Village of Irvington
Zoning Board of Appeals

Minutes of Meeting held February 29, 2000

A meeting of the Zoning Board of Appeals of the Village of Irvington was held at 8:00 P.M., Tuesday, February 29, 2000, in the Trustees' Meeting Room, Town Hall, Irvington, N.Y.

The following members of the Board were present:

Louis C. Lustenberger, Chairman
Bruce E. Clark
George Rowe, Jr.
Robert C. Myers

Mr. Lustenberger acted as Chairman and Mr. Rowe as Secretary of the meeting.

There were three matters on the agenda:

New Matters

2000-01 Bridge Street Properties, LLC - 1 Bridge Street, Irvington, NY (Sheet 3, Lot P102)

2000-02 Frank Martucci & Robert A. & Katherine Mackie - 33 Matthiessen Park, Irvington, NY (Sheet 2, Lots P109/P12)

2000-03 Gary & Lynn Raimondo - 25 South Cottenet Street, Irvington, NY (Sheet 5; Block 208, Lot 15C)

Bridge Street Properties

This matter was adjourned to March 28, 2000.

Martucci and Mackie

Mr. Clark recused himself on this matter.

This matter is an application for an interpretation of Sections 243-10 and 274-19(G) to determine whether a proposed subdivision of a 2-acre lot located north of Bridge Street provides or requires frontage pursuant to these two sections of the Code. Submitted to the meeting were:

(1) a letter from Mr. Fon, Building Inspector, to the Mackies, denying their request for a proposed subdivision of a two-acre lot with proposed access via an alleged easement from Bridge Street, because it does not meet the frontage requirements of the sections of the Code referred to above;

(2) the application, referred to above, to which was annexed an explanation of the issue apparently prepared by applicants' attorney. As explained in the attachment, the issue is whether an easement exists along the western boundary of a neighbor's (the Cohen's) property north to the proposed subdivision, and whether, if so, it meets the "frontage" requirements of the Code;

(3) an agreement dated November 18, 1985 between Bernard Kayden and Horace J. McAffee which refers to an easement which may affect the properties involved in this case;

(4) an opinion of the Zoning Board of Appeals dated June 10, 1986, in the matter of the application of Mr. and Mrs. Kayden, Mr. and Mrs. Mackie and Mr. Martucci, dealing with such an easement;

(5) a two-lot subdivision plan prepared by Cronin Engineering, Professional Engineers and Planning Consultants, Peekskill, New York, prepared for Messrs. Mackie and Martucci;

(6) a letter from Richard M. Gardella, Esq. of Bertin, Hufnagel et al., attorneys, Scarsdale, New York, representing Barbara and Rodgin Cohen, owners of an adjoining residential property, asking that the hearing be adjourned, on the grounds that neither the Cohens nor Mr. Gardella received notice of the hearing, and noting that the Cohens object to the availability of the easement for access to the subdivision submitted by the Mackies and Mr. Martucci.

Mr. Mackie and Mr. Martucci were represented by Norman Sheer, attorney, who did not object to the adjournment, but pointed out that the failure of the Cohens

and Mr. Gardella to receive notice was due to their failure to correct the address for service on the Cohens on the applicable tax records. Mr. Sheer stated that the address for the Cohens on the tax records was a Tarrytown address, and that was the address he had used for notice of this application.

The Chairman explained that he viewed this as an application for an interpretation of the Zoning Code or for a variance thereunder, and not for an interpretation of Subdivision regulations, which are not within the Zoning Board's province.

Without objection, the hearing was adjourned to the next meeting of the Board on March 28.

Raimondo

Mr. Rowe did not sit on this matter, as his house is in the proximate neighborhood.

This is an application for a variance permitting the Raimondos to add a floor to their residence. The request is for a variance from the Section 243-34 of the Code which limits the number of stories to 2 ½ stories in a house in the relevant district, a question being presented by the fact that the house presently has a basement or cellar, which, under the definitions of a basement or cellar in the Code, would constitute a story.

The Raimondos were represented by Earl Ferguson, Architect. Mr. and Mrs. Raimondo were also present at the meeting.

Mr. Ferguson presented drawings to the Board, consisting of drawings A-01 - site plan and zoning data, A-02 - existing basement and first floor plan, A-03 - proposed second floor and roof plan, A-03 - existing elevations, A-4 - basement and proposed first floor plan, A-05 - proposed second floor and roof plan, and A-06 proposed elevations. Mr. Ferguson referred to the drawings, and reviewed them for the members of the Board. He argued that, although about 1/3 of the basement was used for living purposes and although the level of the roof of the basement exceeded 5 feet from the ground level, which would normally constitute the basement as a story, the variance would be proper in view of the unusual Code definition of such a basement as a story. Mr. Ferguson stated that the reason for the request was that the Raimondos needed more space, including more storage space.

The Chairman noted that the basement constituted a story in two respects, one because of the use of the space as living space, and a second because of the height of the basement roof over grade. The basement plan showed

an existing recreation room and guest room/study and a nearby bathroom, with windows facing Cottenet Street.

The Chairman also noted that the proposed line of the roof would be 8 or 9 feet higher than the existing roof line. He noted that houses with low profiles were predominant on South Cottenet Street and that two houses immediately to the north of the Raimondo residence were of the same height and construction as the Raimondo house. All three members of the Board noted that the proposal sought a major variance, and that the house, with an added story, over 3 stories as proposed, would loom over and be out of conformity with the houses in the immediate neighborhood on South Cottenet Street. They also noted that, if this variance were to be granted, there would be a precedent for other houses on the street to seek the same variance, which if granted would then add to the change to the character of the street and, even more significantly, be a precedent for similar applications elsewhere in the Village.

Mrs. Celeste Correia, a Florida resident, owner of 22 South Dutcher Street, the next street east of Cottenet Street, by letter, did not object to the variance. Joyce C. Rowe, of 11 South Cottenet Street, by letter, objected to the variance. Pamela Mitchell, a neighbor

across the street, stated that she would have no objection to the variance provided it could be limited to the Raimondo residence and not serve as a precedent for other houses on the street or in the Village. Mr. Lustenberger pointed out that that would not be possible.

After review of all of the factors that the Board must take into account in denying or granting such a variance, the Board unanimously denied the variance.

There being no further business to come before the meeting, it was, upon motion duly made and seconded, unanimously adjourned.

George Rowe, Jr.