

**VILLAGE OF SPRING VALLEY
ZONING BOARD OF APPEALS
August 10, 2011
Revised**

A Regular Meeting of Spring Valley Zoning Board of Appeals was held in the Board Room of the Village Offices on Wednesday, August 10, 2011.

PRESENT: Pat Caldwell, Chairperson presiding

Members: Moshe Hopstein
Gerard Sicard
Martha A. Patrick
Eli Solomon

Asst. Village Attorney: Ed Katz
Deputy Village Clerk: Kathryn Ball
Building Inspector: Walter Booker

Chairperson Pat Caldwell called the meeting to order at 7: 08 P.M.

MINUTES JULY 13, 2011

Chairperson Caldwell entered a motion to approve or disapprove the minutes of July 13, 2011.

On a motion by Mr. Hopstein and seconded by Mrs. Patrick, the Board voted unanimously to approve the minutes of July 13, 2011 with the necessary corrections as pointed out by Mr. Hopstein.

**CONTINUATION OF PUBLIC HEARING
251 WEST CENTRAL AVENUE/CHURCH OF GOD OF PROPHECY**

Chairperson Caldwell, asked the Building Inspector, Mr. Booker to read the particulars on this application.

The Building Inspector, Mr. Booker, read the Particulars. This is the application of 251 West Central Avenue, Church of God of Prophecy. The location is the south side of West Central Avenue, opposite Chestnut Street. The variances sought would be area variances for Side Yard, where 20' is required, 16.9 provided; total Side Yard 40' required, 39.8' provided, Height: 35' required, 39' provided; there is also a variance for parking in the Front Yard, there needs to be a setback, and this is for a two-story church with accessory parking.

Mr. Katz stated that last month the Board discussed the application and the variances required. At that time the Board asked the applicant to address the parking situation in writing before this meeting, Mr. Emanuel at that time stated that would be done. The applicant is going to request the Spring Valley High School, to see if their congregants could park at the high school when necessary. I don't believe to my recollection that the Planning Board has not completed SEQRA yet; Mr. Emanuel stated that at the last Planning Board Meeting that SEQRA had been completed.

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Attorney, Ira Emanuel, appeared on the applicant's behalf. Mr. William Youngblood also appeared with Mr. Emanuel as the Surveyor for the applicant. Mr. Emanuel stated that with respect to the comments, from Mr. Katz, I agree with him completely. Let me start off by saying, we have not yet been able to provide the written narrative with respect to the parking, that the Board had requested at the last meeting, this is due in part to vacation schedules that we had, and also to the efforts the applicant has been making trying to obtain additional parking. We were hoping to put together a complete package. We are still working on trying to get the additional parking in other locations notwithstanding the fact that we are seeking a variance. As the Board is aware the property is directly next door to the Verizon complex, the applicant has reached out to Verizon to try and get permission to park there, they were revoked by Verizon. They have also attempted to use a parking lot on West Street, and are still attempting to use the Parking lot on West Street over in that industrial complex which is not too far. I believe they have a meeting with the East Ramapo Officials later this week, unfortunately the timing with that did not work at well. But since we did not have a full Board last time as I recall, we felt we would come back and offer the opportunity to those Board Members that were not there to ask what ever question they may have about the plan, and also based upon the conversation that was had immediately prior to Mr. Katz to clarify the situation with respects to parking variance that we need. The zoning code measures parking two different ways, it measure by how many seats in church, and also bases it upon the total square footage of the building if we are only measuring it against the number of seats we would not have a problem. Its 1 parking space per every 4 seats we have 200 seats we are providing 51 parking spaces, so if you do the math we only need 50 parking spaces, we are providing 51 spaces. However when you do it from a square footage point of view initially we had thought you only had to do it based only on the actual area being used for the worship service, since the basement here is not being used for worship services, but it does have some classroom space, and some social hall space. So originally when we did the calculations we felt we only had to length out in square feet, subsequently we were advised that we had to consider the entire 18,000 square foot of the floor area, but once you did that at 1 parking space per 200 square feet now you need 99 parking spaces and we can only provide 51 parking spaces. The church is asking for a variance none the less because in the way it will use the building. This is an existing church they have their own services they know how they operate, many of parishioners come either by carpool or by the church operated van, and they will drive around through the area and pick up the members and drop them off for church services. The same people that are in church for services, are the people who will then go down stairs for Sunday school, and a light meal to follow, so it's not a situation where you have 9,000 square feet on top being used, and 9,000 square feet on the bottom being used at the same time. They are taking those folks from the top and moving them to the bottom. For that reason the church believes it only needs the 51 parking spaces that are on the plan, it is for that reason that the church believes that this parking situation will adequately handle its parking needs, and again at 50 parking spaces 1 for every 4 you are talking about full occupancy of the church. I know that Bishop Peters who is the Pastor there would love to have that problem every Sunday but he and the other church members are very realistic, and I know the board is as well and all 200 seats are not going to be filled every Sunday it probably is going to be a smaller percentage. So 51 parking spaces will be adequate enough to meet the needs of the church and in fact those 51 parking spaces do meet that portion of the zoning code which measures it on a perceive basis. The other variances that we need are basically because of the site plan locations the width of the property the need to provide for an adequate fire access road although state code only requires a 20ft access road, the

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fire department has asked us to provide 22 feet, that forces the building closer to the north and that generates the side yard variance. For the total side yard variance we need 40 feet, we have 39.8 feet, the height variance we are looking for is four feet there is no steeple it is just simply the angle of the roof, and the FAR is a little more than what permitted but again this is a church and it will fit in well with the character of the neighborhood. In the narrative we have provided information on other FARs in the area.

Mr. Solomon, asked Mr. Emanuel what is the FAR? Mr. Emanuel answer Mr. Solomon question by stating the FAR is .44. Mr. Hopstein, asked Mr. Emanuel about a letter they had received from an attorney, and asked Mr. Emanuel if he could explain it to the Board.

Mr. Emanuel; stated that, letter has absolutely no impact what so ever on this application. The attorney ad luges that the mortgage says, that you cannot build or alter without permission of the lender, and that's fine. We are not building or altering at this moment, it doesn't say anything about not being able to apply so that eventually we can get a building permit. Granted the church may be doing this at its own risk, and it may be putting itself in a disadvantages position by going through this process prior to getting the approval from the lender, that is the churches business it has absolutely nothing to do with this proceeding. That concludes my comments unless any of the Board Members have questions for me.

Mr. Hopstein asked what was going on in regards to the parking? Mr. Emanuel stated that we are still trying to get alternate parking, and we will continue to try even if the variance is granted. Chairperson Caldwell stated that she was concerned with parking being an issue; and there may be some hesitation in terms of granting a variance, pending the submission of parking requirements. Now we can do this one of two ways, we can give a continuance until next month to see if you can get that letter in and that information into us and then we can act on the entire application at that time, since you have made the presentation already we wouldn't have to go back over everything in depth, you would just have to give us the highlights then provide us with that data, and provide us with that data prior to our meeting it would certainly expedite our decision making.

Mr. Emanuel, stated that he felt that would be the best way to go, I understand the Board is very concerned about parking, and understandably so and if there is a way to provide alternative parking and ease the Board's decision we will try to provide that.

Mr. Hopstein suggested that as a Board we should go through the approval process and just leave out the parking. Chairperson Caldwell stated that she was hesitant about approving anything, when the Board has requested a letter be submitted to this Board regarding parking you did not defer it to the Planning Board for them to decide. So until we get the information that we requested I do not feel comfortable voting on this application, so unless this Board chooses to withdraw that request for a letter being submitted to this Board regarding the parking matter.

Mr. Emanuel stated that if the Board is willing to grant us the other variances, and keep the public hearing open on the parking variance, we are fine with that as well. We understand we need to come back to you at least one more time, so whether we come back for all of it or part of it frankly does not make a difference in terms of our planning.

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Mr. Katz suggested to the Board to hold off on voting until the next meeting, this will allow them time to get what they need to get into the Board and then we can go from there.

Chairperson Caldwell stated that the application for the Church of God of Prophecy will be continued to next month, we will make a determination as soon as that letter that was requested by this Board last month comes in. Mr. Emanuel you should have that to us before our next meeting.

CONTINUATION OF PUBLIC HEARING
2 EAST FUNSTON AVENUE/CONGREGATION BAIS MEDRASH OF
ROCKLAND

The Building Inspector, Mr. Booker, read the Particulars. This is the application of the Congregation Bais Medrash of Rockland, the location is the east of Route 45 0 feet south of its intersection with Funston Avenue. The purpose of this application is to allow the construction of a seminary, with the dormitory as an accessory to the seminary. The variances required would be whereas lot area is, 25,000 square feet is required, and 23,400 square feet provided; Front Yard; whereas 35 feet required, 16 feet proposed; Side Yard; whereas 20 feet required, 15 feet proposed; Rear Yard; is 40 foot required, and 39 foot is proposed; Floor Area Ratio; is .30 permitted, .42 proposed; whereas Parking Spaces would be; 10 required, and 5 are proposed; and whereas the number of students would be 13 allowed, 37 are proposed; whereas the Distance between the dorm and the driveway; is 25 foot required, 11 foot is proposed.

Mr. Katz stated that he, just wanted to remind the Board that the Planning Board did issue a Negative Declaration back in December of 2010, and the Village Board did issue a Special Permit for this application, back in April of this year. The County has not issued any comments to the ZBA concerning this application; the applicant also requires approval to place temporary modular trailers on the site until the construction is complete.

Chairperson Caldwell, asked what exactly the Special Permit was issued for by the Village Board? Mr. Katz, stated that the Special Permit was to build a seminary and a dormitory in a POR Zone.

Attorney, James Licata appeared on the applicant's behalf. Mr. Licata stated that the Village Board after referral from the Planning Board granted us the zone change, as you know there were two lots one lot was not POR and one lot was so we had the other lot changed to POR to make it uniform. Then after they voted on that, they voted unanimously to give us the Special Permit and that was April 26, 2011. Now we are here for variances to construct a dormitory, it is a fully sprinkled building which is required by code. It is a two story seminary there is already a building there that it will be attached to and there is a request for some temporary trailers during construction so that the kids can study

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Chairperson Caldwell; stated to Mr. Licata that you are permitted 13 students and that the variance that you are requesting is for 37 students. I feel that is a very large difference it is more than twice then what is permitted. What is your justification for that kind of request? Mr. Licata stated that there is ample room in the building, which they are building to require that. The code is rather constrictive it's very conservative. The original County GML to the Village Board talked about 1800 square feet per dormitory bed, and we agreed last month that was clearly a typo on their part. Mr. Katz stated that code 255-28d states in our code that it would be 1800 square feet per child. Mr. Katz stated that he agrees that it does sound ridiculous, and it probably is a typo but it has been in the code for ever. Mr. Solomon stated that most rooms are usually 10x12 or 12x12. Mr. Licata replied by stating that, most high ranges are 2000 square feet the whole high range, so we know it's a mistake it can't be right it can't be 1800 square feet per student because that would mean each student would get their own house. So based upon the square footage of this building, 6,358 square feet is more than adequate for 37 students.

Chairperson Caldwell, asked Mr. Licata to answer the question of how they arrived at the number of 37 for the amount of student permitted Mr. Licata answered Chairperson Caldwell by stating that he thinks that is the number of students they have. Chairperson Caldwell stated so they have 37 students committed to this program, so there is no room for growth. Mr. Licata responded by saying that he thought they have 18 present students. Chairperson Caldwell stated to Mr. Licata that the original question as to where they got the number 37 from was still not answered. Mr. Licata responded to Chairperson Caldwell by stating that he can't really answer how that number came about. But that is what the request is for. Chairperson Caldwell stated that
You have to ask for a variance because there has been a number of 1800 square feet per student, and we can see that this not a real number, but somewhere between a 100 and 1800 there is a real number. Mr. Licata, stated that is correct, so we would say lets adopt the Section 8 number, that is a government number and that should be good enough for this applicant, if it is good enough for Section 8.

Chairperson Caldwell asked if t the Board had any other questions. Mr. Hopstein spoke and stated that last month we discussed why you don't need more than five parking spaces, (Inaudible). Mr. Licata stated that is correct; it is a classroom that is not individual classrooms, but one large classroom so at any one time there is no more than one professor or teacher there at the same time. None of the kids' drive they stay there the only time they would go home is during the holidays, so they don't have cars they don't have drivers licenses. So the only one that would be driving there is the teacher.

Chairperson Caldwell, asked Mr. Licata if this is a dormitory setting? And where are they going to eat? Mr. Licata stated that yes it is going to be a dormitory setting, and there are provisions for a kitchen. Chairperson Caldwell asked Mr. Licata if the people that are going to service this kitchen, are they walking to work. Because what you are telling me is that you only need one parking spot, because there is only going to be one teacher, there are other services that are going to be provided to this dormitory living. Mr. Licata stated that the food is going to be delivered. Chairperson Caldwell so what you are telling me is that, 37 students are going to go out to a truck to pick up their food. Mr. Licata Let me let someone explain just how the process is going to work.

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Mr. Glick, spoke on behalf of the applicant and stated that the food is going to be delivered it; they bring it in from the outside. The students volunteer cleaning, serving, there is a rotation where students take care of that. Mr. Sicard asked Mr. Glick if that was a part of their training. Mr. Licata answered Mr. Sicard and stated yes these are adults, they are not children they are 18.

Chairperson Caldwell, stated that you are telling me is that 37 young people, I assume young males because you did not specify, are going to go out to this truck get their meals three times a day bring them inside eat. Mr. Licata I don't think that is how it going to be done. Chairperson Caldwell, stated that you just said there is not going to be any aide, you said the truck is going to deliver and everybody else is going to take care of everything. There won't be some hired person who cleans, nobody is going to clean up the mess, and no one is going to clean up the dormitory. There is no hired help on these premises at any time besides this one teacher who is going to come and go.

Mr. Glick spoke and stated that there is a janitor that comes in and cleans up, washes the floor. Part of the training program with the students is that they do volunteer work, and part of the volunteer work is taking care of the other students. They are the ones that handle the food (inaudible) that is part of the Yeshiva. So again there is one janitor, who comes in and cleans up, but he is walking to and from work, he lives close by in the area. Even though we are asking for 5 parking spaces, we only really need one or two.

Chairperson Caldwell, (Inaudible)

Mr. Glick, (Inaudible)

Chairperson Caldwell, ok that answers my two questions, are there any other questions from member of the Board? Or does anyone else wish to speak on this matter please step forward now. Moshe Schwab, spoke in favor of the application he stated that this is a very special school, and feels that it will be an asset to the community, and pleas to the Board to grant them the variances that they need so they can go ahead and build the school.

On a motion by Mr. Hopstein and seconded by Mr. Solomon, the Board voted unanimously to close the public hearing. On a Motion by Mr. Hopstein and seconded by Mr. Solomon, the variances were approved. The ZBA voted 4-1 with Ms. Patrick voting no.

PUBLIC HEARING

7 MORRIS ROAD/ JUDA ROSENFELD

Mr. Booker, This is the application of Juda Rosenfeld; the location is the intersection of Haera Lane and Morris Road, lot number 50.69 -1-20. Purpose of which is variances for the construction of a two-family dwelling. Variances are as follows, Lot Area 8,500 square feet required, 7,890 square feet proposed; Lot Width: 100 feet required, 75 feet proposed; Front Yard: 25 feet required, 21 feet proposed; whereas the Rear Yard: 20 feet required, 15 feet proposed; and Parking in the Front Yard Setback.

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The hearing was opened and the clerk confirmed that all publications postings and mailings had been done

Chairperson Caldwell, asked Mr. Katz, if he had anything to add on this application? Mr. Katz stated that he had nothing to add. Chairperson Caldwell asked if the applicant or representative of the applicant here tonight?

Attorney, Ryan Karben appeared for the applicant. Mr. Karben stated that the proposal before you is currently on a vacant lot at the corner of Haera Lane and Morris Road, as you see from the map before you it is a rectangular lot. The applicant is proposing the construction of a two family dwelling, which is permitted in this zoning district. Because of the contours of the lot, number one it is a corner lot so we face the more stringent requirements of the zoning code, then if it was not a corner lot and we are a bit shy in terms of those area variances.

The Building Inspector, Mr. Booker interrupted, Mr. Karben and corrected himself because when he was reading the particulars he made a mistake. He stated that the Lot Width; it's the same as single family homes this is R-1A, so it is 8,500 square feet required, but 90' on a corner lot, it would be 90 feet required and 75 feet provided. Mr Karben continued with his presentation, so because of the conference of the lot as you can see from the map is a rectangular shape lot, so we have limited ability to build back, as to oppose to being able building wide that is the only development contour that works. In that context are the variances we are requesting which are relatively modest, 4ft in the front, 5ft in the back, and we do have that unique requirement on the corner so we need a little bit more in terms of the lot width. With respect to Morris Road and the lot area is before you, and assessing the various factors under the Zoning Law we do not believe that the proposal that is before you will result in an adverse impact in the character of the neighborhood. This is a recognized use in the R-1A zone, it is recognized by the code, it is a permitted a level of development density. Because of the contours of the lot, we do not believe we were able to achieve our developments objective by building it in a different way, we need to build it wide rather than building deep, so we do end up with these minor variances in the front, and in the rear. We do not believe the variances as we requested them are substantial; we are not looking for variances with respect to maximum development coverage or with respect to floor area ratio, which I know are generally the areas of concern for this Board. From my understanding these lots have been vacant for some time, one of the neighbors' contacted me prior to the hearing in a supportive way indicating there has been some dumping on these lots they have been come somewhat of an eyesore. So we are happy to be able to provide modern quality housing and eliminate the eye sore that has been an irritation to some folks in the neighborhood. Other than that is all I have to say, but I'd be happy to answer any questions that you Madam Chair, or any other members' of the board may have.

Mr. Solomon asked if the piece of property was in the flood zone. Mr. Booker, the Building Inspector responded to Mr. Solomon's question and stated that it was out of the flood zone.

Chairperson Caldwell, asked if there were any other questions from members of the Board? As there were no other questions from the members of the Board, Chairperson Caldwell asked if there were any members of the public who wanted to come forward and speak on this application at this time

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Amy Rosenthal of 3 Morris Road Spring Valley, NY 10977, whose home is adjacent to the property testified that the lot is now an eyesore and that she happy it is being developed. However feels that a one family home would fit in better in the neighborhood.

Rhoda Flavmeuhaft of 1 Dorset Road spring Valley, NY 10977, Ms. Flavmeuhaft testified that the rear of her home faces the rear of the proposed two family homes. The lot is now full of trees. If they are removed her deck will be too close to the decks of the proposed homes and her privacy will be gone. She objected to the 1' variance in the rear.

Mr. Karben stated that the applicant will either leave trees or create another type of buffer to provide privacy to the neighbor.

At the Board's request the applicant will put a dry well to prevent flooding on the site. The Board requested to see preliminary plans before closing the hearing and voting on the variances. The matter was continued to the September meeting.

PUBLIC HEARING

1 HAERA LANE/ CONGREGATION KHAL TORATH CHAIM

The, Building Inspector Mr. Booker read the particulars. This is the application for the Congregation Khal Torath Chaim. The location is Haera Lane and Morris Road, approximately 80 feet north of its intersection with Morris Road. The applicant is seeking variances to construct a new two family dwelling. The variance required are as follows, Lot Area: 8,500 Square feet required, 8077 square feet proposed; Front Yard: Whereas 25 feet is required, 10.2 feet is proposed; Whereas Rear Yard: 20 feet is required, 15 feet proposed; and parking in a Front Yard variance.

The hearing was opened and the clerk confirmed that all publications postings and mailings had been done. Ryan Karben, Esq appeared for the applicant. This application is identical to the one for 7 Morris Road and the matter was adjourned to the September meeting to allow the applicant to provide the same information requested by the Board for 7 Morris Road.

PUBLIC HEARING

81 NORTH COLE AVENUE/ WELTENSTEIN

The, Building Inspector Mr. Booker read the particulars. This is the application of 81 North Cole Avenue, Weltenstein. The location is the west side of North Cole Avenue Approximately 100 feet south of its intersection with Maple Avenue and North Cole. The applicant seeks a variance to construct a new two family dwelling. The variances that are required are as follows Whereas Lot Area: is 10,000 square feet required, and 4,668 square feet proposed; Whereas the Lot Width is 100 foot required, 50 foot is proposed; Whereas the Front Set Back is 25 feet required, and 21 feet is proposed; Whereas the Side Yard setback: is 15 feet required, and 8 feet is proposed; Whereas total Side setback: is 30 feet required, 14 feet proposed; Whereas the Rear Yard setback is, 20 feet required, 5.4 feet proposed; Whereas the Floor Area Ratio is, 0.65 required, and 0.80 is proposed.

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Also there is a Stair setback, but if the stairs do not have a roof they do not count towards the set back or the F.A. R. By the looks of the site plan, and the survey we have the stairs are closed.

The Hearing was opened and the Clerk confirmed that all publication, posting and mailing had been done on this application.

Mr. Katz stated that his only comment on this application is, is to consider that portions of the lot is in Ramapo, (Inaudible.)

Attroney, Ryan Karben, Appeared for the applicant, he stated that the applicant has no problem with respect to the underdeveloped portion of the adjoining tax lot as shown on the map. But for development purposes its one lot because the other lots are not buildable, you have a 1000 square foot tax lot effectively. That merges and I do not know why the Lot line hadn't been formally disclaimed, but usually what will happen when you have two tax lots in common ownership, the Tax Map Per's at the County, and I know when I was at the Village Attorney's Office we actually had a lot of issues with this. The Tax Map Per's at the County were deleting all sorts of lot lines all over the place it left a lot of confusion with respect to what the actual tax lot line real are (Inaudible). The proposal that is before the Board is for a new two family dwelling, we are in the R-2 zone on the west side of North Cole Avenue, 100 feet south of Maple Avenue. As noted in the Bulk Table before you there are some area variances that are required to accommodate the interesting characteristics of this existing lot. The bulk table that Mr. Booker pointed out to me on Mr. Melie's map is inaccurate with respect to front setback and the Rear setback, we do not require a 9 foot variance in the front, we only require a 4 foot variance in the front. It also does not appear that we require and the 20 foot rear setback when you count the bulk it is its appropriate calculation for both tax lots, so we don't need a variance at all (Inaudible).

(Inaudible)

Chairperson Caldwell, asked if any members of the Board have any questions, as there were no comments or questions from members of the Board, Chairperson Caldwell asked if there was anyone from the Public who would like to speak on this application. As there were no members from the Public who wished to speak on this application, Chairperson Caldwell entered; a motion to close the public hearing.

On a motion by Mr. Hopstein and seconded by Mr. Solomon, the Board voted unanimously to close the public hearing. On a Motion by Mr. Hopstein and seconded by Mr. Solomon, the variances were approved. The ZBA voted 3-2 with Ms. Patrick and Chairperson Caldwell voting to deny because the lot area is insufficient to accommodate a two family home.

PUBLIC HEARING

83 NORTH COLE AVENUE/ WELTENSTEIN

The, Building Inspector Mr. Booker read the particulars. This is the application of 83 North Cole Avenue, Weltenstein. The location is the west side of North Cole Avenue Approximately 50 feet south of its intersection with Maple Avenue and North Cole. The applicant seeks a variance to

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construct a new two family dwelling. The variances that are required are as follows Whereas Lot Area: is 10,000 square feet required, and 4,491 square feet proposed; Whereas the Lot Width is 100 foot required, 50 foot is proposed; Whereas the Front Set Back is 25 feet required, and 20.6 feet is proposed; Whereas the Side Yard setback: is 15 feet required, and 4feet is proposed; Whereas total

Side setback: is 30 feet required, 14 feet proposed; whereas the Rear Yard setback is, 20 feet required, 3.0 feet proposed; whereas the Floor Area Ratio is, 0.65 required, and 0.83 is proposed.

The Hearing was opened and the Clerk confirmed that all publication, posting and mailing had been done on this application. Mr. Katz, stated that his comments are the same for the application we just heard before this one.

Attroney,Ryan Karben, Appeared for the applicant, he stated that this application is almost identical to the one that I just presented to you, there is not too much more for me say, but would be happy to answer any questions that the Board may have.

Chairperson Caldwell, asked if any members of the Board have any questions, as there were no comments or questions from members of the Board, Chairperson Caldwell asked if there was anyone from the Public who would like to speak on this application. As there were no members from the Public who wished to speak on this application, Chairperson Caldwell entered; a motion to close the public hearing.

On a motion by Mr. Solomon and seconded by Ms. Patrick, the Board voted unanimously to close the public hearing. On a Motion by Mr. Solomon and seconded by Mr. Hopstein, the variances were approved. The ZBA voted 3-2 with Ms. Patrick and Chairperson Caldwell voting to deny because the lot area is insufficient to accommodate a two family home.

On a motion by Ms. Patrick and seconded by Mr. Solomon, Chairperson Caldwell closed the meeting at 9:30 pm