MINUTES OF REGULAR ZONING BOARD OF ADJUSTMENT
MEETING HELD ON TUESDAY, SEPTEMBER 13, 2016

Chairman Byrne called to order the regular meeting of the Board and announced the meeting was duly advertised in accordance with the Open Public Meetings Act by notice dated August 30th, 2016 sent to the Daily Record, Suburban Trends and posted on the bulletin board and website at Borough hall.

PRESENT: **BRACCHITTA, BYRNE, ERICKSON, KUBISKY, WOLFSON, ZAPF, DUBOWSKY (ALT. #1) AND ZALEWSKI (ALT. #2)**

ALSO PRESENT: **DARMOFALSKI, ENGINEER AND PLANNER AND ALEXANDER, COUNSEL (FILLING IN FOR LORBER)**

ABSENT: ***FOREMAN**

Chairman Byrne mentioned the first order of business is the approval of the August 9th, 2016 meeting minutes. Any corrections?

Mr. Zapf stated I have two.

Ms. Ward stated I knew you would.

Mr. Zapf mentioned page 4 about half way down, there is really a short sentence that starts out Mr. Herrmann stated I understand that I'm sorry. The next one below it Charlie responds, you have to wait until the questions are asked. I think after that period the rest of that sentence is Mr. Herrmann saying that's okay I'm trying to make it easier for everyone. I don't think that is Charlie on the second sentence on that line.

Ms. Ward stated I think that was Charlie with that response but I'll check it out.

Chairman Byrne stated I think you are right Joan it was Charlie.

Mr. Zapf stated it just struck me and I thought that was Mr. Herrmann.

Ms. Ward mentioned I will check the CD.

Mr. Zapf stated page 6 about the third of the way down, it says Chairman Boorady.

Ms. Ward mentioned I like that.

Mr. Zapf stated he is not even here tonight for me to tell him that he got promoted.

(Laughter)

Ms. Ward mentioned I promoted him I'll correct that.

*Mr. Foreman arrived at the meeting.

Chairman Byrne asked anyone else have any corrections.

Mrs. Kubisky stated no.

Ms. Ward mentioned everyone can vote except Bracchitta and Zalewski.

Chairman Byrne asked does anyone want to move it.

Mr. Zapf moved it with the corrections.

Mrs. Kubisky seconds.

Roll call:

Yes: Zapf, Kubisky, Byrne, Erickson, Foreman, Wolfson and Dubowsky (Alt. #1)

No: None

Abstain: None

Chairman Byrne stated the next order of business is Variance Application #2016-03 (bulk) by Dorothy Ippolito, on property known as Block 46.4, Lot 269.1 on the municipal tax map also known as 242 Pine Brook Road (complete August 16, 2016 decision by December 14th, 2016). This is a public hearing.

Mrs. Kubisky recused herself from the Ippolito application due to a possible conflict.

Chairman Byrne stated okay thank you.

Mr. Chairman and Members of the Board, my name is Jim Bryce, of the law firm Murphy & McKeon, appearing on behalf of the applicant, Dorothy Ippolito.

Mr. Alexander ask Mr. Bryce to spell his last name for the record.

Mr. Bryce stated B-r-y-c-e.

Chairman Byrne stated go ahead.

Mr. Bryce stated tonight we are here on a variance application for Mrs. Ippolito. She is a resident of Lincoln Park for many years and resides as 242 Pine Brook Road. It is a single-family dwelling, a bi-level. The testimony that will be developed is because they went in on a contract for sale and discovered that there was a wall put up in front of a garage, a garage that is otherwise required under your ordinance and it no longer exists. It is currently used as storage and for family gatherings and things of that nature but it is not a garage.

Your Ordinance Section 28-42.b.3 requires two off-street parking spaces in this zone, one of which is in a garage, but because there is no garage space available we are seeking a variance tonight on that basis.

If there are no other questions of me at this time, I can start with my witnesses.

Chairman Byrne asked can you tell us when the wall was built.

Mr. Bryce stated that will be developed through testimony and it was built approximately in 1995.

Chairman Byrne mentioned okay.

Mr. Zapf mentioned I have a question for you. The garage door and the frontage was never changed so was there any intention to put that back to a garage at some point? I mean I don't know where their storage is or anything like that, but was that temporary or was that permanent?

Mr. Bryce stated no I believe that was just a false wall that was put up behind it, the garage door is still there but there is no internal mechanism in that particular area anymore to accommodate a garage.

Mr. Zapf stated right but it wasn't meant to be temporary it would have to be permanent.

Mr. Bryce mentioned that's correct.

Mr. Alexander swore in Mrs. Ippolito.

Mrs. Ippolito testified Dorothy Ippolito, 242 Pine Brook Road in Lincoln Park.

Mr. Bryce mentioned Mrs. Ippolito you just mentioned to the Board that you live at 242 Pine Brook Road is that correct?

Mrs. Ippolito testified yes.

Mr. Bryce asked when did you actually purchase that house or move there.

Mrs. Ippolito testified 1970.

Mr. Bryce asked when you lived in that house you raised your family there.

Mrs. Ippolito testified yes.

Mr. Bryce stated okay. I'm going to show you what was previously marked, or it is actually part of the application package and I don't know if you want this individually marked?

Mr. Alexander stated mark it.

Mr. Bryce mentioned it is a floor plan.

Mr. Alexander stated mark it A-1 with today's date.

Mr. Bryce stated I marked it as A-1 and it is the floor plan that was prepared. Now this is a bi-level style house right?

Mrs. Ippolito testified yes.

Mr. Bryce stated okay. Is this an accurate depiction in your opinion of the first floor of that bi-level house?

Mrs. Ippolito testified yes.

Mr. Bryce asked just by way of orientation, if we are looking at it just square on the left, you will see the garage that is the subject of this.

Mrs. Ippolito testified right.

Mr. Bryce stated then to the right you have something noted as a bedroom, dining room, family area and you'll see something like a range, counter top area and refrigerator.

Mrs. Ippolito testified like a small kitchen area.

Mr. Bryce stated okay. When you moved into this house in 1970 was this configuration similar to what is actually there today?

Mrs. Ippolito testified yes.

Mr. Bryce asked what was there in 1970 when you moved in.

Mrs. Ippolito testified well the cabinets were there and the sink, we added the stove.

Mr. Bryce stated okay. I assume that when you were raising your children here you actually utilized these as bedrooms for your children?

Mrs. Ippolito testified yes.

Mr. Bryce stated okay. You understand why we are here tonight correct?

Mrs. Ippolito testified yes.

Mr. Bryce asked and why are we here.

Mrs. Ippolito testified I'm going for a variance for the garage.

Mr. Bryce stated okay. How did you discover you needed a variance for the garage?

Mrs. Ippolito testified my house is up for sale and the first buyer wanted to see permits and when they came here there was no permit. I had no knowledge of any of this stuff.

Mr. Bryce stated okay. So you just recently found out okay.

Mrs. Ippolito testified yes found out recently.

Mr. Bryce mentioned talking about the garage specifically and that wall, approximately when did that wall go up in the garage?

Mrs. Ippolito testified around 25 years ago when my son wanted to come and live with us again. My husband all of a sudden decided he'd put up a wall.

Mr. Bryce stated okay. Did your husband also do other type of finished work around the garage area?

Mrs. Ippolito testified he put up sheetrock and painted it.

Mr. Bryce mentioned now prior to 1995 when this was actually being functioned or functioned as a garage, did you ever park in the garage?

Mrs. Ippolito testified no we never did.

Mr. Bryce asked what did you use this area for.

Mrs. Ippolito testified my husband made a little bench for his tools and I would like fold clothes on the table and stuff like that. We used it for storage so it was like our basement you know.

Mr. Bryce stated okay. After 1995 how did the use of this area change at all?

Mrs. Ippolito testified my son used it to put his stuff in there to store and if we had like functions, parties or family parties we'd go and have it in that room.

Mr. Bryce stated you mentioned you have a big Italian family.

Mrs. Ippolito testified yes on both sides.

Mr. Bryce stated and you would use that for what?

Mrs. Ippolito testified for birthdays/Christmas.

Mr. Bryce stated okay. Now at this point and time you own this house outright correct?

Mrs. Ippolito testified yes.

Mr. Bryce stated okay. You are divorced at this point?

Mrs. Ippolito testified yes my husband of 50 years left me with this big mess.

Mr. Bryce stated okay very good. You mentioned that your son moved in, just explain to the Board because you do have what would be considered an extended-family area, aside from your son have you ever used this area as an extended-family area?

Mrs. Ippolito testified no we lived upstairs.

Mr. Bryce stated okay. How long did that extended family use last?

Mrs. Ippolito testified he lived with us around 7 years.

Mr. Bryce asked beginning in 1995.

Mrs. Ippolito testified yes.

Mr. Bryce asked and I assume when your son was there you needed this storage area a little bit more.

Mrs. Ippolito testified he had a baby.

Mr. Bryce mentioned you also have a driveway on this property correct? In your time on this property do you have an opinion as to how many cars can fit in the driveway?

Mrs. Ippolito testified well there were 5 of us in my family, when my kids were young we parked 5 cars in the driveway. We did widen the driveway at one time.

Mr. Bryce mentioned so it can certainly contain more than not only two but more than three cars?

Mrs. Ippolito testified oh yes.

Mr. Bryce asked and it doesn't require any on street parking.

Mrs. Ippolito testified no.

Mr. Bryce stated okay. Now I'm just going to mark something as an exhibit. It is just a picture of the property and I guess I'll mark it as A-2 and pass it around. Are you familiar with this photograph?

Mrs. Ippolito testified yes it is my home.

Mr. Bryce asked this was made by your realtor I assume.

Mrs. Ippolito testified yes.

Mr. Bryce asked this is an accurate depiction of what your home currently looks like.

Mrs. Ippolito testified right.

Mr. Bryce asked this is the driveway on the left hand side.

Mrs. Ippolito testified right.

Mr. Bryce stated I'm just going to pass this up to Mr. Darmofalski to show the Board what the house looks like. I think you did mentioned that you are currently trying to sell this property.

Mrs. Ippolito testified yes somebody already wants it and it is under contract.

Mr. Bryce stated okay and you are just trying to clean this up.

Mrs. Ippolito testified yes.

Mr. Bryce mentioned now there is also an indication from the Board Engineer that as far as an extended-living arrangement there would be required a deed restriction be placed on the property, are you familiar with that? That your deed would say that only a blood relatives could live in that particular area and you are agreeable to that?

Mrs. Ippolito testified yes.

Mr. Bryce stated okay. I have no further questions of the witness.

Chairman Byrne stated okay. Does anyone from the Board have any questions? Ken/Tom any questions for the witness?

I actually have a quick question and I'm not sure if you had mentioned it, but you want to continue using that space that was a garage as an extended-family dwelling?

Mr. Bryce stated frankly it is not utilized as an extended-family dwelling. The extended-family dwelling you will see is to the right of that garage area. The garage area is presently only utilized for storage. There was a workbench in there and there were some dining events that would occur in there when you had big family gatherings.

Mr. Alexander asked is the applicant seeking permission to have an extended-family-dwelling unit or just not utilize the garage for parking.

Mr. Bryce stated utilize the garage for parking. The extended-family-dwelling unit I believe was already there. I believe it was basically there since 1971 when they purchased the house. If we need some type of ratification of that that's fine, so we would certainly seek that.

Mr. Alexander asked that is not located within the garage area.

Mr. Bryce stated it is not.

Chairman Byrne mentioned so the extended-family dwelling is the red hatched area.

Mr. Bryce stated there is an amended drawing that is hatched by the engineer and I think he'll be able to testify as to that.

Chairman Byrne stated okay.

Mr. Bryce mentioned the hatched area I believe is the extended-family-dwelling area which I believe is permitted in the zone.

Chairman Byrne mentioned so basically the living space of the house is on the second floor.

Mr. Bryce stated it is a bi-level house so it is not exactly near the first floor but there is a second floor which is substantially similar.

Chairman Byrne stated okay.

Mr. Foreman mentioned maybe this has been answered. So you want to sell the house and the new buyers do they intend to use it as an extended-family dwelling or are they just going to turn it into a single-family dwelling?

Mrs. Ippolito stated no just as a one family they said.

Mr. Foreman mentioned so what you are looking to do today is kind of get all the permits and approvals that you might have gotten initially had all this gone through the regular process is that right? I guess you have to have the deed amended so when you sell it there is no problems to the buyer.

Mr. Bryce stated that is exactly it. I can make the representation that the contract purchaser is aware of that impeding deed restriction and has no objection to it either.

Mr. Zapf mentioned that was going to be my question.

Mr. Foreman stated I got the impression that your son was there from about 1995 to 2002 and since then I guess it has been a single-family dwelling and you've treated it as that right?

Mrs. Ippolito testified well we just left it the way it was as storage.

Mr. Foreman stated I understand that but once your son finished living there then it was just you and your husband for awhile.

Mrs. Ippolito testified right but we went back upstairs to the main floor.

Mr. Foreman stated but you treated the entire structure as just a single- family house at that point there was nobody living by blood or marriage in the extended-family dwelling right?

Mrs. Ippolito testified no.

Mr. Foreman stated thanks.

Chairman Byrne asked if anyone has any questions.

Mr. Zapf asked when you closed in the garage, where do you keep all your stuff now. In some of the photo views I see a shed way down by the pool, but is there one in the back underneath or what do you do with the stuff that formerly would have been in the garage like the workbench, lawnmower, rakes and things like that?

Mrs. Ippolito testified we also have a shed in the back.

Mr. Zapf asked is that the one that's down by the pool.

Mrs. Ippolito testified yes.

Mr. Zapf stated okay.

Chairman Byrne mentioned if no one has any questions, Paul can you go through Tom's report.

Mr. Alexander asked do you have anymore witnesses.

Chairman Byrne stated oh I'm sorry okay.

Mr. Bryce stated we have one more witness the engineer to basically confirm the drawings and go through the parking availability.

Chairman Byrne stated sure.

Mr. Alexander asked does anyone from the public have any questions for this witness.

Mr. Bryce thanked Mrs. Ippolito.

Mrs. Ippolito testified thank you.

Mr. Bryce mentioned the next witness I'd like to call is Fred Herrmann.

Mr. Alexander swore in Mr. Herrmann.

Mr. Bryce stated at this point I'd like to offer Mr. Herrmann as a professional engineer, and to that end and for the benefit of the Board can you tell them your educational background?

Mr. Herrmann testified I have a Bachelor's of Science in Civil Engineer from the University of Missouri. I have been a licensed engineer in the State of New Jersey since 1970. I served the State Board of Professional Engineers and Land Surveyors as their Secretary/Director for about 3 years and most experience was in municipal land development type work. I appeared before 40 municipalities. I was a municipal engineer when I worked for consultants and I probably sat in maybe 8 or 10 municipalities, mostly in Bergen County.

Mr. Bryce stated at this point and time I'd offer Mr. Herrmann as a professional engineer.

Chairman Byrne asked does anyone have an objection.

Mr. Alexander asked it is Fred Herrmann.

Mr. Herrmann testified it is Frederick W. Herrmann.

Mr. Alexander asked where is your office located.

Mr. Herrmann testified I'm retired now. My office what year?

Mr. Alexander asked is your license currently active.

Mr. Herrmann testified yes.

Mr. Alexander stated okay.

Mr. Herrmann testified they send it to my home.

Mr. Alexander stated okay.

Mr. Bryce asked Mr. Herrmann are you generally familiar with this property.

Mr. Herrmann testified yes I am.

Mr. Bryce stated okay. Have you inspected this property recently?

Mr. Herrmann testified yes.

Mr. Bryce asked and how are you so familiar with this property.

Mr. Herrmann testified well the Ippolitos and our family have been very close. We moved into Lincoln Park around the same time. We came in in 1968 and with our children being about the same ages and we became very close and remained close over the years.

Mr. Bryce asked in a professional level have you ever had any interaction with this particular property.

Mr. Herrmann testified yes. The property as initially purchased by the Ippolitos was a very oversized piece of property. It was adjacent to the Board of Education property, the Pine Brook School. As they were very benevolent to their son in helping him get started, they were also very helpful to their daughter and son-in-law. They asked me if I would prepare a minor subdivision so that they could subdivide their property and they could give that extra property to their daughter for them to build a house on it and get their lives on. At that particular time I said I would and I prepared the subdivision for them and appeared before the Lincoln Park Planning Board.

Mr. Bryce stated very good and I assume that subdivision was ultimately approved and perfected.

Mr. Herrmann testified it was yes.

Mr. Bryce mentioned now the current state of the subject property are you familiar with the size of it?

Mr. Herrmann testified yes I am.

Mr. Bryce asked it is an oversized lot still.

Mr. Herrmann testified yes.

Mr. Bryce asked would you agree that it is approximately 22,319 square feet.

Mr. Herrmann testified yes I would.

Mr. Bryce stated okay. As to bulk zoning concerns aside from the garage, does it comply with setbacks?

Mr. Herrmann testified almost everything is in compliance with the requirements, the only thing that does not comply is the side yard towards the side of the house where it is closest to the school. That line was established by extending the existing fence line in the rear of the house forward until it intersected the Pine Brook Road right-of-way, so instead of having a 25 foot side yard they have like a 17½ foot side yard.

Mr. Bryce asked there was a variance granted for that.

Mr. Herrmann testified a variance was granted.

Mr. Bryce asked now you have inspected the interior area of the house.

Mr. Herrmann testified yes I have.

Mr. Bryce asked in this garage area you have observed a permanent wall.

Mr. Herrmann testified yes.

Mr. Bryce asked and that wall would be where, I'm looking at Exhibit A-1 where the garage door façade is.

Mr. Herrmann testified yes.

Mr. Bryce stated okay.

Mr. Herrmann testified what they apparently did and it is fairly obvious to me, they left the garage door there and then put studs up behind the door, put in insulation, put in sheetrock and then made it match the rest of the wall and the rest of the garage area.

Mr. Bryce asked and the rest of the garage is finished I assume with sheetrock and painted.

Mr. Herrmann testified that's correct. This particular garage area is kind of unique in that it has a fireplace in it and it had heating in there. So this room over the years as we've socially seen the Ippolitos was easier for Dora (Dorothy) to prepare the food downstairs instead of lugging it and tracking it up and downstairs to use that little kitchen area that was there, so it wound up being used as a family recreation type area for entertaining company.

Mr. Bryce asked as far as mechanisms for doors, do any exist in there right now.

Mr. Herrmann testified no there is no evidence it is not there no.

Mr. Bryce asked as far as the site configuration there is a parking concern. As you are aware, the ordinance requires for single family dwellings in this area to have two off-site parking spaces, one of which is in a garage, and if you have an extended-family area an additional parking space.

Mr. Herrmann testified that is correct.

Mr. Bryce asked now you have observed the driveway.

Mr. Herrmann testified yes.

Mr. Bryce asked what is your impression of the driveway.

Mr. Herrmann testified the driveway is a little bit more than 23 foot wide and on site it is 52 feet long plus about 6 feet that extends on the municipal right-of-way to the traveled way of Pine Brook Road. I've seen 6 cars in there. Four cars fit more than amply well. I think Mrs. Ippolito testified they had five people in their family at sometime and they had five cars in that driveway any day or night depending upon who was in the house. The facility now handles more than the required parking to address the needs of the property.

Mr. Bryce stated okay and that is on-site parking.

Mr. Herrmann testified that's correct.

Mr. Bryce stated now I'm just going to show you again what has been marked again A-1. Did you prepare this document?

Mr. Herrmann testified I did.

Mr. Bryce stated okay. At the top right hand side there are certain measurements correct?

Mr. Herrmann testified that's correct.

Mr. Bryce asked did you take those measurements.

Mr. Herrmann testified yes I did.

Mr. Bryce asked are they accurate within a reasonable degree of engineering certainty.

Mr. Herrmann testified yes they are.

Mr. Bryce stated okay. Is it your opinion that as to the extended-family area that currently exists it's approximately 523 square feet?

Mr. Herrmann testified that's correct.

Mr. Bryce asked did you prepare an exhibit for the Board that indicated what the extended family areas were.

Mr. Herrmann testified yes. The representative from Mr. Darmofalski's office in his review suggested it would be helpful if they could present to the Board members a crosshatched area, or some area that would make it easy to see what was the extended-family area. So in your packets I believe you received from Mrs. Ward in August, you would have gotten a thing with red hatched marks and that red hatched area is the extended-family area.

Mr. Bryce asked now does that particular family area share a common and unseparated entranceway and exist way with the overall dwelling area.

Mr. Herrmann testified yes it does.

Mr. Bryce stated okay. Does it share common utility meters with the principal dwelling?

Mr. Herrmann testified yes it does.

Mr. Bryce asked is this a two family home.

Mr. Herrmann testified no.

Mr. Bryce asked have you ever seen any, and I probably should have asked the applicant this, is there any home occupation or professional offices to your knowledge in here.

Mr. Herrmann testified no.

Mr. Bryce asked to the ordinance requirements the only thing missing is really the deed restriction.

Mr. Herrmann testified yes and I think it has been offered that it would certainly be forthcoming.

Mr. Bryce stated I have no further questions of the witness.

Chairman Byrne stated okay. A couple of questions for you sir. Were there any other improvements made to this area that was closed off, the garage area other than the wall? You had mentioned heating was that always in there was that always part of the house?

Mr. Bryce stated I can recall the applicant I think that she should answer that.

Mr. Herrmann testified I never really paid that much attention to it. I feel there was baseboard heating down there too.

Chairman Byrne stated okay.

Mr. Zapf asked in the garage area.

Mr. Herrmann testified in the garage area.

Mr. Bryce mentioned Mr. Herrmann if you don't know honestly I can have Mrs. Ippolito answer that.

Mr. Herrmann testified yeah it is all supposition on that.

Chairman Byrne stated I'll ask Mrs. Ippolito. The wall that's there itself does it have any electrical or plumbing in it, the wall that was put up in front of the garage door?

Mr. Herrmann testified I think there might be electrical receptacles in there.

Chairman Byrne stated okay. Do you know if there were any permits pulled for the electrical work?

Mr. Herrmann testified we saw evidence of it, and yet to be honest with you and this is apart from this application but if you want the answer I can give you the answer.

Chairman Byrne stated sure.

Mr. Herrmann testified the electrician who did the work has since filed with the borough. They took out a permit post-construction where he installed it in conjunction with acceptable codes and it is in the file now covering what was originally done without a permit I suspect.

Chairman Byrne mentioned okay. My last question I think is the portion at the back of the garage where the laundry room was off of was that always part of the house or was that a separate addition?

Mr. Herrmann testified yes.

Chairman Byrne stated okay.

Mr. Herrmann testified in the back well you can see where all the laundry -- easy you come out the door and --

Chairman Byrne mentioned I just wanted to know if it was a separate addition or if it was part of the original structure? Any other questions from the Board?

Mr. Zapf mentioned the only thing I would ask is where the laundry area is and where the common entry is that does not count towards the 523 square foot, that is just from the kitchen cabinet all the way across the back down past the boiler, incorporates the bathroom and apart from this.

Mr. Herrmann testified that's right.

Mr. Zapf stated so we are not counting in the laundry room.

Mr. Herrmann testified the laundry is common and used by both people.

Mr. Zapf stated that's okay I just wanted to make sure I'm looking at it the right way.

Mr. Herrmann testified you are sir.

Chairman Byrne asked anyone else with questions.

Mr. Zalewski asked on the entrance coming in there is a doorway into the extended living area, is there a door there or there isn't a door there.

Mr. Herrmann testified from the front of the house there is a door.

Mr. Zalewski stated alright at the top of the stairs is there another door.

Mr. Herrmann testified no.

Mr. Zalewski stated so there is one door.

Chairman Byrne mentioned if you look to the right there is a door there.

Mr. Zalewski stated into that other room, but according to the Ordinance 3686 an extended family dwelling unit shall share a common unseparated entranceway and exit way with the principal dwelling unit so that would mean no doors correct?

Chairman Byrne stated well I think they mean ingress and egress from the structure itself.

Mr. Zapf mentioned there could have been an interior door that might have been a family room or something when the house was first built, but they can't have a separate entrance directly to the outside it goes into a foyer.

Chairman Byrne stated right.

Mr. Zapf stated I saw that too.

Mr. Herrmann testified you are correct. It is a foyer type area. Tobby and his wife would go through the door to the right to their portion of the dwelling that was their private area and Dora and Lee would go to the upstairs which is what they used.

Mr. Zapf stated that's wide open you are going right up the stairs.

Mr. Herrmann testified that's exactly right yes.

Mr. Zapf mentioned there might have been a door right there anyway when the house was built.

Mr. Zalewski stated it was exaggerated with the arrows so I was wondering why it was like that.

Mr. Herrmann testified Tom asked for me to indicate those areas where the access points into the extended family thing is. If you had seen the history of the drawings as I submitted them, there were no arrows there and it was Tom's suggestion to provide a tool for you guys to understand where the access points were in there.

Chairman Byrne mentioned okay so the portion of the structure that is the extended-family dwelling when was that in place or created?

Mr. Bryce stated I can actually recall the witness, I think that the testimony was it was like that when they bought it.

Chairman Byrne stated okay does anyone from the public have any questions for the engineer. Could you recall Mrs. Ippolito?

Mr. Bryce stated sure, thank you Mr. Herrmann. I'm just going to recall Mrs. Ippolito. Mrs. Ippolito I'm sure you've heard the questions as well and I'm just going to repeat them because I think the Board just wants to get some factual history from you.

Mrs. Ippolito testified okay.

Mr. Bryce asked when you purchased the property in 1970, was this floor configuration for this first floor exactly as you see it.

Mrs. Ippolito testified just the way it is yes.

Mr. Bryce asked the only modification you made was to actually put in a range.

Mrs. Ippolito testified right.

Mr. Bryce mentioned and you put in a refrigerator obviously.

Mrs. Ippolito testified right, right.

Mr. Bryce asked that wasn't there when you bought it.

Mrs. Ippolito testified no.

Mr. Bryce asked but the shower was there and that bathroom area.

Mrs. Ippolito testified yes.

Mr. Bryce asked this dining family room.

Mrs. Ippolito testified and that other area just the way it is yes.

Mr. Bryce asked in 1970.

Mrs. Ippolito testified yes.

Mr. Bryce stated alright. As far as heat is concerned, I know I've asked you the same question, there is a fireplace there what is the history with that?

Mrs. Ippolito testified well originally the builder built the home for a farmer and he changed his mind he didn't want it anymore. When he put it up for sale, we requested if we purchased it we asked to have heat in there which we did want to use it for storage and stuff like that and that's when it was done, so the fireplace was there for the previous buyer.

Mr. Bryce stated okay. All of the heating was in this area when you bought it?

Mrs. Ippolito testified just on that one wall it is like a radiator on the one wall.

Chairman Byrne mentioned one other quick question. The section where the range was put in, what was that before just a counter top and cabinets?

Mrs. Ippolito testified they were cabinets yes.

Chairman Byrne stated okay.

Mr. Bryce mentioned there was an additional question that was raised, the laundry area was that always there since you purchased the property?

Mrs. Ippolito testified yes.

Mr. Zapf mentioned the house was built for somebody else and in 1970 when you purchased it you were the first occupants, you were the only occupants ever?

Mrs. Ippolito testified yes.

Mr. Zapf stated okay so you didn't buy it when it was 5 years old or anything like that okay.

Mrs. Ippolito testified no.

Mr. Zapf stated interesting.

Mr. Foreman asked when you first bought it, the garage was a regular garage and you could go in and out of it.

Mrs. Ippolito testified the walls were there, the heat and the floor was a cement floor and the garage door was there.

Mr. Foreman asked and it went up and down, you could have chosen to park a vehicle in there if you wanted to.

Mrs. Ippolito testified but we didn't. Like I said we used it for storage. My husband set up tools and stuff like that in it.

Mr. Foreman asked when you first bought it it was designed as a garage and it had a fireplace in it. I'm just confused about that.

Mrs. Ippolito testified it had a fireplace because originally it was supposed to be a carport and the guy wanted a fireplace there.

Mr. Foreman mentioned I mean at some point you guys put the wall in and started to use it as a --

Mrs. Ippolito testified the builder when he made it a garage, we asked if he could add a little heat there.

Mr. Bryce mentioned on this wall.

Mrs. Ippolito testified on that wall.

Mr. Bryce stated I'm going to say the left hand wall.

Mrs. Ippolito testified on the one wall.

Mr. Foreman stated I'm sorry my question was, at some point after you and your husband moved in is when you sealed off the garage door from the inside and built the wall or no?

Mrs. Ippolito testified no. That was like when my son decided to move there and my husband all of a sudden said I want a door.

Mr. Foreman mentioned you probably said that earlier and I was --

Mr. Bryce stated I believe it was 1995 when that occurred.

Mrs. Ippolito testified yeah.

Mr. Foreman stated okay.

Mr. Bryce mentioned honestly we are not sure and I think there was some discussion and tried to look into it before the meeting as to when that particular ordinance requirement for the garage went in and I can't find the ordinance history on line.

Chairman Byrne asked for the covered parking.

Mr. Bryce stated yes.

Chairman Byrne mentioned we have that.

Mr. Bryce stated it may well be a pre-existing nonconforming structure based upon that ordinance change but I just have no proof either way independently.

Mr. Zapf asked was that 86 or 85.

Chairman Byrne stated I think it is 86.

Mr. Zapf mentioned 86 for the extended-family dwelling.

Mr. Alexander stated it doesn't matter though.

Mr. Zapf stated I think it is 85.

Mr. Alexander stated it doesn't matter.

Chairman Byrne asked does anyone have any questions from the Board. Paul can you go over Tom's report?

Mr. Darmofalski stated certainly. Mr. Chairman and Members of the Board, Mr. Boorady prepared a letter dated August 1st to the Board indicating the Variance Application #2016-03 for Dorothy Ippolito, 242 Pine Brook Road, Block 46.4, Lot 269.1 located on tax map sheet 38 located in the R-20 Zone.

The first two pages really list all of the documents that Tom reviewed along with the completeness review and the Board is quite aware that the applicant came before the Board and received some waivers for completeness and the application was deemed complete and scheduled for its hearing tonight.

The crux of the matter for the technical comments was really on page 3 of 3 in Mr. Boorady's report. Item #1 has to do with the applicant seeking after-the-fact approvals to convert the garage to living floor space area. Section 28-42.b.3 requires two off street parking spaces at least one of which has to be covered in either a carport or a garage. You've heard considerable testimony about that this evening about how it happened.

In addition an additional parking space is required for an extended-family-dwelling unit so that would bring your total to three parking spaces, one of which is supposed to be in a carport or garage and that's the nature of the variance. The conversion of the garage into living floor space requires a variance since no carport or garage exists and neither is proposed.

The second part of this application that Tom brought to the attention of the applicant and has given testimony to, has to do with Section 28-40.2 which has to do with the after-the-fact approval for an extended-family-dwelling unit. You've heard from the applicant this evening that the majority of those improvements were there when they brought the property but Lincoln Park has a set regulation that you have to prove about six different items to make that legal. Item a. in Mr. Boorady's report showed the limits of the extended-family-dwelling unit on the floor plan and confirm the floor area is no greater than 550 square foot. Mr. Herrmann has provided a document to that affect indicating that they are in compliance with that.

Item b. show the extended-family-dwelling unit is accessible by common and unseparated entrances and exits. Our interpretation of the regulations is that we have one common entrance from the exterior and I believe that they are in compliance with that. The question that was raised is is an internal door allowed and we believe that it is and we've always interpreted it that way, so I would respectfully state that we feel they are in compliance with that item also.

Item c. show and confirm utilities are shared and I didn't hear anything about that but I think we can ask the applicant that there is only one set of utilities for electric, gas and water. You can confirm that there is only one meter.

Mrs. Ippolito testified yes one meter.

Chairman Byrne mentioned Paul I just had a quick question about Item a. So if you look at Exhibit A-1 that rear door to the back of the garage, is that considered a common entranceway or not because there is no access from the upstairs from that back door? I'm just curious how you would classify that rear entrance.

Mr. Darmofalski stated Item a. has to do with the square footage. Item b. in our report showed the extended-family dwelling accessible by common and unseparated entrances and exits.

Chairman Byrne stated yeah I am just wondering how you would classify the rear door of this exhibit because it is not a common entrance it only really has access to the garage and the extended-family dwelling. It has no access upstairs unless you go through the extended family dwelling.

Mr. Zapf asked is that supposed to be open like that.

Mr. Foreman asked do you need two common entrances.

Chairman Byrne stated yeah.

Mr. Zapf mentioned yeah they have to walk through the kitchen and then through the foyer.

Chairman Byrne stated my interpretation would be that you would have to access from that door to both living spaces separately, the common entrance and then you would have to have access.

Mr. Bryce stated Mr. Chairman I understand exactly where you are going. There is a way and I don't think these particular doors are locked, but if you look at the front of the house that is the common entrance/access.

Chairman Byrne mentioned I understand that but the other entrance which would be the rear really only has access to the extended-family dwelling.

Mr. Foreman asked how many common entrances do you need isn't that the better question.

Chairman Byrne stated it is not the point of having how many.

Mr. Foreman asked he has one in the front, do you need more than one.

Chairman Byrne mentioned that is one common entrance. The rear now only has access and both entrances have to have common access.

Mr. Bryce stated Mr. Chairman I'm just going to read directly from your ordinances. It says an extended-family-dwelling unit shall share a common unseparated entranceway and exit way from the principal dwelling unit.

Chairman Byrne stated okay so is that correct Paul, I mean would that be satisfactory? It does have one entrance in the front.

Mr. Darmofalski stated yes as an opinion yes it is satisfactory.

Chairman Byrne asked and the rear one doesn't matter that only accesses the other one.

Mr. Darmofalski stated right.

Mr. Zapf mentioned if my memory serves me from either last month or checking out on line, upstairs there is also an entryway out to a deck or something and that would only access the upstairs.

Chairman Byrne stated I just want to make sure that it is alright.

Mr. Zapf stated I think as long as there is one I don't think the second and third entrances matter.

Chairman Byrne stated okay.

Mr. Zapf mentioned because I think from the primary living space upstairs there is also an entrance outside and again you would have to walk all the way through to get downstairs.

Chairman Byrne asked is that correct Paul so we don't have to worry, I mean there is the one in the front so that should meet the requirement.

Mr. Darmofalski stated that's the way we've always interpreted the requirement for the extended-family-dwelling units.

Chairman Byrne stated just checking.

Mr. Darmofalski mentioned most of our houses have more than one door and I think that's really what we are getting at.

Chairman Byrne stated yes. Well we had an application a few years ago where that was a concern and I don't remember what the outcome was of it.

Mr. Zapf mentioned it was internal stairway issues where something was blocked off if my memory serves me, and there was an interior door that locked I think that's what it was.

Chairman Byrne asked did they have to remove the door.

Mr. Zapf mentioned they had to open the stairway up that was the one down off of Susquehanna.

Chairman Byrne mentioned okay continue on.

Mr. Darmofalski mentioned continuing on with the extended-family-dwelling unit requirement, Item d. is confirm the dwelling is not a two-family house and that's been confirmed on the record.

Item e. is confirm there will be no home occupations or professional offices in the extended-family

dwelling and I think there has been testimony given to that.

Mr. Bryce asked and you will confirm that.

Mrs. Ippolito testified yes.

Mr. Bryce stated good.

Mr. Darmofalski mentioned Item f., if this application is approved, then the applicant should agree to record a modified property deed prior to being granted a building permit, or a final certificate of occupancy. The modified deed shall include a restrictive covenant running with the land prohibiting occupancy by two families unrelated by blood or marriage in any extended-family dwelling. The covenant shall also include all requirements outlined under Section 28-40 2. a. through f. of the Borough Code and shall include reference to the application number as well as a copy of the resolution as part of the modified deed that is directly out of your ordinance.

Mr. Zapf mentioned e. really goes with f. because whatever we pass goes with the property not with the current owner, so the next owner also can't have a professional office and that is going to be in the deed.

Chairman Byrne stated not without them coming back.

Mr. Darmofalski stated right not without them coming back for approval right. We had no further engineering comments on it and we did inspect the property and it is very well maintained and in good shape, and I do agree with the applicant's engineer that there are more than adequate parking spots in that very large driveway. That's all I have.

Chairman Byrne asked okay. Does anyone have any questions?

Mr. Alexander asked Paul, given the fact that the garage is built out as a room and has heating, if the Board is inclined to grant the application, perhaps the resolution should make it clear that the garage can't be used as living space; a bedroom, someone can't live in the garage.

Mr. Bryce stated no objection as condition of the approval.

Mr. Darmofalski stated I don't see any problem with that and I think that would be smart to put that in there just so that when the construction permit is issued for this, we don't know what the construction official is going to ask the applicant if this is approved, to prove that everything was done in accordance with the code. You've heard a little bit of testimony about the electrical but there needs to be some other things clarified and confirmed and that's up to the construction official to ask what he is going to need in the way of certifications.

Mr. Alexander mentioned Mr. Bryce you are aware of that any approval by the Board is subject to approval by the Borough Code Official.

Mr. Bryce stated certainly it is a separate jurisdiction and the applicant is very aware of that as well.

Mr. Darmofalski mentioned so that drawing can certainly have a note that reflects the comments of the Board and with the recommendation of the attorney.

Mr. Zapf asked does that become part of the resolution. If what you just raised or what Pat just raised, if that were to be made into a bedroom or if somebody takes over the 550 square foot because it is really close at that point, then it is back in violation again so does that become part of the resolution?

Mr. Alexander mentioned right, so if the Board was inclined to grant the approval, one of the conditions of approval would be that the garage can't be used for living space for someone to live in.

Mr. Bryce stated bedroom and things of that nature.

Mr. Alexander stated yes and the resolution will be attached to the deed that gets recorded so any title search will pick that up.

Mr. Bryce stated okay.

Chairman Byrne stated okay. Any questions from the public? Alright I don't have any questions, I mean I'm satisfied with Tom's report and the testimony.

Mr. Zapf stated me too.

Chairman Byrne stated I am a little disappointed that there is no capability to put a carport in because that seems like quite a large piece of property, but we do have adequate parking and we've addressed all of the issues in the ordinance regarding the extended-family dwelling. Is there anyone who would like to make a motion?

Mr. Zapf made the motion to pass.

Mr. Dubowsky seconds.

Roll call:

Yes: Zapf, Dubowsky (Alt. 1), Bracchitta, Byrne, Erickson, Foreman and Wolfson

No: None

Abstain: None

Ms. Ward stated okay that's seven.

Mr. Bryce thanked Paul and everyone for their time.

Chairman Byrne thanked him.

Mr. Darmofalski stated I would recommend you go see the construction official tomorrow.

Ms. Ward mentioned he is not in until Monday.

Mr. Bryce mentioned that's fine. I know Mr. Herrmann has been in contact with him. Thank you everyone have a good night.

Mrs. Ippolito thanked the Board.

Board wished them good night.

Ms. Ward asked Mr. Bryce for that exhibit.

Mr. Bryce stated I have two exhibits for you.

Ms. Ward mentioned I have the one but I need the other one, the floor plan that you marked.

Chairman Byrne asked is there any other business to come before the Board. Is there a motion to close?

Mr. Zapf moved to close the meeting.

Mr. Wolfson seconds.

Meeting adjourned 8:03 P.M.

Respectfully submitted:

Joan Ward, Secretary

Patrick Byrne, Chairman