



Zoning Board of Adjustment

August 30, 2010

*****Special***
Hearing
(Minutes)**

Prepared by:

Paul Demarest

Chairman Knee called to order, at 8:04pm, the (Special) Hearing of the Zoning Board of Adjustment for the Borough of Closter, New Jersey, being held Monday, August 30, 2010 in the Council Chambers of the Borough Hall. He stated the meeting was being held in compliance with the provisions set forth in the Open Public Meetings Act of the State of New Jersey and had been advertised in the Borough's officially-designated newspaper according to law. He advised that the Board adheres to an 11:00pm adjournment and no new matters would be considered after such time.

He invited all persons present to join the Board in reciting the Pledge of Allegiance.

.....

The following Board members and professionals were present at the meeting:

- Robert Knee- Chairman
- Steven Freesman, Esq.- Secretary
- Joseph Bianco, RA/PP
- Mitchell Monaco
- Jennifer Rothschild, Esq.
- Thomas Hennessey- Alternate #1
- Mark Crisafulli- Alternate #2
- Arthur Dolson- Council Liaison
- Leonard Sinowitz- Zoning Officer
- Alysia Smickley, Esq.- *in lieu of Joel Ellis, Esq.- Board Attorney*
- Kevin Tichacek, PE- Board Engineer
- Paul Demarest- Board Coordinator

The following Board members and professionals were absent from the meeting.

- Lorin Sonenshine, RA/PP- Vice Chairman
- Theodore West, DDS
- VACANT- Alternate #3
- Marie Hartwell- Alternate #4
- Joel Ellis, Esq.- Board Attorney

.....

Prior to the meeting, the Board received copies of mail correspondence received by the Land Use Department on its behalf. Secretary Freesman read said mailings into the record.

.....

Chairman Knee opened the meeting to the public for anyone wishing to comment on matters not related to a case on the evening's agenda. No one wished to be heard.

.....

Item #1

Case #Z-2010-08
95 Robinhood Avenue
(Block 704/Lot 15)

Applicant(s): Frank & Imma Rotondo
Representation: Selves

The applicants are seeking Bulk Variance Relief for a driveway expansion at their residence.

Frank & Imma Rotondo, applicants and owners-in-fee of the subject property, were sworn in as Witness #'s 1 and 2. Ms. Rotondo explained the reason for wanting to enlarge their driveway was because her husband is forced to park his vehicle on their lawn abutting Cedar Lane (corner lot property); she further stated she and her daughter park their large vehicles in the driveway, portions of them carry over to the sidewalk, a condition for which the Borough's Code Enforcement Bureau issued a Notice of Violation. Ms. Rotondo stated her garage could not accommodate the 3 cars parked on-site, being their daughter is living at home. The witness informed that, in terms of impervious coverage, the expanded driveway would increase it from an existing, non-conforming 30.7% to a further exacerbated 38.7%. She concluded that having an irregular-shaped, corner lot is partly to blame for such a variance request and that, while not aware of any drainage concerns, she pointed out that a trench drain would be installed in front of the garage, which would supplement the existing 20 year-old underground drainage system on-site. Chairman Knee noticed that the "Zoning Permit Application Denial" filed with the Board indicated a lesser amount of impervious coverage excess; Ms. Rotondo agreed, saying that the request was increased to 38.7% following the Work Session where the Subcommittee implied that the amount applied for may not alleviate the parking problem they are having and another appearance before the Board could be necessary in the future. Mr. Sinowitz pointed out that the Board would also have to consider granting a design waiver for the proposed 26' curb cut since the maximum allowed is 21'. Mr. Bianco stated that based on the proposed layout, he understood that their vehicles must be backed into the driveway resulting in them facing out towards the street. Ms. Rotondo informed that she is always on-call at the hospital where she works and her husband volunteers for the Borough's Ambulance Corps; she said, therefore, they often do not have time to shuffle around the vehicles in the middle of the night. Mr. Bianco wondered if the proposed impervious coverage could be lessened somewhat by reducing the right side-facing portion of the driveway (when pulling in) by 3', where it seemed there currently is a small buffer strip between the edge of the driveway and the front corner of the house; Ms. Rotondo responded saying she wished to cover that area with driveway and make it level since it now accumulates ice/water from storms. Mr. Bianco further suggested that a 3' buffer strip be made between the edge of the driveway and the left-facing portion of the garage which would both assure the door of a car parked right up against the house could be opened and reduce the proposed curb cut. Ms. Rotondo answered that after researching driveway specifications on-line, she found that a 12' width is recommended for single-car driveways and to accommodate larger cars, a 14' width is customary when a driveway is surrounded by walls; thus, she felt a 13' wide version would be an acceptable medium since only 1 side of their driveway abuts a side of their house and 8' or 9' wide spaces would not be practical. The witness promised that she would ask the contractor to angle the driveway so not exceed a 21' curb cut. Exhibit #A-1, a highlighted version of the site plan filed with the Board, was presented. Mr. Crisafulli asked about the pitch/topography of the subject lot with respect to his concern about drainage; Ms. Rotondo said that when facing the front of the house, the land pitches to the right where an existing trench drain is. Mr. Crisafulli asked if the applicants have appeared before the Board in the past to which the witness answered in the negative. Mr. Monaco asked how long the applicants have resided at their residence; Ms. Rotondo indicated since 1990. Ms. Rothschild questioned when the home was built; both witnesses believed they were told it was about 50 years old when they occupied the home 20 years ago. Ms. Rothschild surmised that since their

house predated the implementation of the Borough's Zoning Code (December 19, 1940), the fact that the lot size is 8,400 sf (minimum lot size in District #2 is 12,500 sf) plays an important factor with regards to the applicants' hardship; she also pointed out that she believed the applicants had recently removed an above-ground swimming pool on-site to which Ms. Rotondo confirmed. Mr. Bianco asked what the driveway's surface material would be; the witness said it would be brick pavers.

Chairman Knee opened the meeting to the public for both questions of Witness #'s 1 and 2 as well as general comment. No one wished to be heard.

Outcome

A motion was made by Mr. Bianco and seconded by Ms. Rothschild, to approve the application with the following conditions: 1.) curb cut not to exceed 21'; 2.) impervious coverage not to exceed 38.7%. The motion passed (7-0: YES- Crisafulli/ Hennessey/ Rothschild/ Monaco/ Bianco/ Freesman/ Knee).



Item #2

Case #Z-2010-09
251 Parsells Lane
(Block 2304/Lot 16)

Applicant(s): Phillip & Sung Kwon
Representation: Elliot Urdang, Esq.

The applicants are seeking Bulk Variance Relief for the installation of an in-ground swimming pool and patio at their newly-constructed residence.

Elliot Urdang, Esq., 19 Engle Street, Tenafly, New Jersey, introduced himself. He stated his clients wish to construct a very small swimming pool and patio; he revealed that a portion of the lone various request (excess impervious coverage) is simply from a walkway that would go directly from the house to the pool.

Thomas Skrable, PE, 65 Ramapo Valley Road, Mahwah, New Jersey, was sworn in as Witness #1. He stated the subject property is located on the northeast corner of Parsells Lane and Anderson Avenue. He said the existing house on-site, which recently was issued a Certificate of Occupancy, required the builder to receive variances from the Board for its construction as well as a Major Soil Movement Permit from the Planning Board. He said the proposed appurtenances would be located in the rear yard, with the quite small pool being 460 sf (together with the spa totaling about 515 sf) and the patio's square footage being 188. Mr. Skrable stated the patio would serve simply as a connection to the existing patio beneath a landing (2nd story) and that there would be no patio on the west (facing Parsells Lane), east (abutting a neighboring house) or north sides of the subject lot; he continued saying the patio connection would allow for the applicants to walk out of their house and onto the proposed patio, which, at the most, could accommodate only a couple of chairs. The witness testified that the patio is generally 12' in width (irregularly-shaped) with a minimum of 9' on the house side and a maximum of 25' at 1 side of the pool; he said the remaining areas surrounding the pool are to be grass and that nearly the entire yard area is ringed with evergreens (both in the Borough's right-of-way along Parsells Lane and the Kwons' property along the north and east boundaries

to beyond the side of their residence), which would provide for very good screening. Mr. Skrable mentioned that as per the Work Session's Subcommittee, the following changes have been made to Exhibit #A-1, a site plan he prepared and last revised August 17, 2010: 1.) proposed impervious coverage was reduced from 36.24% to 34.09% via reduction of proposed patio; 2.) drainage perspective was clarified by indicating perimeter drain to run around pool and patio and connect to 500 gallon seepage pit that would collect runoff from a 2" storm event. The witness pointed out that the pool area would actually be situated down in a hole, so to speak, being that the pool is at a spot elevation of 98 while the house's eastern walls are at 101'; thus, he said the only possible way to see the pool through the existing screening would be along Parsells Lane and to rectify that, 6 spruces (6' to 8' high) would be planted on the applicants' property. Mr. Skrable testified that he researched the possibility of relocating the pool pad to underneath the 2nd story landing and putting the pool equipment in the house with soundproofing; he found out that all of the industry people he spoke to said those would be bad ideas since sound from the equipment would end up bouncing off elements and magnify. He also stated that the flooding potential would be disastrous and the applicants' usable space adjacent to the 2nd story landing would be impacted. The witness concluded saying he looked into reducing the driveway at the southerly end of the site, but the result would be a reduction of only 100 sf of impervious surface equating to 0.5%, and the safety factor of maneuvering out of the site would be lost. Mr. Monaco asked if there were any other ways to reduce the impervious surface area on-site; Mr. Skrable said the removal of the only other area not attached to the house, an existing walkway leading from the 2nd story landing, would only net about 100 sf and a reduction of the existing 16' wide driveway would not be worth the effort to reduce the lot coverage by a mere 1%. Mr. Crisafulli asked for the impervious coverage permitted in the Board's prior approval of the new house construction; Mr. Sinowitz said the finalized amount was 28%. Mr. Bianco asked what the overall dimensions of the pool would be; the witness said the length is 32' while the width varies from 12' to 14'. Mr. Bianco asked about fencing; the witness said it was shown on Exhibit #A-1 as being very tight to the pool so the applicants' family may have full use of the rest of the yard while still keeping the pool protected. Mr. Bianco questioned the relevance of Note #16 on the site plan; Mr. Skrable said he would remove it since the Borough code does not allow for neighbors' input/consent on fencing installation. Mr. Monaco asked what type of material the pool would consist of; the witness said he assumed it would be a shotcrete/gunite pool (free-form concrete). Mr. Bianco asked if there would be a diving board; Mr. Skrable answered there would not since the deepest part of the pool will probably only be 5' or 6'. Mr. Bianco asked if there would be any underwater or top of water lighting installed; the witness said he was not certain about underwater but knew there would be no exterior lighting introduced. Mr. Hennessey said the proposed seepage pit seemed extremely close to the existing pits on-site; the witness said there was normally 2' of stone around seepage pits, which would put the pits at least 4' apart, but in this case, there is 8' of separation. Mr. Hennessey said the 3 pits will be acting as 1; Mr. Skrable said often it is designed that way because if 1 pit is full and 1 is empty, there is a place for the storm water to even out leading to maximum pit capacity, which is good engineering. Secretary Freesman felt that the way the house is situated on the lot (caddy-corner), most of the land is taken up by roof area and the only green space (side yard) will now be lost due to the pool. Ms. Rothschild asked what type of pool cover would be used during the off-season; Mr. Skrable recommended a mesh-type due to runoff concerns. Chairman Knee said the mesh cover would be beneficial since the water level of a pool is dropped to 2' or 3' below the skimmers during the winter to accommodate hydrostatic pressure and, thus, the mesh would allow for available space to be utilized by rainwater.

Chairman Knee opened the meeting to the public for questions of Witness #1 only.

Michael Kafer, 261 Parsells Lane, presented Exhibit #'s O-1 through O-19, a series of photographs depicting the subject site and its surroundings. Mr. Kafer asked and Mr. Skrable confirmed that he was retained by the subject home's builder (Diamond Engineering & Developers, Inc.) and appeared before both this Board and the Planning Board for matters concerning the new home's construction. Mr. Kafer asked what the reason was for the builder coming to the Board in 2007; the witness said he believed it was for a front yard setback issue. Mr. Kafer asked for the length of the house along its eastern wall; the witness said approximately 92'. Mr. Kafer asked for the house's height; the witness said it is 2 stories but he did not have the ridge elevation on-hand. Mr. Kafer asked for the side yard setback of the eastern wall; Mr. Skrable said it was 15'. Mr. Kafer asked if any old large trees in the area are at risk if the proposed pool were to overflow. The witness answered they were not, explaining that trees generally fall due to saturated ground conditions (prolonged rainfall) leading their roots to become loose and the possibility of a windstorm to cause tree loss; this pool's runoff volume, he said, would be insignificant, plus, a 3rd seepage pit would be added to the lot. Mr. Kafer asked what the pits' maintenance schedule was; the witness said he did not have specifics but that it was a standard version that has been approved countless times for projects within the Borough. Mr. Kafer believed the house could have been situated elsewhere on the land to prevent having the current hardship. Mr. Urdang objected and said the current application is not based upon hardship but rather substantial benefit. Mr. Crisafulli pointed out that the Board application packet filed with the Board indicates that a "C1" variance (hardship) is being sought. Mr. Urdang stated he knew that but the Board had jurisdiction to consider any case under any variance criteria whether the Board or counsel asserts; he further stated that this application was proceeding on a "C2" basis (substantial benefit) upon reconsideration of the facts following the applicants' filing of their application.

Jesse Rosenblum, 65 Knickerbocker Road, asked where runoff would flow to when a seepage pit, such as in this case, is on top of a street and there is a down slope. Mr. Skrable answered that generally it moves vertically through the soil until it reaches the regional groundwater table and then it slowly moves in that direction, which does not necessarily follow the topography; eventually, he said, that runoff will come out to the surface because the groundwater table will have then become a river, stream, bay, ocean, etc. Mr. Rosenblum asked what the sub-soil consisted of on-site; the witness said analysis done during the new home construction revealed it was a very loamy soil with some, but not pure, clay.

Phillip Kwon, applicant and owner-in-fee of the subject property, was sworn in as Witness #2. He stated he and his family moved into the subject home about 2 to 3 weeks ago; he stated, at that time, it was completed and he had no input as to the condition of the final construction. He pointed out that if the home had been custom-built and not built on speculation, he and his wife would have considered their options as far as zoning went. Mr. Kwon revealed that the original layout of the pool included an outdoor barbecue area, but that was decided against since the purpose of the pool was for his young child's enjoyment and his elderly father to recuperate from a recent stroke (via wading). Chairman Knee asked if he knew, when going into contract, that a variance for the pool was needed; the witness said he did. Ms. Rothschild asked if he looked at other homes in Closter to purchase, where a pool may be more suitable; Mr. Kwon said a few were visited, but his wife was set on buying a new house. Mr. Bianco asked how many occupants were in the home; the witness answered 5, them being himself, his wife, child and both parents. Mr. Bianco asked how many vehicles were on-site; Mr. Kwon answered there were 2. Mr. Monaco asked for the square footage of the house and its height; Mr. Skrable said the footprint was roughly 3,300 sf and that the building height was just less than 28' to the midpoint.

Chairman Knee opened the meeting to the public for questioning of Witness #2 only.

Jesse Rosenblum, 65 Knickerbocker Road, asked if the witness had any knowledge of how to operate/maintain a swimming pool; Mr. Kwon answered in the negative. Mr. Rosenblum asked when the pool is winterized, where the discharged water would end up (public street or remain on-site); the witness did not have an answer.

Chairman Knee opened the meeting to the public for general comment only.

Joan Kafer, 261 Parsells Lane, expressed her concern over an increase of an already out-of-control storm water runoff problem, in the area, if the Board were to approve the application.

Jesse Rosenblum, 65 Knickerbocker Road, felt the application was a typical case of a builder building a “spec” house to the maximum and the purchaser then wanting to add amenities; he believed potential buyers and properties have to become a better match, thereby avoiding the need to “cram” everything onto a small piece of land.

Michael Kafer, 261 Parsells Lane, was sworn in as Objector #1. He felt the application involved a very saturated use of a property and that the proposal benefited only the applicants and not the community as a whole. Ms. Rothschild, in viewing Exhibit #'s O-1 through O-19, noticed there was little space between the subject house and the neighbor to the north; she asked whether or not it was during the previous Board application that the proposed house was turned and opened up onto Parsells Lane as well as inquired why the yard behind the house is not considered the rear yard (leading to an official address change from 408 Anderson Avenue). Mr. Sinowitz stated that when there are 2 “equal” streets at a corner lot, it is optional when defining the front and rear yards; he said, in this case, Anderson Avenue is the primary thoroughfare while Parsells Lane is the secondary, resulting in the rear yard being opposite the primary and with the house now facing on Anderson Avenue, the side yard setback requirement of 15’ is met (northeast side of property). Mr. Urdang asked Mr. Kafer how he would foresee having visibility of the applicants’ pool if he is 1 property removed from the subject lot, the frontage of the lot between his and the applicants’ is 150’ as well as there being several large trees along his and his immediate neighbor’s property; Mr. Kafer answered he will be able to see either the pool itself or the persons using it.

Chairman Knee opened the meeting to the public for questioning of Objector #1 only. No one wished to be heard.

Mr. Urdang, while summing, pointed out that during the objector’s colloquy with the Board, the notion was made that because his clients knew, when purchasing, that they would need to apply to the Board, it now somehow precluded them from making the application or that it serves as some form of estoppel; he stated such a premise has never been law and *Wilson v. Mountainside* confirmed that.

Outcome

Chairman Knee strongly supported a Board approval conditioned upon the use of a mesh cover during the off-season. Mr. Urdang informed that a deed restriction for such could be made so that the condition would become part of the chain of title and any future purchaser would know of such a requirement. Mr. Sinowitz and Mr. Tichacek agreed that the requested impervious

building rather than brick veneer; 2.) impervious coverage has been reduced from 84% to 75.6%. Mr. Sinowitz corrected counsel and said that the new side yard setback variance would be for an additional 10" (when taking both sides of the building into account).

Thomas Skrable, PE, 65 Ramapo Valley Road, Mahwah, New Jersey, was sworn in as Witness #1. Exhibit #A-1, a site plan he prepared and last revised August 19, 2010, was presented. He noted that the following changes have been made since the prior Board approval: 1.) location of exterior doorways have been altered; 2.) rear stairwell has been slightly relocated; 3.) building's main entrance has been relocated from Ruckman Road side to Endres Street side; 4.) impervious coverage is reduced via removal of entrance's concrete pad and some sidewalks; 5.) increased curb radius for exit on Ruckman Road and at corner of Ruckman Road and Endres Street. Mr. Skrable reviewed how the new 62 parking space requirement was calculated; he stated that the Borough Code requires 1 space for every 250 sf of office use and the existing building (east side) has 5,125 sf for each of its 2 floors, resulting in 20.5 spaces per floor, and the western side is a total of 5,100 sf for both floors combined, resulting in 20.4 spaces, hence the total requirement of 62. Ms. Rothschild asked where one would park if the lot was filled; the witness said the architect would need to answer that based on the building's layout and use. Mr. Watkins reminded that the prior Resolution indicates available off-street parking in several municipal lots near the subject property. Mr. Hennessey questioned how a disabled person would get their wheelchair across the parking lot to the building's handicapped entrance and elevator without there being any sidewalk; Mr. Skrable deferred to the architect but said the intent was to have handicap access on the west side of the building (where there is a walkway and depressed curb) and he assumed that somehow the interior of the building would allow for elevator access. Mr. Bianco asked why not install a depressed curb along Endres Street (along main entrance) and make it wider since, as it is currently designed, vehicles could drive over it anyway. Mr. Tichacek stated it is not optimal to have a car be able to drive onto a depressed sidewalk where the aisle already required a design waiver; he further stated that the required width dimension (triangulation) for a 45 degree parking aisle is 13' (prior design waiver given for 11') and he did not think it was feasible to get a 4' wide sidewalk in along that side of the building. Mr. Tichacek felt that the question now was whether or not there is access within the building for the disabled to go from their entrance to the elevator. Mr. Skrable informed that the required length dimension (diagonal) for a 45 degree parking stall is 19.9'; Mr. Bianco disagreed with the witness' statement. Mr. Skrable explained that when you put the 9' x 18' rectangle into a stall, you lose the triangles at either end (wasted space) and that is why head-on parking is always preferred if possible. Mr. Bianco asked about Mr. Tichacek's report dated August 26, 2010, specifically Item #36, which speaks of the possibility that a car could hit the light pole in the middle of the lot opposite the main entrance. The Board Engineer suggested that everything be shifted to the right of that light pole and the pole be moved 1 space over to keep it away from the catch basin; he continued to say that by going 2' to both the east and west to create a 4' separation, it would allow for the pole to be installed/protected within a 4' island (10' off the curb). Mr. Skrable said such would be done, though he thought it to be unnecessary; he also felt having 1 island on the entire site will make it stand out. Mr. Bianco interjected and said Mr. Tichacek's suggestion would prevent both snow plows from clipping the pole and the build-up of sediment between the catch basin and pole. Regarding Item #37 in Mr. Tichacek's report, Mr. Bianco felt the shrubbery along the western side of the building would cause problems for the handicapped when exiting their vehicles and that it should be replaced with a sidewalk instead; he felt such landscaping would die in its current location and would thrive by the island. Mr. Skrable agreed to make the change. Mr. Tichacek said the utility riser pole could be eliminated by putting the utilities underground; Mr. Bianco concurred and said the only pole that should be on-site is the 1 on the edge of the sidewalk, meaning any pole between the

building and the property line should be deleted from the site plan; the witness understood. Mr. Bianco asked if handicap ramps would be on both sides of the driveway (at the exit onto Ruckman Road and Endres Street); Mr. Skrable answered in the affirmative and said they were noted on the site plan as a drop curb, which is a ramp, however, a driveway calls for a different kind (for instance, there is no detectable warning surface).

Secretary Freesman opened the meeting to the public for questioning of Witness #1 only.

Donald Schmidt, 162 Closter Dock Road, asked whether or not any correspondence had been received from the New Jersey Department of Environmental Protection (NJDEP) with regards to the environmental well on-site needing to be abandoned; the witness said he did not handle the remediation but believed the abandonment had been done. Mr. Schmidt revealed that the NJDEP permit for said well was in his name and that its final testing would not occur for another 2 years; he expressed concern that something could happen with the underground water and more of the building would have to be disturbed due to soil excavation; the witness said he was not aware that more well testing was needed on-site. Mr. Schmidt stated a recent NJDEP letter indicated the applicant has new obligations following additional chemicals being found underground, the source of which must be located; he felt any Board approval of the application must be conditioned on all environmental issues being cleared before the construction project moves forward. Mr. Schmidt asked if any bedrooms would be in the new buildings, as indicated in the application packet filed with the Board; the witness deferred to the architect.

Jesse Rosenblum, 65 Knickerbocker Road, asked what percentage of the building had previously been used for warehousing; the witness said about 5,000 sf (the entire 1st floor of the existing building).

Youngmin Woo, RA, 205 Walnut Street, Northvale, New Jersey, was sworn in as Witness #2. The witness said that after being commissioned by Mr. Kim, his intention was to keep in line with the plans approved by the Board in 2009, the proceedings of which he was not involved; he stressed the only major changes he introduced were to use actual brick on the exterior façade and the sequence of the main entrance to the building. Exhibit #A-2, a set of architectural drawings prepared by the witness on April 15, 2010 and last revised August 2, 2010, was presented. Mr. Woo also pointed out that the former main entrance, consisting of a couple of double doors, would now be enlarged with a double height lobby space, a grand staircase and an elevator in the middle; he stated 4 tenant spaces would be on each floor. The witness said that, as per the Americans with Disabilities Act (ADA) of 1990, the minimum width for the passing of a wheelchair through an entrance is 36", which he felt would be tight for 1 wheelchair, let alone 2 wheelchairs side by side. Mr. Woo testified the main entrance is recessed somewhat leaving for some room from the curb and sidewalk; he pointed out that, in order to be ADA-compliant, said sidewalk should be depressed and made the same level as the parking lot, resulting in some room being available to install a ramp and make up for the difference in width (approximately 4"). The witness indicated that all he must do to redefine the 1st floor of the existing building from a warehouse to office use, is to gut the space and add 2 more ADA-compliant bathrooms. Mr. Crisafulli believed the handicap parking stalls, especially during inclement weather, were very far away from the main entrance of the building. Mr. Watkins stated that there was actually no code with regards to handicap spaces and their proximity to building entrances, however, Mr. Skrable would rearrange for such a space in the front. Mr. Bianco suggested parking space #20 (as noted on Exhibit #A-1), located off on Ruckman Road, become a handicap space making for a total of 3 such spaces on-site; Mr. Watkins said it would be done.

Mr. Bianco further asked that each tenant space on the architectural be identified as "office"; Mr. Watkins agreed. Ms. Rothschild asked if there was any connection between the 2 buildings; Mr. Woo stated the existing Resolution forbade the applicant from doing so. Mr. Bianco elaborated saying the 2 buildings are separated by a firewall because the Board was concerned that since there was not an elevator in the original proposal, the New Jersey Uniform Construction Code (UCC) elevator device requirement for structures exceeding 10,000 sf would not be met. Mr. Watkins believed that the 2 buildings could now become 1 (totaling 15,000 sf) since the handicap accessibility is now greatly improved and an elevator (with an additional handicap space) is part of the amended proposal. Mr. Bianco asked for detail on the brick to be used on the exterior; the witness said a full 4" x 6" brick would be installed. Mr. Hennessey asked if the rear fire escape would still be necessary if the 2 buildings were to be combined; the architect stated it would but that the size of the building's new portion is not large enough to require a 2nd means of egress for it. Mr. Woo told the Board that before confirming the 2 buildings would be merged, he would have to get his client's approval because such would reduce the retail space since the corridor would have to connect both spaces of both floors. Mr. Bianco asked what the 1st floor's floor to floor heights were in both the existing and new buildings; the witness answered 14' and 10.5' respectively. Mr. Bianco said that meant the 2nd floors of both buildings do not line up and the applicant would have to return to the Board, yet again, for further structural changes; to avoid that, Mr. Watkins confirmed that the applicant would not merge the 2 buildings together, keeping with the amended proposal filed with the Board, but added that the already agreed to 3rd handicap space would remain.

Secretary Freesman opened the meeting to the public for questions of Witness #2 only.

Jesse Rosenblum, 65 Knickerbocker Road, asked how the exterior brick work would be installed; Mr. Woo said it would be installed on the concrete masonry unit (cmu) wall and that 1" of rigid insulation would be added on top and nailed down via metal pieces (brick connectors/clips). Mr. Rosenblum asked if there would be any separate entrances for deliveries; the witness said no, being a warehouse use is not being considered anymore. Mr. Rosenblum asked if the buildings would be fireproof; Mr. Woo said a fire sprinkler system would be installed. Mr. Bianco asked where the fire department connection would be located; the witness said the engineer had not submitted that information as of yet, but the service entrance for the suppression system would be in the mechanical room as well as there being a Siamese connection on the outside of the building.

Secretary Freesman opened the meeting to the public for general comment only.

Donald Schmidt, 162 Closter Dock Road, was sworn in as Witness #3. He believed the public noticing documents and the Board's application packet filed by counsel were deficient since they do not mirror the correct names of the applicant and subject address as properly indicated on the mentioned NJDEP correspondence and the Borough's tax listings. He further stated the public notice indicates the applicant would be heard by the Planning Board and that since the building's new entrance would now face Endres Street, the current address (277 Herbert Avenue) would need to be changed. Ms. Smickley suggested that the applicant had satisfied the public noticing requirements and the Board concurred. Mr. Schmidt also expressed concern about the parking ratio being affected once new tenants start signing leases to occupy the new building; he asked that, if approved, the Resolution should require the applicant to either stick to the 1 parking space for every 250 sf of office space or return to the Board each time a prospective tenant could not do so (he pointed out that the parking schedule for a doctor's office is completely different from that of an administrative office). Mr. Crisafulli asked the witness

how he could own monitoring wells on property owned by someone else; the witness informed that the permits for the wells (1 of which is still contaminated) are in his name and that he was a prior owner of the subject property. He continued to say that the present owner, which is 1 removed from the man he sold the land to, choose not to go any further with environmental issues until he purchased the property; Mr. Schmidt testified that he has been in contact with the NJDEP recently and was told by the case manager that she has not heard from Mr. Kim regarding the outstanding remediation matters. Mr. Crisafulli asked how then do the monitoring wells pertain to Mr. Kim; Mr. Tichacek answered that during construction, the applicant would need to maintain the wells' integrity and comply with the NJDEP so that Mr. Schmidt could do so as well.

Jesse Rosenblum, 65 Knickerbocker Road, was sworn in as Witness #4. He felt that by allowing for an office building to be built on the subject industrial property would seem out of place. Mr. Watkins interjected and said that the application to the Board is for a "D3" variance, not a "D1" or "D2", because the use is permitted in District #5 subject to conditions, all of which the project do not meet. Mr. Rosenblum suggested that case law said such changes could be made by ordinance rather than the variance process; Mr. Bianco disagreed, saying that would be "spot zoning" since only 1 property would be subjected to the changes.

Secretary Freesman opened the meeting to the public for questioning of Witness #'s 3 and 4 only. No one wished to be heard.

Outcome

A motion was made by Ms. Rothschild and seconded by Mr. Crisafulli, to approve the application with the following conditions: 1.) a 3rd handicap parking space to be added (location of which is to be space #20 on Exhibit #A-1); 2.) parking space waiver fee of \$23,100.00 to be paid for additional 14 spaces required (10 spaces stipulated in prior Resolution); 3.) monitoring wells to be maintained and protected so that their owner can fulfill NJDEP requirements; 4.) all items of Board Engineer's letter dated August 26, 2010 to be fulfilled (island for light pole, landscape redistribution from Endres Street, underground utilities inclusive); 5.) architecturals to indicate "office" for all tenant spaces; 6.) existing Developer's Agreement to be amended accordingly; 7.) both revised site plan and architecturals to be filed with Board prior to September 15, 2010 Hearing. The motion passed (**5-1: YES**- Crisafulli/ Hennessey/ Rothschild/ Bianco/ Freesman; **NO**- Monaco).



There being no further items to discuss, a motion to adjourn the meeting was made by Ms. Rothschild and seconded by Mr. Crisafulli. All members present voted in favor. The hearing adjourned at 11:10pm.