

NUTLEY ZONING BOARD OF ADJUSTMENT

January 14, 2013 Minutes – Public Session Meeting

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CALL TO ORDER: Chairman Scrudato called a meeting of the Nutley Zoning Board of adjustment to order at approximately 7:30 p.m. The Pledge of Allegiance was recited. Roll was called and the Sunshine Notice was read.

PRESENT: Suzanne Brown, Thomas DaCosta Lobo, Frank Graziano, Gary Marino, Thomas O'Brien, Mary Ryder, Chairman Paul Scrudato, Diana McGovern, Esq., Board Attorney

ABSENT: None

EXCUSED: Ralph Pastore

Elections were held for the 2013 Zoning Board officers' positions. Mr. Scrudato was elected Chairman; Mr. Graziano was elected Vice Chairman; Mr. DaCosta Lobo was elected Secretary. Ms. McGovern was appointed Attorney for the Board and Ms. Goworek was appointed as Recording Secretary.

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No. 1 PSE&G CONTINUED TO FEBRUARY 11, 2013 MEETING

Applicant: PSE&G, 107 Milton Avenue & 33 Bloomfield Avenue, Block/Lot/Zone: 8602-2 & 8700-49/R-1

Application: seeking a permit to upgrade the existing facilities

Appearances: W. Nevins McCann, Esq., Connell Foley LLP

Letter of Denial was not read.

Applicant requested that this matter be continued on the February meeting so that the applicant's representatives may meet with the adjacent landowners. Re-notification is not required.

Chairman Scrudato requested a motion. A motion was made by Mr. Graziano and seconded by Mrs. Ryder to continue this application at the next regular meeting, February 11, 2013. All approved.

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No. 2 GENCARELLI THIS APPLICATION WAS WITHDRAWN

Applicant: Mr. & Mrs. Angelo Gencarelli, 32 Highfield Lane, Block/Lot/Zone 3701-14/R-1

Application: request for a permit, at the above referenced premises, to construct a 12' X 12' 2nd story unroofed deck in the side yard along Conduit Court, having a 14' setback.

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No. 3 GARRUTO APPROVED 5-2

Applicant: Andrew Garruto, Esq., 5-7 Saint Paul's Place, aka 609 Franklin Avenue
Block/Lot/Zone: Lot: 2002-5/B2

Application: request for a permit, at the above referenced premises, to construct a conference room and arbitration room; approximately 500 square feet of office space in the existing basement area of the existing mixed use building

Appearances: Andrew Garruto; Joanne Andriola, 610 Franklin Ave.

Letter of Denial was read by Mr. DaCosta Lobo. Previous variances were granted as follows:

- October 15, 2001 to permit a sub-leased office to a non-resident practitioner.
- April 21, 2003 to expand a non-conforming structure with office space and residential on both the first and second floors.
- January 23, 2012 for a zoning permit to lease some or all of the residential portions to someone other than a resident professional.

Chapter 700, Article XIII, Section -700- 91 A of the Codes of Nutley; the *Schedule of Minimum required Parking Spaces*, requires one (1) space for each 300 square feet, of office space. The proposed 500 square footage of office space will require two (2) additional parking spaces.

Several years ago when Mr. Garruto built his office, he had a basement added so that one day he could have a mock court room/arbitration room eventually installed. He had HVAC units put in. This room would benefit his practice. A good portion of his cases does not go right to litigation, but to arbitration, which is typically held in an attorney's office. Currently, hearings are held around a table in a conference room. The courtroom setting, similar to the room they are in now with a witness stand, a presider's bench, and a table for the attorneys with a deliberation / conference room for the three arbitrators to discuss the cases. It would not be a big room. When a deposition is held at his office, very often he has to give up his personal office space so that adversary attorneys can prep their clients prior to being deposed. They have also used the reception area to prep. By allowing him to finish the basement, there would be no additional use. It is just a matter of being able to use the space he has.

He does have the room to extend the paver driveway, but it will look unattractive (ugly) and there really isn't a need for the additional spaces.

Ms. Brown asked for clarification that these services are already being performed in this office space. Mr. Garruto said yes. Ms. Brown commented that Mr. Garruto is not adding more people, that he is just spreading them out and making it more conducive to a better working environment. He said that was correct. The conference room on the second floor is big enough for the seven or so people that would be at an arbitration, but it is an awkward place to have a hearing. The proposed hearing room is a long room but enough to accommodate a bench in the front, two counsel tables and several chairs. He said that often people speaking in the public for the first time are rattled and they ramble more than Mr. Garruto is now. If he can prepare clients in a mini courtroom like this, it makes going to a real courtroom that much easier. This is also beneficial to his practice. This would be an asset to preparing clients as to what to expect at a trial. His adversaries will have another place to prep their clients instead of his office.

Ms. Brown asked where these people would park. Mr. Garruto said parking is easy on that side of Franklin Ave. He said the only issue is parking on the side street. There is a very good community school and at 9:00 the parking is jammed. That is the only time there is a parking issues; other than that, they can park in front of his office. The chairman said bringing in more attorneys and witnesses would require more parking spaces. Mr. Garruto said there would be no more attorneys or witnesses coming to the office than there already is. He is just looking to accommodate them by having a conference room so they may review their cases and to prep for an arbitration. The chairman said his calculations show that two additional parking spaces are required. Mr. Garruto said there is parking on the side street, and usually on Franklin Ave.

Joanne Andriola said the parking is horrendous in that area. She said all the businesses in that area have parking lots. Mr. Garruto has five shingles on the front of his building, which means there are five different practices- people with secretaries and receptionists over there; where are people going to park? Parking is crazy because of the morning and afternoon session at the school. The parking variances need to be addressed. It is not fair to the rest of the businesses that live on the avenue and need to provide off street parking for their customers and clients. The board cannot continually permit variances for this building without addressing the parking.

The Chairman said there is a municipal park lot not far from this area. Ms. Andriola said that most of those parking spaces are rented.

Ms. McGovern asked Mr. Garruto if any of his clients had any problems with parking. Mr. Garruto explained that one of the shingles belongs to a friend of his who is rarely in the office. Another belongs to his mother who is there once a week to write out checks for him. She has no clients. There is a financial planner upstairs who has no staff. The last shingle belongs to Mark Grasso who has two part-time employees. Mr. Garruto wanted to make it understood that there would be no additional use in the building; he just wants to use the property more effectively.

Mr. DaCosta Lobo asked Mr. Garruto to clarify that preparation for a deposition or arbitration to be held in the conference room is done in his private office. Mr. Garruto said that is correct. Opposing counsel and the client show up at the time of the scheduled deposition and require time and space to review the matter. Mr. DaCosta Lobo said then, when these people come in for the depositions or arbitrations, Mr. Garruto is also participating in them. So, when the meetings move into the proposed basement space, Mr. Garruto needs to be there. It is not feasible that there would be something else going on in the conference room because he would be required to be in two places at the same time and that is not possible. Mr. Garruto said that is correct. Only a handful of times since he has been in this office the conference room has been used by the tenants. Mr. DaCosta Lobo said these are things that would go on anyway. Mr. Garruto is not looking to double book anything. He said the conference room is a pretty cool thing to have in the office. It would be really helpful for some clients to get a feel for a real courtroom and it is a very professional forum for an arbitration.

Mr. Garruto said he code put the parking on the side lawn, but he doesn't feel that it's necessary. With the school across the street, he allows two mothers to park in the spots that he never uses.

Mr. O'Brien asked the applicant how many parking spaces he currently has for his office use. Mr. Garruto said he has a two-car garage and a driveway that fits three cars. There are five spaces for office use and personal space, the office is attached to the house. Mr. O'Brien asked what the square footage of the office is. Mr. Garruto said it is about 3,000 including the basement. Mr. O'Brien asked if it is fair to say that the applicant is looking to add 500 sq. ft. and he currently has approximately 3,000 sq. ft. of office space. Mr. Garruto said that it might be a little under that - maybe 2500, but he really does not know the answer. Mr. O'Brien asked if there were questions about the available parking spaces as to the current office space. Mr. Garruto said there never were. He said he had interviews with Mr. Intendola; he asked him questions every step of the way and never proceeded without getting answers. He said every requirement put before him, he followed. Prior to this building being changed, he was friends with his neighbors, who have since that time come before the board and objected to everything he wants to do. He has heard from people involved with the Board and other avenues of government that the neighbors were complaining about the approval of the building. He never

understood why and stated that they haven't spoken since. He found out later at a variance hearing that Ms. Andriola said she had to do a parking study and he did not. He realized then what the problem was. It is more of a sour-grapes objection of what she had to do. Whether he lived in the house or not, wasn't going to affect the parking. He said he was never asked to do a parking study; if he had been asked, he would have had it done.

Mr. Graziano asked how long the tenant has been in the office. One has been there since 2007; the other since, maybe, 2008. The financial planner does not do tax returns. Mr. Graziano asked if he needed a variance to add parking. He doesn't know that he would. He had a picture of the side of the house where the garage and the driveway is; there is a small lawn in front of the fence. He can go to the right, next to the neighbor and put a parking space. He would not need a curb cut to get two cars there. That would make a very big, unattractive driveway. Mr. Graziano asked if there were any plans to allow any other attorneys to use the room. Mr. Garruto said no; it is for his use only. The conference room is a shared space.

The Chairman asked Mr. Garruto about the garages and the three parking spaces in front of them. How does one get cars in and out when there are cars parked in the driveway? Mr. Garruto said he does not put his cars in the garages. The bays are used three days by one neighbor, two days by another. He uses one and occasionally his mother-in-law uses one when she visits.

With no further questions from the Board or the audience, Chairman Scrudato requested a motion. A motion was made by Mr. DaCosta Lobo to grant the variance. He stated that the evidence presented indicates that the reorganization of internal space that is already being used in the manner that will be consistent with the manner which will be used in the future which will not lead to any additional parking. The Board is clear that parking in the area is a problem, but this variance does not seem to affect in any adverse fashion. Seconded by Mrs. Ryder. The variance was approved by a vote of 5-2 with Mr. Graziano and Chairman Scrudato voting against it.

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No. 4 GRUETER TO BE CONTINUED FEBRUARY 11, 2013 (Bifurcated)

Applicant: Mr. J. Grueter, 184 Franklin Avenue, Block/Lot/Zone: 7501-5 and 6/B3A

Application: request to convert the existing two (2) story brick building into a restaurant/bar, having 135 seats, and a bowling alley having 12 lanes, and to make improvements to the existing parking lot.

Appearances: Thomas DiBiasi, Esq.; Joseph Haines, Architect; Ms. Seigel, Ray Street; Marina Perna, 189 Franklin Avenue; James Baumhaver, 75 Ravine Avenue

Exhibits: A1 (parking); A2 (floor plan); A3 (proposed elevations); A4 (existing conditions); A5 (elevations); A6 (photos) A7 (trade magazine)

Letter of Denial was read by Mr. DaCosta Lobo. Chapter 700, Article V, Section 700-18 A of the Codes of Nutley lists the permitted uses in a B-3A district and a bowling alley is not listed as a permitted use.

Chapter 700, Article V, Section 700-7 of the Codes of Nutley states no building shall hereafter be erected and no existing building shall be moved, altered, added to or enlarged nor shall any land or building be used, designed or arranged to be used for any purpose other than is included among the uses listed in this article as permitted in the district in which such building or land is

located nor in any manner contrary to any of the requirements specified in this article. All uses must be listed.

Chapter 700, Article XIII, Section 700-91A of the Codes of Nutley states no building or premises shall be used nor shall any building be erected nor shall any building be altered so as to expand its usable floor area unless there is provided parking spaces upon the same premises upon which the use or building is located. Parking for bar restaurant and bowling alley are as follows:

Bowling Lane	3 per lane; 12 lanes	36 spaces required
Restaurant/Bar	2 for each 5 seats; proposed 120 seats	48 spaces required
Couch Seating	2 for each 5 seats; proposed 15 seats	6 spaces required
Amusement devices	1 for each device; 10 devices	10 spaces required

Total 100 Spaces

Less credit prior use 10 spaces

TOTAL SPACES REQUIRED 90 Spaces Required

Parking reduction for existing use:

Office	1 per 300 sf.; 4,780 sf./300 sf.	16 spaces required
Factories	1 per 1,000 sf.; 8,570 sf./1000 sf.	8 spaces required

Currently, there are 14 spaces on site.

Chapter 700, Article XIII, Section 700-96 of the Codes of Nutley states parking and loading areas located in any front yard or side yard abutting a street shall not be permitted within 10 feet of the right-of-way line of a street. The minimum setback of off-street parking and loading area from any other lot line shall be five feet. The five-foot parking and loading area setback need not be provided between properties which have common access and/or common parking areas. The proposed setback to the right of way is 7.5' and the existing setback to the side lot line is three (3') feet.

Chapter 700, Article XIII, Section 700-98 of the Codes of Nutley states any parking or loading area adjoins a lot in any R District, a landscaped buffer strip at least six feet in width containing plantings at least three-feet high shall be provided. The proposed setback to the rear lot line adjacent to an R district is three (3') feet.

Chapter 600, Section 600-1 A of the Codes of Nutley requires site plan approval. Section 600-5 A B list the site plan requirement. A copy of the checklist and application are attached [to the denial letter] (waivers may be requested).

Mr. DiBiasi advised the Board that Mr. Grueter, owner of Jim Dandy's, is the applicant. Mr. DiBiasi then described the history and current status of the building. He described the building as being long and rectangular (45'x145'); the interior is beyond dilapidated. The applicants want to turn the building into a bowling alley with 12 lanes, a restaurant, a juice bar (they are not applying for a liquor license); a lounge area and a bocce ball court. He gave an overview of what his experts' plans are for parking. He is bifurcating this and is only going for variance approval tonight.

Joseph Haines place Exhibit 6 on the easel and described to the board the photos that they are looking at. The building is in fairly good condition; windows need to be replaced and/or removed. He described the parking area saying it is in disrepair and overgrown with vegetation. On his plans, he was able to design 17 9'x19' spaces. To meet the ordinance requirement, off-site parking is needed. In a 500-foot radius, there are three municipal lots. One of the lots is parking

by permit, so that will not be a viable option. The applicant and the team feel that patrons would not mind walking a block or two to the facility. They will also offer valet parking.

Mr. Haines described the southern exposure of the building [this was not picked up on the recorder]. The interior of the building (Ex A2) shows the plans for a bowling alley, a juice bar, a bocce court, and game room. The entry will be handicapped accessible. Entering into the lobby area, you will find an elevator to the upper floor. At the top of the stairs, there is a juice bar. There will be a room for parties and corporate events. There will be eight (8) bowling lanes on the upper level and four on the lower level with an upscale seating area – couches, chairs, very family oriented. Mr. DiBiasi passed around Ex A7 (trade magazine) to allow the board members to get a feel for what the venue will look like. Inside the applicant's building, the architect will work to keep the brick and wood exposed. He described the seating area with tables and chairs. Some of the windows will be closed up; the one in the front corner will remain.

The restaurant and the juice bar fit within the context of the zoning ordinance. Mr. Haines noted that the main entrance on the front of the building, north side, is to keep entry as far away from the residential area as possible. A day care center is also a neighbor. Windows on the south side where the day care center is located will be removed. The door that is located on the south side of the building will not be used by patrons. The lower level will hold the kitchen facility, the office, the bathrooms, and four more bowling lanes and a bocce ball court. Exhibit A3 was described for the Board. What the applicant wants to do is close up many of the windows. There will be three signs, one in the front and one each on the sides. The signs are wall mounted and will have gooseneck lighting. The main entrance will have a canopy over the door. Windows will be installed in the front on both levels. They will create an egress at the lower level. The signs will be made in accordance with the local ordinance; therefore, the applicant will not be seeking a sign variance. More details to follow if this application goes to the next meeting.

Mr. DiBiasi asked that Mr. Haines go discuss the letter of denial specifically about the rear yard, that the building is not being moved, the dimensions exist. Using Ex. 1A, Mr. Haines explained the building is an existing non-conforming and it has a non-conforming rear yard and side yard. He also certified that the footprint would not be altered.

Mr. DiBiasi said that is the Chairman would like, Mr. Haines can go into some site plan issues, the plantings, and buffering. The Chairman agreed to hear Mr. Haines' thumbnail testimony. Mr. Haines described the driveways. He then described the buffers. The buffer will be more than required by ordinance. Side yard setback is five feet; the applicant is proposing two feet. Another bulk requirement is the front yard, 10 feet before the first parking spot is required. The applicant has 7'6". There is no buffer.

Ms. Brown asked about the floor plan. (A2) Entry is made between the lower and upper floor. The upper floor shows a raised seating area (this is the same level as the bowling area. The plans show doors into the lobby. How do you get there? Do you jump? Mr. Haines started to explain the doors are from the first floor below. Ms. Brown said these needs to be clarified because you can have an upper and a lower and a first and a basement.

Ms. Brown asked about the stairs going from the lower level up. They are right in front of the window. How is Mr. Haines dealing with that? The stairs are pulled off on an angle a little so they are a little bit away from the window. Ms. Brown said this is a beautiful building and she appreciates that the applicant wants to maintain it. But with this elevation, it is disturbing to

have three windows and above and three windows below. She would like the architect to reconsider that.

Ms. Brown asked for clarification, on the plan, as to where delivers would come in. Mr. Haines said there is a loading area. Entry would be made through the side door on the side of the municipal lot. Delivery would come in and go right down the stairs. Ms. Brown noted that there is no storage space for anything. Mr. Haines said this is just a generic plan now. The kitchen has not yet been designed. Is there one dumbwaiter for clean and dirty dishes?

Mr. DiBiasi asked if Mr. Haines would go back to Ms. Brown's concerns regarding the stairs and the proximity to the windows. Mr. Haines put A-3 back up on the easel. The building will have a main entrance. There will be two sets of windows on the upper level and two on the lower level. Ms. Brown asked that they make the building look like one, not two. She is not telling them how to do it, but she is saying that right now it is not pleasing to the eye. Mr. DiBiasi said that the applicant will address Ms. Brown's comment. He said that the earlier comment about having multiple dumbwaiters is a very good suggestion. Mr. Haines agreed with Mr. DiBiasi that Ms. Brown's comments about the storage area and others would also be addressed when the plans are reworked.

Ms. Brown asked if the stairs in the back on the east side are exit stairs. She asked if it would be a covered stairway. She asked if there would be lighting there.

Mr. Graziano asked about the dumpster. Mr. Haines said they are limited as to the space. They have discussed having pick up scheduled as often as needed. Space may even be made available inside and trash compactors could be installed. Mr. Graziano asked about sound from the interior – will there be some acoustic material to help with the noise. Mr. Haines said that has been discussed. Mr. Graziano does not want to see the neighbors getting upset with the noise. Mr. DiBiasi said that is an issue that they recognize. The sisterhood is very concerned about the kind of patrons leaving especially at later hours.

Mr. Graziano asked about the idea of valet parking. How do they plan to queue the cars for the patrons as they are coming and going? Mr. DiBiasi said they have 17 spaces and will keep the first four or five space vacant so, they can push the cars to the rear of the property. This will be used as a staging area. There will be several valet people running the cars. Mr. Graziano is concerned that cars would be queuing along Franklin Avenue and holding up traffic. For a big event where people are coming at the same time, more of the parking lot would be used as a staging area.

Mr. O'Brien is confused about the calculations for parking spaces on the letter of denial. The letter says there are 100 spaces needed, less 10 credit spaces for prior use - 90 spaces. He noted that the applicant is providing 17 spaces. How many are required? 100 or 90? By ordinance, 90 are required. Mr. O'Brien said the balance is going to have to be made up somewhere.

The Chairman was concerned about parking. Is there enough room for cars to enter and cars to exist at the same time? After some back and forth dialogue, the chairman asked if air quality was taken into consideration. (The recorder picked up sporadic words),

Mrs. Ryder asked if the heating and air units would be located on the roof. Mr. Haines said they would be.

Ms. Brown asked if there is an existing parapet or is this a truss roof. Mr. Haines said there is a little parapet. Changes will be made to the roof; then the roof will be presented to the members again so they can see exactly how many units there are and how they big they are. They plans will show this.

The Chairman asked if there were any comments from the public, limiting questions and comments to what the expert has testified. Ms. Seigel asked how many lanes will the building hold (upper level will have eight lanes; the lower level 4). She noted that there are three levels (lower, middle, and top, where the restaurant/bar is). Mr. Haines said the lower level is a small basement area. She said that the parking issue is a concern. She picks up here daughter from school during the business hours. She claimed that if there are two cars in queue for valet that is already blocking her space. Corporate events usually begin at after work. This will not be a smooth transition because the valets have to take the cars two blocks, through an intersection, through a pedestrian parking [sic] or going through the diner. This will not be a smooth valet transition. What are the hours of the valet service? Will the valets be smoking while they are waiting for cars?

Mr. DiBiasi said they would not hire anyone that smokes, because they are against that. The valets will be as necessary. In order for this to work, they have to make it as convenient as possible. If 10 valets are required for a corporate event (which generally would begin at 7:30-8:00), they will have 10 valets. The applicant has come up with a business plan and that is what is necessary to make this work. They will have as many as required at any given time and definitely will have at least two there during all hours of operation.

Ms. Perna has an office on Franklin with 14 parking spots, one of which is dedicated to handicapped. All of her neighbors' clientele use her lots at various times – to run in for pizza, to have their vacuum repaired, buy a dress, go to the bakery, etc. She looks the other way because they do not have enough parking. However, if anyone is there longer than 5 or 10 minutes, she will call the police and have them ticketed because she needs her spots for her tenants, a medical office. Sometimes she does not even have parking for herself. She bought a lot behind her building so her employees have a place to park. She has an agreement with the restaurant to use her lot when they have a big weekend event. The pizza restaurant does not have enough parking for employees and patrons. Franklin Steak House is always packed and parking is always hard to find. She asked that before the Board considers an application requiring 90 spots, that only has 17 available on the premises and is taking away five for some kind of valet mechanism with no ingress and egress, they should be aware that there have been other applicants on the avenue seeking variances for apartment building parking spaces and were denied because they were short two or three when they needed 35. Please make sure there are 90 spots somewhere else to accommodate the valet. She tries to be a good neighbor. This sounds like a wonderful project, but she is not sure that it is suitable for the busiest intersection on Franklin Avenue. She hopes too they will beautify the outside of the building and hopes too, that they will not have a big sign outside.

Mr. Baumhaver said this building is right in the middle of a residential area and is fine, but his concern is with the garbage and how it will stink. His yard is 25 feet from the storage area. When the trash is picked up, the trucks will be beeping as they back up to the pick-up site. Mr. Haines said this is a concern of theirs. They cannot put the trash to the front of the building. The right spot has not been determined yet; but will make sure everything is properly contained and stored. Mr. DiBiasi said that they could discuss doing all of the trash inside the building.

The Chairman asked if there was any commercial machinery they could get to compact the trash. Mr. Haines said that there is. Mr. DiBiasi said that is where he was going with this. There is enough room inside for the recycling and compacting. That should take care of this issue. Mr. Haines said then that the buffer between the residential area and the parking area could then be increased. The lighting was questioned. The lights would be facing the buildings. Mr. DiBiasi said that lighting can be designed not to spill on neighboring properties. This building will be using gooseneck lights. He did say, if this application goes to the next step, they will be talking about trash compaction, landscaping and buffering and lighting. Mr. Baumbaver also had comments about the parking.

The Chairman called for a five-minute break.

[Testimony, questions, and comments were not picked up on the recorder after the break.]

Mr. DiBiasi concluded his case for the evening. His traffic expert will not be able to make it tonight.

With no further questions from the Board or the audience, Chairman Scrudato requested a motion to continue this matter until the next regular meeting to be held on February 11, 2013. A motion was made and seconded to continue to February 11, 2013 and approved 7-0.

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No. 5 SALZARULO CARRY OVER FROM APRIL, 2012. TO BE CARRIED OVER TO FEBRUARY 18, 2013

Mr. Graziano recused himself from this matter since he was not present in April, 2012.

Applicant: Mr. & Mrs. Gerald Salzarulo, 63 Ridge Rd., Block/Lot/Zone: 5503/31/R-1

Application: to construct a 41'x24'6" unroofed deck around the existing pool approximately 24" off the ground, having a zero setback on the southern sideline, a 5'6" rear yard setback, increasing the lot coverage to 59%, and the impervious coverage to 71%

Appearances: Joann Salzarulo

Letter of Denial was read into the record on April 16, 2012.

Ms. McGovern noted that the applicant submitted a new plan but it was not given to the board 10 days before. Everyone should have it in his or her packages. Ms. Salzarulo commented on the revised plan. She said she knows for a fact that the plans the board members have do not depict exactly where the pool is; and they made more revisions to the deck. She said this was only noticed this weekend. She relied on her husband's colleague, who she thought, knew what he was doing. Someone saw the plans and said they were not right. She went out to measure certain things. She had 13 copies of the revised plans with her. She claimed that it was not that complicated and she did move the deck in significantly. Ms. McGovern had a copy marked A-1 for the Board to consider tonight.

Ms. McGovern said this matter is not starting over. Mrs. Salzarulo testified in April about why she wanted the deck.

Ms. Salzarulo was sworn in again.

Ms. Salzarulo moved the pool to a different location. She brought in the sides on the left – 10 feet, a foot over from the shed and pushed the deck in more, as suggested by the members, for a total of 6.17 feet on the left side. The stairs are now inside where previously they were on the

outside of the gate, and made the deck smaller. The gate can be opened on the left; you would turn right and walk up the steps.

Ms. McGovern asked if the required side yard setback was met. It was. They are not just down to lot coverage. Mr. DaCosta Lobo said the previous lot coverage was 59%; this new deck is not that much smaller that it goes from 59% to 49% coverage.

Ms. Salzarulo's testimony was in and out; board members questions were not heard.

Ms. Salzarulo said the original deck was removed when the extension was added. Ms. McGovern said this will have to go back to the code office to recalculate the impervious coverage.

This matter will be carried over to February 11, 2013.

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BUSINESS: None

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RESOLUTIONS (all approved):

Riccardi, 218 Park Avenue
Higgins, 120 Church Street
Chaparro, 63 Elm Place

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PROFESSIONAL INVOICES:

Pennoni for 7-Eleven \$450 (11/5/12)

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LITIGATED MATTERS: None

Respectfully submitted,

Marie L. Goworek