, seconded by Member Ludwig.
Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Hoffman, Ludwig and Pasznik. Member Levine voted No. Motion Carried.

Application #ZBA2017-06 – Serrano, Carmela
15 Evergreen Avenue (Block 406/Lot 12)

Attorney Mondello commented that we carried this so you could make certain changes to your application. I believe that you were sworn in before and can have a seat.

Chairman Dunning commented I believe you submitted some new paperwork, a revised plan dated 8/22/18. What changes have you made to this plan?

Mrs. Serrano stated we made added on the parking.

Attorney Mondello questioned 3 in the front and 1 in the side yard?

Mrs. Serrano answered yes.

Attorney Mondello questioned did you get a copy of our Engineer's Report?

Mrs. Serrano answered yes. Jennifer sent me one.

Attorney Mondello commented that in paragraph 7 he indicates that "The parking space in the side yard affords only 9.72 feet between the house and the chain link fence along the north property line. From a practical perspective it will be very difficult to get in and out of any vehicle parked in this location. It also does not allow much room to walk around the vehicle parked in the side yard." So you saw that comment the Board Engineer made?

Mrs. Serrano answered yes.

Chairman Dunning commented that the other thing with the parking is you are showing in the front 3 cars only 2 are parked on pavement. You are showing the third one parked on your front lawn to the left of the front steps.

Mrs. Serrano stated that the architect showed me and we will apply grass pavers.

Member Ludwig questioned the pavers you grow grass in?

Mrs. Serrano answered yes, so we will leave the grass there.

Chairman Dunning commented this is your application and you have to tell us what you are doing because it is not detailed on the drawing.

Member Ludwig stated you did not put it on the print.

Mrs. Serrano commented the additional parking in the front where the grass is the architect is planning to put grass pavers so that way we are not going to take off any more grass. We need that to prevent flooding, etc.

Chairman Dunning commented that would need to be added to the plan.

Member Ludwig questioned you understand that; it would have to be drawn in?

Mrs. Serrano answered yes.

Chairman Dunning commented the other problem with the parking on the side in the former garage we'll call it, there is an outside door on the side of your house and it is not shown on any of the plans.

Mrs. Serrano stated that has to be revised again. She has to add that.

Chairman Dunning stated this door creates a hazard because if the car is parked there you couldn't get out that door.

Attorney Mondello stated once a car is parked there, if someone opens up that door, they are going to hit the car.

Mrs. Serrano answered I understand. Basically this parking we would use for back up.

We are not really going to use the parking right there. We are mainly going to just use the

front parking. When the kids move out and eventually come visit maybe that is the parking as a backup. Mainly the parking we will use is in the front, not the side parking. Chairman Dunning stated the other problem is if they ever curb Evergreen, which they have put curbing in some of the streets in Haskell, that would create a major problem because you'd need a curb cut almost the whole front of your property. Some of the streets in Haskell, as the town is modernizing, have put curbing in on the streets. You don't have any curbing on your street. But if they did it, you would have bit of a problem because you'd need to curb cut basically the whole length of your property.

Mrs. Serrano doesn't understand.

Member Ludwig commented that the curb cut is where the sidewalk is dipped down to allow you to drive in. You would have to have that lowered section of sidewalk curb almost the whole width of the house. It will be way bigger than normal. Do you understand that? Attorney Mondello commented wouldn't that be that if the town decided to curb that area, they would have to do it because if the Board granted this relief, the town can't take it away. I am not saying the Board is going to grant this relief but there would have to be a depressed curb, a lower curb.

Engineer Nash questioned if this is a garage that is converted into a room, because it was testified as a temporary situation, are you granting just that or granting an approval in perpetuity?

Member Covelli questioned do you understand the point Engineer Nash just brought up because generally when we grant something it is a permanent relief.

Attorney Mondello commented it runs with the land.

Member Covelli commented but if I remember right, and to everyone's point here that we've been listening to this for a while, you said this is for your aunt, who is living in the garage which has now been converted to living space. But like everybody else, we don't have a life expectancy. She is not going to be here forever and neither is anyone else here. But I think this is the Engineer's question, which I think is an awfully good question myself.

Attorney Mondello commented you can't do that. If the Board grants the relief sought by the Applicant and has weighed the positive and the negatives, it runs with the land. You cannot say when poor auntie leaves the planet that she has to rip everything out. We would have to assume that somebody else would occupy that space. If I brought it, I would have somebody else live there.

Vice Chairman Grygus questioned did we ever determine that the ordinance was passed prohibiting this?

Board Secretary advised it was never previously passed. It is now, but after this application was filed.

Member Covelli stated I have a problem with the fact that we are creating a depressed curb in the entire front of the house. What if everybody wanted a depressed curb, we would have no yards anymore and everybody parks cars in their front yards.

Attorney Mondello commented this application falls on its own merits and it is unique. Not everybody has come to the Board to have their garage converted and have parking spaces in front.

Member Covelli commented then the question becomes is it an over intensity of the property and does the use or the relief sought warrant.

Attorney Mondello questioned is it even speculative that the town would even do that?

Chairman Dunning answered they did Bergen Avenue. So they have been looking at that. They are trying to straighten out drainage issues.

Member Hoffman questioned was the garage converted with permits?

Attorney Mondello answered not originally when she did it. As part of this application, the applicant went back and got the permits.

Vice Chairman Grygus commented so if it was converted prior to the ordinance, without permits, how can they issue a permit now for something that requires a variance because you cannot convert garage space now. If it was done illegally prior to the ordinance, then the ordinance was put into place.

Chairman Dunning commented she got the permits after the fact.

Member Covelli stated she did it illegally prior to the ordinance. Then she applied for the permits and, in the process of doing it, the ordinance was passed.

Vice Chairman Grygus questioned how could the Construction Official grant a building permit

Attorney Mondello commented because the application was filed before the ordinance was passed.

Attorney Mondello commented this is an applicant who came before the Board and she has made several changes, she has done several things that the Board Members have requested that she do, so what other questions, what other issues do you have?

Chairman Dunning commented my issue is with the garage. If you get it back, you get rid of that car parked on the lawn. You need a lesser curb cut. You are putting three cars in front of the house, everybody can do that.

Attorney Mondello commented isn't that what this application is about for this garage to remain as living space.

Chairman Dunning answered I don't know. They came in to expand the house for the addition in the back. Obviously, maybe before you owned it, this house had an addition added to it from the looks of it. Was that ever approved or a building permit taken out for that? We are back to the old records, and I think we raised this question before. All these bedrooms, and you have a den here and there is den somewhere else, and with the potential of six or seven bedrooms raises some questions. That is where we get back to the parking issue.

Attorney Mondello commented at least you have heard from the Chairman, and maybe some other Board Members, have a concern that you are taking a smaller house and a smaller piece of property and you are adding a lot of bedrooms.

Mrs. Serrano stated I can take off the bedroom and just add on the back? Even though I would like that bedroom, I can give it up just to extend the back. The back is a big room and there is nothing going on there. I would just add on to make living space and make more room in the kitchen. If you want to me take off the bedroom, I am willing.

Attorney Mondello stated there you go.

Vice Chairman Grygus questioned you are proposing just a one-story addition?

Mrs. Serrano stated the original variance had requested for an additional living room and on top of that is another master bedroom.

Vice Chairman Grygus wanted to confirm that you just said you would give that up.

Mrs. Serrano answered yes if the issue is with adding more bedrooms we will be adding more cars.

Member Covelli questioned what would be the total number of bedrooms that would be in the house if you were to take away the one you just proposed?

Mrs. Serrano answered 5.

Member Covelli questioned there is 5 with a proposed 6th?

Vice Chairman Grygus commented you have 6 on the plan not counting the garage area that has been converted.

Mrs. Serrano answered I only have 4 with the garage converted. As we speak, I only have 4.

Chairman Dunning stated this is where your plan doesn't agree with your testimony. You have the first floor, the proposed expanded plan, shows 2 existing bedrooms. The proposed second floor plan shows 4 more bedrooms for a total of 6 plus the garage space that is converted to a bedroom for your aunt. That is 7.

Mrs. Serrano stated no.

Member Pazsnik feels like this came up in the past.

Mrs. Serrano stated there are 3 existing bedrooms and then we converted for my aunt and that will be the 4th.

Member Covelli questioned when you started, it was a 3 bedroom house with a garage?

Mrs. Serrano answered right. Now I wanted to add on another room to be living/family room and then on top of that would be my plan to have another master bedroom. So that would be 5.

Further discussions ensued regarding the number of bedrooms and the revised plan, which may be labeled wrong.

Member Covelli commented that she is testifying as we speak – she brought it with a 3 bedroom with a garage. She turned the garage into a bedroom so she is at 4 as she speaks to us. She initially proposed to add an additional family room and a master bedroom.

Mrs. Serrano agreed to this comment.

Member Covelli commented that she has said she would consider removing the master bedroom, which was the 5th bedroom, and going with the addition of the family room only. Does she need a variance from us to do this?

Member Ludwig stated she is not expanding the side yard.

Vice Chairman Grygus stated she is expanding the side yard.

Member Covelli questioned if the family room would be on the ground?

Mrs. Serrano answered yes, on the ground.

Member Covelli stated she follows the house so she doesn't need a variance.

Vice Chairman Grygus commented it doesn't matter. We've considered that an expansion of a pre-existing, non-conforming so we have always granted that whether it be with the add-a-levels on the capes in Haskell. We have always added that as an additional variance because it is an expansion of something that currently doesn't conform.

Member Covelli commented so other than that, if she removed the master bedroom, that is all she is asking us for. Am I right?

Vice Chairman Grygus commented this plan is so confusing.

Member Pasznik questioned if she was allowed to go back to prior Minutes. This came up with the confusion of the bedrooms and I found it.

Attorney Mondello answered of course.

Member Pasznik stated it says “because it is a split level, you are seeing the 2 bedrooms and the garage twice.” Does that help?

Attorney Mondello commented all of the six variances are existing, non-conformities so anything that she does to change that is what we are looking at essentially.

Vice Chairman Grygus stated the only thing would be the parking.

Member Ludwig commented maybe instead of paving along the side of the house where you have the car to the side, you could use those paver blocks and grow grass.

Vice Chairman Grygus commented if you duplicated to the left side of the house what you did to the right side of the house to accommodate the other two cars, at least if they ever did come along and curb that street, you would have two curb cuts one on each side, you wouldn’t have the whole front of the property be a depressed curb.

Member Covelli stated the bedrooms feed into the parking problem, but she already converted the garage and got a permit, so is this horse already out of the barn? This question should have been asked when she was converting the garage the question should have been asked (a) you are adding a bedroom (b) you are eliminating a parking spot.

Member Ludwig questioned how many cars does she have?

Mrs. Serrano answered 3.

Vice Chairman Grygus commented that the Engineer’s letter did mention the shed not being 5’ off the property line.

Attorney Mondello stated yes, paragraph 6.

Mrs. Serrano stated she is going to move that at least 5’ or whatever the requirement is.

Attorney Mondello stated it has to be 5’ off from the rear yard line and 5’ from the side yard line. Right now it is 6.5’ from the rear line and 2’ from the side.

Chairman Dunning: Members any more questions, comments. Let us open it up to the public. Anyone in the public have any questions or statements on this? Hearing none, seeing none.

Engineer Nash stated he doesn’t have any comments. His letter stands on its own. The only comment in my letter was, since there was a survey done, the dimensions of the existing variances changed slightly.

Member Covelli questioned Mrs. Serrano that you are asking this Board to grant you permission to construct the family room, which is 17x9x16, in the rear of your house with a variance sought for the side yard setback on the south side. She doesn’t need a variance on the north side but does she need a variance in the back?

Vice Chairman Grygus stated she is proposing 40’ in the rear and 40’ is required.

Chairman Dunning commented 40' from the covered porch, which could be converted to another room in the future.

Member Covelli questioned this is what you are asking of us?

Mrs. Serrano answered yes, correct.

Vice Chairman Grygus commented the only thing that is being expanded, for a lack of a better word, are the two sides; one side and the combined.

Member Covelli stated my only point was I don't we can "hold her responsible" for what has already been done. The parking is a problem and it has been exacerbated, but she did what she was asked to do and that horse, in my opinion, is out of the barn.

Vice Chairman Grygus questioned the Engineer if the minor differences in the variances impact that side yard at all. I don't want to grant them something and end up that it is less than what we granted.

Engineer Nash stated what I have in my letter is the correct numbers.

Attorney Mondello stated 19.61' and you need 35' on the side total.

Engineer Nash stated if you look at the plan the zoning table on the plan is different from what is in my letter because it is based on the survey that was recently submitted.

Attorney Mondello stated 9.72 on the side.

MOTION TO APPROVE THE RELIEF SOUGHT BY THE APPLICANT WHERE A VARIANCE IS REQUIRED OF THE LOT AREA BUT IT IS PRE-EXISTING; THE LOT WIDTH IS PRE-EXISTING; THE LOT DEPTH IS PRE-EXISTING; THE FRONT YARD IS PRE-EXISTING; AND THE SIDE YARD WHERE A MINIMUM OF 15' IS REQUIRED WHERE 9.72' IS EXISTING AND PROPOSED FOR A 5.28' VARIANCE; AND WHERE IN TOTAL 35' IS REQUIRED AND 19.61' IS BOTH EXISTING AND PROPOSED FOR A TOTAL SIDE YARD VARIANCE OF 15.39; AND WHEREBY THE APPLICANT HAS SUBMITTED A DRAWING DATED AUGUST 22, 2018 BY AAVCON LLC OF PARSIPPANY AND IN ACCORDANCE WITH THE TESTIMONY BY THE APPLICANT, THE APPLICANT HAS AGREED TO RELOCATE THE SHED THAT IS CURRENTLY IN NONCONFORMANCE; AND THAT THE APPLICANT HAS AGREED THAT ANY FUTURE PARKING WOULD BE DONE ON THE SOUTH SIDE OF THE HOUSE AND NOT IN THE FRONT THEREBY CREATING A SITUATION IF CURBING EVER WERE TO BE PUT IN, IT WOULD BE TWO SEPARATE CURB CUTS BUT THE FRONT YARD WOULD BE PRESERVED

Attorney Mondello summarized that you cannot park in the front and you are not going to be installing grass pavers.

Mrs. Serrano stated yes.

Member Ludwig stated she could extend the driveway deeper if she wanted to alongside the house and past the door.

MOTION TO APPROVE: made by Member Covelli, seconded by Member Ludwig.

Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Hoffman, Ludwig, Levine and Pasznik. Motion Carried.

Member Ludwig left the meeting at 10:40pm

PUBLIC DISCUSSION: None

RESOLUTIONS: None

CORRESPONDENCE: None

VOUCHERS: submitted by Ronald Mondello, Esq. for attendance at the September 5, 2018 Meeting in the amount of \$400; and for the litigation of lawsuit of Bellante v. Zoning Board of Adjustment in the amount of 1,800.

MOTION TO APPROVE: made by Vice Chairman Grygus, seconded by Member Covelli. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Hoffman, Levine and Pasznik.

VOUCHERS: submitted by Boswell Engineering for MKR Enterprises' Application in the amount of \$198 and \$101; and for Agostino Properties' Application in the amount of \$101 and \$404; and for Kabakci's Application in the amount of \$495.

MOTION TO APPROVE: made by Member Covelli, seconded by Member Vice Chairman Grygus. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Hoffman, Levine and Pasznik.

MOTION TO APPROVE JUNE 6, 2018 MINUTES: made by Member Pasznik, seconded by Member Covelli. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Hoffman, Levine and Pasznik.

ENGINEER'S REPORT:

(1) I did an inspection at the Tree Tavern tonight, before the meeting. One of the items was the planting of 37 plants/shrubs to screen the objector's property. The plan required 37 plants and I counted 35 (short 2). He needs to have 37 to meet what is on the plan so I went inside and spoke to him and he is going to take care of it this week.

(2) There is an application coming before the Board next month for an antenna tower that is 300' tall. It is on top of the mountain on Skyline Drive. There is an existing small antenna now but the new one will be a monopole. There is just this one patch of land on that is in Wanaque.

DISCUSSION:

Attorney Mondello questioned if the Board is inclined to go into closed session to discuss the Bellante Litigation, I will need a Motion and a Second.

MOTION TO GO INTO CLOSED SESSION: made by Vice Chairman Grygus, seconded by Member Hoffman. Voting yes were Chairman Dunning, Members Covelli, Hoffman, Levine and Pasznik.

Closed Session Began 10:51:17

Closed Session Ended 10:56:19

MOTION TO ADJOURN AT 11:00 PM: Motion carried by a voice vote.

**Jennifer A. Fiorito
Board of Adjustment Secretary**