

ADEQUATE NOTICE OF THIS MEETING HAS BEEN
PROVIDED AS IS REQUIRED BY CHAPTER 231, PUBLIC
LAW 1975 AND BY RESOLUTION 2016-5, 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 Adjustment was held on February 9, 2016, commencing at 7:30 PM at the Criminal Justice Building, 61 Main Street, South River, NJ.

Present were: Mr. Bodak, Mr. Clifton, Mr. DeMonico, Ms. Farren, Mr. Giannakopoulos, Mr. Sapata and Mr. Scala

Also present were Mr. Kinneally Attorney, Mr. Koch CME Engineer and Mr. Bletcher, Planner.

Absent: Mr. Clancy, Mr. O'Grady

RESOLUTIONS OF APPOINTMENT:

RES: 2016-4

FEBRUARY 9, 2016

RESOLUTION

BE IT RESOLVED that Linda Lindemann, is hereby appointed to the position of Secretary (Clerk) to the South River Zoning Board of Adjustment for the year 2016 in accordance with the current borough salary ordinance/resolution.

DATED: February 9, 2016

/s/ Frank DeMonico
Frank DeMonico, Chairperson

Motion was made by Mr. Bodak, seconded by Mr. Scala, all present approved,

MINUTES

The Minutes of Meeting the meeting held on January 26, 2016 were submitted to the Board for acceptance and/or amendment.

Mr. Bodak moved that the Minutes be approved, Mr. Clifton seconded the motion.

COMPLETENESS**ZB2015-22 Bulk Variance/Use Variance**

Evarista Pasencia 41 George St. Block 96 Lot 2

Requesting to convert single family home to two family residence.

Engineer deemed complete; Planner requested additional information, process has been going on since June, 2015. Additional architectural plans were requested but have not been received to date. Mr. Kinneally suggested a written notice be given to applicant that if not complete by March 29, 2016 application will be dismissed without prejudice. Motion made to carry over to March 29, 2016 meeting by Mr. Bodak, seconded by Mr. Clifton, all present approved.

ZB2015-36 4 Bulk Variance & Site Plan Waiver

Maglio, Dominick 28-30 Florence St. Block 34, Lot 8

Multifamily with parking lot. Engineer deferred to Planner; Planner deemed incomplete, requesting site plan. Motion was made by Mr. Bodak to be carried over to the February 23, 2016 meeting for completeness; seconded by Mr. Clifton, all present approved.

ZB2015-37 Bulk Variances (2)

Resende, Jose 16 Schack Ave. Block 291, Lot 12

Requesting Bulk Variances for impervious coverage, driveway within 5' side yard property line and side & rear yard parking. Deemed complete on a motion by Mr. Bodak, seconded by Mr. Clifton, all present approved. Public Hearing on February 9, 2016.

ZB2016-01 Bulk Variances (5), Use Variance (1)

Absolute Properties Mgt. LLC. Block 271, Lots 1 & 2

Division, Anderson, Charles & Whitehead

Requesting Use Variance for multifamily 33 unit apartment complex in R-75 Zone, Bulk Variances for front yard setback, maximum yard coverage, maximum building height in stories, maximum building height in feet and maximum gross density. Engineer and Planner deemed incomplete. Due this being a large project, a meeting was scheduled for the Engineer and Planner to meet with Developer. A motion was made by Mr. Bodak to be carried over to the February 23, 2016 meeting for completeness or determination of project status at that time; seconded by Mr. Clifton, all present approved.

RESOLUTIONS

The following resolutions were voted on:

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

**ZB 2014-26
LICINIO PEDREIRO**

WHEREAS, Licinio Pedreiro, hereinafter referred to as the Applicant, has applied to the Zoning Board of Adjustment of South River for bulk variances for lot coverage

and to permit an oversize accessory structure on the premises known as Block 284, Lot 23-A, otherwise known as 18 Marion Street, South River, New Jersey; and

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

WHEREAS, public hearings were held by the Zoning Board on April 28, 2015 and January 26, 2016, and

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

1. Applicant Licinio Pedreiro has filed an application for bulk variances for impervious coverage and to permit an oversize accessory structure on the premises known as Block 284, Lot 23-A otherwise known as 18 Marion Street in South River, New Jersey.

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

3. The Applicant's property currently contains a 12' x 14' accessory structure on the rear corner of the site.

4. The property currently contains lot coverage of 91.42% where 50% is permitted.

5. The Applicant has agreed to remove some of the impervious coverage and currently requests a variance to permit impervious coverage of 64.56%.

6. The lot is undersized, thus making it difficult for the Applicant to comply with the lot coverage limitations; consequently the Applicant has demonstrated a hardship.

7. There are currently no drainage problems affecting any neighboring property.

8. There was no opposition from any members of the public to the relief requested in this Application

9. The variances can be granted without any detriment to the public good because there are no drainage issues resulting from the lot coverage.

10. The variances can be granted without substantial impairment to the Borough Zone Plan. This is a unique property; the coverage variance is being substantially decreased and the oversized accessory structure has existed at the site for many years without any apparent detriments.

NOW, THEREFORE BE IT RESOLVED by the South River Board of Adjustment that the Application of Applicant Licinio Pedreiro for relief as described above is hereby **GRANTED** in accordance with the findings of fact and conclusions of law rendered above.

NOW, THEREFORE, BE IT FURTHER RESOLVED that this approval be and 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 as required by the Borough of South River.

3. Applicant shall install curbing around the driveway to ensure that runoff is directed to the street.

4. The Applicant shall repair/replace any curb, sidewalk or driveway apron as required.

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 2014-26

The foregoing Resolution was:

Moved by: Mr. Bodak

Seconded by: Mr. Scala

ROLL CALL	YES	NO	ABSTAIN	ABSENT
Mr. Robert Bodak	X			
Mr. Michael Clancy	X			
Mr. Trony Clifton	X			
Mr. Frank DeMonico	X			
Mr. Nick Giannakopoulos	X			
Mr. Jeremiah O'Grady	X			
Mr. John Scala	X			
ALTERNATES				
Ms. Donna Farren				
Mr. John Sapata				

2014-26

The foregoing Resolution was:

Moved by: Bodak

Seconded by: Clifton

ROLL CALL	YES	NO	ABSTAIN	ABSENT
Mr. Robert Bodak	X			
Mr. Michael Clancy				X
Mr. Trony Clifton	X			
Mr. Frank DeMonico	X			
Mr. Nick Giannakopoulos	X			
Mr. Jeremiah O'Grady				X
Mr. John Scala	X			
ALTERNATES				
Ms. Donna Farren	X			
Mr. John Sapata	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 FEBRUARY 9, 2016.

SHERYL NEVIN, SECRETARY

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

**ZB 2015-33
396 WHITEHEAD AVE., LLC**

WHEREAS, 396 Whitehead Ave, LLC, hereinafter referred to as the Applicant, has applied to the Zoning Board of Adjustment of South River for a certificate of nonconforming use to permit storage trailers and containers on the premises known as Block 360, Lots 1, 1.1 & 2, otherwise known as 396 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 January 26, 2016, and

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

1. Applicant 396 Whitehead Ave., LLC has filed an application for a certificate of nonconforming use to permit storage trailers and containers on the premises known as Block 360, Lots 1, 1.1 & 2 otherwise known as 360 Whitehead Avenue in South River, New Jersey.

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

3. It is the Applicant's burden to establish that the use was legal prior to the adoption of a zoning ordinance that prohibited the nonconforming use.

4. The Applicant has failed to carry the burden of proving that the storage of trailers and containers was ever a permitted use at 360 Whitehead Avenue.

5. The Applicant's property previously received use variance and site plan approvals for outdoor storage; specifically, Resolution 85-14 states, "the applicants propose to utilize the premises in the following manner. First there will be storage of heavy equipment on site. Second the applicants will dismantle certain equipment for parts and repair certain other equipment including painting and sandblasting."

6. None of the prior approvals permitted the storage of containers or trailers.

7. The Applicant submitted as evidence the prior site plans considered by the Zoning Board; none of the prior site plans show storage trailers or containers.

8. The outdoor storage of heavy equipment is different than the storage of containers and/or trailers.

9. The Applicant has never proven that the storage trailers and containers were ever permitted in the zone covering 396 Whitehead Avenue; furthermore, the Applicant never received variance relief from the Zoning Board to permit the storage containers or trailers.

10. The Applicant's argument that the outdoor storage of trailers and/or trailers was not specifically prohibited is not persuasive; the outdoor storage of trailers and containers was never specifically a permitted use.

11. If a use is not specifically permitted, it is prohibited.

NOW, THEREFORE BE IT RESOLVED by the South River Board of Adjustment that the Application of Applicant 396 Whitehead Ave., LLC for relief as described above is hereby **DENIED** in accordance with the findings of fact and conclusions of law rendered above.

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

ZB 2015-33

The foregoing Resolution was:

Moved by: Mr. Clancy

Seconded by: Mr. Bodak

ROLL CALL	YES	NO	ABSTAIN	ABSENT
Mr. Robert Bodak	X			
Mr. Michael Clancy	X			
Mr. Trony Clifton	X			
Mr. Frank DeMonico		X		
Mr. Nick Giannakopoulos	X			
Mr. Jeremiah O'Grady	X			

Mr. John Scala		X		
ALTERNATES				
Ms. Donna Farren				
Mr. John Sapata				

2015-33

The foregoing Resolution was:

Moved by: Mr. Bodak

Seconded by: Mr. Clifton

ROLL CALL	YES	NO	ABSTAIN	ABSENT
Mr. Robert Bodak	X			
Mr. Michael Clancy				X
Mr. Trony Clifton	X			
Mr. Frank DeMonico		X		
Mr. Nick Giannakopoulos	X			
Mr. Jeremiah O'Grady				X
Mr. John Scala		X		
ALTERNATES				
Ms. Donna Farren				
Mr. John Sapata				

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 FEBRUARY 9, 2016.

SHERYL NEVIN, SECRETARY

MEMORIALIZING RESOLUTION

**FOR
SOUTH RIVER ZONING BOARD OF ADJUSTMENT**

**ZB 2015-19
DIXON RINCON**

WHEREAS, Dixon Rincon, hereinafter referred to as the Applicant, has applied to the Zoning Board of Adjustment of South River for a use variance to convert the existing single family dwelling into a two family dwelling on the premises known as Block 165, Lot 5, otherwise known as 190 Main 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 January 26, 2016, and

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

1. Applicant Dixon Rincon has filed an application for a use variance to permit the conversion of the single family dwelling into a two family dwelling on the premises known as Block 165, Lot 5 otherwise known as 190 Main Street in South River, New Jersey.

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

3. The Applicant's property is located in the OP (Office Professional) Zone.

4. The property formerly was utilized as a doctor's office and funeral home, with a residential use on the second floor.

5. The Master Plan recommends the use of this property to be office professional; the proposed use is inconsistent with the Master Plan.

6. The Applicant failed to establish special reasons that would be served if this application was granted.

7. Granting this application would substantially impair the intent and purpose of the South River Master Plan and Zoning Ordinance.

8. The Borough of South River wants office use on Main Street; permitting a two family residential use would be inconsistent with that policy.

NOW, THEREFORE BE IT RESOLVED by the South River Board of Adjustment that the Application of Applicant Dixon Rincon for relief as described above is hereby **DENIED** in accordance with the findings of fact and conclusions of law rendered above.

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

ZB 2015-19

The foregoing Resolution was:

Moved by: Mr. Clancy

Seconded by: Mr. Bodak

ROLL CALL	YES	NO	ABSTAIN	ABSENT
Mr. Robert Bodak	X			

Mr. Michael Clancy	X			
Mr. Trony Clifton	X			
Mr. Frank DeMonico		X		
Mr. Nick Giannakopoulos	X			
Mr. Jeremiah O’Grady	X			
Mr. John Scala	X			
ALTERNATES				
Ms. Donna Farren				
Mr. John Sapata				

2015-19

The foregoing Resolution was:

Moved by: Mr. Bodak

Seconded by: Mr.Clifton

ROLL CALL	YES	NO	ABSTAIN	ABSENT
Mr. Robert Bodak	X			
Mr. Michael Clancy				X
Mr. Trony Clifton	X			
Mr. Frank DeMonico	X			
Mr. Nick Giannakopoulos			X	
Mr. Jeremiah O’Grady				X
Mr. John Scala	X			
ALTERNATES				
Ms. Donna Farren	X			
Mr. John Sapata	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 FEBRUARY 9, 2016.

SHERYL NEVIN, SECRETARY

PUBLIC HEARING(S)

ZB2015-35 4 Bulk Variances

Elito, Gilbert 137 Whitehead Ave Block 304, Lot 2

- Requesting Site Plan Waiver and Bulk Variances for side yard set back for patio, impervious coverage, front yard patio and solid face. Andrew Pillmen, applicant's attorney stated that Mr. Elito bought the house with the fence; no fault to anyone there was an error in the permit issued and a misunderstanding of what needed to be filed.
- Mr. Titus, Engineer, explained the property and the patio; no negative aspects
- Mr. DeMonico questioned the impervious coverage; Mr. Koch stated 88.3% impervious coverage includes gravel. Mr. Bodak stated that gravel as per borough ordinance gravel is not acceptable as impervious coverage. Applicant is willing to remove gravel and replace with grass or impervious coverage.
- Mr. Koch questioned lot and sidewalk next to his house on plans but after clarification it was noted to be a retaining wall.
- Mr. Bletcher questioned the side yard setback and maximum patio area; 10% is permitted, 30% is proposed.
- Mr. Bodak suggesting taking out a section on side brining the impervious coverage down to 70%.
- Mr. Sapata questioned fence, vinyl fence in the back.
- Applicant's attorney stated the applicant will agree to the conditions of the board.
- Mr. Bodak moved the application with provisos, removing the gravel, move radius off of concrete walk and remove pavers and that water flow directed to Herman Street and note record previous conditions of the fence.
- Condition of approval is to submit a revised plan.

ROLL CALL VOTE:

YES: Mr. Bodak, Mr. Clifton, Ms. Farren, Mr. Giannakopoulos, Mr. Scala, Mr. Sapata,
Mr. DeMonico

NO: None

ABSTAIN: None

ABSENT: Mr. O'Grady, Mr. Clancy

ZB2015-38 Bulk Variances (2)

Gawel, Anne & Bodgan 47 June St. Block 34, Lot 14.1

Requesting Bulk Variances for impervious coverage, driveway and patio within 5' side yard property line

- Ms. Gawel explained that they extended their driveway for their convenience as well as the neighbors. Street is very congested; driveway alleviates water running into neighbor's yard. June Street parking has parking on one side; neighbor agreed to go over property line
- Mr. Zamitt stated that the new code requires a separation and barrier of some type for water run off; a fence would be just a separation

- Mr. Bodak suggested a separation such as concrete or Belgium block. If both neighbors agree, up to the lot line is acceptable as Mr. Kinneally and Mr. Koch. Mr. Koch strongly suggested a separation
- Borough Attorney stated that it may become an issue with future purchasers of the house, the variance goes with the house.
- Applicant is willing to make the corrections
- Mr. Bodak moved the application for approval with stipulations of appropriate curbing to delineate the property line and that their engineer looks at the sight since it is a shared driveway that it was all done correctly. Revised plans need to be resubmitted.

ROLL CALL VOTE:

YES: Mr. Bodak, Mr. Clifton, Ms. Farren, Mr. Giannakopoulos, Mr. Scala, Mr. Sapata,
Mr. DeMonico

NO: None

ABSTAIN: None

ABSENT: Mr. O'Grady, Mr. Clancy

ZB2015-29 Bulk Variances (2)**Reconsideration of Application (previously heard/denied on 11/24/15)**

Janet Caban Garcia 42 Heritage Dr. Block 354 Lot 21.31

Requesting bulk variance to add extensions to both sides of driveway to increase width to 8.5' on the west side and 9' on the east side to create 38'2" wide driveway. Requesting exemption from concrete or Belgium block border requirement.

- Mr. Garcia advised the board that they have made some changes to address the board's concerns. They are trying to accommodate 5 cars in their driveway. Using pavers to blend with landscaping.
- Scaled back by 11 ft., walkway/curbing towards the house. Requesting exemption from the Belgium block to alleviate ice/water run off so it could be absorbed by the ground. Requesting not to use Belgium blocks at all. Shrubs will delineate the driveway.
- Mr. Bodak questioned the water run off; other applicants are required to have Belgium block. A pattern of the blocks could alleviate the problem if the applicants agrees.
- Mr. Clifton questioned the 4 cars in a row and the future of neighborhood doing the same; very congested area
- Ms. Garcia stated that they have a fire hydrant and storm drain in front of their house; they looked into a circular drive but were not able to do it because of that.
- Mr. Sapata questioned the configuration of the cars
- Mr. Bodak asked about the design and layout; asked applicant if they would be amenable to having the Belgium block, which they agreed to modify for drainage. Mr. Bodak made a motion with stipulations for drainage, seconded by Mr. Scala.
- Approved based on the revised plan.

ROLL CALL VOTE:

YES: Mr. Bodak, Mr. Clifton, Ms. Farren, Mr. Giannakopoulos, Mr. Scala, Mr. Sapata,
Mr. DeMonico

NO: None

ABSTAIN: None

ABSENT: Mr. O'Grady, Mr. Clancy

ZB2015-10 Use Variance/Parking Variance

235 Main St. Trust 235 Main St. Blk.125 Lot 12

Convert 1 family/business to 2 family

- Mr. Sachs gave an overview of the property as previously presented in November, 2015.
- Use is OP, Office Professional
- Mr. Pape described previous plan and new changes; Engineer and Mr. Hyland gave overviews of the rear apartment and downstairs apartment. Revised plan eliminates the circular drive and wood deck removed. Additional parking is provided.
- Mr. Bletcher stated that there is a 2 car garage and 1 parking space.
- Mr. Bodak questioned applicant why would it be a 2 family house as opposed to Office Professional. Mr. Sachs stated that at some point in time the house was a 2 family house, then office on bottom and top floor was an apartment. Mr. Sachs feels it fits within the area. If it was an Office Professional, off site parking will be needed.

Open to Public

Mr. Ignello, 5 DeVoe Street

- Resident since 1977
- Cars go over the speed limit; many cars do K turns in driveways on street when making a wrong turn

Mary Miglino, Main Street, across from property

- Ms. Miglino bought a 1 family home in a 1 family neighborhood not a 2 family home

Nancy Ignello, 5 DeVoe Street

- Traffic and congestion concerns; not a lot of street parking
- Not everyone parks in their driveway
- One family area

Cindy Urbanik, 46 Raritan Avenue

- Master Plan recommends for Office Professional Use – many cases before the board in zones like this for a conversion
- One to two family increases services needed to service the property in town and schools population on behalf of the Board of Education. Conversions will increase the population of the schools and the schools are full. This will increase the school aide cost and the average cost for homeowners. There will be an impact to the school system.
- Mr. Kinneally ruled that there is not enough information from the resolution of 1986 and cannot find it res judicata
- Mr. Bletcher added – In 1986 a request for 2 family status was denied. Due to the voting members (5 out of 7) Mr. Sachs requested the application be carried over to March 8, 2016.
- Mr. Sachs stated that basing a decision on the impact it will have on the schools under NJ Case Law is improper.
- Mr. Sachs requested to wait for a full board for a vote; requested Public Hearing be carried to March 8, 2015.

ADJOURNMENT

Motion to adjourn by Mr. Scala, seconded by Mr. Clifton. All present in favor.

Adjourned at 10:15 PM

Approved at Zoning Board Meeting
Held on February 23, 2016.

Respectfully submitted
Sheryl L. Nevin
Zoning Board Secretary