

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.

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A meeting of the Zoning Board of Adjustments was held on September 22, 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. O'Grady, and Mr. Scala.

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

Absent were Mr. McInerney and Mr. Semanovich.

The minutes from August 25, 2009 were received and filed on a motion by Mr. Andre with a second by Mr. O'Grady, all present approved.

COMPLETENESS:

2009-11 Molnar, Istrar, to build a three car garage in the back of the property larger than permitted on property located at 74 Hillside Ave., Block 171, Lot 7 & 7A was moved for public hearing to be held on October 27, on a motion by Mr. Bodak with a second by Mr. Clancy all present approved.

2009-12 Fodor, Julia, 18 Samuel Drive, Block 367, Lot 1.7 to allow oversized shed to remain on the property was moved for a public hearing to be held on October 27, on a motion by Mr. Bodak with a second by Mr. Clancy all present approved.

RESOLUTIONS:

2009-6 DaSilva, Jose & Maria, 3 James St, Block 174, Lot 6 to construct a wall in the public right of way. Full reading of the resolution was waived on a motion by Mr. Bodak with a second by Mr. Scala. The resolution was moved on a motion by Mr. Andre with a second by Mr. O'Grady, Mr. Clancy and Mr. Bodak abstained all the rest present voted yes.

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

**ZB 2009-6**

**JOSE & MARIA DASILVA**

WHEREAS JOSE & MARIA DASILVA, hereinafter referred to as the Applicants have applied to the Zoning Board of Adjustment of South River for variance relief to construct a wall in the public right of way, for premises known as Block 174, Lot 6, otherwise known as 3 James St., 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 August 25, 2009; and

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

1. Jose & Maria DaSilva, the Applicants, have filed an application to construct a wall in the public right of way on property located at 3 James St., South River, New Jersey.

2. The Applicant wants the wall for landscaping purposes; the proposed wall will improve the property and the neighborhood.

3. The proposed wall will be consistent with several others already existing on the street.

4. The applicants understand that if access to the right of way is ever required, it will be the applicant's responsibility to remove and/or replace the wall.

5. No opposition to this application was raised by any of the surrounding neighbors.

**NOW, THEREFORE**, be it resolved by the South River Board of Adjustment that the application of Jose & Maria DaSilva for a variance to construct a wall in the public right of way 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.

3. If access to the right of way is required, removal and/or replacement of the wall will be the sole responsibility and expense of the applicant.

**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 2009-6**

**The foregoing Resolution was:**

**Moved by: Mr. Ciulla**

**Seconded by: Mr. Andre**

<b>Mr. Andre</b>	<b>Yes</b>	
<b>Mr. Bodak</b>		<b>Absent</b>
<b>Mr Ciulla</b>	<b>Yes</b>	
<b>Mr. Clancy</b>		<b>Absent</b>
<b>Mr. DeMonico</b>	<b>Yes</b>	
<b>Mr. McInerney</b>	<b>Yes</b>	
<b>Mr. Scala</b>	<b>Yes</b>	
<b>Mr. Semanovich</b>	<b>Yes</b>	
<b>Mr. O'Grady</b>	<b>Yes</b>	

**The foregoing Resolution was offered for Memorialization:**

**Moved by: Mr. Andre**

**Seconded by: Mr. O'Grady**

<b>Mr. Andre</b>	<b>Yes</b>	
<b>Mr. Bodak</b>		<b>Abstain</b>
<b>Mr Ciulla</b>	<b>Yes</b>	
<b>Mr. Clancy</b>		<b>Abstain</b>
<b>Mr DeMonico</b>	<b>Yes</b>	
<b>Mr. McInerney</b>		<b>Absent</b>
<b>Mr. Scala</b>	<b>Yes</b>	
<b>Mr. Semanovich</b>		<b>Absent</b>
<b>Mr. O'Grady</b>	<b>Yes</b>	

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 AUGUST 25, 2009

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M. ANITA HERMSTEDT, SECRETARY

2009-5 Teco, Manuel, 5 Anne St., Block 295, Lot 6 variance to leave fence where it was constructed. Full reading of the Resolution was waived on a motion by Mr. Bodak with a second by Mr. Scala, all

present approved. The Resolution was moved on a motion by Mr. Andre with a second by Mr. O'Grady, Mr. Bodak and Mr. Clancy abstained all present approved.

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

**ZB 2009-5**

**MANUEL TECO**

**WHEREAS**, Manuel Teco, hereinafter referred to as the Applicant, has applied to the Zoning Board of Adjustment of South River for a bulk variance from Section 350-8(l) to leave an existing fence in its current location, too close to the property line at the existing single family residence on the premises known as Block 295, Lot 6, otherwise known as 5 Anne 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 August 25, 2009, and

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

1. Applicant Manuel Teco has filed an application for a bulk variance to permit an existing fence to remain too close to the property line at the existing single family residence on the premises known as Block 295, Lot 6, otherwise known as 5 Anne Street in South River, New Jersey.

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

3. The existing fence takes advantage of the space available in the applicant's yard; the fence does not block any of the site triangles and presents no danger to motorists.

4. There was no opposition by any of the surrounding neighbors.

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

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

2. The bulk variance relief requested by the Applicant 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 Applicant, Manuel Tecu, for a bulk variance from Section 350-8(l) to allow an existing fence to remain at the existing single family residence be and hereby is granted in accordance with the findings of fact and conclusions of law rendered above.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that approval of the aforementioned variance 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.

**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 foregoing Resolution was:**

**Moved by: Mr. Scala**

**Seconded by: Mr. Ciulla**

ROLL CALL	YES	NO	ABSTAIN	ABSENT
Mr. Mario Andre	X			
Mr. Robert Bodak				X
Mr. Tony Ciulla	X			
Mr. Michael Clancy				X
Mr. Frank DeMonico	X			
Mr. Ted McInerney	X			
Mr. John Scala	X			
<b>ALTERNATES</b>				
Mr. Ken Semanovich	X			
Mr. Jeremiah O'Grady	X			

**ZB 2009-5**

**The foregoing Resolution was:**

**Moved by: Mr. Andre**

**Seconded by: Mr. O'Grady**

ROLL CALL	YES	NO	ABSTAIN	ABSENT
Mr. Mario Andre	X			
Mr. Robert Bodak			X	
Mr. Tony Ciulla	X			
Mr. Michael Clancy			X	
Mr. Frank DeMonico	X			
Mr. Ted McInerney				X
Mr. John Scala	X			
<b>ALTERNATES</b>				
Mr. Ken Semanovich				X
Mr. Jeremiah O'Grady	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 SEPTEMBER 22, 2009.

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 M. Anita Hermstedt, Secretary

PUBLIC HEARING:

2009-7 Geesey, John W., Shed to be placed at the end of a dread end driveway, 5' from property line at 11 Pulawski Ave., Block 164.2 Lot 8.1. Mr. Geesey was sworn in by the Board Attorney and said they had a 57' long driveway that the shed is 10' wide and 16' long wide and will be painted the same color as the house. Mr. Lauritsen explained the difference between what is considered a shed and what is considered an auxiliary building. A shed is of course smaller and the building that he wants to put up is 160 square feet, but is permitted in a back yard. Mr. DeMonico opened the meeting to the public, hearing none the application was closed on a motion by Mr. Scala with a second by Mr. Bodak all present approved. The application was moved on a motion by Mr. Scala with a second by Mr. Bodak Mr. Clancy voted no all present approved.

2009-9 Beniz, Bulent, 6 East St., Block 253.1, Lot 8.4 a variance for a 6' privacy fence on the back property line. Mr. Beniz was sworn in by the Board Attorney. He explained that he wants to put a fence on the back portion of his property. The fence that is there now is dilapidated. He explained that he has been vandalized a couple of time and feels that the fence with be a **deterrent**. **Mr. Lauritsen read** the diagram for both fences 5' and 6', that they both had to be 5' from the property line, which was requested by Mr. Bodak. Mr. DeMonico opened the application to the public. A gentlemen got up to speak on behalf of Mary Smith, 67 Prentice Ave., and wanted the Board to know that she has no objection to the fence, this application was closed to the public on a motion by Mr. Bodak with a second by Mr. Ciulla. This application was moved on a motion by Mr. Bodak with a second by Mr. Ciulla, all present approved.

2009-8 Goda, Mamdouh, 104 Whithead Ave., Block 283, Lot 4 to have relief from eight months placed at time of original resolution was moved to the October 27, 2009 meeting on a motion by Mr. Bodak with a second by Mr. Ciulla all present approved.

2009-10 Pelligram, Richard, 18 Wilcox Ave., Block 113, Lot 8.1 to install a paver patio approximately 500 square feet, fence which is less than 7 1/2' from property line, plus lot coverage over 50% and to extend driveway. Mr. Pelligram was sworn in by the Board Attorney. He explained exactly what he wants to do and he stated with the driveway he does not want to enlarge the curb cut and that the grade is weird going into the driveway. The driveway does drain into the Street and then the driveway raises about a foot and a half. What he wants to do is to close in the back yard. He wants to use retainer block and grade it off level to the driveway Mr. Ciulla questioned the location of the fence is it between the house and the garage? He is three feet from the property line. Mr. Clancy asked does he have two front yards and was told no he does not, Wilcox is his front yard. The fence is going to be to the back of the home, and that there is not a lot of yard for the patio and that is why it will 20 x 25, the property is very small. The driveway needs repairs, he needs to redo the apron. Mr. Ciulla has no problem with the way the Applicant has everything laid out, Mr. Andres main concern is the driveway, because of where the telephone pole is located. He said maybe you could put a planter next to the side walk so whomever pulls in there realizes they can not back straight out. Mr. DeMonico opened this application to the public, hearing none Mr. Scala moved to close public portion with a second by Mr. Ciulla. Mr. Ciulla stated the applicant needed to shift the patio to give of nice run off to the Garwood side of the property. In order to pull in the driveway you have to pull in sides ways and then begin to backup to get straight. Mr. Bodak made a motion to move the application, the fence, patio and driveway with a second by Mr. Ciulla, Mr. Clancy voted no all present approved.

2009-3 Omnipoint Communications, Inc, change of use and site plan to construct a cellular tower on cemetery property located at 45 Hillside Ave., Block 194, Lot 7. Mr. Pryor spoke on behalf of the Applicant. Mrs. Hermstedt, read into the minutes the letter from Mr. Frangelo the Tax Assessor that Omnipoint will pay \$500.00 a year in taxes. Mr. Pryor would like to make a couple of points before the Board calls for a vote, stating that Cellular Towers are a reality and that the problem is where to put them and that they did a thorough process and that they did talk to the Borough, and looked at a Church and at WaWa and they finally looked at the cemetery, which was the largest in the search ring. A flag pole design was decided upon to put in the cemetery. The positive issues are that other carriers can hook on to this pole, people can make phone calls which they could not do before. Mr. DeMonico wanted to know why do we have to have this many facilities in South River? Concept of reuse of frequency, we

do not have all the spectrums that we need, and that is why we need multiple sights. Take into consideration we did do our homework. Mr. DeMonico stated this is a small little town and South River already has two cellular towers do we really need another one, I am having difficulty understanding this. Mr. Pryor explained to the Board why they wanted to put another cell tower in the Borough. Mr. Clancy stated that Mr. Pryor nailed it when you said that other carriers might want to hook on to it and you did look at the different cell towers in the area, yes we did said Mr. Pryor, stating that the signal are limited Mr. Bodak noticed different cellular towers and noticed that they were on water tower and did they look at our water tower. They did but it was outside the search area. Mr. Bodak stated that if this is approved one concern we have is the desecration of the cemetery and would the construction stop if this happens? We can live with the condition that if there are any type of graves found in the construction they will stop. Mr. Clancy moved this Application with the conditions stated, seconded by Mr. Bodak, with another condition that an inspector is there during the construction.

Roll Call.

Mr. Andre voted no citing the eyesore of the monopole and the apparent availability of other existing towers within the Borough.

Mr. Ciulla voted no stating that the monopole would dominate both the cemetery and the adjacent neighborhood. He believes that the people visiting their deceases would be affected negatively.

Mr. DeMonico voted no stating that the monopole is humongous, that it would be detrimental to both the adjacent residents and those individuals visiting the cemetery, also questioned the need.

Mr. Scala voted no stating that the monopole is an eyesore.

Mr. Clancy, Mr. Bodak and Mr. O'Grady voted yes with Mr. McInerney and Mr. Semanovich Absent.

Mr. Pryor said thank you to the Board.

Code Enforcements report for the month of July was received and filed on a motion by Mr. Ciulla with a second by Mr. Andre all present approved.

OPEN TO THE PUBLIC:

Ms. Meloni congratulated the Board on its decision and stated that they really asked some good questions. The public portion was closed on a motion by Mr. Ciulla with a second by Mr. Bodak all present approved.

BILLS:

The bills were ordered paid on a motion by Mr. Ciulla with a second by Mr. Scala all present approved.

COMMENTS:

Mr. Ciulla and Mr. Bodak reminded the Board about the Fire Prevention show which will be held on Main St.

The meeting was adjourned on a motion by Mr. Ciulla with a second by Mr. Bodak all present approved.

Respectfully submitted,

M. Anita Hermstedt,  
Secretary to the Board