

**CLARK BOARD OF ADJUSTMENT**

**MINUTES FROM THE PUBLIC MEETING**

**MONDAY, MARCH 27, 2023**

A public meeting of the Clark Board of Adjustment was called to order at 8:00 p.m. by Chairman Ed Ruth. He asked all present to participate in a flag salute and moment of silence. He stated that this meeting was being held under and pursuant to the Rules and Regulations of the Sunshine Law of the State of New Jersey.

This meeting is in compliance with the “Open Public Meetings Act” as adequate notice of this meeting has been provided by mailing the Annual Schedule of meetings to the Union County Local Source, and Star Ledger, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

**ROLL CALL**

**Members Present:** Marc Hayden, Thomas Meade, Douglas Krok, Chris Tierney, William Helm, and Edward Ruth.

**Members Absent:** John Caliguire and Dante Tignini

**Also, Present:** Alana Hans-Cohen, Board Attorney (covering for Kelly M. Carey), Richard O’Connor, Township Engineer and Janet Gentry Board Secretary

**OLD BUSINESS**

Thomas Meade brought a motion to approve the minutes of February 27, 2023. Motion was seconded by William Helm and carried unanimously by voice vote.

**NEW BUSINESS**

Calendar #3-23, Dominick Pardo, 33 Lincoln Blvd. Mr. Roger F. Grutzmacher; Architect for the Applicant stated that he would like to bring up Mr. Pardo, he could explain a little more about the project. Both Mr. Pardo and Mr. Grutzmacher were sworn in. **Mr. Pardo:** I have some explaining about the expansion of the garage. The main roof of the garage started falling apart, the main section was there, it’s a masonry garage with a wood roof and it snowballed into this project. We own the house next door which is also a 2-family at 37 Lincoln Blvd. Parking and storage is how this evolved. Main section was there and stayed, put a new roof on and expanded the garage. It was expanded about two years ago. We

have four kids; we needed extra storage space. The survey was redone around 2019 to include everything on the property. **Ruth:** That expansion is shown on the plans? **Pardo:** Yes. Work was done before the survey. **Ruth:** In 2019 Mr. Khoda denied your permit? **Pardo:** yes. He stopped the work, but that section was already done and he told us we would have to go for a variance. I started the variance and then Covid hit and came to a screeching halt. Roof is on but not weather tight, left is sheathing and siding. Tarp is on it now. **Ruth:** garage basically is complete? **Pardo:** Yes. Tom Kelly who was acting Construction Official also denied your request in 2020? **Pardo:** Yes. **Ruth:** are certain setbacks required? **Pardo:** Yes, once Mike stopped me, he said we needed a permit to go forward.

Mr. Meade questioned the access easement to VFW property Mr. Pardo stated that if it's an issue he could always close that door up. I have a gate that I have on my 37 Lincoln property that comes out of my property onto their property or I can go around to Lionel Street. That's how we get the weed whackers and lawn mowers to clean that area up. That's why I put that door there. Mr. Pardo was asked if he got paid. **Pardo:** No, they would have parties back there. My kids would ride their bikes there. I felt like it was my thing to do to keep it clean. It was better for everybody so I just kept it up. **Meade:** your side or VFW? **Pardo:** VFW side, there's a 10' to 12' wide strip of grass. All of 33 and 37 has the VFW parking lot behind it. This strip of grass runs all the way to Lionel Street. We cut that grass and put mulch down about twice a year. On Lionel tree branches fell and we cleaned that up.

**Ruth:** Do you have an agreement with the VFW? **Pardo:** no, after 20 years with my kids riding their bikes there. We have a camper and they let us pull around back and load up our camper. One hand washes the other situation. After Covid; not much has been going on there, we just keep it clean as possible.

Roger Grutzmacher, Architect. Referring to plan T-1, top of plan shows elevations. This plan was prepared for the zoning application. According to Mr. O'Connor's Technical Review Report regarding drainage, we will obtain a civil engineer to look at that and it will be part of the review. Height of building is 16' and existing. Site Plan shows the garage addition highlighted in green. **Ruth:** what about side issues? **Grutzmacher:** A number of variances are required here. **Pardo:** the one side was existing, that's up against my property at 37 Lincoln. The expansion goes towards Broadway. **Krok:** now the neighbor is going down to 6" and it's not noted on T-1, Site/ Zoning Bulk Requirements. **O'Connor to Mr. Grutzmacher:** are you also acting as Mr. Pardo's Planner? No, Architect.

Board Attorney read onto the record Standards of Proofs. **Ruth:** I know you are in construction, is that garage used for business. **Pardo:** no, I have a commercial garage in Old Bridge that my excavators and equipment are stored in. My garage stores vehicles, lawn mowers, bicycles, no equipment is kept there. **Helm:** when was the original 500 sq. ft. garage built? **Richard O'Connor:** original was redone in 1962. **Pardo:** It was 15' high. In 2017 or 2018 I noticed the roof going bad. In 2019, I started to do the work and Mike came out. **Helm:** you weren't aware of setbacks or

permits? **Pardo:** yes and no. I knew that I can do the roof and it's kind of snowballed, I should have stopped. I talked to Mike about it after the fact. I know I had the one setback to my property line. **Helm:** But this side is going to a neighbor which is not your property; right? **Pardo:** That white fence is my neighbor's fence. **Helm:** so, you go up to 6" there. **Ruth:** beforehand you built this without any permits? **Pardo:** I put the carriage before the horse. **Ruth:** As a construction person??? **Pardo:** sometimes I get a little ahead of myself. **Ruth:** did Mike tell you that you're on the property line and couldn't expand it? **Pardo:** He said bring in a set of drawings. I knew because the house is a 2-family, non-conforming, smaller lot. This lot is 40 sq. ft. That's when Mike said I would have to go for a variance. I tried to maintain the height but obviously I went over.

Mr. O'Connor requested that the Board review page (2) of his Technical Review Report dated February 3, 2023 regarding a listing of the variances of Township requirements. *Chairman Ed Ruth read onto the record the list of variances.*

**Lot Coverage:** Maximum lot coverage is 30%. The existing building coverage is 36% and the proposed is 44%.

**Impervious Coverage:** The maximum impervious coverage is 50%. The existing impervious coverage is 63% and the proposed is 71%.

**Side Yard Accessory Building:** The minimum side yard for accessory buildings is five feet. The existing is 1.41' and the proposed is 0.54'.

**Rear Yard Accessory Building:** The minimum rear yard for accessory buildings is five feet. The existing rear yard is 1.19' and the proposed is 1.19'. This is an existing variance condition that is not being exacerbated.

**Extension or Enlargement:** No nonconforming use shall be extended or enlarged in any way except as shall be allowed pursuant to 195-181. The Applicant is enlarging the nonconforming use by the garage addition.

**(Definitions) Garage Private:** An enclosed accessory building or portion of a principal building used for the housing of private motor vehicles and in which no occupation, business or service for profit may be carried on and which shall be a minimum of 240 square feet, but not more than 300 square feet for one car garages and 650 square feet for two car garages. The existing garage is 529 square feet and the proposed garage is 851 square feet.

Additionally, there are existing variances for Lot Area, Lot Width, Front Yard Setback, Side Yard, Total Side Yard and Garage Side Yard. These existing variances are not being made worse.

**O'Connor:** if you look in the garage section, the ordinance requirements for a one car garage is a minimum of 240 sq. ft. but not more than 300 sq. ft. for a one car and

650 sq. ft. for two car garages. The existing garage is 529 square feet and the proposed garage is 851 square feet. There's legal testimony that has to be entered into the record. Mr. Grutzmacher is not a planner and I don't know if he's prepared to enter special reasons onto the record, primarily; in support of a use variance for an expansion of a con-conforming use. Grutzmacher: absolutely will be getting services of a planner. O'Connor: I don't know how the Board feels about proceeding without the applicable planning testimony. In support of all the variances, I don't know that we can elicit from Mr. Pardo or Mr. Grutzmacher enough to keep a clean record. It would be typical in a variance case like this that the applicant would come before us with a planner to present very specific testimony to say what you are proposing was consistent with the overall area, not to cause objectives of the Township Master Plan for some reason and that there were positives and no negatives associated with this application and that testimony would be given to the board for their consideration. Grutzmacher: what I would like to do is to get information from a planner and see what we can come up with for you to consider.

O'Connor: I think one of the things you need to do assuming that you're going to request an adjournment and come back with additional testimony with a planner was also to speak with the VFW for the possibility of an access agreement or not. Agreement would be filed in the County Courthouse. Its highly unusual for a two-family to expand their garage like this and have the garage access to an adjoining property directly. If you were to sell the house, then your reason for needing that are no longer there and that condition would continue to exist. So, if that door would continue to exist; the VFW could have something to say about it. Pardo: It's just as easy for me to close it off and use the gate for the cleanup. O'Connor: If there was a formal access agreement filed at the County, the access runs with the land but if the VFW does anything with their property; any future development of that site would also have to respect that easement to the access of your door. *Mr. O'Connor discussed storm water management along with new requirements being proposed by the State for storm water management*

**Statements from the Public:**

David Mormak, 24 Amelia Drive, Clark. Mr. Mormak was sworn in. He stated that when he put up his fence, he questioned Mr. Khoda on why he let him put in a gate to enter our property. He told me he could do what he wants and it would up to us to block his gate from our property. The strip of grass he talks about is only about one and one-half feet wide and ten feet long. Yes, he does maintain that from time to time but we can pay a contractor to maintain the rest of the property. We tried to work out a deal with him several times and come to our meetings to discuss what he can do for us and what we can do for him and never once showed up. The current commander spoke with him and his wife several times. He told him not to park his camper in our parking lot because of insurance but he refuses to do that. He plugs it in and I believe he has someone living in it from time to time. Right now, he says he's not going to use his garage for his work, he has a truck and trailer in our

driveway right now. Sometimes he had cement mixers, trailers back there. We had to get rid of the dumpster because it was his construction crew filling it up. I've asked him not to drink or park his trucks on our property, he continues to do it and completely ignores us. Garage he built was to put in a 2-car lift. Even through the peak of the roof is the same, he raised the garage about two feet to get more space. That little piece of grass, he parks his camper back there and tries to keep it nice.

Teresa Pardo. Mrs. Pardo was sworn in. She stated that she bought this house in 1999 and never met this man before. Dominick Pardo is my husband. The strip of land from 33 Lincoln to Lionel is maybe 100 to 200' and has never been maintained. We've maintained it since we bought the house. We had neighbors call the police because they didn't want to take down shrubs and clear out the weeds. There is a member who agreed with us to clean the property, Lincoln Blvd side and all the way to Lionel have been maintained. My RV is 40', it is parked at 37 Lincoln, we own that house so we can park it there. Occasionally, we do pull it behind. Maybe he's confused because there are people who rent out the RV in the backyard and I believe there are two of them that stays there and a boat which has nothing to do with our property. We would never allow anyone to live in our RV. We would go over and clean it after a trip. We empty it from behind because there's a bump out on Lincoln so it wouldn't be safe to pull it out there or on Lionel, that's a dead-end street. There's open access in the back, we can get out of it and it goes back into our driveway where it is now. Also, there is no drinking going on behind the VFW. It's been closed and when we did our mailing, nothing was returned for the VFW. Again, we have maintained it since we bought the house. I don't want to sit in a yard with someone's bushes or weeds above my fence.

Michael Hrycak, 129 Beech Street, Cranford. Mr. Hrycak was sworn in. Mr. Hrycak stated that he is the Senior Vice Commander, active officer of the post for the last four years, the property we are referring to. Never had an application for any kind of use. We still have the Charter. It's not active as it was before. Our intention is to repair the roof and some other things and become active again. The VFW is still there and it's going to still be there.

*The Applicant, Mr. Pardo has requested an adjournment until the next meeting on April 24<sup>th</sup>.*

#### **ADJOURNMENT**

Marc Hayden brought a motion to adjourn. Motion was seconded by Thomas Meade and carried unanimously by voice vote. Meeting adjourned at 9:10 p.m.

**Taken and transcribed by:**

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**Janet Gentry-Secretary**

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**Dated**