

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 31, 2012, commencing at 7:30 PM in the Criminal Justice Building 61 Main St., South River, NJ.

Present were, Mr. Andre, Mr. Bodak, Mr. Clifton, Mr. Clancy, Mr. DeMonico, Mr. O'Grady and Mr. Scala.

Absent were: Mr. Ciulla, and Mr. Hranowski.

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

The first order of business was to elect a Chairperson. Mr. Scala with a second by Mr. Clancy, nominated Mr. DeMonico to be the Chairperson there being no other nominations, so moved.

Mr. DeMonico asked for nominations for Vice Chair, Mr. Bodak nominated Mr. Ciulla with a second by Mr. Scala, there being no other nominations so moved.

CORRESPONDENCE:

The Board had letters from CME regarding Matos Variance, Gaby's Pizza and Harris Variance, along with a letter from the Municipal Clerk regarding the League of Municipalities, all were received and filed on a motion by Mr. Bodak with a second by Mr. Andre, all present approved.

COMPLETENESS:

2012-2 Volvovsky, Yefim for 284 South Whitehead Ave., to run a dance studio was deemed complete on a motion by Mr. Bodak for a public hearing on February 28, 2012 with a second by Mr. Scala, all present approved.

2012-1 Harris, Sonja, 7 Terry Ave., Block 3, Lot 263.6 replace and enlarge driveway and apron Mr. Bodak moved the application for a public hearing to be heard on February 28, 2012 with some minor calculations with a second by Mr. Andre, all present approved.

2012-3 Rei, Joao, C. 1- Mercer St., Block 251, Lot 23, enlarge driveway and apron was deemed incomplete on a motion by Mr. Bodak, with a second by Mr. Scala, until the applicant send the information needed by Bignell Planning Consultants, all present approved.

2012-4 Grego, Arcelina, 33 Whitehead Ave., Block 299, Lot 10 to construct an open porch for use as a smoking area, was deemed complete on a motion by Mr. Bodak for a public hearing on February 28, 2012 with a second by Mr. Scala all present approved.

2012-5 Matos, Joao, & Elenan, for 5 Park Ave., to remove existing two family home and rebuild, also known as Block 123, Lot 17 was deemed complete on a motion by Mr. Bodak for a public hearing to be held on March 27 with a second by Mr. Scala all present approved.

2012-6 Karris, Janet, 3 Colfax, Block 129, Lot 6 bulk variance for side yard setback and lot coverage was deemed complete on a motion by Mr. Bodak for a public hearing to be held on March 27, 2012 with a second by Mr. Scala, all present approved.

RESOLUTION: (s):
MEETING OF THE

The consent Resolution was moved on a motion by Mr. Bodak with a second by Mr. Andre, all present approved.

**MEMORIALIZING RESOLUTION
FOR
SOUTH RIVER ZONING BOARD OF ADJUSTMENT
ZB 2011-22
LEE & SHARON EDWARDS**

WHEREAS, Lee & Sharon Edwards, hereinafter referred to as the Applicants, have applied to the Zoning Board of Adjustment of South River for bulk variances from South River Ordinances to permit the replacement and widening of the driveway at the existing house on the premises known as Block 354.06, Lot 6, otherwise known as 140 Kamm 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 28, 2011, and

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

1. Applicants Lee & Sharon Edwards, have filed an application for bulk variances to permit the replacement and widening of the existing driveway on the premises known as Block 354.06, Lot 6, otherwise known as 140 Kamm Avenue in South River, New Jersey.

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

3. The existing driveway is in poor condition and the Applicants need additional off-street parking.

4. The Applicant indicated that the existing underground piping will be replaced and again run to the street.

5. The existing apron will also be widened and replaced as part of this project.

6. The proposed application needs variances from Section 350-8E(1)(a) for parking within the front yard and from Section 350-8A(1) for parking in the side yard

area.

7. 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 variances 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 Applicants Lee & Sharon Edwards for bulk variances to permit widening of the apron and driveway 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.

ZB 2011-22

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. Jeremiah O'Grady	X			
Mr. John Scala				X
ALTERNATES				
Mr. Trony Clifton	X			
Mr. Joseph Hranowski	X			

ZB 2011-22

The foregoing Resolution was:

Moved by: Mr. Bodak

Seconded by: Mr. Andre

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. Jeremiah O'Grady	X			
Mr. John Scala			X	
ALTERNATES				
Mr. Trony Clifton	X			
Mr. Joseph Hranowski				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 31, 2011.

M. ANITA HERMSTEDT, SECRETARY

**MEMORIALIZING RESOLUTION
FOR
SOUTH RIVER ZONING BOARD OF ADJUSTMENT
ZB 2011-7
ERNESTO & MARIA SIMOES**

WHEREAS, Ernesto & Maria Simoes, hereinafter referred to as the Applicants, have applied to the Zoning Board of Adjustment of South River for bulk variances from South River Ordinances to retain the previously constructed addition and driveway at the existing house on the premises known as Block 260, Lot 12, otherwise known as 66-68 Willett 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 28, 2011, and

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

1. Applicants Ernesto & Maria Simoes, have filed an application for bulk variances to retain the previously constructed addition and driveway on the premises known as Block 260, Lot 12, otherwise known as 66-68 Willett Avenue in South River, New Jersey.

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

3. The Applicants two family home is located on an undersized lot and any alteration of a nonconforming structure requires a variance.

4. The addition violates the side setback requirement since it is only 2.3 feet from the side property line, where 5 feet are required; in addition the Applicants need variance relief for both side yards, where 15 feet are required and 7.9 feet exist.

5. The Applicants have not requested relief from the impervious lot coverage

limits; no variance is considered or granted by the Zoning Board for impervious coverage.

6. The proposed driveway proposes 3 parking spaces where 5 are required; the Zoning Board finds that a parking waiver can be granted for the 2 deficient spaces.

7. 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 variances 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 Applicants Ernesto & Maria Simoes for bulk variances and a parking waiver to permit an addition to remain and for the enlargement of the driveway 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 submit a revised plan that demonstrates that the property complies with all lot coverage requirements.

4. No parking is permitted along Raritan Avenue.

5. All drainage is to be directed to the roadway.

6. In widening the curb cut, all possible measures are to be taken to preserved the newly paved roadway.

7. If two curb cuts exist, one is to be removed and all measures are to be taken to protect and preserve the newly paved roadway.

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 2011-7

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. Jeremiah O’Grady	X			
Mr. John Scala				X
ALTERNATES				
Mr. Trony Clifton	X			
Mr. Joseph Hranowski	X			

ZB 2011-7

The foregoing Resolution was:
 MEETING OF THE

JANUARY 31, 2012

Moved by: Mr. Bodak

Seconded by: Mr. Andre

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. Jeremiah O'Grady	X			
Mr. John Scala			X	
ALTERNATES				
Mr. Trony Clifton	X			
Mr. Joseph Hranowski				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 31, 2011.

M. ANITA HERMSTEDT, SECRETARY

**MEMORIALIZING RESOLUTION
 FOR
 SOUTH RIVER ZONING BOARD OF ADJUSTMENT
 ZB 2011-25
 YEFIM VOLVOVSKY**

WHEREAS, Yefim Volvovsky, hereinafter referred to as the Applicant, has filed an Appeal with the Zoning Board of Adjustment of South River of the Zoning Officer's determination that the dance studio "Ballroom Dream" is not permitted to operate in the premises known as Block 354, Lot 1.2, otherwise known as 248 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 by the Zoning Board on November 28, 2011, and

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

1. Applicants Yefim Volvovsky has filed an appeal of the Zoning Officer's

determination that the Applicant's dance studio, "Ballroom Dream" is not permitted to operate at the site known as 248 Whitehead Avenue, South River, New Jersey.

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

3. The Applicant was represented by Michael Osterman, Esq.; two witnesses were called to present testimony on behalf of the applicant.

4. The first witness, George Leshchanka, is the Treasurer of St. Euphrosynia Polotsk, Belarusian Greek Orthodox Church located at 248 Whitehead Avenue, South River.

5. Mr. Leshchanka testified that the church, in attempt to raise money, had made its hall available to "Ballroom Dream;" the dance studio used the hall for private and group dance lessons in return for a fee that was paid to the church.

6. The second witness, Ms. Dasha Sushko, teaches dance at "Ballroom Dream;" she testified that "Ballroom Dream" is a business that teaches dancing and leases space at the church hall located at 248 Whitehead Avenue, South River.

7. Ms. Sushko testified that the business is a "for profit" business that charges fees to their students for their lessons.

8. Mr. Glen Lauritsen, South River Zoning Officer testified that the church is located in a R-100 Zone and that dance studios are not permitted in the zone. Mr. Lauritsen further testified that, in his opinion, a "for profit" dance studio was not an incidental and customary use to the church. Consequently, he denied the application for a Zoning permit.

9. Mr. Osterman, Esq., argued that the Applicant and the Applicant's business were incidental to the church use in the same way that the church rented out the hall for baptisms, birthday parties and the like.

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

1. The “for profit” dance studio is not a permitted use in the R-100 Residential Zone.

2. The “for profit” dance studio is not incidental to the Church use; since it is not incidental to the church use, and it is not permitted in the R-100 Residential Zone, the Zoning Officer’s decision to deny the Zoning permit was correct.

3. The Applicant’s argument that the dance studio is an incidental use similar to the church renting out the hall for baptisms, birthday parties and the like is rejected; renting out the hall for baptisms, birthday parties, etc. is an extension of the use of the hall by church members for their celebrations. Those celebrations are incidental to the church use.

4. A “for profit” business is not incidental to the church use; the fact that the Applicant leased the space from the church, and the church received funding from the Applicant, does not make the dance studio incidental to the church use.

NOW, THEREFORE BE IT RESOLVED by the South River Board of Adjustment that the Appeal of Applicant Yefim Volvovsky be and hereby is denied and the decision of the Zoning Officer is upheld 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 to 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 2011-25

The foregoing Resolution was:

Moved by: Mr. Bodak

Seconded by: Mr. Clifton

ROLL CALL	YES	NO	ABSTAIN	ABSENT
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Mr. Mario Andre		X		
Mr. Robert Bodak	X			
Mr. Tony Ciulla				X
Mr. Michael Clancy	X			
Mr. Frank DeMonico	X			
Mr. Jeremiah O'Grady	X			
Mr. John Scala				X
ALTERNATES				
Mr. Trony Clifton	X			
Mr. Joseph Hranowski	X			

ZB 2011-25

The foregoing Resolution was:

Moved by: Mr. Bodak

Seconded by: Mr. Andre

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. Jeremiah O'Grady	X			
Mr. John Scala			X	
ALTERNATES				
Mr. Trony Clifton	X			
Mr. Joseph Hranowski				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 31, 2012.

M. ANITA HERMSTEDT, SECRETAR

PUBLIC HEARING(S):

2011-20 Novak, Elizabeth, 10Wilcox Ave., Block 121, Lot 6, the Board received a letter from the Applicant requesting that she be moved to the February 28, 2012 meeting, which was moved on a motion by Mr. Bodak with a second by Mr. Andre, all present approved.

2011-18 Pacheco, Manuel 32 Levinson Ave., Block 301, Lot 11.1 to allow the addition within side yard setback on rear of house and addition to garage to remain. Mr. Daniel Pacheco spoke, letting the Board know that his parents have moved back to Portugal and that he was taking care
 MEETING OF THE JANUARY 31, 2012

of the application., stating that the existing garage and addition to the back porch were already done, Mr. Lauritsen said that the garage was probably done ten years ago and then the addition to the porch was done. He told the Board that they paid all the fines, and penalties that were lodged against them by the Borough. Mr. Bodak questioned whether anything had changed regarding the driveway and was told the put Belgiu m Block down. The addition to the house iis not wider then the house and conforms with the roof line. Mr. Andre was there two years ago and the porch was the whole width of the house and was told that was what his father did.. Mr. DeMonico opened the meeting to the public, hearing none it was closed on a motion by Mr. Scala with a second by Mr. Bodak all present approved. Mr. Andre moved to approve this application with a second by Mr. Bodak, all present approved.

2011-5 Hussain, Muhammad, 82 Willett Ave., Block 260, Lot 7, structurally alter building and add overhead door for loading and unloading. Mr. Robert Dill 168 /Route 1, Edison spoke on behalf of the Applicant. Mr. Dill spoke to the Board regarding Bignell's report and said the Applicant had no problem complying with it. What they were going to do inside the building was the removal of an 8'x8' window for the garage and then install an 8'x8' overhead door. They will remove a wooden structure and remove some of the stud header and then add posts, with will better enable truck to lad & unload. Mr. Clancy commented that Willet Ave. is very narrow and this would allow the truck to parallel park along Raritan and then using a for lift to unload the trucks. The trucks will be the size of Street Body Trucks and will be making deliveries once a month, with weekly deliveries from UPS and Fed Ex. Mr. Andre wanted in the Resolution if this is approved that if they do any damage to the curbs or roadway that they would have to repair it, the Attorney said that he will make sure that is pare of the Resolution. Mr. Andre also said that he wants the existing delivery door will be closed and not used. Mr. Clancy would like them to have some kind of safety in place when the truck is unloading, say tape or cones so the public does not walk in the way of the lift. Mr. DeMonico opened the meeting to the public, having none it was closed on a motion by Mr. Bodak with a second by Mr. Scala, all present approved. Mr. DeMonico asked the Board their pleasure on the Application. Mr. Bodak made the motion to approved this Application with all the inserts with a second by Mr. Clancy all present approved.\

2011-26, Mohammed Erakat, 98 Jeffrie Ave., Block 278, Lot 7, placement of an unattached removable car port over the driveway. The Applicant spoke about his Application stating last year during the snow storm his car was parked in the driveway and he had a hard time cleaning it off and that his wife was pregnant and he was afraid she might go into labor and he would not be able to get the car cleaned off on time, so he went on line found a company that did this kind of coverage over the car and contacted them. Mr. Andre asked whether or not the car port was securely fastened and was told yes it was that it had 8 2' steel rods in the ground. Mr. DeMonico opened this Application to the public, hearing none it was closed on a motion by Mr. Bodak with a second by Mr. Andre, all present approved. Mr. DeMonico asked the Boards pleasure, Mr. Andre made a motion to approve the Application with a second by Mr. Clancy all present approved.

2011-15 Tucker, Charanjit, 57 Reid St., Block 90, Lot 29.1 Site Plan, Use and bulk Variance. Mr. Turcher spoke on this Application stating what they were removing from their Application, they were removing the sign and the car rental, and what they still wanted was the increase in hours, and small store, and the selling of Propane. After many question and answers the Board would not allow him to increase his hours, but they did not see anything wrong with the store and the propane. On the advice on Mr. Bletcher this Application was moved, because there was no talk on the Site Plan, so this Application was moved on a motion by Mr. Bodak with a second by Mr. Andre, all present approved.

The letters from Ms. Elizabeth Novak, and Ms. Soares, were read to the Board, they wee requesting a postponement of their Application until February 28, 2012 meeting with were moved on a motion by Mr. Andre with a second by Mr. Scala all present approved.

ZONING BOARD OF ADJUSTMENT
MEETING NO.1
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BILLS:

The bill for the Home News Tribune was ordered paid on a motion by Mr. Bodak with a second by Mr. Scala, all present approved.

OPEN TO THE PUBLIC:

Mr. DeMonico opened the meeting to the public, hearing none it was closed on a motion by Mr. Scala with a second by Mr. Andre, all present approved.

COMMENTS:

There were no comments.

ADJOURNMENT:

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

Respectfully submitted,

M. Anita Hermstedt,
Secretary