

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 26, 2010, 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. Miller, Mr. O'Grady and Mr. Scala.

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

Mr. DeMonico opened the meeting and turned the meeting over the Mr. Ciulla, who called for nominations for chairman. Mr. Clancy nominated Mr. DeMonico for Chairman. Mr. Ciulla asked if there be any other nominations, hearing none nominations were closed. Mr. DeMonico was chosen Chairman with a motion by Mr. Clancy and a second by Mr. Scala all present voted yes with the exception of Mr. DeMonico who abstained.

Mr. DeMonico called for nominations for vice chairman; Mr. Bodak nominated Mr. Ciulla, hearing no other nominations were closed. Mr. Ciulla was elected Vice-Chairman on a motion by Mr. Bodak with a second by Mr. Clancy, all present voted yes, except Mr. Ciulla who abstained.

APPOINTMENTS:

2010-1 The appointment of Mr. James Kinneally III as the Zoning Board Attorney for the year 2010, was moved on a motion by Mr. Bodak with a second by Mr. Scala, all present approved.

RES: 2010-1

JANUARY 26, 2010

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 2010, 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 26, 2010

2010-2 The appointment of CME as the Zoning Board of Adjustment Engineer for the year 2010, was moved on a motion by Mr. Ciulla with a second by Mr. Andre, all present approved.

RES: 2010-2

JANUARY 26, 2010

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 2010, 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 26, 2010

2010-3 The appointment of Bignell Planning Consultants as the Zoning Board of Adjustment Planner for the year 2010 was moved on a motion by Mr. Andre with a second by Mr. Bodak, all present approved.

RES: 2010-3

JANUARY 26, 2010

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 2010, 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 26, 2010

2010-4 The appointment of M. Anita Hermstedt, as the Zoning Board of Adjustment Secretary/Clerk for the year 2010 was moved on a motion by Mr. Bodak with a second by Mr. O'Grady, all present approved.

RES: 2010-4

JANUARY 26, 2010

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 2010.

DATED: JANUARY 26, 2010

2010-5 The Home News Tribune was approved as the official Newspaper for the Zoning Board of Adjustment for the year 2010 on a motion by Mr. Ciulla and a second by Mr. Bodak, all present approved.

RES: 2010-5

JANUARY 26, 2010

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 Neptune, 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 2010

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

DATED: JANUARY 26, 2010

2010-6 The meeting dates for the Zoning Board of Adjustment were approved on a motion by Mr. Andre with a second by Mr. Bodak, all present approved.

RES: 2010-6

JANUARY 26, 2010

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 2010 shall be adopted:

PLACE:	Criminal Justice Building 61 Main St.	
TIME:	7:30 PM	
DATE:	<u>MONTH</u>	<u>DAY</u>
	January	26 th
	February	23 rd
	March	30 th
	April	27 th
	May	25 th
	June	29 th
	July	27 th
	August	31 st
	September	28 th
	October	26 th
	November	30 th
	January (2011)	25 th

DATED: JANUARY 26, 2010

2010-7 The rules for the Zoning Board of Adjustment were approved on a motion by Mr. Ciulla, with a second by Mr. Andre, all present approved.

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/her 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. 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: Seventy-five Dollars (\$75.00). A request for interpretation of the 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.

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.

- c. 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
- d. 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

4. 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
5. *****
6. *****

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

The Code Enforcement Report for the month of November 2009, was received and filed on a motion by Mr. Ciulla with a second by Mr. Bodak, all present approved.

The Minutes from the meeting of November 24, 2009 was moved on a motion by Mr. Ciulla with a second by Mr. Bodak, all present approved.

The letter from Mamadouh Goda regarding 104 Whitehead Ave. was received and filed on a motion by Mr. Bodak with a second by Mr. Ciulla to allow to the first of May to get all the planting in, all present approved.

COMPLETENESS:

2009-23 Pimentel, Pedro & Marisa, 119 Prospect St., Block 37, Lot 1 & 5 rear addition over 50% lot coverage addition of stairs relief from 5' side yard setback was moved for a public hearing on February 23, 2010 on a motion by Mr. Bodak with a second by Mr. Ciulla, all present approved.

2010-1 Rhinehart, Patricia, 11 Kamm Ave., Block 205, Lot 8.2, enlarge driveway was moved for public hearing on February 23, 2010 on a motion by Mr. Ciulla and a second by Mr. Bodak, all present approved.

2010-2 Mikhail, Magdi, 11-15 Main St. & 1 Reid St., Block 150, Lot 2.1 & 5, pizzeria & restaurant was moved for a public hearing on March 30, 2010 on a motion by Mr. Bodak with a second by Mr. Scala, all present approved.

2010-3 Metro PCS New York, NJ, LLC, collocate antennas on the Municipal Water Tank on Appleby Ave. Mr. Ciulla requested that the reports from CME and Bignell Planning be a part of the minutes with a second by Mr. Bodak all present approved. Michael Dek who spoke on behalf of the Applicant asked for a waiver on one section of the report from CME. Mr. Ciulla requested that the Board receive a survey of the utilities in the area. The Application was moved for a public hearing on March 30, 2010 on a motion by Mr. Ciulla with a second by Mr. Bodak all present approved.

RESOLUTIONS:

2009-20 Huber-Oseda, Gisela, 15 Burton Ave., Block 50, Lot 5, Addition to second story bedroom. The full reading of the Resolution was waived on a motion by Mr. Bodak with a second by Mr. Ciulla all who were eligible to vote approved. The Resolution was moved on a motion by Mr. Andre with a second by Mr. Bodak, Roll call to follow.

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

**ZB 2009-20
GISELA HUBER OJEDA**

WHEREAS, Gisela Huber Ojeda, hereinafter referred to as the Applicant, has applied to the Zoning Board of Adjustment of South River for a bulk variance from Sections 350-10(c) to construct a second story addition to the existing single family residence on the premises known as Block 50, Lot 5, otherwise known as 15 Burton 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 by the Zoning Board on November 24 2009, and

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

1. Applicant Gisela Huber Ojeda has filed an application for a bulk variance to construct a second story addition to the existing single family residence on the premises known as Block 50, Lot 5, otherwise known as 15 Burton Avenue in South River, New Jersey.

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

3. The proposed addition needs a variance because the existing dwelling is less than 5 feet from the property line; in addition, variance relief is necessary because the existing dwelling is only 10.6' from the front property line instead of the required 25'.

4. The Applicant testified that she needs additional living space for her family.

5. Based upon concerns raised by Zoning Board members, the applicant agreed to ensure that the siding of the addition matches the siding of the existing house.

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 variances 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 these variances.

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, Gisela Huber Ojeda, for bulk variances from Section 350-10(c) to allow construction of a second story addition 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.

3. Applicant shall ensure that the siding of the addition matches the existing siding.

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 2009-20

The foregoing Resolution was:

Moved by: Mr. Andre

Seconded by: Mr. Scala

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			
ALTERNATES				
Mr. Ken Semanovich				X
Mr. Jeremiah O'Grady				X

ZB 2009-20

The foregoing Resolution was:

Moved by: Mr. Andre

Seconded by: Mr. Bodak

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				
Mr. John Scala	X			
ALTERNATES				
Mr. Andreas Miller			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 JANUARY 26, 2010.

M. ANITA HERMSTEDT, SECRETARY

PUBLIC HEARING:

2009-14 Szymanski, Mike, 32 James St., Block 178, Lot 3.2 widen apron for future double driveway addition to rear of garage was carried over to the March 30, 2010 meeting on a motion by Mr. Ciulla with a second by Mr. Scala, all eligible to vote approved.

2009-18 Danley, Walter, & Laurie, 12 Beryl St., Block 132, Lot 9, kitchen addition into required 15' rear yard setback. Mr. Danley was sworn in by the Attorney and explained what and why he was expanding his kitchen. He was asked how deep the extension would be, it will be 18' x 11'. Mr. Bletcher said that there is no problem with the coverage. The application was opened to the public, hearing none it was closed on a motion by Mr. Bodak, second by Mr. Ciulla, all eligible approved. The Application was moved on a motion by Mr. Bodak with a second by Mr. Sacla all eligible approved.

2009-17 Laptosh, William, 31 Charles St., Block 267, Lot 3, construct driveway in front yard setback, Mr. & Mrs. Laptosh was sworn in by the Attorney, and Mr. Laptosh explained why he wanted to put in a driveway. He will need to put in a curb cut which is not there and this way the cars will be off the street. He also will be cutting back on the stairs which are in the public right of way which was approved. He stated that everything was okay with the neighbors. The application was opened to the public, hearing none the application was closed on a motion by Mr. Ciulla with a second by Mr. Bodak, all eligible approved. Mr. Bodak approved this application with a stipulation that they will not park the car on the patio with a second by Mr. Ciulla all eligible approved.

2009-19 Ignatovskiy, Igor, 53 Foothills Drive, Block 351.3, Lot 5, install 6' vinyl fence in side yard on corner lot and patio. Mr. Ignatovskiy was sworn in by the Attorney along with the realtor from Century 21. Mr. Ignatovskiy stated that the fence was old and he replace it with a new one, and that the fence in not within the site triangle. The Code of the Borough states that the fence must sit 5' from the property line, and it shows that the fence is within inches of the property line. Mr. Bodak questioned how far the fence goes back, and was informed that the fence goes to the corner of the home, but it goes the entire length of the property. Mr. Andre went to see the fence and sees no problem. The Application was opened to the public hearing none it was closed on a motion by Mr. Scala with a second by Mr. Bodak, all eligible approved. Mr. Ciulla questioned the impervious coverage, with the patio, which is 1000 square foot of pavers. Mr. Ignatovskiy must get a new survey which will allow the Board to know the impervious coverage and the Application was moved to the March 30, 2010 meeting on a motion by Mr. Ciulla with a second by Mr. Bodak all eligible approved.

2009-25 Zarzycki, Athur, 7 Park Ave., Block 123, Lot 18, construct garage 12 x 22 in rear yard setback replacing 10 x 18 garage was moved for public hearing on a motion by Mr. Ciulla with a second by Mr. Bodak, all eligible approved.

2009-22 Tokarik, David, 8 Raymond Place, Block 354.11, Lot 4, enlarge driveway. Mr. Tokarik was sworn in by the Attorney and told the Board why he wanted to enlarge the driveway. The driveway was made of concrete with the pitch going toward the road. The Application was opened to the public hearing none it was closed on a motion by Mr. Scala and a second by Mr. Bodak, all eligible approved. The Application was moved on a motion by Mr. Bodak and a second by Mr. Ciulla, all eligible approved.

APPEAL:

Brothers Service Station, 57 Reid St., non-conforming was ceased for 12 consecutive months and 18 months during three year period. Mr. Bruce Lawrenceville, spoke on behalf of the Applicant saying that the property on Reid St., was used as a gas station, and an argument between the brothers, where they could not agree on who would use the gas station. Mr. Smith wants to reopen the gas station, stating that the Ordinance that the town has is illegal according to State Statue.. Mr. Smith came to won this gas station in 19993, then in 1995 thee was a fire and they

constructed a new building and the falling out happened in 2006. New tanks were put in 1999. The owner lives in Maryland, and would hire someone to run the place for him. Would the operation of the business be nine to five or what hours are you going to operate was one question put to the Applicant. Mr. Kinneally would like to Applicant to notify the residents within 200' of the property, it would be better for the Applicant and the neighbors. The Attorney for the Applicant agreed to notify the public within 200' of the property and to be reheard on March 30, 2010. A motion was made by Mr. Bodak to hold the meeting on March 30, 2010 with a second by Mr. Ciulla those eligible approved.

PUBLIC HEARING:

2009-3 Omnipoint T-Mobile to construct a cellular tower on the property on Hillside Ave., requested a reconsideration of the vote taken at the October hearing. Mr. Pryor thanked the Board for granting the opportunity for him to bring two things to the Board. He spoke about the Causeway site stating that they are not on that site and did not make any representation to be on that site. What he would like to do is make clear how many sites per town are needed to improve reception. Metuchen has two sites, South Amboy one site Woodbridge nineteen sites and Edison nineteen sites. There is no formula to propose how many sites you will need, it depends on the topography of the municipality, signals do not travel through the ground. The other is population, which is very clearly explained, and there is ample justification to ask for the cell site at the cemetery. They did not run into any grave sites when they did the x-ray of the vicinity of the tower. Mr. Scala said that he went to a seminar once and said that once a variance is denied that the Applicant has to go to the Board of Appeals before they are allowed to come back to the Board. Mr. Kinneally said that as long as the Resolution was not passed that they have the right to come back to the Board. Mr. Bodak said he is all in favor of better coverage, and why did they not consider the water tower. Mr. Pryor stated that it was not in the circle where they had to look, and that Metro PCS is looking at the water tower. Mr. Clancy said that they did their home work, stating that the fire trucks can get in there and that we have made the Applicant jump through hoops, and that we are here to decide by the rules. Mr. DeMonico stated that the Board is there to protect the property owners, and that the cemetery should not be caught up in this, stating that we have the Causeway and Ivan Way and now Appleby Ave. and if we approve this we will have four in the Borough and feels that is to many.

Mr. DeMonico opened the meeting to the public.

Marilyn Meloni, 53 Kamm Ave., is not in favor of this Application.

Mr. Weiss is the secretary/treasurer of the Cemetery and feels that T-Mobile did everything that they could to make this happen and that the Cemetery organization is in favor of this.

Thomas Houley 132 Texas Road he is the day to day manager of the Cemetery and that his Mother and Grandparents are buried in the Cemetery. He would like the Board to reconsider their vote and allow the cell tower to be built in the Cemetery.

There being no one else from the public this Application was closed on a motion by Mr. Scala with a second by Mr. Bodak, all eligible agreed.

Mr. Ciulla talked about the flag pole which use to be at the entrance to the cemetery and why did they replace it, maybe do some research on whether or not they can put the cell tower there, and put the metal cabinets where they will not draw attention.

Mr. DeMonico suggested a five minute recess which was moved on a motion by Mr. Clancy with a second by Mr. Andre all approved.

Mr. Pryor had an intensive conversation which involved some revisions. The original flag pole is in the right had side of the cemetery and cannot be put at the entrance because of grave sites. What they could do is put the cabinets behind the building and then put vegetation all around the bottom of the flag pole so that it actually looks like a flag pole. They understand that the Board does not want the people to see the cabinets. Mr. Bodak spoke about what type of diameter would you disturb? The diameter is 6' and the concrete slab is 5 to 6'. Mr. Scala stated that Middlesex County has the highest ranking in cancer.

Mr. Clancy moved the application for approval with a second by Mr. Bodak, Mr. Kinneally reminded the members that they had to give a reason why they vote the way they do. Mr. Andre voted no stating that he did not hear anything new and that the pole will be an eye sore.

Mr. Bodak voted yes stating that we do need to keep in tune and we need additional coverage, that it would be a benefit to the town and income for the cemetery.

Mr. Ciulla voted no because he also feels that the flag pole will be an eyesore. Mr. Clancy voted yes stating that T-Mobile presented their case very well and that it would be a credit to the town. Mr. DeMonico voted no stating that the decision is very difficult and stands by his objection to the tower. Mr. O'Grady voted yes stating that the Applicant made a change so that the tower would not be an eyesore. Mr. Scala voted no because he feels that there is no need for another tower in the Borough. The vote was three yes and four no, so moved.

BILLS:

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

OPEN TO THE PUBLIC:

Ms. Meloni said she felt the Board made a wise decision. There being no one else this section of the meeting was closed on a motion by Mr. Ciulla with a second by Mr. Andre all present approved.

COMMENTS:

Mr. Miller said the reason why he was so quiet that he wants to take everything in and then get more vocal as he learns.
All the member welcomed him to the Board.

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

Respectfully submitted,

M. Anita Hermstedt, Secretary