

Township of South Hackensack
BOARD OF ADJUSTMENT
April 25, 2011
MINUTES

At 7:43 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 Chairman led the flag salute.
The Secretary called the roll.

Member Present

Lou LoPiccolo	Bill Regan
Angelo Marrella	Brian Veprek
Luis Perdomo	Victor Santos
John Falato	
Greg Padovano, Township Attorney	
Elliot Sachs Boswell Engineering	

Members Absent

James Diraimondo
Jamie DiPiazza

OLD BUSINESS

BOA 2011-03 - Memorialize Resolution

Peter & Jean Zisa
257 Huyler Street
Block: 39 Lot: 6
"D" Use Variance

Veprek **Motioned**; LoPiccolo **seconded** to accept the Resolution for Zisa,
257 Huyler Street Vote: **Yes:** Veprek; Falato; LoPiccolo; Perdomo; Marrella
Not Qualified to Vote: Regan; Diraimondo; DiPiazza; Santos.

BOA 2011-02

Om Vagzie, LLC (Super 8 Motel)
410 Route 46 West
Block: 1.01 Lot: 2
Appeal of Action of Administrative Office/Request for Certification of Existing Non-Conforming Use.

April 25, 2011

Paul Kaufman
Attorney Representing Applicant
One Executive Drive
Fort Lee, NJ

Based upon the Boswell's Report and the Applicants' Engineering Report and the argument of counsel for the Applicant, the Board determined that less than 50% of the existing structure on the property housing the nonconforming motel use was damaged or destroyed during the January 2011 fire. Accordingly, the building utilized for the nonconforming use may be restored and/or repaired.

The applicant stipulated certain site improvements associated with the reconstruction and rebuilding of the building for the motel. Specifically, installation of a 6' solid fence (tan in color) along a portion of its property abutting Phillips Avenue; install a conforming concrete sidewalk along its property abutting Phillips Avenue and install additional landscape screening along Phillips Avenue and the northerly portion of its property.

The applicant also stipulated that motel room #53 would be maintained as a maintenance/employee room with only a half bathroom and would not be utilized for rentals to the general public. Specifically, the existing shower/bathtub would be removed from this room during the current restoration of the building so to assure that it would not be rented to the general public.

Open to the Public

James Anzevino
91 Phillips Avenue
South Hackensack, NJ

Anzevino asked if there was some way to make the Motel Sign smaller or more attractive.

Tanuk Suratwala, managing member, stated that the sign is a standard used by all Super 8 Motels. It was put up in 2002 and redesigned in 2008 with new face plates.

Closed to the Public

A motion was made by the following vote that the proposed nonconforming motel use of the property, be permitted to be repaired and restored as a nonconforming use within the M-Mixed Use Zone and that the denial of the construction permits under the Denial Letter issued on February 8, 2011, be reversed. The applicant's request for use variance approval is deemed moot and is dismissed without prejudice.

Veprek Motioned; Falato seconded to accept the above mentioned motion.
Vote: Yes: Veprek; Regan; LoPiccolo; Perdomo Marrella; Santos; Falato
Absent: Diraimondo, DiPiazza.

April 25, 2011

NEW BUSINESS

BOA 2011-04

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

Sworn in
Frank Barricella
112 Phillips Avenue

Awsraf Ragagb, AIA
39 Camden Road
Hillsborough, NJ

Board accepted Ragagb as an expert in his field

Applicant is applying for variances in connection with the proposed construction of an addition to existing single family dwelling to be utilized as a two-family dwelling.

Applicant submitted Exhibit B-1, Ariel photograph, dated 4/25/11 of 112 Phillips Avenue.

There were discrepancies regarding the proposed size or building gross area of dwelling as to applicant's submitted plans and to Architect's testimony.

Open to the Public

Claude Buldo
110 Phillips Avenue
South Hackensack, NJ

Buldo asked what the requirement for spacing between his house and his new dwelling. Is it 10 feet, he was not sure. He stated that per the applicant's plans, when he looks out his living room he will be looking at the garage.

Carol Matt
433 Chestnut Street
South Hackensack, NJ

She asked if the present home is to be made in to a 2 family and if the addition in the back will be a 3rd kitchen.

Closed to the Public

April 25, 2011

The applicant's architects requested an adjournment and carry the matter to the next meeting in order to resolve discrepancies.

The motion was to carry the matter to the next meeting, May 23, 2011. No further notice is required. Revised plans and a survey will be required at least 10 days prior to meeting date.

Vepek Motioned; Regan seconded adjourn to next month's meeting, May 23, 2011 with the above requirements stated above.

Vote: Yes: Vepek; Regan; LoPiccolo; Perdomo Marrella; Santos; Falato

Absent: Diraimondo, DiPiazza.

BOA 2011-05

Cinelli Iron & Metal Co., Inc.

100 Wesley Street

Blocks/Lot: 53/1.05; 54/2.02

"D" Variance; Interpretation of Ordinance; Appeal of Zoning Official's Denial of Use.

No one was present for the application. Application was dismissed. Reapplication and new notice will be required.

Regan Motioned; LoPiccolo seconded to dismiss the application, Cinelli Iron & Metal, 100 Wesley Street

Vote: Yes: Vepek; Regan; LoPiccolo; Perdomo Marrella; Santos; Falato

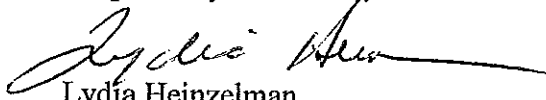
Absent: Diraimondo, DiPiazza.

Meeting Open to the Public

There were no public comments at this time.

At 8:45 p.m. the meeting was **adjourned**. LoPiccolo **motioned** to adjourn the meeting; **second** by Regan. **All in favor.**

Respectfully Submitted,



Lydia Heinzelman

Planning/Zoning Board Secretary

April 25, 2011

Use Variance for Construction
of a Second Story Addition
Resulting in Expansion of
Non-Conforming Use

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

**APPLICATION OF PETER AND JEAN ZISA
257 Huyler Street
Block 39, Lot 6**

Application No. 2011-03

WHEREAS, Peter and Jean Zisa (hereinafter collectively referred to as the "Applicant") applied to the Township of South Hackensack Zoning Board of Adjustment (the "Board") for a use variance to permit construction of a second story addition along the rear or westerly façade of the existing residential dwelling (the "Addition"), as further described herein; and

WHEREAS, the subject property is designated on the Tax Map of the Township of South Hackensack as Block 39, Lot 6, which property is commonly known as 257 Huyler Street along the south westerly corner of the intersection of Huyler Street and Wilson Street (hereinafter the "Property"); and

WHEREAS, the Property is located in the C Industrial Zone; and

WHEREAS, the Property is comprised of 7,500 s.f. and is currently improved with a 2 ½ story residential dwelling; and

WHEREAS, the Property is currently utilized as a two family residential use which use has existed for several years; and

WHEREAS, the Applicant has proposed a 10'9" by 8'6" second floor bathroom Addition to be located in alignment with the first floor of the existing dwelling; and

WHEREAS, the Property is currently located in C Industrial Zone and is utilized as a two family residential dwelling. Residential use is not permitted in the C Zone. The existing residential use on the Property is a pre-existing non-conforming use. Accordingly, the proposed Addition results in an expansion of the pre-existing non-conforming use and a variance is required pursuant to N.J.S.A. 40:55D-70(d)(2); and

WHEREAS, the existing property does not satisfy the bulk requirements of the C Industrial Zone. To the extent necessary, the Applicant is also seeking variance approval pursuant N.J.S.A. 40:55D-70(c) for all existing / proposed non conforming bulk standards applicable; and

WHEREAS, after due notice and publication, the matter was called for a public hearing on March 28, 2011 at which time the Applicant represented themselves; and

WHEREAS, the Applicant submitted an architectural plan comprised of 1 page dated February 7, 2011 prepared by Michael J. Napolitan, AIA, PP, 445 Hudson Street, Hackensack, New Jersey (the "Plan"); and

WHEREAS, the Applicant, Peter Zisa, and his son, Frank Zisa, testified as a fact witness during the public hearing in support of the applicant; 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 application, exhibits introduced into evidence and the testimony of the Applicant; and

WHEREAS, the South Hackensack Zoning Board of Adjustment, after considering the testimony of the Applicant and witness, hereby makes the following findings of fact:

A. Peter and Jean Zisa own Property commonly known as 257 Huyler Street, South Hackensack, New Jersey, which Property is also identified as Block 39, Lot 6 on the current tax map of the Township of South Hackensack. The Property is located in the C Industrial Zone.

B. The Property is currently utilized as a two family residential dwelling. Residential uses are not permitted in the C Industrial Zone. There is no evidence that a prior variance was granted to permit the residential use. Accordingly, it appears, through the testimony of the Applicant and witness and the Board's knowledge of the Property and area, that the two family residential use is a pre-existing non-conforming use. The proposed expansion of the existing dwelling by construction of the proposed Addition results in an expansion of the pre-existing non-conforming use which requires use variance approval pursuant to N.J.S.A. 40:55D-70(d)(2) and, to the extent necessary, the Applicant is also seeking variance approval pursuant N.J.S.A. 40:55D-70(c) for all existing / proposed non conforming bulk standards applicable to the Property under this application.

C. Although the Property is utilized as a two family residential use and the lot size and configuration are similar to the average lot within the A Residential Zone throughout the Township.

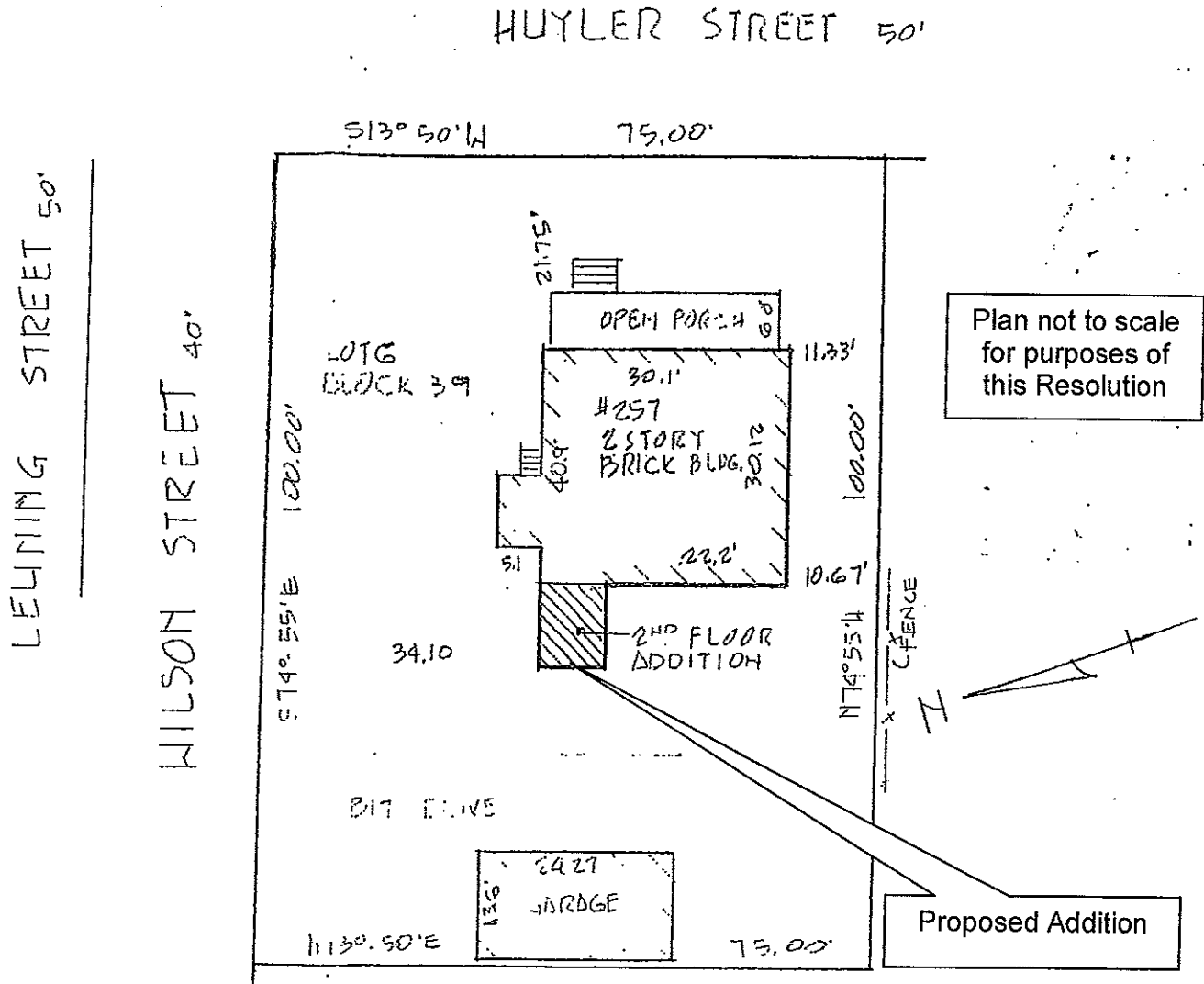
The following chart represents some of the proposed/existing bulk conditions, applicable standards of the C Zone and standards of the A Residential Zone applicable to permitted residential uses:

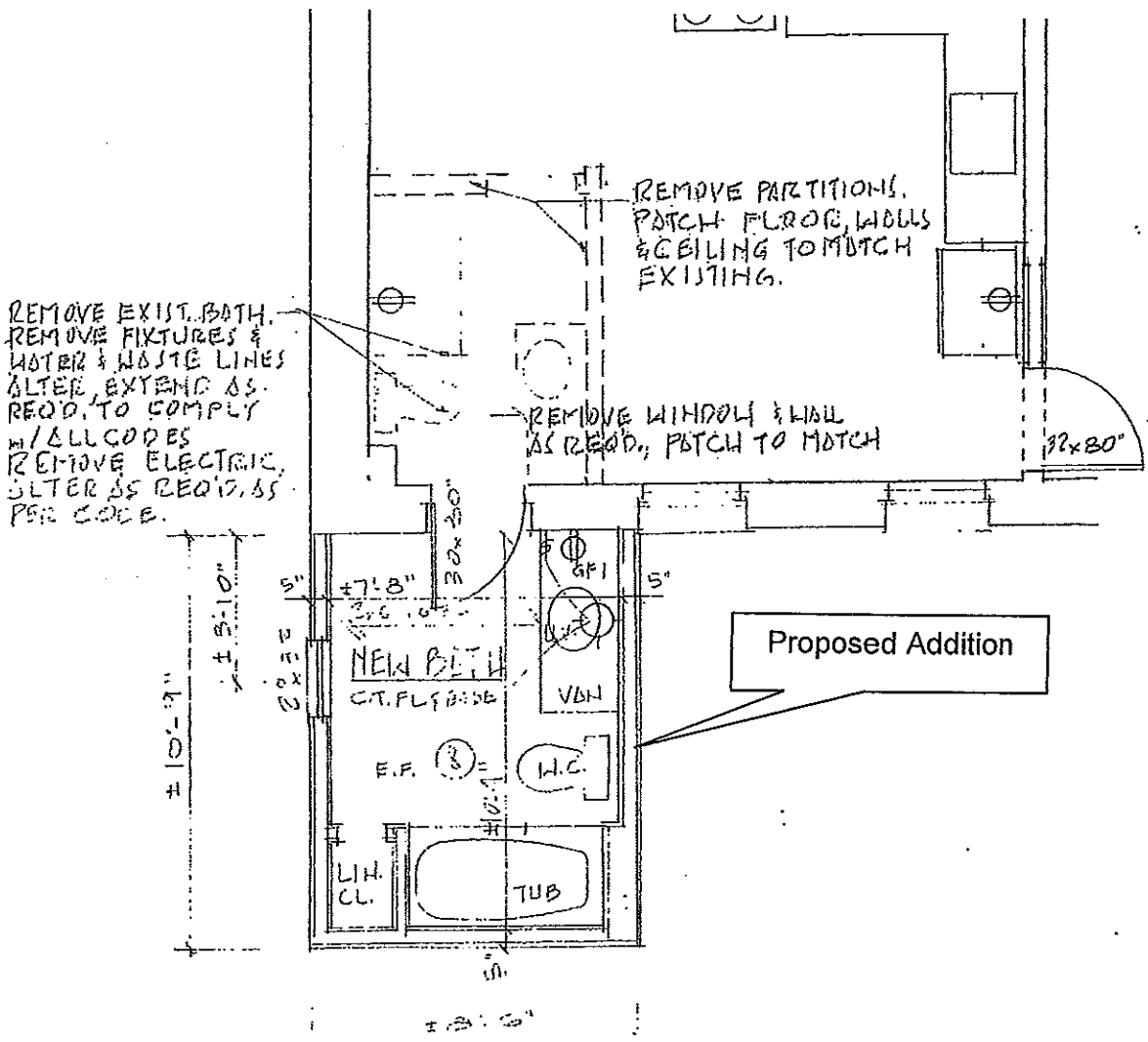
Applicable Bulk Standards	C Industrial Zone Requirements	Existing / Proposed Bulk Standards	A Residential Zone Requirements
Minimum Lot Area	20,000 s.f.	7,500 s.f.	5,000 s.f.
Minimum Front Yard Setback	35 ft	21.75 ft	25 ft
Minimum Side Yard Setback (single / combined)	20 ft / 40 ft	34.10 ft – northerly side 10.67 ft – southerly side	5 ft / 12.5 ft.
Min Rear Yard	35 ft	32 +/- ft	25 ft

The Board recognizes that the existing / proposed bulk conditions of the Property (ie setback and lot area), although not fully compliant with the A Residential Zone standards, is more consistent with the A Zone standards than the requirements of the C Zone.

D. The Applicant has proposed to construct a second story Addition to the existing residential dwelling on the Property which is comprised of two separate dwelling units, one on the first floor and one on the second floor. The Applicant is specifically proposing to remove the only existing bathroom within the second floor unit and to relocate it above the existing bathroom of the first floor by constructing the proposed Addition. The proposed Addition is to be 10'9" long by 8'6" wide, as shown on the Plan submitted to the Board and as testified by the Applicant and witness. No other addition or expansion of the existing dwelling was proposed under this application.

E. The location and proposed size of the Addition is further identified on the following portion of the Plan submitted to the Board as part of the application:





F. The construction of the proposed Addition, as shown on the Plan submitted to the Board and as testified by the Applicant and witness, will have a minimum impact, if any, on adjacent properties and the surrounding neighborhood. The proposed Addition is consistent with the residential use of the Property and more consistent with the bulk standards of the A Residential Zone than the C Industrial Zone.

G. The proposed Addition is consistent with the residential character of the properties along Wilson Street and Huyler Street. The Property has been utilized as a two family residential dwelling for several years, predating the ordinance or, at least since the creation of the subject lot prior to the Applicant's ownership. The proposed Addition is consistent with the current residential use and, although results in any expansion of the existing non-conforming use, will result in the maintenance of the Property for residential use purposes. The proposed Addition will not expand beyond the existing footprint of the current dwelling since it is proposed to be located above the existing first floor of the dwelling, as shown on the Plan submitted to the Board and as testified by the Applicant.

H. The existing Property is significantly undersized for the C Zone and does not meet the lot width, front yard setback, single side yard setback and rear yard setback requirements of the Industrial Zone. However, the Property is similar in size and of average single family lot in the A Residential Zone, although not fully compliant with the A Zone requirements. The proposed Addition will be within the existing footprint of the current dwelling and will not, as a practical matter, increase any bulk standard deviation existing on the Property.

I. The proposed Addition will not create a detrimental impact upon the adjacent properties and will not create a negative visual impact to the surrounding area or neighborhood. The proposed Addition is consistent with the character of the surrounding neighborhood.

J. No members of the public or interested parties appeared or testified regarding this application.

K. In accordance with the provisions of N.J.S.A. 40:55D-70(c)(2), the variance requested will not substantially impair the intent and purpose of the Zone Plan or Zoning Ordinance and will not detrimentally impact the surrounding neighborhood and advance the purposes of the Municipal Land Use Law are advanced under this application by promoting the proper use of the Property which, given its location and configuration, is residential in nature.

L. Since the Property is currently located in the C Zone, the Board acknowledges its obligation to review the request for use variance in accordance with the applicable standards under the Municipal Land Use Law and concludes that the Applicant has shown that a use variance is appropriate under this application in order to permit the expansion of the non-conforming residential use.

With regard to the expansion of non-conforming use, the Applicant has satisfied its burden of proof with respect to positive and negative criteria and has shown special reasons to permit approval of the application as presented. The subject Property is particularly suited for the residential use proposed to be maintained by the Applicant given the Property's location and size.

M. The benefits of the proposed Addition use variance approval to permit expansion of the existing two family residential dwelling outweigh any detrimental effect.

O. The application is not detrimental to the public and will not have a detrimental effect on the surrounding neighborhood, existing traffic conditions or residential character of the surrounding properties along Huyler Street and Wilson Street. The granting of the requested variance approval will not result in a substantial detriment to the public due to the residential character and nature of the properties developed along surrounding neighborhood.

NOW THEREFORE, BE IT RESOLVED that the Application of Peter and Jean Zisa to construct a second story Addition along the rear or westerly façade of the existing dwelling in alignment with the building's footprint established by the first floor, shown on the Plan submitted to the Board and as testified by the Applicant and witness, be and the same is hereby approved as follows:

1. **Location and Type:** The Applicant shall be permitted to construct a second story Addition along the rear or westerly facade of the existing dwelling in alignment with the first floor of the existing dwelling, as shown on the Plan submitted to the Board and as testified by the Applicant and witness. The proposed Addition shall extend approximately 10'9" from the existing rear facade of the dwelling's second story for a width of approximately 8'6", as shown on the Plan submitted to the Board and as testified by the Applicant and witness.

The exterior facade of the proposed Addition shall conform to the siding/exterior facade of the remainder of the entire building, as testified by the Applicant and witness.

The Property shall be maintained as residential use, as testified by the Applicant and witness in accordance with the application. In no event shall the Property be utilized for multifamily use beyond two family dwelling use without further approval of this Board or a board of similar jurisdiction.

3. **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.

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

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

6. **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.

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

8. **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: 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: March 28, 2011

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: *LoPiccolo*

For Against Abstain Absent Not Qualified To Vote

Brian Veprek	✓				
Bill Regan <i>X</i>					<i>X</i>
James Diramondo <i>X</i>					<i>X</i>
John Falato	✓				
Jamie DiPiazza <i>X</i>					<i>X</i>
Lou LoPiccolo	✓				
Luis Perdomo	✓				
Victor Santos, Alt. #1 <i>X</i>					<i>X</i>
Michangelo Marrella, Alt. #2	✓				

Dated: April 25, 2011

SOUTH HACKENSACK ZONING BOARD

By: *Brian P. Veprek*
 Brian Veprek, Chairman

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: 2011/04/28

**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 April 25, 2011, for the reasons set forth in its resolution of that date, granted variances for application No.2011-03; premises owned by Peter and Jean Zisa and designated as Block 39 Lot 6 and more commonly known as 257 Huyler Street, South Hackensack, New Jersey, for variances in connection with the proposed construction of a second story rear addition. 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

April 28, 2011-Fee:\$24.57(26) 3068579

Public Notice ID: