

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 April 28, 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. McInerney Mr. O'Grady and Mr. Scala

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

Absent were: Mr. DeMonico and Mr. Semanovich.

The code enforcement report for the month of March 2009 was moved on a motion by Mr. Bodak with a second by Mr. Scala, all present approved.

COMPLETENESS:

2009-3 Omnipoint Communications, Inc., change of use variance & site plan approval to construct a monopole to hold cellular antennas, Block 194 Lot 7 was held over to May 27th meeting on a motion by Mr. Andre with a second by Mr. Bodak after hearing testimony from Mr. Pryor the attorney representing the applicant.

RESOLUTIONS:

2008-29a, Feiteira, Ernie, 192 Whitehead Ave., Block 272, Lot 13, approve current finished basement as space for an apartment, waiver of the site plan. The Resolution full reading was waived on a motion by Mr. Scala with a second by Mr. Bodak, all present approved. The Resolution was moved on a motion by Mr. Andre with a second by Mr. Scala, with the roll call as follows:

Yes: Mr. Andre, Mr. Ciulla, Mr. Clancy, Mr. O'Grady, and Mr. Scala

No:

Abstain: Mr. Bodak, and Mr. McInerney

Absent: Mr. DeMonico and Mr. Semanovich

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

ZB 2008-29A

ERNIE FEITEIRA

WHEREAS ERNIE FEITEIRA, hereinafter referred to as the Applicant has applied to the Zoning Board of Adjustment of South River for use variance relief to approve the finished basement as an apartment, thereby creating a five unit building and waiving the requirement of a site plan from the zoning requirements of the Zoning Ordinance of the Borough of South River,

for premises known as Block 272, Lot 13, otherwise known as 192 Whitehead Avenue, 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 before the South River Zoning Board of Adjustment on March 31, 2009; and

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

1. Ernie Feiteira, the Applicant, has filed an application for a use variance to use the finished basement as an apartment, thereby creating a 5 unit building on property located at 192 Whitehead Avenue, South River, New Jersey.

2. The Applicant has also requested a waiver of the requirement that he provide a site plan in connection with this application.

3. The applicant, Ernie Feiteira, testified concerning this application; the Applicant offered no other lay or expert testimony.

4. When Mr. Feiteira purchased the property, he was aware that it was a legal 4 unit dwelling. The property had previously received a use variance from the South River Zoning Board to use the property as a 4 unit building. At the time of purchase, the basement had previously been finished into an apartment although by Mr. Feiteira's admission, he knew that it was not a legal apartment.

5. The five apartment dwellings proposed by the applicant require 10 parking spaces pursuant to the South River parking requirements; there is room for only 5 parking spots on the property.

6. The Applicant offered no planning testimony that would support the granting of a use variance.

7. The Applicant failed to offer special reasons in support of the application for a use variance.

8. The applicant failed to provide proofs concerning the negative criteria; specifically, the Applicant offered no evidence concerning the effect upon the South River Zone

Plan or Zone Ordinance. In addition the Applicant offered no testimony concerning the possible effect on the neighborhood if this application was granted.

9. The Applicant candidly admitted that the basement apartment was in violation of the Fire Code requirements.

10. The Zoning Board finds that the applicant has failed to offer evidence that justifies granting this application for a use variance.

11. The Zoning Board finds that the proposed use is too intense for the existing property; evidence of this is the vastly inadequate parking proposed by the applicant (10 spaces required, 5 will fit on the property).

12. The Zoning Board finds that this application, if granted, would be a substantial detriment to the surrounding neighborhood from a safety standpoint.

NOW, THEREFORE, be it resolved by the South River Board of Adjustment that the application of Ernie Feiteira for a use variance to use the finished basement as an apartment, thereby creating a 5 unit building on property located at 192 Whitehead Avenue is hereby DENIED for the aforesaid reasons..

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 2008-29A

The foregoing Motion to Deny the Application was:

Moved by: Mr. Andre

Seconded by: Mr. Scala

Mr. Andre	Yes	
Mr. Bodak		Absent
Mr. Ciulla	Yes	
Mr. Clancy	Yes	
Mr. DeMonico	Yes	
Mr. Scala	Yes	

ALTERNATES:

Mr. Semanovich **Yes**
Mr. O'Grady

The foregoing Resolution was offered for Memorialization:

Moved by: **Mr. Andre**

Seconded by: **Mr. Scala**

Mr. Andre	Yes	
Mr. Bodak		Abstain
Mr. Ciulla	Yes	
Mr. Clancy	Yes	
Mr. DeMonico		Absent
Mr. McInerney		Abstain
Mr. Scala	Yes	

ALTERNATEDS

Mr. Semanovich		Absent
Mr. O'Grady	Yes	

I HEREBY CERTIFY THAT THE ABOVE IS A TRUE AND EXACT COPY OF THE RESOLUTION ADOPTED AT THE BOROUGH OF SOUTH RIVER ZONING BOARD OF ADJUSTMENT MEETING HELD ON APRIL 28, 2009

M. ANITA HERMSTEDT, SECRETARY

2008-26, Esteves, Julie, 42 Raritan Ave., Block 263, Lot 4, 12 x 12 patio in rear yard and additional parking, lot coverage. Full reading of the resolution was waived on a motion by Mr. Andre with a second by Mr. Scala, all present approved. The Resolution was moved on a motion by Mr. Andre with a second by Mr. Clancy, roll call follows:

Yes: Mr. Andre, Mr. Ciulla, Mr. Clancy, Mr. O'Grady and Mr. Scala.

No: None

Abstain: Mr. Bodak and Mr. McInerney

Absent: Mr. DeMonico and Mr. Semanovich

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

ZB 2008-26

JULIE ESTEVES

WHEREAS JULIE ESTEVES, hereinafter referred to as the Applicant has applied to the Zoning Board of Adjustment of South River for variance relief to construct a patio in the rear setback area and additional parking area from Section 350-8(G) and Section 350-8(E)(1) of the zoning requirements of the Zoning Ordinance of the Borough of South River, for premises known as Block 263, Lot 4, otherwise known as 42 Raritan Avenue, 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 before the South River Zoning Board of Adjustment on March 31, 2009; and

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

1. Julie Esteves, the Applicant, has filed an application to construct a patio in the rear yard setback and an additional parking area on property located at 42 Raritan Avenue, South River, New Jersey.

2. The Applicant wants the patio for her family's enjoyment' the additional parking area will allow cars to be parked on site as opposed to in the street.

3 Although the applicants notice and survey mention "subdivision," the applicant did not apply for a subdivision and the Zoning Board does not consider this to be an application for a subdivision.

4. No opposition to the request for a patio and additional parking was raised by any of the surrounding neighbors.

NOW, THEREFORE, be it resolved by the South River Board of Adjustment that the application of Julie Esteves for variances from Section 350-8(E)(1)(a) and Section 350-8(G) to construct a patio in the rear yard area and additional parking area is hereby GRANTED.

BE IT FURTHER RESOLVED that this approval is specifically 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 and 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 Borough official.

2. Applicant shall obtain all required permits, inspections and approvals required by the Borough of South River, County of Middlesex and State of New Jersey.

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 2008-26

The foregoing Resolution was:

Moved by: Mr. Scala

Seconded by: Mr. Andre

Mr. Andre	Yes	
Mr. Bodak		Absent
Mr. Ciulla	Yes	
Mr. Clancy	Yes	
Mr. DeMonico	Yes	
Mr. McInerney		Absent
Mr. Scala	Yes	

ALTERNATES:

Mr. Semanovich	Yes
Mr. O'Grady	

The foregoing Resolution was offered for Memorialization:

Moved by: Mr. Andre

Seconded by: Mr. Clancy

Mr. Andre	Yes	
Mr. Bodak		Abstain
Mr. Ciulla	Yes	
Mr. Clancy	Yes	
Mr. DeMonico		Absent
Mr. McInerney		Abstain
Mr. Scala	Yes	

ALTERNATES:

Mr. Semanovich		Absent
Mr. O'Grady	Yes	

I HEREBY CERTIFY THAT THE ABOVE IS A TRUE AND EXACT COPY OF THE RESOLUTION ADOPTED AT THE BOROUGH OF SOUTH RIVER ZONING BOARD OF ADJUSTMENT MEETING HELD ON APRIL 28, 2009

M. ANITA HERMSTEDT, SECRETARY

2009-2 Matts, Marylou, 13 Kamm Ave., Block 205 Lot 9 replace existing fence with 6' vinyl fence in the same exact location, needing a variance. Ms. Matts was sworn in by the Attorney and said she would like to put up a 6' vinyl fence in the same area. Mr. Ciulla opened the hearing to the Board requesting any questions for the Applicant. Mr. Scala said that he has seen numerous solid fences especially the one on the Old Bridge Turnpike which was approved a long time ago by the Building Inspector and at least four more, which are in the line of site. Mr. Bodak encourages this type of fence but would like to see a different type along where they back out of the driveway. Mr. Andre said that she maintains her property very well and sees no reason not to approve this application. Mr. Ciulla opened the application to the public, hearing none the public portion of this application was closed on a motion by Mr. Scala with a second by Mr. Andre, all present approved. This application was approved on a motion by Mr. Scala with a second by Mr. Bodak. Roll Call: Yes: Mr. Andre, Mr. Bodak, Mr. Ciulla, Mr. McInerney, Mr. O'Grady and Mr. Scala, No, Mr. Clancy, Absent Mr. DeMonico and Mr. Semanovich. So moved.

2009-1 Pincaro, Amandio & Luisa, 9 Frandsen Ave., Block 364 Lot 13, variance for lot coverage, outside grill area. Mr. Amandio Pincaro was sworn in the Attorney and stated that he did some work in the backyard and covered more of the lot then he should have, there is 72% coverage. Mr. Bodak stated on a motion that the report from Bignell dated April 23, 2009 was to be made part of the minutes with a second by Mr. Scala, all present approved. Mr. Bodak questioned whether there was any way to decrease the coverage, the Applicant stated as far as he knew there wasn't. He stated that the water goes right along the wall and is pitched towards the street. Mr. Bodak stated that he needs to do something to alleviate the impervious coverage, and questioned which direction the water flows the Applicant answered the flow is west to east. Mr. Bletcher from Bignell Planning said that this is an undersized lot 7200 hundred feet with 10,000 square feet by 5,000, with 5,184 square feet of coverage. Mr. Bodak questioned about the driveway, Mr. Pincaro stated that there are pavers there and that was the way it was when he purchased the home.

Mr. Ciulla opened the meeting to the public: Mr. Mazer from 12 Lyons Street got up to speak about the problems he has had regarding this property. Stating that he lives behind this property. He talked about the storage shed that is in the back of the property and then about him putting in a big firehouse/grill, and that 50% is covered with pavers. He also stated that his property has been raised. He talked about the wall between the property stating that it has caved in at least once. He believes the grill is a smoker and not a barbeque grill and the smell is horrible. Hearing no others from the public for this Application Mr. Scala move to close this Application to the public with a second by Mr. Bodak.

Mr. Scala requested that this Application be held over to the May 28, 2009 meeting so as the Board can do an on site inspection, with a second by Mr. Bodak, all present approved.

BILLS:

Mr. Bodak moved to pay the bills with a second by Mr. Scala all present approved.

OPEN TO THE PUBLIC:

Ms. Meloni got up to question where the pole would go in the Cemetery, she was told that it would be back by the garage by the railroad tracks in the corner.

Mr. Jim Maiello 20 O'Brien spoke about Omnipoint is up on line.

Mr. Scala moved to close public portion with a second by Mr. Andre all present approved.

Mr. Bodak moved to adjourn the meeting with a second by Mr. Scala all present approved.

Respectfully submitted,

M. Anita Hermstedt,
Secretary to the Board