

**Township of South Hackensack
BOARD OF ADJUSTMENT
July 25, 2011
MINUTES**

At 7:35 p.m. the meeting was Called to Order. Pursuant to the Open Public Meetings Act, adequate notice of this meeting was advertised in The Record and the Herald News and by posting a copy of the meeting notice on the bulletin board in the clerk's office where notices are customarily posted.

The Secretary called the roll.

Member Present

Lou LoPiccolo	Bill Regan
Luis Perdomo	Brian Veprek
Joseph D'Amico	John Falato
Angelo Marrella	
Greg Padovano, Township Attorney	
Elliot Sachs, Boswell Engineering	

Members Absent

James Diraimondo
Victor Santos

Old Business

BOA 2011-04 – Memorialize Resolution

Barricella
112 Phillips Avenue
Block: 13.03 Lot: 3.04
"C" Variance: Convert 1 family into 2 family residences.

Veprek **Motioned**; Falato **seconded** to accept the Resolution to deny the application.
Vote: **Yes**: Veprek; Regan; Falato; LoPiccolo; Perdomo.
Not Qualified to Vote: Diraimondo; D'Amico, Marrella.
Absent: Santos.

BOA 2011-06 – Memorialize Resolution

Wingmen Motorcycle Club of Bergen County
3 Romanelli Avenue
Block: 58 Lot: 23
"D" Use Variance

Veprek **Motioned**; LoPiccolo **seconded** to accept the Resolution to deny the application.
Vote: **Yes**: Veprek; Regan; Falato; LoPiccolo; Perdomo.
Not Qualified to Vote: Diraimondo; D'Amico, Marrella.
Absent: Santos.

July 25, 2011

BOA 2011-07 – Memorialize Resolution

77 Calicooneck Road, LLC

77 Calicooneck Road

Block: 7.05 Lot: 29

“C” Use Variance

Falato **Motioned**; Perdomo **seconded** to accept the Resolution to approve the application.

Vote: Yes: Regan; Falato; Perdomo.

Not Qualified to Vote: Veprek; Diraimondo; D’Amico; LoPiccolo; Marrella

Absent: Santos.

BOA2011-08 – Carried from June 27, 2011 Meeting

Barricella

112 Phillips Avenue

Block: 13.03 Lot: 3.04

“C” Variance – Addition – 1 family into 2 family residences.

Francesco Barricella is the owner of the property and represented himself.

Ray Deriso , South Hackensack Zoning Officer, testified during the hearing.

Elliot Sachs, Boswell Engineering, Township Engineer testified during the hearing.

The applicant proposes to utilize to construct an addition along the rear of the existing dwelling and to construct a single car garage along the northerly side of the existing dwelling resulting in a second curb cut and driveway. The addition will be utilized as a two family dwelling.

Total sq. ft.: Last application: 4,388 sq. ft.
 This application: 4,047.5 sq. ft.
 Allowed: 3,750 sq. ft.

2nd Rental Unit: Last application: 922 sq. ft
 This application: 921.8 sq. ft.
 Allowed: 900 sq. ft.

Variance: Last application 600 sq. ft.
 This application 297.5 sq. ft.

Distance between structures is 13’-2”.

D’Amico **Motioned**; Veprek **seconded** to Hear the application.

Vote: Yes: LoPiccolo; Perdomo; D’Amico; Falato; Veprek; Marrella; Regan

Absent: Santos; Diraimondo

July 25, 2011

Open to the Public

Claude Buldo
Owner of 112 Phillips Avenue

Buldo wanted to state for the record, that he opposes the project.

Closed to the Public

Applicant agreed to all of the requirements of Boswell Engineering's letter dated June 24, 2011; in particular: #17, #18, #19, #20 and #21.

Veprek **Motioned**; Marrella **seconded** to accept the Resolution to approve the application. **Vote: Yes:** LoPiccolo; Perdomo; D'Amico; Falato; Veprek; Marrella. **No:** Regan **Absent:** Santos; Diraimondo.

NEW BUSINESS

BOA2011-09

North Jersey Media
89 Leuning Street
Block: 54 Lot: 1.01
"D" Variance -- Use -- New Paper Distribution Center

Applicant was represented by Joseph Basralian, 21 Main Street, Hackensack, NJ.

Basralian requested that the matter be carried to next month's meeting, August 22, 2011. There was incorrect mailing address for some of the 200 foot addresses.

Padovano stated that renoteice will not be required. The incorrect notices to the individuals within the 200 foot notice must be corrected.

Veprek **Motioned**; Perdomo **seconded** to accept to carry the matter to August 22, 2011. **Vote: Yes:** LoPiccolo; Perdomo; D'Amico; Falato; Regan; Veprek; Marrella. **Absent:** Santos; Diraimondo.

Public Comments

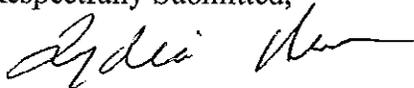
There were no public comments.

Board Discussion

There was no board discussion.

At 8:10 p.m. the meeting was **adjourned**. Veprek **motioned** to adjourn the meeting;
second by D'Amico. **All in favor.**

Respectfully Submitted,



Lydia Heinzelman
Planning/Zoning Board Secretary

July 25, 2011

RESOLUTION

**TOWNSHIP OF SOUTH HACKENSACK
ZONING BOARD OF ADJUSTMENT**

**APPLICATION OF FRANCESCO BARICELLA
112 Phillips Avenue
Block 13.03, Lot 3.04**

Application No. 2011-04

WHEREAS, Francesco Baricella (hereinafter referred to as the "Applicant"), 112 Phillips Avenue, South Hackensack, New Jersey, applied to the Township of South Hackensack Zoning Board of Adjustment (the "Board") for variances in connection with the proposed construction of an addition to existing single family dwelling to be utilized as a two-family dwelling, as further described herein; and

WHEREAS, the property subject of the application is identified on the Tax Map of the Township of South Hackensack as Block 13.03, Lot 3.04 and is more commonly known as 112 Phillips Avenue, South Hackensack, New Jersey (hereinafter the "Property"); and

WHEREAS, the Property is located in the A One and Two Family Residential Zone; and

WHEREAS, the Applicant initially sought the following variances as part of its application:

<u>SOUTH HACKENSACK ORDINANCE</u>	<u>PROPOSED</u>	<u>REQUIRED/ PERMITTED</u>
Maximum Area of Entire Dwelling	4,388s.f. (as calculated by the Twp. Zoning Officer) 4,686 s.f. (as calculated by the Applicant)	3,750 s.f.
Maximum Area – Second Unit	922s.f. (as calculated by the Twp. Zoning Officer) 1,251 s.f. (as calculated by the Applicant)	900 s.f.

WHEREAS, the Applicant submitted architectural renderings prepared by AMRARCH Design Studios, A.M. Ragab, AIA, 39 Camden Road, Hillsborough, New Jersey, dated March 30, 2011 with last revision date of April 25, 2011 as part of the application and during the public hearing (the "Plans"); and

WHEREAS, after due notice and publication, the matter was called for a public hearing on April 25, 2011 and May 23, 2011, at which time the Applicant represented himself; and

WHEREAS, the Board made a physical inspection of the Property during such times as the Board members may have indicated; and

WHEREAS, the Board has carefully considered the exhibits introduced into evidence and the testimony of the Applicant; and

WHEREAS, Awsraf Ragagb, AIA, 39 Camden Road, Hillsborough, New Jersey, testified as an expert in the field of architecture on behalf of the Applicant; and

WHEREAS, Ray DeRiso, South Hackensack Zoning Officer, testified during the public hearing regarding this matter; and

WHEREAS, the Board's engineering consultant, Boswell Engineering, presented testimony during the public hearings and submitted review memoranda dated April 19, 2011 and May 16, 2011; and

A. Francesco Baricella is the owner of the subject property commonly known as 112 Phillips Avenue, South Hackensack, New Jersey which Property is also identified as Block 13.03, Lot 3.04 on the current Tax Map of the Township of South Hackensack. The Property is located within the A One and Two Family Residential Zone.

B. The Property is comprised of 10,532 square feet and is currently improved with a single family residential dwelling.

C. The witness testified that the Applicant proposed to construct an addition along the rear of the existing dwelling and to construct a single care garage along the northerly side of the existing dwelling resulting in a second curb cut and driveway, as shown on the Plans submitted to the Board.

D. The Applicant proposed to utilize the dwelling, with the proposed addition, as a two family dwelling, as shown on the Plans submitted to the Board and as testified by the witness. The Application initially sought the following variances in connection with the proposed development:

<u>SOUTH HACKENSACK ORDINANCE</u>	<u>PROPOSED</u>	<u>REQUIRED/ PERMITTED</u>
Maximum Area of Entire Dwelling	4,388s.f. (as calculated by the Twp. Zoning Officer) 4,686 s.f. (as calculated by the Applicant)	3,750 s.f.
Maximum Area – Second Unit	922s.f. (as calculated by the Twp. Zoning Officer) 1,251 s.f. (as calculated by the Applicant)	900 s.f.

E. During the public hearing, the Applicant revised the application and proposed to maintain a total building gross area of 4,388 s.f. where a maximum of 3,750 s.f. is permitted and eliminated a second variance by proposing a maximum of 900 s.f. for the second dwelling unit, as permitted under the Zoning Ordinance.

F. The existing lot is comprised of 10,532 s.f. where the minimum permitted lot in the A Zone is 5,000 s.f. The Applicant's witness testified that due to the nature of the large site, the proposed two family building, albeit exceeding the maximum gross area permitted under the ordinance, was not excessive and is appropriate for the Property.

G. Several members of the public appeared during the public hearings and objected to the application including (i) Claude Buldo, 110 Phillips Avenue, South Hackensack, (ii) Vincent Maat, 443 Chestnut Avenue, South Hackensack, and (iii) Daniel Chioffi, 120 Phillips Avenue, South Hackensack, all of whom opposed the development as proposed by the Applicant based upon various objections including the proposed size of the building, its inconsistency with the surrounding dwellings in the neighborhood and location of the dwelling, with the proposed addition, relative to adjacent properties and dwellings.

No other members of the public appeared or testified regarding the Application. The Board listened to the comments of the interested parties and based its decision not upon the number of persons who advocated a particular position, but upon the merit of the comments.

H. The Applicant did not provide sufficient testimony or evidence regarding the proposed size or building gross area of dwelling within the surrounding neighborhood and did not provide sufficient evidence regarding the proposed development's impact upon the surrounding neighborhood during the public hearings.

I. The Applicant's request for variance under the application to permit total lot gross area of 4,388 s.f. where a maximum of 3,750 s.f. is permitted under the Township Ordinance cannot be granted without substantial detriment to the surrounding neighborhood especially since the dwelling resulting from the applications would greatly exceed the size of existing dwelling in the surrounding neighborhood. The proposed dwelling size is not consistent with the character of the surrounding neighborhood. The Applicant did not provide sufficient proof to justify granting a variance from the maximum gross building area under Section 208-4B under the Zoning Ordinance and did not satisfy the elements of proof required under N.J.S.A. 40:55D-70(c).

J. The Applicant did not provide sufficient proof regarding any benefit to the Zoning Ordinance or neighborhood by the proposed development resulting in variance from the maximum gross building area permitted under the Zoning Ordinance. The proposed development, as shown on the Plans submitted to the Board, as amended, and as testified by the Applicant's witness, will result in additional obstruction of air flow to adjacent property owners and an overdevelopment of the Property by creating an excessively large two family dwelling which is not consistent with the character of the surrounding single and two family residential dwellings located in the surrounding neighborhood.

K. Although the subject Property may exceed the minimum lot area permitted in the A-Zone, the dwelling is located along a slight bend in Phillips Avenue which results in the proposed dwelling with addition having an very oversized appearance by encroaching upon the adjacent property's line of site. The larger appearance of the dwelling, with the proposed addition, detrimentally impacts the existing adjacent properties. Accordingly, the testimony of the witness that the excessive gross area of the dwelling is justified given the overall lot size, is suspect and not credible.

L. The proposed excessive gross building area resulting from the proposed development will have a substantial negative impact on the Property and will result in an overdevelopment by creating an excessively large dwelling.

M. The Applicant's request for a variance from maximum permitted gross dwelling area under Zoning Ordinance cannot be granted without detriment to the Zone Plan and the Zoning Ordinance of the Township of South Hackensack. Said variance is detrimental to the public, as it represents an overdevelopment on the Property detrimental to the one and two family residential character of the surrounding neighborhood and will impeded the open flow of light and air to adjacent properties.

N. No evidence was produced in connection with the burden required for approval of the application pursuant to N.J.S.A. 40:55D-70(c)(1) indicating a pre-existing hardship regarding the size, location or use of the Property which would justify the variances sought under the amended application. Although the existing lot is slightly irregularly shaped, it does not contain an irregular topography or other physical conditions which hinder its use for uses permitted in the A Zone and require the excessive building area as proposed under the amended application.

O. The detriments of the proposed variance sought substantially outweighs any benefit.

P. The Applicant did not provide sufficient proof regarding the advancement of the Municipal Land Use Law or proof that any benefit of the application would substantially outweigh the detriment of the variance sought.

Q. Any benefit of the application, as amended, if any, is personal to the Applicant and does not substantially outweigh the negative or detrimental effect of the application upon the adjacent properties and neighborhood.

R. The Applicant has not met the burden required for approval of the application pursuant to N.J.S.A. 40:55D-70(c) et seq. as the proposed variance will detrimentally impact the surrounding neighborhood and Master Plan and A-Zone Plan by resulting in an overdevelopment of the Property.

NOW THEREFORE, BE IT RESOLVED that the Application of Francesco Baricella, for approval of a variance to permit excess gross building area of a two family dwelling as shown on the Plans submitted to the Board, as amended and as further testified by the Applicant's witness during the public hearings, be and the same hereby is denied.

1. **Legal and Engineering Fees:** The Applicant shall be responsible for all legal and engineering fees of the Zoning Board of Adjustment.

2. **Other Fees:** All additional fees, if any, required by the Township Ordinances shall be paid.

3. **Appeal Period:** The Applicant has been advised that there is an appeal period for the relief denied herein for a period of forty-five (45) days from the date of publication of notice of the relief granted pursuant to this Resolution in a newspaper of general circulation approved by the Zoning Board of Adjustment.

A motion to deny the application, as amended, was proposed by the following vote at the meeting prior to adoption of the memorializing Resolution:

Moved by: Bill Regan
 Seconded by: Brian Vepek

	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>	<u>Not Qualified To Vote</u>
Brian Vepek, Chairperson	X				
Bill Regan, Vice Chairperson	X				
James Diramondo				X	
John Falato	X				
Jamie DiPiazza				X	
Lou LoPiccolo	X				
Luis Perdomo	X				
Victor Santos, Alt. #1	X				
Michangelo Marrella, Alt. #2				X	

Dated: May 23, 2011

Said Resolution was memorialized at the meeting after the motion was adopted (as set forth above), by the following vote:

Moved by: *Veprek*
 Seconded by: *FALATO*

	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>	<u>Not Qualified To Vote</u>
Brian Veprek, Chairperson	✓				
Bill Regan, Vice Chairperson	✓				
James Diramondo					X
John Falato	✓				
Joseph D'Amico					X
Lou LoPiccolo	✓				
Luis Perdomo	✓				
Victor Santos, Alt. #1				A	
Michangelo Marrella, Alt. #2					X

Dated: July 25, 2011

SOUTH HACKENSACK ZONING BOARD

By: *Brian B Veprek*
 Brian Veprek, Chairperson

CERTIFIED TO BE A TRUE COPY

By: *Lydia Heinzelman*
 Lydia Heinzelman
 Secretary to the Zoning Board of Adjustment

The newspapers of **New Jersey** make public notices from their printed pages available electronically in a single database for the benefit of the public. This enhances the legislative intent of public notice - keeping a free and independent public informed about activities of their government and business activities that may affect them. Importantly, Public Notices now are in one place on the web (www.PublicNoticeAds.com), not scattered among thousands of government web pages.

County: Bergen

Printed In: The Record, Hackensack

Printed On: 2011/07/29

**SOUTH HACKENSACK BOARD OF ADJUSTMENT
PUBLIC NOTICE**

NOTICE is hereby given that the Board of Adjustment of the Township of South Hackensack, by resolution duly adopted on July 25, 2011, for the reasons set forth in its resolution of that date, denied variances for application No.2011-04 Francesco Baricella, and designated as Block 13.03 Lot 3.04 and more commonly known as 112 Phillips Avenue, South Hackensack, New Jersey, for variances in connection with the proposed construction of an addition to existing single family dwelling to be utilized as a two-family dwelling. A copy of that resolution is on file in the office of the Township Clerk, 227 Phillips Avenue, South Hackensack, New Jersey, and is available for inspection by member of the public during the regular business hours of that office.

Lydia Heinzelman

Board of Adjustment Secretary

July 29, 2011-fee:\$24.57 (26) 3126480

Public Notice ID: 16946090

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RESOLUTION

**TOWNSHIP OF SOUTH HACKENSACK
ZONING BOARD OF ADJUSTMENT**

**APPLICATION OF
WINGMAN MOTORCYCLE CLUB OF BERGEN COUNTY, INC.
3 Romanelli Avenue
Block 58, Lot 23**

APPLICATION NO. 2011-06

WHEREAS, Wingman Motorcycle Club of Bergen County, Inc., P.O. Box 822, Fairlawn, New Jersey (hereinafter the "Applicant"), applied to the Zoning Board of Adjustment of the Township of South Hackensack (the "Board") for a use variance pursuant to N.J.S.A. 40:55D-70(d) to permit use of the subject property as a social club and storage/personal repair shop of motorcycles in connection with the Applicant's proposed use of the Property; and

WHEREAS, the property subject of the application is designated on the Tax Map of the Township of South Hackensack as Block 58, Lot 23 and is more commonly known as 3 Romanelli Avenue, South Hackensack, New Jersey (the "Property"); and

WHEREAS, the Property is owned by Mr. Fred Hoehn, 303 Loren Court, Northvale, New Jersey, who has consented to the application; and

WHEREAS, the Property is located along the intersection of Romanelli Avenue and Division Street and is improved with an existing 2 ½ story structure and attached single story structure; and

WHEREAS, the Property is located within the C-Industrial Use Zone of the Township of South Hackensack; and

WHEREAS, Mr. Allen Prinzi, 220 Knickerbocker Avenue, Hillsdale, New Jersey, President of the Wingman Motorcycle Club of Bergen County, Inc. was sworn in as a fact-witness on behalf of the Applicant; and

WHEREAS, Mr. Ray DeRiso, Zoning Officer for the Township of South Hackensack testified regarding the matter during the public hearing; and

WHEREAS, after due notice and publication, the matter was called for a public hearing on May 23, 2011 at which time the Applicant was represented by Nowell, Amoroso, Klein, Bierman, P.A. (Gregory Asadurian, Esq. appearing), 155 Polifly Road, Hackensack, New Jersey; and

WHEREAS, the Board made a physical inspection of the Property at such times as the Board members have indicated; and

WHEREAS, the Board has carefully considered the application, exhibits introduced into evidence and the testimony of the witnesses; and

WHEREAS, the South Hackensack Zoning Board of Adjustment hereby makes the following findings of fact with regard to the application.

A. Wingman Motorcycle Club of Bergen County, Inc. is the tenant of a portion of Property commonly known as 3 Romanelli Avenue, South Hackensack, New Jersey, which Property is also identified as Block 58, Lot 23 on the Tax Map of the Township of South Hackensack. The Property is located within the C-Industrial Use Zone and is located along the intersection of Romanelli Avenue and Division Street.

B. The Property is owned by Mr. Fred Hoehn, 303 Loren Court, Northvale, New Jersey, who has consented to the application.

C. The Property subject of the application is currently improved with a 2 ½ story building with attached single story building. The applicant proposes to utilize a portion of the existing buildings as a social club meeting area and club member motorcycle repair / storage area, as further shown on the following portion of the application submitted to the Board:



D. The Applicant's witness testified that the Wingman Motorcycle Club of Bergen County, Inc. is a military / veteran based club which has been established for over 30 years. The club is comprised of active members of the military, veterans and civilians. The witness further testified that the Applicant is a not-for-profit corporation and proposes to utilize the subject Property as a social club for motorcycle enthusiasts with accessory garage storage and personal repair of vehicles owned by Applicant's members.

The witness testified that the Applicant and its members participate and host several charity events including motorcycle rides for "Toys for Tots", "Wounded Warrior" and other charities throughout the year. The witness testified that no alterations to the exterior of the building were proposed under this application.

E. The Applicant's witness testified that the Applicant proposed to utilize the Property approximately once per week for club meetings and to utilize the single story attached building for storage and repair of club members motorcycles and vehicles. The witness further testified that no commercial repairs or services to the general public were proposed under this application.

F. Section 208-7 of the South Hackensack Zoning Ordinance provides, in pertinent part, for the permitted, conditionally permitted and prohibited uses in the C-Industrial Zone as follows:

§ 208-7. C District - Industrial Zone.

A. Permitted uses. No building or premises shall be used and no building or part of a building shall be erected, constructed or altered which shall be arranged, intended or designed to be used for any purpose other than the following uses:

- (1) Manufacturing by the assembly of component parts only.
- (2) (Reserved)
- (3) Machine shops.
- (4) Warehouses and miniwarehouses.
- (5) Private security vaults.
- (6) Wholesale or retail sales.
 - (a) Wholesale or retail sale of the following:
 - [1] Automotive tires, batteries, mufflers, upholstery, radiators and other accessories.
 - [2] Household furniture, furnishings, rugs and carpeting, fixtures and appliances.
 - [3] Computers and communication equipment and parts therefore.
 - [4] Tools and machinery.
 - [5] Art and art frames.
 - [6] Restaurant supplies and equipment.
 - [7] Parts for any of the foregoing.
 - (b) Shops for the repair of items the sale of which is permitted under Subsection A(6) hereof.

(7) Car wash establishments.

(8) Open storage of goods and materials normally used in connection with one of the aforesaid permitted uses as an accessory thereto but nevertheless to a height not to exceed eight feet and effectively screened from view of streets and abutting properties by a fence, wall or hedge at least eight feet in height.

(9) Motor vehicle body repair and paint shops in full compliance with all state and municipal regulations otherwise governing the operation of the same so long as all of the work upon the vehicles being repaired and/or painted is undertaken within otherwise permitted permanent enclosed structures and, further, so long as any point of the perimeter of the subject premises is no less than 500 feet from any point in the perimeter of any premises lawfully used or zoned for residential purposes.

(10) Public utilities within public rights-of-way or within other easements granted therefore together with the necessary connections thereto, pursuant to and to the extent permitted by grants or franchises of the Township.

(11) Digital data communication radio units no larger than two cubic feet in size excluding the electric line and any attached antenna, each of which having an antenna no longer than three feet, installed upon any existing utility pole at a point thereon no closer than 20 feet to the ground and which such radio unit shall be no closer to any other radio unit in this zoning district than 1,000 feet to any other such radio unit.

(12) Life sciences industry as more particularly described and defined in this chapter, with the exception that any medical and biological research involving live viruses and animals is expressly prohibited.

(13) Professional, business and governmental offices.

(14) Banks, savings and loans, mortgage offices, brokerage house or other investment-related offices.

(15) Retail sales of goods and services, except as prohibited herein.

(16) Offices for commercial, financial or executive purposes.

(17) Baking and preparation of food not to be consumed on premises.

(18) Laboratories and related offices engaged in research or product testing.

(19) Printing and publishing.

* * *

C. Conditional uses Conditionally permitted uses shall be as follows:

(1) Office buildings, subject to the area and bulk requirements of the B District.

(2) Supermarkets, subject to the following requirements:

* * *

(3) Sexually oriented adult entertainment as the same is defined in § 208-1 of this chapter conducted as either a principal use or as an accessory to any go-go lounge, cabaret or nightclub, notwithstanding the prohibitions contained in § 208-7D(12), (13) and (14); such uses shall be conditioned upon the approval of the Planning Board after a determination that such uses comply with all the applicable less restrictive requirements of this chapter otherwise applicable to the premises and shall further comply with the following conditions:

* * *

(4) Package handling and distribution facilities, subject to [specific bulk requirements]

* * *

D. Prohibited uses. Any uses other than those uses permitted by Subsections A through C of this section shall be prohibited without in any way limiting the generality and prohibition of this section. Nothing contained in this article shall be construed to permit any of the following uses in a C District:

(1) Multifamily.

(2) The manufacture of or the manufacture of articles from plastics having a flammable or toxic base or the manufacture, processing, handling, use or storage of hazardous substances.

* * *

(3) Junkyards, automobile graveyards or dismantling plants or the storage of secondhand materials derived therefrom.

(4) The boiling or treatment of junk, iron, rags, bottles or scrap paper, or storage in connection therewith, stamping machinery, rendering and tanning.

(5) Entertainment or amusement establishments.

(6) Building material storage yard, including materials such as sand, plaster, brick, cement, lumber, roofing materials, boilers, tanks, radiators, pipes and fittings.

(7) Dog pounds or kennels.

(8) Outdoor theaters.

(9) Open storage of materials

(10) Manufacture of soaps and processing or roasting of coffee.

(11) Automotive uses, including new and used car or truck sales and driving schools.

(12) Go-go lounge which is an establishment or premises wherein a scantily-clad person or persons are permitted to dance or otherwise move and perform in a suggestive manner.

(13) Any "cabaret" or "nightclub" which, for the purposes hereof, is defined as a commercial establishment open to the public providing food and/or drink which also provides entertainment in the form of dancing by live performers other than the patrons thereof.

(14) Any sexually oriented adult entertainment as the same is defined in § 208-1 of this chapter as a principal use or as an accessory to any permitted use that is open to the public.

(15) Massage parlors.

(16) Used or new car dealerships.

(17) Gasoline service stations.

(18) Poolrooms, billiard rooms or parlors.

E. Permitted accessory uses shall be as follows:

(1) Offices as an accessory use, occupying not more than 20% of the total gross floor area of a permitted use.

(2) Cafeteria as an accessory use to a permitted use in the Industrial District, located on the same lot as the principal use, provided that its purpose is to serve food and drink to the employees of the principal use to which it is accessory.

(3) Garages to house delivery trucks or other commercial vehicles only when accessory to a permitted industrial use, warehousing, wholesaling or laboratory use.

* * *

The use proposed by the Applicant is not specifically permitted in the C Zone pursuant to Section 208-7 of the Township Zoning Ordinance.

J. The witness testified that the Applicant intended to rely upon street parking to satisfy the parking demand associated with the proposed use of the Property.

K. The Applicant's witness testified that the surrounding area is commercial in nature and that, in his opinion, the proposed use would not be detrimental to the surrounding area. The witness further testified that since the Applicant has been occupying the Property since 2004,

they have not received any complaints that he is aware of regarding the Applicant's use of the Property.

L. Ray DeRiso, the South Hackensack Zoning Officer/Construction Official testified that to his knowledge, the Applicant has not received a certificate of occupancy or any permit from the Township of South Hackensack to allow use of the subject Property for the uses proposed under the application.

M. The Applicant did not address how, if at all, on-site parking would be impacted under the proposed use.

N. The Applicant did not provide any site plan of the parking area or architectural renderings of the interior of the building subject of the application as part of the application.

O. The Applicant did not provide any expert testimony or reports by way of professional architect, planner, engineer, traffic consultant, etc. and relied only upon the factual testimony of the single witness, Allen Prinzi, who is the president of the Applicant corporation.

P. The Applicant has failed to supply any testimony regarding the proposed use in relation to the permitted uses in the C Zone. The Applicant's failure to provide any expert or factual testimony regarding the proposed use and its impact upon the Property, the traffic and parking in the area and on the Property, its impact upon other uses in the surrounding C Zone and the Master Plan and Zoning Ordinances of the Township of South Hackensack leaves the Board with the sole conclusion that the Applicant has not provided sufficient evidence to satisfy the burden of proof required to permit granting of a variance pursuant to N.J.S.A. 40:55D-70(d).

Q. The Board is familiar with and has considered the Supreme Court's holding set forth in Sica v. Board of Adjustment of Township of Wall, 127 N.J. 152 (1992) regarding the "special reasons" required for granting use variances pursuant to N.J.S.A. 40:55D-70(d) when it made its findings of fact and reached its conclusions.

R. The Board acknowledges that the social club use, as proposed, is not "inherently beneficial" and thus there must be a finding of evidence substantiating that the general welfare is promoted because the proposed uses, "particularly suited" to the location. Stop & Shop Supermarket Co. v. Board of Adjustment of Tp. of Springfield, 162 N.J. 418 (2000).

S. The Applicant has not satisfied its burden of proof with respect to both positive criteria and negative criteria with regard to the proposed use as required pursuant to the Municipal Land Use Law and relevant case law.

T. The Applicant has not provided any testimony regarding the proposed use's impact upon parking and the traffic/parking demands of the Property and surrounding area and failed to provide any testimony regarding how, if at all, the current parking plan permitted under the Prior Approval would be maintained or impacted under the current application.

U. The application is detrimental to the public and will have a detrimental effect on the surrounding neighborhood, existing traffic conditions or characteristics of the surrounding area by adding multiple vehicles to the area at concentrated meeting times and times of events associated with the proposed social club use. There has been no testimony regarding the proposed uses impact upon the goals and recommendations of the Master Plan or the Township Zoning Ordinance.

V. The Applicant did not provide any testimony regarding whether the Property is particularly suited for social club use as proposed.

W. The Applicant did not present any testimony regarding the proposed use and its relationship to the South Hackensack Master Plan. It is not the function of the Board, nor is it within its authority, to arrogate the zoning power from the Governing Body that has not chosen social clubs in the C Zone.

X. The Applicant has not shown and has not put forth sufficient evidence before the Board to show that the proposed use, can be granted without detriment to the Zone Plan or Zone Ordinances of the Township of South Hackensack or surrounding properties, which exist in conformance with the applicable use standards of the C-Zone.

Y. The Applicant did not provide sufficient proof regarding the advancement of the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq. and did not provide evidence that any benefit which would substantially outweigh the detriment of the proposed use.

Z. The Board finds that the Applicant has failed to meet the required demonstration by "an enhanced quality of proof" that variances for the proposed use are not inconsistent with the intent and purposes of the Master Plan and Zoning Ordinances as required by Medici v. BPR Co., 107 N.J. 1 (1987) to support the approval of the instant application. The testimony provided by the fact witness did not adequately address how the proposed use is particularly suited for the Property and how its impact upon the surround area would be a benefit not outweighed by the detriment of increased potential parking and traffic impact or residual impact or a dance club.

AA. The Board finds that, based upon the testimony of the Applicant's fact witness and review of the exhibits and application, the testimony of the Township Zoning Officer, the Applicant has failed to meet the required demonstration that variance for the proposed use is not inconsistent with the intent and purpose of the Master Plan and Zoning Ordinance in accordance with Sica, supra, to support the approval of the instant application. The Board finds that, based

upon the testimony of the Applicant and in light of the above findings, the Applicant has failed to meet the required demonstration that the proposed use is not inconsistent with the intent and purpose of the Master Plan and Zoning Ordinances or that there was an irrefutable presumption that the site suitability as required by Sica, supra, and its progeny to support the approval of the instant application.

BB. The Board finds that based upon the testimony of the Applicant's witness and testimony of the South Hackensack Zoning Officer and in light of the above findings, the Applicant has failed to satisfy the negative criteria as required by Sica, supra, to support the approval of the instant application and the application cannot be granted without creating a substantial detriment to the public good where the proposed use is not permitted under the Zoning Ordinance.

CC. The Board finds, based upon the testimony of the Applicant's witness and in light of the above findings, that the Applicant has not met the requisite demonstration that the use variance is not inconsistent with the intent and purpose of the Master Plan and Zoning Ordinances as required by Kaufman v. Planning Board for the Township of Warren, 110 N.J. 551 (1988) to support the approval of the instant application. The testimony of the Applicant did not demonstrate that the goals enumerated under the Master Plan would be satisfied or addressed under the application.

DD. The Applicant has not met its burden to prove the existence of "special reasons" for the proposed use. The proposed use, in its location, does not benefit the general public welfare and does not adequately promote any proposal of zoning under N.J.S.A. 40:55D-2 to justify granting of the use variance sought.

EE. The Board finds that the application cannot be granted without causing substantial detriment to the public good and that the proposed use will substantially impair the intent and purposes of the Master Plan and Zoning Ordinances that have designated the subject Property and surrounding parcels to be within the C Zone by creating an increase in traffic and on site parking demand and exceeding the scope of uses specifically permitted in this Zone.

FF. Jeff Mason, Esq., 155 Polifly Road, Hackensack, New Jersey, appeared on behalf of his client, 8-10 Roma Properties, LLC, an adjacent property owner and objected to the application on behalf of his client based upon the allegation that the Applicant did not satisfied the burden of proof required to grant a use variance pursuant to N.J.S.A. 40:55 D-70(d). No other members of the public appeared or spoke regarding this application.

GG. The Board incorporates by reference, all transcripts, minutes, exhibits, reports and other documents submitted and/or referred to by the Board into this Resolution.

NOW THEREFORE, BE IT RESOLVED the application of Wingman Motorcycle Club of Bergen County, Inc. for a use variance to permit social club use with associated personal vehicle storage and repair be and the same is hereby denied.

1. **Reliance by Board on Testimony and Application:** The application is denied based upon the testimony of the Applicant's witness, the exhibits, the application, and any amendments to same, submitted to the Board as well as the testimony of all other witnesses, and review memorandum and letters, all of which have been relied upon by the Board in making its determination as further identified within this Resolution. The Applicant did not satisfy the burden of proof required pursuant to South Hackensack Ordinances, N.J.S.A. 40:55D-70(d), and all other applicable provisions of the Municipal Land Use Law and N.J.S.A. 40:55D-1, et seq. regarding use variance approval and/or other relief sought by the Applicant.

2. **Professional Fees:** The Applicant shall be responsible for all legal, engineering and planning fees of the South Hackensack Zoning Board of Adjustment in connection with this application.

3. **Other Fees:** All additional fees, if any, required by the Township Ordinances shall be paid in connection with this application.

4. **Appeal Period:** The Applicant has been advised that there is an appeal period for the action of the Board herein for a period of forty-five (45) days from the date of publication of notice of the Resolution in a newspaper of general circulation approved by the Zoning Board of Adjustment and/or Township of South Hackensack governing body.

A motion to deny the application for use variance was adopted by the following vote at the meeting prior to adoption of the memorializing Resolution:

Moved by: Brian Veprek
 Seconded by: Lou LoPiccolo

	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>	<u>Not Qualified To Vote</u>
Brian Veprek, Chairperson	X				
Bill Regan, Vice Chairperson	X				
James Diramondo				X	
John Falato	X				
Jamie DiPiazza				X	
Lou LoPiccolo	X				
Luis Perdomo	X				
Victor Santos, Alt. #1	X				
Michangelo Marrella, Alt. #2				X	

Dated: May 23, 2011

Said Resolution was memorialized at the meeting after the motion was adopted (as set forth above), by the following vote:

Moved by: *Veprek*
 Seconded by: *LoPiccolo*

For Against Abstain Absent Not Qualified To Vote

Brian Veprek, Chairperson	✓				
Bill Regan, Vice Chairperson	✓				
James Diramondo					X
John Falato	✓				
Jamie DiPiazza					X
Lou LoPiccolo	✓				
Luis Perdomo	✓				
Victor Santos, Alt. #1				A	
Michangelo Marrella, Alt. #2					X

Joseph D'Amico

X

Dated: July 25, 2011

SOUTH HACKENSACK ZONING BOARD

By: *Brian P Veprek*
 Brian Veprek, Chairperson

CERTIFIED TO BE A TRUE COPY

By: *Lydia Heinzelman*
 Lydia Heinzelman
 Secretary to the Zoning Board of Adjustment

The newspapers of **New Jersey** make public notices from their printed pages available electronically in a single database for the benefit of the public. This enhances the legislative intent of public notice - keeping a free and independent public informed about activities of their government and business activities that may affect them. Importantly, Public Notices now are in one place on the web (www.PublicNoticeAds.com), not scattered among thousands of government web pages.

County: Bergen

Printed In: The Record, Hackensack

Printed On: 2011/07/29

**SOUTH HACKENSACK BOARD OF ADJUSTMENT
PUBLIC NOTICE**

NOTICE is hereby given that the Board of Adjustment of the Township of South Hackensack, by resolution duly adopted on July 25, 2011, for the reasons set forth in its resolution of that date, denied variances for application No.2011-06, Wingman Motorcycle Club of Bergen County, and designated as Block 58 Lot 23 and more commonly known as 3 Romanelli Avenue, South Hackensack, New Jersey, for variances in connection with the proposed use as a social club and storage/personal repair shop. A copy of that resolution is on file in the office of the Township Clerk, 227 Phillips Avenue, South Hackensack, New Jersey, and is available for inspection by member of the public during the regular business hours of that office.

Lydia Heinzelman

Board of Adjustment Secretary

July 29, 2011-fee:\$23.63 (25) 3126474

Public Notice ID: 16946074

Front Yard Setback
Variance for Front Stoop
and Amendment of Prior
Variance Approval

RESOLUTION

**TOWNSHIP OF SOUTH HACKENSACK
ZONING BOARD OF ADJUSTMENT**

**APPLICATION OF 77 CALICOONECK ROAD, LLC
77 Calicooneck Road
Block 7.05, Lot 29**

Application No. 2011-07

WHEREAS, 77 Calicooneck Road, LLC, 27 Paroubek Street, Little Ferry, New Jersey, (hereinafter referred to as the "Applicant") applied to the Township of South Hackensack Zoning Board of Adjustment (the "Board") for variance approval and amendment of prior approval in connection with the proposed construction of a two family dwelling with detached garage, as further described herein; and; and

WHEREAS, the property subject of the application is comprised of 15,190 s.f. and is identified on the Tax Map of the Township of South Hackensack as Block 7.05, Lot 29 and is more commonly known as 77 Calicooneck Road, Hackensack, New Jersey (hereinafter the "Property"); and

WHEREAS, the Property is located in the A One and Two Family Residential Zone; and

WHEREAS, the Property was subject of prior applications before the Board, the most recent of which filed was under application number 2010-05 wherein Marianinfa Zito, member of the current Applicant, 77 Calicooneck Road, LLC, received variance approval from the Board to permit construction of the subject two family dwelling. The Board's prior approval was

granted under Application Number 2010-05 on November 22, 2010 which approval was memorialized by Resolution of the Board dated January 24, 2011 (the "Prior Approval"); and

WHEREAS, Marianinfa Zito, member of the Applicant, 77 Calicooneck Road, LLC, was specifically granted variance approval under the Prior Approval to permit construction of a two family dwelling with a total of 4,298 s.f. and to permit a driveway width of 31 feet; and

WHEREAS, the Applicant submitted architectural renderings prepared by V.C.A. Group, Vassilio Cocoros, AIA, 467 Sylvan Avenue, Englewood Cliffs, New Jersey, dated February 12, 2009 with last revision date of May 6, 2011 (the "Architectural Plan") as part of the current application; and

WHEREAS, during the public hearing, the Applicant submitted a foundation location survey plan prepared by Donald P. Sweeney & Associates, Inc. dated April 22, 2011 with last revision date of May 13, 2011 (the "Foundation Plan"); and

WHEREAS, after due notice and publication, the matter was called for a public hearing on May 23, 2011 at which time the Applicant was represented by Matthew P. DeMaria, Esq., 550 Boulevard, Elmwood Park, New Jersey; and

WHEREAS, Donald Sweeney, testified as an expert in the field of land surveying on behalf of the Applicant; and

WHEREAS, Ms. Marianinfa Zito, a member of the Applicant LLC, 27 Paroubek Street, Little Ferry, New Jersey, provided testimony as a fact witness on behalf of the Applicant; and

WHEREAS, Ray DeRiso, South Hackensack Zoning Officer, testified during the public hearing regarding this matter; and

WHEREAS, the witnesses testified during the public hearing that construction of the two family dwelling recently commenced pursuant to permits issued from the Township Building Department which were issued in accordance with the plans previously approved by the Board

under the Prior Approval. The witnesses also testified that the foundation associated with the dwelling was constructed 2 feet closer to the front yard lot line of the Property than noted on the plans under the Prior Approval. Upon inspection, the incorrect location of the foundation was noted by the Township Construction Official and Township Engineer and a stop work order was issued; and

WHEREAS, the Applicant filed the subject application with the Board seeking approval to permit location of the proposed dwelling 2 feet closer to the front yard lot line of the Property than noted on the plans under the Prior Approval;

WHEREAS, the Board made a physical inspection of the Property during such times as the Board members may have indicated; and

WHEREAS, the Board has carefully considered the exhibits introduced into evidence and the testimony of the Applicant; and

WHEREAS, the Board has carefully considered the application, the exhibits introduced into evidence and the testimony of the witnesses and resolution of the Prior Approval; and

WHEREAS, the Board, after considering the testimony of the Applicant hereby makes the following findings of fact:

A. 77 Calicooneck Road, LLC is the owner of the Property commonly known as 77 Calicooneck Road, South Hackensack, New Jersey which Property is also identified as Block 7.05, Lot 29 on the current Tax Map of the Township of South Hackensack. The Property is located within the A One and Two Family Residential Zone.

B. The Property is comprised of 15,190 s.f. and is 62 feet wide and 245 feet deep. The existing Property is vacant and unimproved.

C. Marianinfa Zito, a member of the Applicant, 77 Calicooneck Road, LLC was previously granted approval to construct a two family dwelling on the Property with

detached garage under a Prior Approval granted by the Board which approval was granted on November 22, 2010 which approval was memorialized by Resolution of the Board dated January 24, 2011.

D. Under the Prior Approval, the Applicant was granted two variances in connection with the development of the property as a two family dwelling unit. Specifically, Marianinfa Zito, a member of the Applicant, was granted variance approval to permit a total of 4,298 s.f. of gross floor area where a maximum of 3,750 was permitted under the Zoning Ordinance and approval to permit driveway width of 31 feet where a maximum of 24.8 feet is permitted for the subject Property.

E. The Applicant's expert witness testified during the public hearing that the foundation of the previously approved dwelling was improperly located two feet north of the location previously identified on the plans approved under the Prior Approval of the Board. The witness further testified that the dwelling itself, exclusive of a front stoop, under the current location will be located as currently constructed, 25.2 feet from the northerly or front yard lot line, as shown on the Architectural Plan and Foundation Plan submitted to the Board. The minimum front yard setback permitted in the A-Zone is 25 feet. Accordingly, under the current conditions, the foundation of the dwelling, exclusive of the front stoop, complies with the minimum front yard setback requirement.

F. Mr. DeRiso, the Zoning Officer of the Township of South Hackensack, confirmed that the existing foundation, as currently constructed, at its closest point, is located 25.2 feet from the northerly or front yard lot line of the property. Mr. DeRiso also testified that the proposed front stoop of the subject dwelling is to be covered with a second story roof overhang and supporting columns and is approximately 10 feet wide at its widest point, as shown on the Architectural Plan submitted to the Board. The open covered front porch will be located

approximately 23.2 feet from the front yard lot line of the Property where a minimum of 25 feet is required. Therefore, a variance is required in connection with the location of the front stoop.

G. The Applicant's witnesses testified that the proposed detached garage previously approved and identified under the Prior Approval is to be located in the exact location previously permitted by the Board under the Prior Approval. Specifically, the detached garage will be located 105 feet from the rear yard lot line of the Property and approximately 122 + feet from the front yard lot line of the Property, as shown on the Architectural Plan and Foundation Plan submitted to the Board and as noted under the Prior Approval.

The witnesses further testified that the distance between the proposed detached garage and the proposed dwelling, as a result of the mislocated foundation, will be increased by 2 feet so that there is a proposed distance of approximately 39 feet between the rear facade of the dwelling and the front facade of the detached garage where under the Prior Approval this distance was 37 feet, as shown on the Architectural Plan submitted to the Board.

H. The Applicant's witnesses confirmed that, with the exception of the shifting of the dwelling 2 feet to the north (toward Calicooneck Road) the proposed dwelling will be located 12 feet from the easterly side yard lot line of the Property and 6 feet from the westerly side yard of the Property, as previously permitted under the Prior Approval.

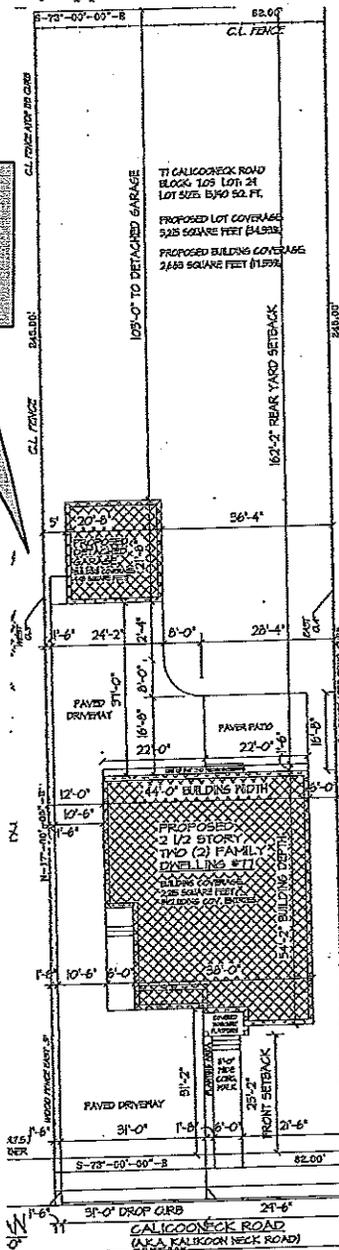
I. The Applicant's witnesses further testified that with the exception of the location of the constructed foundation 2 feet closer to the northerly or front yard lot line along Calicooneck Road, no other changes were proposed or sought from the Prior Approval.

J. The Board is familiar with the facts and evidence of the prior applications for this Property as filed by the Applicant and as adjudicated by the Board. A copy of the Board's Prior Approval as memorialized by Resolution dated January 24, 2011 under Application No. 2010-05 is attached hereto as Exhibit "A".

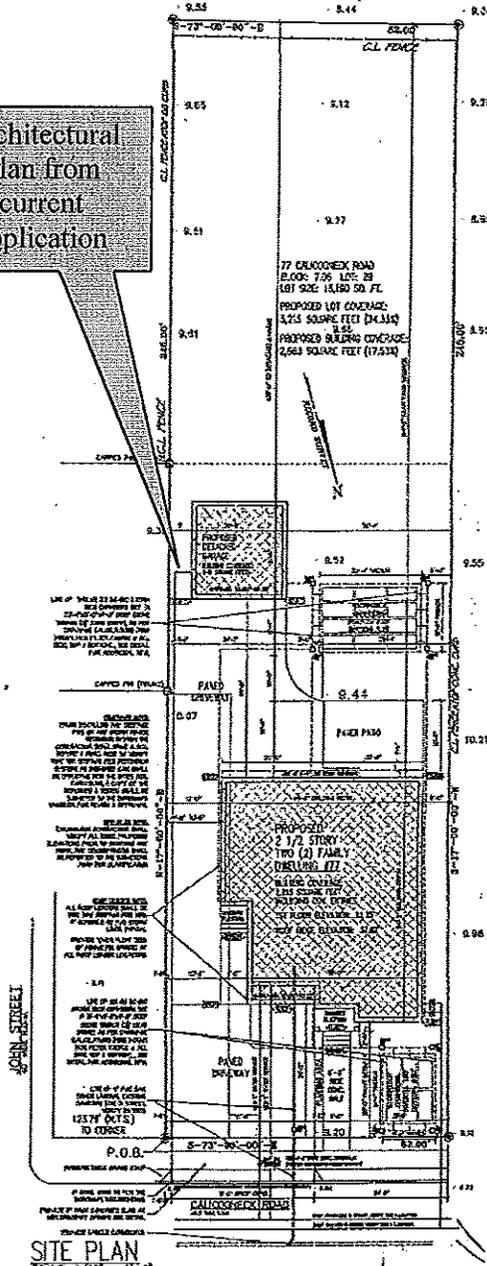
K. The Applicant sought variance approval under this application to permit location of the covered front stoop area 23.2 feet from the northerly or front yard lot line of the Property where a minimum of 25 feet is required. No other variances are sought under this application.

L. The following portions of the Applicant's plans identifies the comparison of the Architectural Plan submitted to the Board under the current application and the plan previously approved under the Prior Application:

Previously approved plan under the Prior Approval



Architectural Plan from current application



M. The Applicant stipulated during the public hearing that aside from the variance requested to locate the front stoop of the proposed dwelling 23.2 feet from the front yard lot line of the Property and to permit amendment of the Prior Approval to permit location of the entire dwelling foundation 2 feet north or closer to the front yard lot line, no other variances or amendments to the prior approval are proposed or sought under the current application.

N. The Board has reviewed the comments and testimony of presented on behalf of the Board's engineering consultant, Boswell Engineering, including the engineering review memorandum dated May 11, 2011. The Applicant stipulated during the public hearing to comply with all requirements and conditions as may be required by Boswell Engineering, including, but not limited to, its May 11, 2011 memorandum.

O. The Applicant's witnesses testified that the proposed dwelling would be utilized in accordance with the permitted uses of the A One and Two-Family Residential Zone and that no more than two separate dwelling units would be utilized on the Property at any time, in accordance with the Prior Approval. The Applicant's witnesses also confirmed that the proposed detached garage would be utilized only by a resident of the Property in connection with its primary residential use and the garage would not be occupied for living purposes or for any commercial purposes, in accordance with the Prior Approval.

P. The Applicant stipulated to comply with all conditions of approval under the Prior Approval, to the extent not addressed or altered by the Board under the current application. In particular, the requirement that the Applicant execute a deed restriction limiting the use of the Property to no more than two residential dwelling units, as currently permitted in the A Zone, shall remain in effect and be a continuing condition of approval.

Q. No property owners or members of the public appeared or testified regarding the application.

R. The diminimus nature of the proposed variance and alterations to the Prior Approval outweigh any detriment associated with the location of the front foundation and front stoop 2 feet closer to the northerly or front yard lot line of the Property from the location previously permitted under the Prior Approval. The dwelling foundation itself, exclusive of the front stoop, will comply with the minimum required front yard setback in the A Zone.

S. The benefits of the requested variance and amendment of the Prior Approval outweigh any detriment. The variance sought herein is not detrimental to the public, provided there is compliance with the conditions of this Resolution and all other conditions of the Prior Approval not addressed or altered herein. The Applicant has satisfied the criteria required to permit the requested variance N.J.S.A 40:55 D-70(c)(2) as further referenced herein and as discussed during the public hearing.

T. The proposed variance will result in the utilization of the Property as a two-family residential use, as permitted in the A Zone and will not detrimentally impact the surrounding residential neighborhood, so long as there is compliance with the remaining conditions noted under the Prior Approval.

NOW THEREFORE, BE IT RESOLVED that the Application of 77 Calicooneck Road, LLC, to permit location of a foundation of the previously approved two family dwelling 2 feet closer to the northerly or front yard lot line of the Property, as shown on the Architectural Plan and Foundation Plan submitted to the Board and as testified by the witnesses, be in the same herein is approved as follows:

1. **Location and Type:** The proposed two and one-half story dwelling, detached garage, driveway area shall be constructed and located as testified by the Applicant and witness during the public hearing and as shown on the architectural plans prepared by VCA Group dated

February 2, 2009 with the last revision date of May 11, 2011 submitted to the Board under the current application.

In accordance with the Prior Approval granted by the Board on November 22, 2010, which Approval was memorialized by Resolution dated January 24, 2011 attached hereto as Exhibit "A", the proposed two and one-half story two-family dwelling unit shall be comprised of a maximum of 4,298 s.f. of gross area, as shown on the Architectural Plans submitted to the Board and as testified by the witnesses and as further described under the Prior Approval. The second dwelling unit within the residential building shall be comprised of a maximum of 891 s.f., as shown on the Architectural Plan submitted to the Board and as testified by the witnesses and as further described under the Prior Approval.

The single car detached garage previously permitted under the Prior Approval shall remain to be located approximately 122+ feet from the front yard lot line of the Property, and 105 feet from the rear yard lot line of the Property, as shown on the Architectural Plan and Foundation Plan submitted to the Board and as testified by the Applicant's witnesses.

The Applicant shall only be permitted to utilize the detached garage as accessory use to the primary two-family dwelling unit, in accordance with the Prior Approval of the Board. In no event shall the detached garage be used as a dwelling unit or for any commercial purposes, in accordance with the Prior Approval of the Board. The proposed detached garage shall be located and utilized only as accessory use for the residents of the Property, in accordance with the Prior Approval of the Board.

The Applicant shall not expand the proposed two and one-half story two-family dwelling beyond what was previously approved under the Prior Approval, as shown on the Architectural Plan submitted to the Board and as testified by witnesses.

With the exception of the variance granted herein to permit a location of the covered front stoop area 23.2 feet from the front yard lot line where a minimum of 25 feet is required, the Applicant shall comply with all other bulk standards for residential dwellings and accessory structures as permitted under the current Zoning Ordinance of the Township of South Hackensack and all other conditions of approval noted under the Prior Approval (see Exhibit "A"). Specifically, the dwelling, exclusive of the proposed front stoop, shall be located a minimum of 25.2 feet, at its closest point, from the front yard lot line of the Property.

The Applicant shall be permitted to utilize the proposed two and one-half story dwelling unit as a one or two-family dwelling unit in accordance with uses permitted under the A One and Two Family Zone of the Township of South Hackensack. In no event shall the Property be utilized for any use not specifically permitted under the current Zoning Ordinance.

2. **Conditions of Prior Approval**: To the extent the Prior Approval granted on November, 2010, as memorialized by Resolution of the Board dated January 24, 2011 under Application No. 2010-05 (a copy of which is attached hereto as Exhibit "A"), shall conflict with the approvals granted herein, the conditions of this Resolution shall control. **All other conditions of the Prior Approval noted in the Resolution of the Board dated January 24, 2011 under Application No. 2010-05 shall remain in full force and effect, to the extent not modified by this Resolution.**

3. **Restriction in Confirmatory Deed**: Pursuant to existing New Jersey law as set forth in Aldrich v. Schwartz, 258 N.J. Super 300 (App. Div. 1992), the Board specifically grants its approval, subject to the prohibition of utilization of any portion of the dwelling to be constructed on the Property for any residential use other than a single or two family residential use or other use currently permitted within the A Zone of the Township of South Hackensack. The approval is specifically granted upon the finding that in no event will the Property be

utilized as a multi family use (beyond one or two family use) at any point and that no person(s) shall be permitted to reside within the detached garage on the Property.

The Applicant shall provide evidence of the recorded confirmatory deed to the South Hackensack Zoning Board of Adjustment and/or South Hackensack Building Department.

4. **Compliance with Engineering Comments:** The Applicant shall comply with all comments and recommendations of the engineering as noted in the testimony of the Board's engineering consultant during the public hearings and as noted in the engineering report(s) prepared by Boswell Engineering including, but not limited, its review letter dated May 11, 2011, to the extent not done so on the Plans submitted to the Board and as to the extent not addressed by the Applicant, witnesses or Board during a public hearing or addressed herein.

5. **Legal and Engineering Fees:** The Applicant shall be responsible for all legal and engineering fees of the Zoning Board of Adjustment associated with this application.

6. **Other Fees:** All additional fees, if any, required by the Township Ordinances shall be paid.

7. **Reliance by Board on Testimony and Application:** The approval granted herein is specifically granted based upon the testimony of the Applicant, the exhibits, the application, and any amendments to same, and as shown on the plans submitted to the Zoning Board of Adjustment, all of which have been relied upon by the Board herein.

8. **Compliance with Ordinance:** Except for the variance approval granted herein, the Applicant shall comply with all other provisions of the Zoning Code of the Township of South Hackensack.

9. **Compliance with Laws:** The Applicant shall comply with all Township Ordinances, and any and all State and Federal laws and applicable regulations.

10. **Non-Severability of Conditions:** The relief granted to the Applicant is specifically made subject to the conditions referred to herein. In the event any condition is held to be invalid, unenforceable, or unlawful, the variance approval granted herein shall be unenforceable. It is the intent of the Board that the variance approval not be approved if any condition is invalid, and that the conditions are not severable from any variances or relief granted herein.

11. **Appeal Period:** The Applicant has been advised that there is an appeal period for the relief granted herein for a period of forty-five (45) days from the date of publication of notice of the relief granted pursuant to this Resolution in a newspaper of general circulation approved by the Zoning Board of Adjustment. Accordingly, any work or construction done prior to the expiration of the appeal period is accomplished at the sole risk of the Applicant.

A motion to deny the subject Application was made but failed to receive a second and, accordingly no vote was taken.

A motion to approve the subject application was adopted by the following vote at the meeting prior to adoption of the memorializing Resolution:

Moved by: Bill Regan
 Seconded by: Luis Perdomo

	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>	<u>Not Qualified To Vote</u>
Brian Veprek, Chairperson		X			
Bill Regan, Vice Chairperson	X				
James Diramondo				X	
John Falato	X				
Jamie DiPiazza				X	
Lou LoPiccolo		X			
Luis Perdomo	X				
Victor Santos, Alt. #1	X				
Michangelo Marrella, Alt. #2				X	

Dated: May 23, 2011

Said Resolution was memorialized at the meeting after the Resolution was adopted (as set forth above), by the following vote:

Moved by: *Falato*
 Seconded by: *Perdomo*

	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>	<u>Not Qualified To Vote</u>
Brian Veprek					X
Bill Regan	✓				
James Diramondo					X
John Falato	✓				
Joseph D'Amico					X
Lou LoPiccolo					X
Luis Perdomo	✓				
Victor Santos, Alt. #1				✓	
Michangelo Marrella, Alt. #2					X

Dated: July 25, 2011

SOUTH HACKENSACK ZONING BOARD

By: *Brian P Veprek*
 Brian Veprek, Chairperson

CERTIFIED TO BE A TRUE COPY

By: *Lydia Heinzelman*
 Lydia Heinzelman
 Secretary to the Zoning Board of Adjustment

EXHIBIT "A"

RESOLUTION

**TOWNSHIP OF SOUTH HACKENSACK
ZONING BOARD OF ADJUSTMENT**

**APPLICATION OF MARIANINFA ZITO
77 Calicooneck Road
Block 7.05, Lot 29**

Application No. 2010-05

WHEREAS, Marianinfa Zito (hereinafter referred to as the "Applicant"), 27 Paroubek Street, Little Ferry, New Jersey, applied to the Township of South Hackensack Zoning Board of Adjustment (the "Board") for variances in connection with the proposed construction of a two family dwelling with detached garage, as further described herein; and; and

WHEREAS, the property subject of the application is identified on the Tax Map of the Township of South Hackensack as Block 7.05, Lot 29 and is more commonly known as 77 Calicooneck Road, Hackensack, New Jersey (hereinafter the "Property"); and

WHEREAS, the Property is located in the A One and Two Family Residential Zone; and

WHEREAS, the Property is comprised of 15,190 s.f. and is currently vacant or unimproved; and

WHEREAS, the Applicant sought a variance from the maximum permitted gross building area of the building and maximum driveway width permitted under the Township Zoning Ordinance. Specifically, the Applicant sought a variance to permit construction of a two family dwelling with a total of 4,290 s.f. where a maximum gross building area of 3,750 is permitted. The Applicant also sought a variance to permit a driveway width of 31 feet where a maximum of 40% of the width of the lot or 24.8 feet for the Property is permitted; and

WHEREAS, the Applicant submitted architectural renderings prepared by V.C.A. Group, Vassilio Cocoros, AIA, 467 Sylvan Avenue, Englewood Cliffs, New Jersey, dated February 12, 2009 with last revision date of November 3, 2010 as part of the application; and

WHEREAS, after due notice and publication, the matter was called for a public hearing on November 22, 2010 at which time the Applicant was represented by Matthew P. DeMaria, Esq., 550 Boulevard, Elmwood Park, New Jersey; and

WHEREAS, Vassilio Cocoros, AIA, 467 Sylvan Avenue, Englewood Cliffs, New Jersey, testified as an expert in the field of architecture on behalf of the Applicant; and

WHEREAS, Ray DeRiso, South Hackensack Zoning Officer, testified during the public hearing regarding this matter; and

WHEREAS, the Board made a physical inspection of the Property during such times as the Board members may have indicated; and

WHEREAS, the Board has carefully considered the exhibits introduced into evidence and the testimony of the Applicant; and

WHEREAS, the current matter represents a third application by the same Applicant concerning the same Property. Therefore, it is necessary for the Board to determine as a threshold or jurisdictional issue whether to even consider the current application and determine whether the application, on the merits, is precluded by the application of the doctrine of res judicata; and

WHEREAS, the Board has carefully reviewed the issue of res judicata as applied to the current/third application. In reviewing whether res judicata will bar the Board's ability to hear the application, the Board carefully considered the following five factors:

1. Whether the second application is substantially similar to the Prior Application;

2. Whether the same applicants or parties are involved in both the current application and Prior Application;
3. Whether there is a substantial change in the current application from the Prior Application itself or conditions surrounding the subject Property;
4. Whether there has been an adjudication on the merits in the Prior Application; and
5. Whether both the current application and Prior Application involve the same cause of action; and

WHEREAS, the Board takes notice that the New Jersey Supreme Court in Russell v. Tenafly Board of Adjustment, 31 N.J. 58 (1959) held that where the same property owner and the same parcel of property are involved in a subsequent application, the matter is not barred on the grounds of res judicata unless the second application is shown to be “substantially similar to the first, both as to the application itself and the circumstances of the property involved.” Russell, 31 N.J. at 65 (citation omitted) (emphasis supplied). The Court in Russell went on to hold that “[t]he question for the [Board] on a second application for a variance concerning the same property, is whether there has occurred a sufficient change in the application itself or the conditions surrounding the property to warrant entertainment of the application.” Russell, 31 N.J. at 66. (Citations omitted); and

WHEREAS, the Board also notes that the New Jersey Supreme Court's decision in Gruber v. Mayor and Township Committee of Rarriton Township, 39 N.J. 1, 12 (1962), held that although a subsequent application may be similar to the previous one, surrounding circumstances may have changed such that the prior denial would be an error. The Court also held that a zoning board possesses the discretion of whether to reject an application on the ground of res judicata and that exercise of discretion may not be overturned on appeal absence the showing of “unreasonableness.” Id.; and

WHEREAS, the Board notes that the New Jersey courts have held that res judicata does not bar the making of a new application for a variance or for modification or enlargement of one already granted or for lifting of conditions previously imposed in the connection with the grant of a variance, upon "a proper showing of a change of circumstance or other good cause warranting a reconsideration by the local authorities. . . . to hold differently would offend public policy by countenancing restraint upon the future exercise of municipal action in the absence of sound reason for such restraint." [Springsteel v. Town of West Orange, 149 N.J. Super. 107, 113 (App. Div. 1977), cert. denied, 75 N.J. 10 (1977) (emphasis added)]; and

WHEREAS, the Applicant initially applied to the Board under calendar 2010-01 for a variance to construct a two-family home on the Property and sought variance approval to permit 5,336 gross s.f. of a dwelling structure and a driveway width of 56 feet. After several amendments to the application, the application was denied by resolution of the Board dated September 27, 2010 (the "First Application"); and

WHEREAS, the Applicant filed a second application under calendar number 2010-05 which was deemed to be substantially similar to the First Application and dismissed by the Board based upon the principal of res judicata. The dismissal was memorialized by resolution dated October 25, 2010 (the "Second Application"); and

WHEREAS, the Board has now carefully reviewed the issue of res judicata as applied to the current application as compared to the First Application. In reviewing whether res judicata should prevent the Board from hearing the current application, the Board carefully considered whether the current application is substantially similar to the Prior Application denied by the Board and hereby makes the following findings with regard to the issue of res judicata; and

A. Marianinfa Zito submitted the current application to the Board and certified that she is the owner of the Property commonly known as 77 Calicooneck Road, South

Hackensack, New Jersey which Property is also identified as Block 7.05, Lot 29 on the current Tax Map of the Township of South Hackensack. The Property is located within the A One and Two Family Residential Zone.

B. The Property is comprised of 15,190 s.f. and is 62 feet wide and 245 feet deep. The existing Property is vacant and unimproved.

C. The Applicant testified that she proposed to construct a two family dwelling on the Property with detached garage located in the rear portion of the Property. The Applicant testified that she intended to occupy the primary dwelling unit on the Property.

D. The Applicant sought two variances as part of the current application including variance for maximum gross building area and a variance to exceed the maximum permitted driveway width, as follows:

SOUTH HACKENSACK ORDINANCE PROVISION	PROPOSED	PERMITTED UNDER ZONING ORDINANCE
Maximum Gross Area of Entire Dwelling	4,290 s.f.	3,750 s.f.
Maximum Driveway Width	31 ft.	40% of lot width (24.8 ft. for subject Property)

E. The following is a comparison of the variance sought under the current application and First Application, as filed:

SOUTH HACKENSACK ORDINANCE PROVISION	PROPOSED (Initial Application)	PROPOSED (Current Application)	Difference From First Application
Maximum Gross Area of Entire Dwelling	5,316 s.f.	4,387 s.f.	(929 s.f.)
Maximum Driveway Width	56 ft.	31 ft.	(25 ft.)

F. The Board makes the following findings regarding the issue of res judicata:

- (1) The current application is similar to the First Application submitted under Application No. 2010-01 in that the current application involves the same Applicant, same piece of parcel of property and same proposal of development.

Although the Applicant under the current application is seeking the same two variances as under the First Application, the amount of deviation sought in the current application is substantially less than sought in the total application.

In fact, based upon the testimony from the Applicant's witness, the Applicant is seeking 929 +/- s.f. less of gross building area than was sought under the First Application. The Applicant is also seeking approximately 25 +/- feet of less of driveway width than was denied under the Initial Application.

- (2) Marianinfa Zito was the applicant under the First Application and is the Applicant under the current application.
- (3) There has been a substantial change in the application. Specifically, the proposed dwelling was substantially reduced in total size and the proposed driveway with variance was reduced by over 50%.
- (4) The First Application was heard by this Board during the course of three public hearings and a formal decision was rendered by this Board on August 23, 2010, which decision of the Board was memorialized by a written resolution adopted by the Board on September 27, 2010.
- (5) Based on the factual facts identified within the Resolution of the

First Application, it is clear that both the First Application and current application involve the same cause of action, and applicant, however, the amount of variance sought under the current application is substantially different from the amount initially sought under the First Application.

G No member of the public or interested party appeared or spoke regarding the issue of res judicata.

H. Based upon the facts presented under the current application, the Board finds that the Applicant is seeking substantially less variance and therefore has presented an application which is different from the First Application, as filed, and is not barred by the principle of res judicata.

I. The Board, having made the determination that the current application is not barred based on the grounds of res judicata, the need not proceed further to hear additional testimony from the Applicant or her witnesses regarding the current application.

NOW THEREFORE, BE IT RESOLVED that the current Application of Marianinfa Zito under Calendar 2010-8 which seeks variance approval to construct a two family dwelling with a total excess gross building area 4,290 s.f. and driveway width of 31 ft., as shown on the Plans submitted to the Board, and as testified by Applicant and witness during the public hearing, be and the same is hereby determined not to be barred by the application of res judicata. This determination does not constitute a decision on the merits of the current application.

A motion was made to proceed with the public hearing on the current matter based upon the determination that the applicant was not barred by the doctrine of res judicata was adopted by the following vote at the meeting prior to adoption of the memorializing Resolution:

Moved by: Brian Veprek
 Seconded by: Lou LoPiccolo

	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>	<u>Not Qualified To Vote</u>
Brian Veprek, Chairperson	X				
Bill Regan, Vice Chairperson	X				
James Diramondo				X	
John Falato	X				
Jamie DiPiazza				X	
Lou LoPiccolo	X				
Luis Perdomo				X	
Victor Santos, Alt. #1				X	
Michangelo Marrella, Alt. #2	X				

Dated: November 22, 2010

WHEREAS, after considering the issue of res judicata, the Board proceeded with the public hearing in this application; and

WHEREAS, the Board made a physical inspection of the Property during such times as the Board members have indicated; and

WHEREAS, the Board has carefully considered the exhibits introduced into evidence and the testimony of the Applicant; and

WHEREAS, the Board, after considering the testimony of the Applicant hereby makes the following findings of fact with regard to the current application:

A. Marianinfa Zito submitted the current application to the Board and certified that she is the owner of the Property commonly known as 77 Calicooneck Road, South

Hackensack, New Jersey which Property is also identified as Block 7.05, Lot 29 on the current Tax Map of the Township of South Hackensack. The Property is located within the A One and Two Family Residential Zone.

B. The Property is comprised of 15,190 s.f. and is 62 feet wide and 245 feet deep. The existing Property is vacant and unimproved.

C. The Applicant testified that she proposed to construct a two family dwelling on the Property with detached garage located in the rear portion of the Property. The Applicant testified that she intended to occupy the primary dwelling unit on the Property and rent the second unit to a tenant.

D. The Board is familiar with the facts and evidence of the prior applications for this Property as filed by the Applicant and as adjudicated by the Board, which have been memorialized by Resolutions dated September 27, 2010 (Application No. 2010-01) and October 25, 2010 (Application No. 2010-05).

E. The Applicant sought two variances as part of the current application including variance for maximum gross building area and a variance to exceed the maximum permitted driveway width, as follows:

SOUTH HACKENSACK ORDINANCE PROVISION	PROPOSED	PERMITTED UNDER ZONING ORDINANCE
Maximum Gross Area of Entire Dwelling	4,290 s.f.	3,750 s.f.
Maximum Driveway Width	31 ft.	40% of lot width (24.8 ft. for subject Property)

F. The Applicant has proposed a driveway width of 31 feet. The maximum driveway width permitted under the Zoning Ordinance is 40% of the lot width (the Property lot is 62 feet wide. $62 \times 40\% = 24.8$ feet). Therefore, a variance is necessary to permit a driveway width of 31 feet where 24.8 feet is permitted under the Zoning Ordinance.

G. The Applicant has proposed a total gross area of the residential dwelling of 4,298 s.f. where a maximum of 3,750 s.f. are permitted under the Zoning Ordinance. Therefore, a variance is necessary.

H. The Applicant is proposed to construct a 2 ½ story two-family dwelling on the Property approximately 44 feet wide by 54 feet 2 inches long, as show on the Plans submitted to the Board. The Applicant specifically proposes to maintain a second dwelling unit comprised of 891 s.f. within the building's proposed structure, as shown on the Plans submitted to the Board.

The Applicant also proposes to construct a single car detached garage approximately 21 feet 8 inches deep by 20 feet 8 inches wide, 14.67 feet in height within the rear yard of the Property, as shown on the Plans submitted to the Board and as testified by the Applicant and witness.

J. Aside from the variance sought for maximum gross building area and driveway width, the Application complies with all other use and bulk requirements of the Applicant One and Two Family Zone.

K. The Board has reviewed the comments and testimony of presented on behalf of the Board's engineering consultant, Boswell Engineering, in particular the review memorandum dated November 11, 2010. The Applicant stipulated during the public hearing to comply with all requirements and conditions as may be required by Boswell Engineering, including, but not limited to, its November 11, 2010 memorandum.

L. The Applicant and witnesses testified that the proposed dwelling would be utilized in accordance with the permitted uses of the A One and Two-Family Residential Zone and that no more than two separate dwelling units would be utilized on the Property at any time. The Applicant and witnesses further testified that the proposed detached garage would be utilized only by a resident of the Property in connection with its primary residential use and the garage would not be occupied for living purposes or for any commercial purposes.

M. The Applicant stipulated during the public hearing that she would execute a deed restriction limiting the use of the Property to no more than two residential dwelling units, as currently permitted in the A Zone.

N. Ms. Lorraine Ferraro, 23 John Street, South Hackensack, New Jersey, appeared and expressed concern about potential water drainage and runoff which may result from the proposed development. No other property owners or members of the public appeared or testified regarding the application.

O. The subject Property is significantly larger than the minimum lot size permitted in the A Zone and is comprised of more than three times the minimum lot area required. Accordingly, although the Applicant's proposed dwelling exceeds the maximum gross

s.f. permitted in the A Zone, it will not appear to result in an overbuilding on the Property which is itself significantly oversized. Furthermore, the style and character of the proposed dwelling is consistent with the surrounding neighborhood and will not detrimentally impact the zone plan or surrounding residential area.

P. The benefits of the requested variances outweigh any detriment. The variances sought herein are not detrimental to the public, provided there is compliance with the conditions of this Resolution. The Applicant has satisfied the criteria required to permit the requested variances N.J.S.A 40:55 D-70(c)(2) as further referenced herein and as discussed during the public hearing.

Q. The Applicant's request for variance to permit construct of a two-family dwelling unit comprised of a gross area of 4,298 s.f. where a maximum of 3,750 s.f. is permitted and maximum driveway width of 31 feet where a maximum of 24.8 feet is permitted under the Zoning Ordinance, can be granted without detriment the Zone Plan or Zoning Ordinance of the Township of South Hackensack given the large size of the subject lot, and character of the proposed dwelling which is consistent with the surrounding neighborhood.

R. The proposed variances will result in the utilization of the Property as a two-family residential use, as permitted in the A Zone and will not detrimentally impact the surrounding residential neighborhood.

NOW THEREFORE, BE IT RESOLVED that the Application of Marianinfa Zito, to construct a two and on-half story dwelling (to be utilized as a two-family residential dwelling), detached garage and driveway area, as shown on the Plans submitted to the Board and as testified by the Applicant and witness, be in the same herein is approved as follows:

1. **Location and Type:** The proposed two and one-half story dwelling, detached garage, driveway area shall be constructed and located as testified by the Applicant and witness during the public hearing and as shown on the architectural plans prepared by VCA Group dated February 2, 2009 with the last revision date of November 3, 2010 submitted to the Board under the current application. The proposed two and one-half story two-family dwelling unit shall be comprised of a maximum of 4,298 s.f. of gross area, as shown on the Plans submitted to the Board and as testified by the Applicant and witness. The second dwelling unit within the residential building shall be comprised of a maximum of 891 s.f., as shown on the Plans submitted to the Board and as testified by the Applicant and witness.

The Applicant shall be permitted to install a driveway 31 feet in maximum width along the southwesterly portion of the Property, as shown on the Plans submitted to the Board and as testified by the Applicant and witness.

The Applicant shall be further permitted to construct a single car detached garage 21 feet 8 inches deep by 20 feet 8 inches wide with a maximum height of 14.67 feet, as shown on the Plans submitted to the Board and as testified by the Applicant witness. The proposed detached garage shall be located approximately 122+ feet from the front yard lot line of the Property, and of approximately 105 feet to the rear yard lot line of the Property, as shown on the Plans submitted to the Board and as testified by the Applicant and witness.

The Applicant shall be permitted to utilize the detached garage as accessory use to the primary two-family dwelling unit. In no event shall the detached garage be used as a dwelling unit or for any commercial purposes. The proposed detached garage shall be utilized only as accessory for the residents of the Property.

The Applicant shall be permitted to construct the proposed two and one-half story two-family dwelling approximately 54 feet 2 inches deep by 44 feet wide located a minimum 6 feet from the easterly side yard lot line of the Property and a minimum of 10 feet 6 inches from the westerly side yard lot line of the Property, as shown on the Plans submitted to the Board. The Applicant shall maintain a minimum front yard setback of 25 feet 2 inches from the proposed two and one-half story two-family dwelling unit and then maintain a minimum rear yard setback of approximately 162 feet 2 inches, as shown on the Plans submitted to the Board and as testified by Applicant and witness.

With the exception of the variances granted herein to permit a driveway width of 31 feet where a maximum of 24.8 feet is permitted and total gross area of the dwelling of 4,298 s.f. where a maximum of 3,750 s.f. is permitted, the Applicant shall comply with all other bulk standards for residential dwellings and accessory structures as permitted under the current Zoning Ordinance of the Township of South Hackensack.

The Applicant shall be permitted to utilize the proposed two and one-half story dwelling unit as a one or two-family dwelling unit in accordance with uses permitted under the A One and Two Family Zone of the Township of South Hackensack. In no event shall the Property be utilized for any use not specifically permitted under the current Zoning Ordinance.

2. **Restriction in Confirmatory Deed:** Pursuant to existing New Jersey law as set forth in Aldrich v. Schwartz, 258 N.J. Super 300 (App. Div. 1992), the Board specifically grants its approval, subject to the prohibition of utilization of any portion of the dwelling to be constructed on the Property for any residential use other than a single or two family residential use or other use currently permitted within the A Zone of the Township of South Hackensack. The approval is specifically granted upon the finding that in no event will the Property be utilized as a multi family use (beyond one or two family use) at any point and that no person(s) shall be permitted to reside within the detached garage on the Property.

The Applicant shall provide evidence of the recorded confirmatory deed to the South Hackensack Zoning Board of Adjustment and/or South Hackensack Building Department.

3. **Compliance with Engineering Comments:** The Applicant shall comply with all comments and recommendations of the engineering as noted in the testimony of the Board's engineering consultant during the public hearings and as noted in the engineering report(s) prepared by Boswell Engineering including, but not limited, its review letter dated November 11, 2010, to the extent not done so on the Plans submitted to the Board and as to the extent not addressed by the Applicant, witnesses or Board during a public hearing or addressed herein.

4. **Legal and Engineering Fees:** The Applicant shall be responsible for all legal and engineering fees of the Zoning Board of Adjustment associated with this application.

5. **Other Fees:** All additional fees, if any, required by the Township Ordinances shall be paid.

6. **Reliance by Board on Testimony and Application:** The approval granted herein is specifically granted based upon the testimony of the Applicant, the exhibits, the application, and any amendments to same, and as shown on the plans submitted to the Zoning Board of Adjustment, all of which have been relied upon by the Board herein.

7. **Compliance with Ordinance:** Except for the variance approval granted herein, the Applicant shall comply with all other provisions of the Zoning Code of the Township of South Hackensack.

8. **Compliance with Laws:** The Applicant shall comply with all Township Ordinances, and any and all State and Federal laws and applicable regulations.

9. **Non-Severability of Conditions:** The relief granted to the Applicant is specifically made subject to the conditions referred to herein. In the event any condition is held to be invalid, unenforceable, or unlawful, the variance approval granted herein shall be unenforceable. It is the intent of the Board that the variance approval not be approved if any condition is invalid, and that the conditions are not severable from any variances or relief granted herein.

10. **Appeal Period:** The Applicant has been advised that there is an appeal period for the relief granted herein for a period of forty-five (45) days from the date of publication of notice of the relief granted pursuant to this Resolution in a newspaper of general circulation approved by the Zoning Board of Adjustment. Accordingly, any work or construction done prior to the expiration of the appeal period is accomplished at the sole risk of the Applicant.

Said Resolution was adopted by the following vote at the meeting prior to adoption of the memorializing Resolution:

Moved by: Lou LoPiccolo
 Seconded by: Brian Veprek

	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>	<u>Not Qualified To Vote</u>
Brian Veprek, Chairperson	X				
Bill Regan, Vice Chairperson	X				
James Diramondo				X	
John Falato	X				
Jamie DiPiazza				X	
Lou LoPiccolo		X			
Luis Perdomo				X	
Victor Santos, Alt. #1				X	
Michangelo Marrella, Alt. #2		X			

Dated: November 22, 2010

Said Resolution was memorialized at the meeting after the Resolution was adopted (as set forth above), by the following vote:

Moved by: *veprek*
 Seconded by: *REGAN*

For Against Abstain Absent Not Qualified To Vote

	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>	<u>Not Qualified To Vote</u>
Brian Veprek	✓				
Bill Regan	✓				
James Diramondo					X
John Falato	✓				
Jamie DiPiazza					X
Lou LoPiccolo					X
Luis Perdomo					X
Victor Santos, Alt. #1					X
Michangelo Marrella, Alt. #2					X

Dated: January 24, 2011

SOUTH HACKENSACK ZONING BOARD

By: *Brian B Veprek*
 , Chairperson

CERTIFIED TO BE A TRUE COPY

By: *Rydie Hernandez*
 Secretary to the Zoning Board of Adjustment

The newspapers of **New Jersey** make public notices from their printed pages available electronically in a single database for the benefit of the public. This enhances the legislative intent of public notice - keeping a free and independent public informed about activities of their government and business activities that may affect them. Importantly, Public Notices now are in one place on the web (www.PublicNoticeAds.com), not scattered among thousands of government web pages.

County: Bergen

Printed In: The Record, Hackensack

Printed On: 2011/07/29

ZONING BOARD TOWNSHIP OF SOUTH HACKENSACK
PUBLIC NOTICE

NOTICE is hereby given that the Zoning Board of the Township of South Hackensack, by resolution duly adopted on July 25, 2011 for the reasons set forth in its resolution of that date, conditionally granted approval to the application of 77 Calicooneck Road, as to premises designated as Block 7.05, Lot: 29 and more commonly known as 77 Calicooneck Road for a variance approval and amendment of prior approval in connection with the proposed construction of a two family dwelling with detached garage. Said approval was made expressly conditioned upon the satisfaction of all of the terms and conditions contained in that resolution. A copy of that resolution is on file in the office of the Township Clerk, 227 Phillips Avenue, South Hackensack, New Jersey, and is available for inspection by members of the public during the regular business hours of that office.

Lydia Heinzelman, Secretary
South Hackensack Zoning Board
July 29, 2011-fee:\$27.41 (29) 3126597

Public Notice ID: 16946071