

JANUARY 27, 2009

ADEQUATE NOTICE OF THIS MEETING HAS BEEN
PROVIDED AS IS REQUIRED BY CHAPTER 231, PUBLIC
LAW 1975 AND BY RESOLUTION 2004-8, WITH THE
REQUEST OF THE HOME NEWS AND TRIBUNE AND THE
SENTINEL NEWSPAPERS TO PUBLISH SAME, AND THIS
ANNOUNCEMENT MUST BE ENTERED INTO THE MINUTES
OF THIS MEETING.

A meeting of the Zoning Board of Adjustments was held on January 27, 2009, commencing at 7:30 PM in the Criminal Justice Building, 61 Main St., South River, NJ.

Present were: Mr. Andre, Mr. Bodak, Mr. Ciulla, Mr. Clancy, Mr. DeMonico, , Mr. McInerney and Mr. Scala

Also present was Mr. Bignell from Bignell Planning and Mr. Kinneally the Board Attorney and Mr. Lee from CME.

Absent was Mr. Semanovich.

Mr. DeMonico turned the meeting over to Mr. Ciulla for the election of Officers. Mr. Bodak nominated Mr. DeMonico as chairman with a second from Mr. Clancy all present voted yes.

Mr. Bodak nominated Mr. Ciulla as Vice Chairman with a second from Mr. Scala all present approved.

RESOLUTIONS:

Mr. Scala waived the full reading of the resolution to appoint the Attorney, with a second by Mr. Scala, all present approved. The Resolution was moved by Mr. Scala with a second by Mr. Bodak all present approved.

RES: 2009-1

JANUARY 27, 2009

RESOLUTION

BE IT AND IT IS HEREBY RESOLVED by the Zoning Board of Adjustment, of the Borough of South River do hereby appoint **JAMES KINNEALLY III**, as the Zoning Board of Adjustment attorney for the year 2009, and that said appointment shall be in compliance with the Professional Service Requirements of the Local Public Contracts Law of New Jersey and the execution of an Agreement as the same is required by Law.

DATED: JANUARY 27, 2009

/s/ _____
Frank DeMonico

Mr. Bodak waived the full reading of the resolution to Adopt the Rules with a second by Mr. Ciulla. The Resolution was moved by Mr. Ciulla with a second by Mr. Scala, all present approved.

RES: 2009-2

JANUARY 27, 2009

RESOLUTION

BOROUGH OF SOUTH RIVER
Board of Adjustment
South River, New Jersey

RULES OF PROCEDURE

ARTICLE I

Officers

1. Election: At the organization meeting of the Board of Adjustment to be held annually, during the month of January, the Board shall elect a Chairman, Vice-Chairman from its members.
2. Tenure: The Chairman and Vice-Chairman shall take office immediately following their selection and shall hold office for a term of one (1) year or until their successors are selected and assume office.
3. Duties of the Chairman & Vice-Chairman: The Chairman shall, unless otherwise directed by a majority of the Board of session:
 - a. Preside at all meetings of the Board, during his absence the Vice-Chairman shall preside and exercise all powers of the Chairman.
 - b. Decide all points of order or procedure.
 - c. Designate or appoint any Committee that may be found necessary, as per the duties of said position.
 - d. Fulfill any additional duties imposed under applicable ordinances for the Borough of South River.
4. Duties of the Attorney to the Board of Adjustment:
 - a. It shall be the duty of the attorney to attend all caucus meetings, public hearings, regular meetings and special meetings.
 - b. It shall be the duty of the attorney to advise the Board of any irregularities noted in the applications for variance.
 - c. It shall be the duty of the attorney to advise the Board of any legal aspects which may come before the Board in performance of its duties.
 - d. It shall be the duty of the attorney to assist the Board and/or clerk in the preparation of and language of the Resolutions or correspondence of the Board.
 - e. The annual salary of the attorney is pro-rated by month for the attendance and legal guidance as aforementioned.
5. Duties of the Clerk to the Board:
 - a. Attend all caucus meetings, Public hearings Regular and/or Special meetings.
 - b. To record in shorthand, or by longhand, or by notes, the procedure of the Board, to include Roll Call, Board action on the Reading of the Minutes for previous meetings, recording under Old Business the applicants for variance and determination of the Board; and under the category of New Business the applicants for variance and determination of the Board; and under General Business a recording of any other business before the Board and its action thereon.
 - c. Type Official record of the Minutes of the meeting, Regular or Special, in the permanent ledger book of the Board of Adjustment. This hardbound ledger book consists of 500 pages numbered successively and pages are accountable thereby. 1 copy to each Board member, attorney, building inspector
 - d. Type the official record of the Minutes of the Meeting, Regular or Special, and the distribution enumerated above within a period of seven (7) days subsequent to the date of the public hearing.
 - e. Duplicate and distribute to each Board Member, Attorney and Building Inspector the month/special agenda within five (5) days after receipt thereof from the Board.
 - f. Prepare under guidance of the Board, and to submit for publication the Legal Notice of the Boards' determination on the variance applications heard at the public hearing. This is to be done immediately following results of the meeting.

- g. The annual budget remuneration for the clerk is payable by the month for accomplishment of clerical duties aforementioned, pro-rated into monthly increments.
- h. Clerk is responsible for forwarding monies received for applications to the Borough Clerk within 24 hours of receipt of such funds by covering letter explaining said fees. Clerk is responsible to auditors for these fees collected and proper records shall be maintained.
- i. Clerk must notify by letter to the Governing Body of any action taken by the Board within seven (7) days after the meeting.
- j. Clerk will keep sufficient supply of forms on hand at the Borough Hall at all times.

ARTICLE II

Meetings

1. Regular Meetings: Meetings of the Board of Adjustment shall be the last Tuesday of each month at 7:30 p.m.
2. Special Meetings: Special meetings or continued meetings of the Board shall be held at the call of the Chairman or at the request of the majority of the members. Notice of continuation of an advertised meeting shall be made public at the time of adjournment of the so continued, and shall serve as notice to all parties in interest. Special meetings and executive sessions may be held upon the call of the Chairman and at such other times as the Board may determine, provided that at least seventy-two (72) hours notice of the meeting is given each member.
3. Public: All regular, special and continued meetings and hearings, as well as all records and accounts shall be open to the public.
4. Quorum: Four (4) members shall constitute a quorum for the transaction of business, use variance requires five (5) affirmative votes, subject to Article V, paragraph 1 of these Rules of Procedure and the applicable statutes of the State of New Jersey.
5. Order of Business: Agenda – The order of business of all regular and special meetings of the Board shall be as follows;
 - a. Roll Call.
 - b. Reading of Minutes of the previous meeting.
 - c. Unfinished (Continued) business.
 - d. New Business
 - e. General Business – communication and miscellaneous business.
6. Parliamentary Procedure: Except where otherwise provided in these Rules of Procedure, parliamentary procedure in Board meetings shall be governed by Roberts Rules of Order, the Statutes of New Jersey and the rules of the Supreme Court of New Jersey.

ARTICLE III

Applications for Variance

1. No application for a variance or modification of the provisions of the Borough Zoning Ordinance shall be heard by the Board of Adjustment except in a specific case, based on an appeal from an order, requirement, decision or determination made by an administrative official or agency of the Borough of South River on the grounds that:
 - a. The proposed building lot or use is not in full compliance with the Borough Zoning Ordinance interpretation of the ordinance.

- b. NO. 1
 - c. The proposed use is a restricted use requiring special action by the Board.
2. No such application shall be entertained unless filed within thirty (30) days of the day of action of the administrative official or agency.
3. At the time of filing an application the petitioner shall be issued a Denial Form by the Building Inspector, indicating the reasons and the address of the property and advised to file the appeal for variance with the Clerk of the Board of Adjustment. Necessary forms will be issued by the Borough Clerk's office.
4. All applications must be completed with the data required on the forms at the time of filing the appeal with the Clerk of the Board, and the supplemental data will be given the Clerk at least one week before the date set for the Public Hearing.

Prior to the public hearing, a duplicate copy of appeal application and the data contained therein, must be filed with the Borough Planning Board, in all cases pertaining to a restricted use.
5. On the date set for the public hearing the appellant shall appear in person, or by attorney, except for unusual circumstances where the Board has waived such requirement and permits an agent to appear. When an agent is permitted to appear, such agent shall present an affidavit or letter indicating the scope of the agency, bearing the signature of the person or persons represented, duly certified, unless the applicant is also present. Any appellant which is a corporation must be represented by an attorney at law. Persons affected by any application may appear in person, by attorney, or by an agent. Such interested parties shall identify themselves and the extent of their interest, and may speak accordingly, upon discretion of the Board.
6. At the beginning of every case hearing, the Chairman shall request all counsel in the matter to file an "entry of appearance."
7. The Board may request that a stenographic record be taken and that a transcript be provided of the hearing on any application which is deemed appropriate. Whenever stenographic service is provided and a transcript is prepared, a copy of the transcript shall be forwarded at no cost whatsoever to the Board of Adjustment.
8. At the hearing, the appellant shall state his case, then the opposition if any shall be heard, and the appellant shall have the opportunity to reply. In summation the opposition, if any, shall be heard first, thereby giving the appellant an opportunity to be heard last.

ARTICLE IV

General Rules

1. No appeal, application or petition will be entertained in connection with any case while court proceedings are in progress or pending, except by direction in such Court.
2. Any communication purporting to be an appeal, application or petition shall be regarded as a mere notice of intention to seek relief until it is filed on the form required by the rules of the Board. Upon receipt of any such communication, the Board shall supply the appellant with the official forms for presenting such appeal, application or petition.
 - A. Each application shall be made on forms provided by the Board and shall be accompanied by all the data required by the appropriate form, together with fee as is applicable. Fee schedule: An appeal of an action or ruling made by the administrative officer: Fifty Dollars (\$50.00). A request for interpretation of the

- B Zoning Ordinance three hundred dollars (\$300.00). Request for a bulk or hardship variance
- (1). For a residential: seventy-five dollars (\$75.00).
 - (2). For nonresidential: one hundred dollars (\$100.00).
 - (3). Request for use variance: two hundred dollars (\$200.00).
 - (4). An informal review of an application: three hundred dollars (\$300.00).

ARTICLE V

Final Disposition of Cases

1. The final disposition of any application, either reversing or modifying the order, decision or determination appealed from and granting the application, or affirming the order and denying the application, shall require the concurring vote of four (4) members.
2. The Board must render its decision within sixty-five (65) days of the termination of the hearing or hearings on the application or appeal, but not later than one hundred twenty (120) days from the date the Board received such application. Upon failure to do so, the Board will be deemed to have decided adversely to the appellant.
3. Subject to written notification received by the Board, the appellant may withdraw his application without prejudice at any time prior to the distribution of personal notice and public notice or at the time of the scheduled hearing when permitted by the Board.
4. An application has been dismissed, denied or withdrawn shall not be entertained within six (6) months of the date of such dismissal, denial or withdrawal unless the application was withdrawn by the Board without prejudice. After the six (6) month period, the appellant may file new plans, receive a new decision from the proper administrative official, provided that such new plans materially alter the aspects of the case.

ARTICLE VI

PUBLIC NOTICE OF HEARING

1. Notice of public hearing on appeals shall be inserted in at least one newspaper, circulated within the Borough of South River, not less than ten (10) days before such hearing of the Board.
2. As provided in N.J.R.S. 40:55-44: "The appellant at least ten (10) days prior to the time appointed for said hearing give personal notice to all owners of property situated within or without the municipality, as shown by the most recent tax lists of the municipality or municipalities and within two hundred (200) feet of the property to be affected by said appeal. Such notice shall be given either by handing a copy thereof to the said property owners or by leaving a copy at their usual place of abode if said owners are the occupants of the property affected by such appeal or are residents of the municipality in which said property is located."

"Whenever said owners are non-residents of said municipality such notice may be given by sending written notice thereof by registered mail or certified mail return receipt requested to the last known address of the property owner or owners as shown by the most recent tax lists of said municipality. Where the owner is a partnership, service upon any partner as above provided shall be sufficient and where the owners are corporations, service upon any officer as above set forth shall be sufficient. The appellant shall by affidavit present satisfactory proof to the said Board of Adjustment at the time of the hearing that said notices have been duly served as aforesaid. Upon the hearing any party may appear in person or by agent or by attorney."

3. Any application concerning property situated within two hundred feet of a neighboring municipality must be accompanied by evidence of due notice to such municipality as set forth in N.J.R.S. 40:55-53.

4. Any application bordering upon any county highway, must be accompanied by determination of the Middlesex County Planning Board, as set forth in the Site Plan Resolution of said county planning board.

ARTICLE VII

Time Limit Conditions

1. All approvals shall remain valid only so long as the information and conditions on which approval was based are maintained.

2. Where an application is approved, the necessary permits for the work contemplated by the application shall be secured within six (6) months of the date of the action granting the application and the building or alteration, as the case may be, shall be commenced within twelve (12) months of the date of the action granting the building permit. Upon failure to comply with these requirements, such approval shall be automatically rescinded.

ARTICLE VII

Records

All applications shall be on the required forms, and after final disposition shall be filed with the Secretary of the Board in such a manner that they shall be accessible to the public at all reasonable hours. The Board shall publish, in a newspaper circulated within the Borough of South River, the official determination by the Board in each case, in accordance with the Civil Practice Rules, 4:69-6 of the State of New Jersey.

ARTICLE IX

Amendments

1. Amendments to these Rules of Procedure may be made by an affirmative vote of four (4) members of the Board, at any regular meeting, provided notice of such amendment shall have been given in writing to each member of the Board at least seventy-two (72) hours prior to such meeting.

2. The suspension of any rule may be ordered at any meeting by unanimous vote.

ADOPTION

In accordance with the authority granted by the Zoning Ordinance of the Borough of South River and applicable Statutes of the State of New Jersey, the foregoing rules and regulation were adopted by the Board of Adjustment of the Borough of South River, New Jersey on April 26, 1971.

/s/ _____
Chairman

Attest:

/s/ _____
Secretary

APPENDIX NO. 2: To be added to the "Rules of Procedure" for the Board of Adjustment, Borough of South River, New Jersey.

Item to be added to the Record MINUTES OF THE Meeting of the Board of Adjustment.

“Publication of Legal Notice of the Boards’ determination published in the Home News,
dated ---dated--- .”

This item should be completed by either the Secretary or the Clerk. It will serve as a
ready reference should occasion require.

N.J.S.A. 40:55-39
Note 2

MUNICIPALITIES AND COUNTIES

b. Hear and decide, in accordance with the provisions of any such ordinance, requests for
special exceptions or for interpretations of the map or for decisions upon other special questions
upon which such board is authorized by such ordinance to pass.

d. Where by reason of exceptional narrowness, shallowness or shape of a specific
piece of property, or by reason of exceptional topographic conditions, or by
reason of other extraordinary and exceptional situation or condition of such piece
of property, the strict application or any regulation enacted under the act would
result in peculiar and exceptional practical difficulties to, or exceptional and
undue hardship upon the owner of such property to authorized upon an appeal
relating to such property a variance from such strict application so as to relieve
such difficulties or hardship; provided, however that not. Variance shall be
granted under this paragraph to allow a structure or use in a district restricted
against such structure or use

e. Recommend in particular cases and for special reasons to the Governing Body of
the municipality the granting of a variance to allow a structure or use in a district
restricted against such structure or use. Whereupon the Governing Body or Board
of Public Works may, by resolution, approve or disapprove such
recommendation. If such recommendation shall be approved, by the Governing
Body, or Board of Public Works then the administrative officer in charge of
granting permits shall forthwith issue a permit for such structure of or use.

APPENDIX NO. 2: To be added to the “Rules of Procedure” for the Board of Adjustment,
Borough of South River, New Jersey.

EXTRACT

CIVIL PRACTICE RULES 4:69-6

4:69-6 Limitations on Bringing Certain Actions

a. General Limitation. No action in lieu of prerogative writs shall be commenced later
than 45 days after the accrual of the right to review, hearing or relief claimed, except of provided
by paragraph (b) of this rule.

b. Particular Actions. No action in lieu of prerogative writs shall be commended:

1. To contest or question any election under R.S. 19-8:6-63 or R.S. 18:7-85, after
twenty (20) days from the date of such election; or

2. To review an assessment or award made for any municipal improvement after
thirty (30) days from the date of the confirmation of such assessment or award; or

- 3. To review a determination of a planning board or Board of Adjustment or a resolution by the Governing Body or Board of Public Works of a municipality approving or disapproving a recommendation made by the Planning Board or Board of Adjustment, after forty-five (45) days from the publication of a notice once in the official newspaper of the municipality or newspaper of general circulation in the municipality; provided, however, that if the determination or resolution results in a denial or modification of a application after 45 days from the publication of the notice or the mailing of the notice to the applicant, the location of the property and in brief the nature of the application and the effect of the determination or resolution (e.g. "Variance-Store in residential Zone denied."), and shall advise that the determination or resolution has been filed in the office of the Board or the municipal clerk and is available for inspection; or
- 4. *****
- 5. *****

The County Planning Board shall be notified of any application of the Board of Adjustment under Revised Statutes 40:55-39 in such cases where the land involved fronts upon a county road, adjoins other county land or is situated within 200 feet of a municipal boundary. Notice of hearing on such applications shall be furnished by a appellant in accordance with P.L. 1965,c 162 (C,40:55-53). Amended by L 1968, c 285 & 20, eff. July 1, 1969.

November 1974

Mr. Ciulla waived the full reading of the Resolution to appoint the Engineer for the year 2009 with a second by Mr. Bodak, all present approved. Mr. Scala moved the Resolution with a second by Mr. Bodak all present approved.

RES: 2009-3

JANUARY 27, 2009

RESOLUTION

BE IT AND IT IS HEREBY RESOLVED by the Zoning Board of Adjustment; of the Borough of South River do hereby appoint Bruce Koch of the Firm of CME Associates as the Engineer for the year 2009, effective as of this date, and that said appointment shall be in compliance with the Professional Service Requirements of the Local Public Contracts Law of New Jersey and the execution of an Agreement as the same is required by Law.

DATED: JANUARY 27, 2009

/S/ _____
Frank DeMonico
Chairman

Mr. Ciulla waived the full reading of the Resolution to appoint the Planner for the year 2009 with a second by Mr. Bodak, all present approved. The Resolution was moved on a motion by Mr. Ciulla with a second by Mr. Bodak all present approved..

RES: 2009-4

JANUARY 27, 2009

RESOLUTION

BE IT AND IT IS HEREBY RESOLVED by the Zoning Board of Adjustment, of the Borough of South River do hereby appoint **BIGNELL CONSULTING GROUP**, as the Zoning Board of Adjustment Planner for the year 2009, and that said appointment shall be in compliance

JANUARY 27, 2009

with the Professional Service Requirements of the Local Public Contracts Law of New Jersey and the execution of an Agreement as the same is required by Law.

DATED: JANUARY 27, 2009

/s/ _____
Frank DeMonico

Mr. Ciulla waived the full reading of the Resolution to appoint the Secretary for the year 2009, with a second by Mr. McInerney, all present approved. The Resolution was moved on a motion by Mr. Bodak with a second by Mr. Ciulla all present approved.

RES: 2009-5

JANUARY 27, 2009

RESOLUTION

BE IT RESOLVED that M. Anita Hermstedt is hereby appointed in the position of Secretary (Clerk) to the South River Zoning Board of Adjustment for the year 2009.

DATED: JANUARY 27, 2009

/s. _____
Frank DeMonico
Chairman

Mr. Bodak waived the full reading of the Resolution to approve the Official Newspaper for the year 2009 with a second by Mr. Ciulla, all present approved. Mr. Bodak moved the Resolution on a motion with a second by Mr. Ciulla, all present approved.

RES: 2009-6

JANUARY 27, 2009

RESOLUTION

BE IT AND IT IS HEREBY RESOLVED by the Zoning Board of Adjustments of the Borough of South River, in the County of Middlesex, the state of New Jersey, that pursuant to Chapter 231, Public Law 1975, the HOME NEWS TRIBUNE, a news publication published in East Brunswick, NJ; and with circulation within the Borough of South River is designated as the Official Newspaper for all Official Notices of the Zoning Board of Adjustments for the year 2009.

BE IT FURTHER RESOLVED that the SENTINEL PUBLICATION, a weekly newspaper used for display advertisement not of a legal nature.

DATED: JANUARY 27, 2009

/s/ _____
Frank DeMonico
Chairman

Mr. Ciulla waived the full reading of the Resolution to approve the dates for 2009 with a second by Mr. Scala all present approved. Mr. Ciulla moved the Resolution with a second by Mr. Scala all present approved.

RES: 2009-7

JANUARY 27, 2009

RESOLUTION

BE IT AND IT IS HEREBY RESOLVED by the Zoning Board of Adjustments of the Borough of South River in the County of Middlesex, the State of New Jersey, that the following schedule of meetings for the year 2009 shall be adopted:

PLACE: Criminal Justice Building
61 Main St.

TIME: 7:30 PM

DATE:	<u>MONTH</u>	<u>DAY</u>
	January	27 th
	February	24 th
	March	31 st
	April	28 th
	May	27 ^{th*}
	June	30 th
	July	28 th
	August	25 th
	September	22 ^{nd*}
	October	27 th
	November	24 th
	January (2010)	26 th

DATED: JANUARY 27, 2009

/s/ _____
Frank DeMonico

The Code Enforcements report from November and December 2008 was received and filed on a motion by Mr. Bodak with a second by Mr. Scala all present approved.

The minutes from November 25, 2008 were received and filed on a motion by Mr. Ciulla with a second by Mr. Scala all present approved.

COMPLETENESS:

2008-9A Feiteira, Ernie 192 Whitehead Ave., Block 272, Lot 13, approve current finished basement as space for an apartment, would like waiver of the site plan.

Mr. Feiteira spoke to the Board saying that he bought a legal four family and then found out that the basement also has an apartment. The unit actually has been there for at least ten years. Mr. Kinneally spoke to him about his corporation and that by law he should have an attorney representing him. What he told the Board that he started the corporation to help with his children's college later in life and that the only thing the corporation does is collect rent. Mr. Kinneally stated that the Board could hear the application without an Attorney, but they may also state that they want an Attorney present. Mr. Bodak moved the application for completeness with a second by Mr. Ciulla for a public hearing on February 24 at 7:40 all present approved.

2009-1 Pincaro, Amandio & Luisa, 9 Frandsen Ave., Block 364.2 Lot 13, variance for lot coverage was deemed complete on a motion by Mr. Ciulla with s second by Mr. Scala for a public hearing to be held on February 24, at 7:45 all present approved.

2008-16 Mirza, Mohammad, 18 Washington St., use variance to allow more apartments, need a variance, was deemed incomplete for the reasons on the Bignell report and monies that he owns.

RESOLUTIONS:

2008-27 Frenk, Alexander, 21 Redwick Way, Block 325.2.Lot 2 construct outdoor kitchen BB within 25' rear yard setback, full reading of the Resolution was waived by Mr. Ciulla with a

second by Mr. Scala, all present approved. The Resolution was moved on a motion by Mr. Ciulla with a second by Mr. Scala, all present except for Mr. Andre, abstained and Mr. Semanovich was absent.

**MEMORIALIZING RESOLUTION
FOR
SOUTH RIVER ZONING BOARD OF ADJUSTMENT**

**ZB 2008-27
ALEXANDER FRENK**

WHEREAS, Alexander Frenk, hereinafter referred to as the Applicant has applied to the Zoning Board of Adjustment of South River for to construct an outdoor kitchen, barbeque and 1,000 square feet of pavers a portion of which is in the required rear yard setback of the existing single family residence on the premises known as Block 365.1, Lot 2, otherwise known as 21 Redwick Way, South River, New Jersey; and

WHEREAS, the Applicant has complied with all jurisdictional requirements necessary to prosecute the within application; and

WHEREAS, a public hearing was held by the Zoning Board on November 25, 2008, and

WHEREAS, the Board has made the following findings of fact:

1. Applicant, Alexander Frenk, has filed an application for a rear yard setback variance to construct an outdoor kitchen, barbeque and 1,000 square feet of pavers a portion of which is in the required rear yard setback of the existing single family residence on the premises known as Block 365.1, Lot 2, otherwise known as 21 Redwick Way, in South River, New Jersey.

2. Adequate notice was provided and the Board has jurisdiction to hear this application.

3. No opposition was presented by any adjoining property owners.

Based upon the foregoing findings of fact, the Board has arrived at the following legal conclusions:

1. The Zoning Board finds that, if this application was granted, it would not be a substantial detriment to the public good and a substantial impairment of the zone plan and zone ordinance.

NOW, THEREFORE BE IT RESOLVED by the South River Board of Adjustment that the Application of Applicant, Alexander Frenk, for a rear yard setback variance to construct an outdoor kitchen, barbeque and 1,000 square feet of pavers a portion of which is in the required rear yard setback of the existing single family residence be and hereby is granted in accordance with the findings of fact and conclusions of law rendered above

BE IT FURTHER RESOLVED that a copy of the within Resolution certified by the Secretary of the Borough of South River Zoning Board of Adjustment be a true copy shall be afforded to the Applicant herein, the Zoning Officer of the Borough of South River, and to the Clerk of the Borough of South River, who is hereby directed to cause same to be published in an official newspaper in the Borough of South River within ten (10) days from the date hereof.

NOW, THEREFORE, BE IT FURTHER RESOLVED that approval of the aforementioned variances is conditioned upon the following:

1. Applicant shall pay to the appropriate Borough officials all review fees and escrow funds certified to be due by the Board secretary to compensate for review of Applicant's plans as well as professional services. No building permits or certificates of occupancy shall be issued nor final plans signed by Borough officials until all such fees and escrow funds have been received and notice of same filed with the appropriate code official of the Borough.

2. Applicant shall obtain all required inspections, permits and approvals.

3. The Applicant has agreed that there will be no utilities in the shed.

BE IT FURTHER RESOLVED that a copy of the within Resolution certified by the Secretary of the Borough of South River Zoning Board of Adjustment be a true copy shall be afforded to the Applicant herein, the Zoning Officer of the Borough of South River, and to the Clerk of the Borough of South River, who is hereby directed to cause same to be published in an official newspaper in the Borough of South River within ten (10) days from the date hereof.

ZB 2008-27

The foregoing Resolution was:

Moved by: Mr. Ciulla

Seconded by: Mr. Ejk

ROLL CALL	YES	NO	ABSTAIN	ABSENT
Mr. Robert Bodak	X			
Mr. Anthony M. Ciulla	X			
Mr. Michael Clancy				X
Mr. Frank DeMonico	X			
Mr. Robert Ejek	X			
Mr. Ted McInerney	X			
Mr. John Scala	X			
ALTERNATES				
Mr. Ken Semanovich	X			
Mr. James Jones				

ZB 2008-27

The foregoing Resolution was:

Moved by:

Seconded by:

ROLL CALL	YES	NO	ABSTAIN	ABSENT
Mr. Mario Andre			X	
Mr. Robert Bodak	X			
Mr. Anthony M. Ciulla	X			
Mr. Michael Clancy	X			
Mr. Frank DeMonico	X			
Mr. Ted McInerney	X			
Mr. John Scala	X			
ALTERNATES				
Mr. Ken Semanovich				

I HEREBY CERTIFY THAT THE ABOVE IS A TRUE AND EXACT COPY OF A RESOLUTION ADOPTED AT THE BOROUGH OF SOUTH RIVER ZONING BOARD OF ADJUSTMENT AT MEETING HELD ON JANUARY 27, 2009.

M. ANITA HERMSTEDT, SECRETARY

2008-28, Pimentel, Sertorio, 9 Sussex Court, Block 252.12, Lot 18, install a double driveway the full reading of the Resolution was waived on a motion by Mr. Ciulla with a second by Mr. Bodak. Mr. Bodak moved the Resolution on a motion with a second by Mr. Scala, all present approved except for Mr. Ciulla and Mr. Andre abstained.

**MEMORIALIZING RESOLUTION
 FOR**

SOUTH RIVER ZONING BOARD OF ADJUSTMENT

**ZB 2008-28
SERTORIO AND MARIA PIMENTEL**

WHEREAS, Sertorio Pimentel, hereinafter referred to as the Applicant has applied to the Zoning Board of Adjustment of South River to extend and enlarge the existing driveway in the front and side yards from the zoning requirements of Section 350E-(1)(a) of the Zoning Ordinance of the Borough of South River, for premises known as Block 251-12, Lot 18, otherwise known as 9 Sussex Street, South River, New Jersey; and

WHEREAS, the Applicant has complied with all jurisdictional requirements necessary to prosecute the within application; and

WHEREAS, a public hearing was held by the Zoning Board on November 25, 2008; and

WHEREAS, the Board considered the testimony of the Applicant, Sertorio Pimentel, and received no objections from the public and received and examined various plans and exhibits offered by the Applicant and has made the following findings of fact:

1. Sertorio Pimentel, 9 Sussex Court, South River, New Jersey, has filed an application to extend and enlarge the existing driveway to allow for additional off street parking.
2. The purpose of widening the driveway is to permit additional off street parking of the Pimentel family's cars.
3. Widening the driveway requires relief from the front and side yard setback provisions of the ordinance.
4. The Zoning Board finds that variance relief can be granted for an 18' wide driveway that is 6 ½ feet from the side property line.

Based on the foregoing findings of fact, the Board has arrived at the following legal conclusions:

1. The granting of the requested bulk variances for front and side yard setback would advance both the goals of the Borough's Master Plan and the purposes of the Land Development Ordinance of the Borough and the benefits derived from granting the variances substantially outweigh any detriment resulting from the granting of the variance.

2. The bulk variance relief requested by the Applicants will not substantially impair the intent and purpose of the Zone Plan and Zone Ordinance and there is no detrimental impact to the neighborhood in granting this relief.

NOW, THEREFORE, be it resolved by the South River Board of Adjustment that the application of Sertorio Pimentel for variance relief from Section 204-8(1)(a) for front and side yard setbacks for a two car wide driveway be and hereby is granted in accordance with the plans filed herein subject to and conditioned upon the following:

1. Applicant shall pay to the appropriate Borough officials all review fees and escrow funds certified to be due by the Board secretary to compensate for review of Applicants' plans as well as professional services. No billing permits or certificates of occupancy shall be issued nor final plans signed by Borough officials until all such fees and escrow funds have been received and notice of same filed with the appropriate code official of the Borough.

2. Drainage shall be directed to the street, not to the sides of the driveway.

3. If any drainage problems are created when the driveway is widened, the Applicants will be required to correct them.

4. The existing is to remain and will not be enlarged or widened.

5. No trailer parking is permitted on the expanded driveway.

6. The driveway shall be a paver driveway.

7. The driveway shall be 6 ½ feet from the side property line.

8. No impervious coverage relief is associated with this approval.

BE IT FURTHER RESOLVED that a copy of the within Resolution certified by the Secretary of the Borough of South River Zoning Board of Adjustment be a true copy shall be afforded to the Applicant herein, the Zoning Officer of the Borough of South River, and to the Clerk of the Borough of South River, who is hereby directed to cause same to be published in an official newspaper in the Borough of South River within ten (10) days from the date hereof.

The Following Resolution was:

ZB 2008-28

The foregoing Resolution was:

Moved by: Mr. Bodak

Seconded by: Mr. DeMonico

ROLL CALL	Yes	No	Abstain	Absent
Robert Bodak	X			
Tony Ciulla				X
Michael Clancy				X
Frank DeMonico	X			
Robert Ejek	X			
Ted McInerney	X			
John Scala		X		
ALTERNATES				
James Jones				
Ken Semanovich				

ZB 2008-28

The foregoing Resolution was:

Moved by:

Seconded by:

ROLL CALL	Yes	No	Abstain	Absent
Mr. Mario Andre			X	
Robert Bodak	X			
Tony Ciulla			X	
Michael Clancy			X	
Frank DeMonico	X			
Ted McInerney	X			
John Scala	X			
ALTERNATES				
Ken Semanovich				
				X

I HEREBY CERTIFY THAT THE ABOVE IS A TRUE AND EXACT COPY OF A RESOLUTION ADOPTED AT THE BOROUGH OF SOUTH RIVER ZONING BOARD OF ADJUSTMENT AT MEETING HELD ON JANUARY 27, 2008

M. ANITA HERMSTEDT, SECRETARY

PUBLIC HEARING:

2008-13 Azer, Amal, 126 Whitehead Ave., Block 280, Lot 8, to create driveway in front yard setback was not heard because the Applicant did not notice his neighbors within the ten days before the meeting, the Board is not allow to waive this requirement, Mr. Ciulla moved to hear this Application at the February 24th meeting with a second by Mr. Bodak, all present approved.
 MEETING OF THE JANUARY 27, 2009

2008-26 Esteves, Julio, 42 Raritan Ave., Block 263, Lot 4. Patio and additional parking rear year setback, no one was present for this Application so the Secretary will send another letter telling them their public hearing will be heard on February 24th at 7:55 or soon thereafter as called on a motion by Mr. Ciulla with a second by Mr. Scala , all present approved.

BILLS:

The bills for the Home News Tribune and the Planning Officials were ordered paid on a motion by Mr. Scala with a second by Mr. Ciulla , all present approved.

The Meeting was opened to the public hearing none the public portion was closed on a motion by Mr. Scala with a second by Mr. Ciulla, all present approved.

Glenn Lauristen the Code Enforcement Officer spoke to the Board. He would like to address some of the issues with the codes on the books, especially pools. He talked about driveways is it enlargement or impervious coverage? Sheds, size of shed, impervious coverage requiring a variance or not.

Mr. Ciulla suggested to the Board that we get a plaque for Mr. Ejk and everyone agreed with him, so Mrs. Hermstedt will see that it is ordered.

Mr. Clancy moved to adjourn the meeting with a second by Mr. Andre, all present approved.

Respectfully submitted,

M. Anita Hermstedt
Secretary to the Board