

**BOROUGH OF PARK RIDGE
PLANNING BOARD
MARCH 13, 2019
REGULAR MEETING MINUTES**

The Public Meeting of the Planning Board of the Borough of Park Ridge was held at Borough Hall on the above date.

Chairman Von Bradsky stated that the meeting was being held in accordance with the Open Public Meetings Act. He then asked everyone to stand and recite the Pledge of Allegiance.

Roll Call Board:

Chairman Peter Von Bradsky	Present
Mayor Keith Misciagna	Present
Ms. Jessica Mazzarella	Present
Councilman Robert Metzdorf	Present
Mr. Mark Bisanzo	Absent
Mr. Donald Browne	Present
Mr. Ray Mital	Present
Mr. Donald Schwamb	Present
Mr. Nick Triano	Present
Mr. Stephen Jobst	Present
Mr. David Fasola	Present

Also Present:

Mr. William Rupp	Board Attorney
Ms. Tonya Tardibuono	Board Secretary

Open to the public for non-agenda items

No members of the public wishing to speak.

Approval of Minutes

The joint special meeting minutes of February 11, 2019 were approved on a motion from Nick Triano, seconded by Councilman Metzdorf, and carried by all members eligible to vote.

The minutes of February 13, 2019 were approved on a motion from Nick Triano, seconded by Councilman Metzdorf, and carried by all members eligible to vote.

Open to the public for non-agenda items

No members of the public wishing to speak.

A Board discussion was had by all members present pertaining to communication and how the board and professionals can assist one another better.

Resolution #2019-5

APPLICATION #PB19-02

Michele Calderoni
178 Pascack Road
Block 1109 / Lot 3
R-15
Minor Subdivision

Some discussion was had on the buffer size that was permitted. Mayor Misciagna suggested that Chairman Von Bradsky sit with the Engineer Daniel Lee to discuss an appropriate buffer size. Mr. Brown pointed out that the resolution states a Shade Tree Commission when in fact it is a Shade Tree Committee. The changes will be made on the resolution.

A motion was made by Councilman Metzdorf to approve the resolution. The motion was seconded by Mr. Schwamb, and carried by roll call vote as follows:

Mayor Keith Misciagna	Yes
Councilman Robert Metzdorf	Yes
Ms. Jessica Mazzarella	Yes
Mr. Don Browne	Yes
Mr. Ray Mital	Yes
Mr. Donald Schwamb	Yes
Mr. Nick Triano	Yes
Mr. Stephen Jobst	Yes
Chairman Peter Von Bradsky	Yes

Board Discussion

AN ORDINANCE TO AMEND CHAPTER 87, ARTICLE XI OF THE CODE OF THE BOROUGH OF PARK RIDGE ENTITLED, "SUBDIVISION AND SITE PLAN REVIEW"

A Board discussion was had by all present members regarding amending the subdivision and site plan ordinance. Mr. Rupp summarized what the ordinance was and he commented that he compared it with the state statute. Mr. Brown questioned the phrase "The term of the maintenance guarantee shall be for a period not to exceed two years and shall automatically expire at the end of the established term." Mr. Rupp stated that it's statutory language verbatim.

The Board was in favor of amending the proposed ordinance.

A motion was made by Mr. Mital to approve the resolution to amend the ordinance, seconded by Councilman Metzdorf, and carried by all.

Ms. Tardibuono made an announcement that all financial disclosures from 2018 are past due and if not completed by this week fines will be imposed. A couple members commented that they never received any disclosures at all, but joined the board later. Ms. Tardibuono will look into that matter.

Chairman Von Bradsky asked if Hornrock Properties was on the agenda for the March Zoning Board of Adjustment. Ms. Tardibuono stated that Hornrock Properties requested to be placed on the April 16, 2019 Zoning Board of Adjustment agenda.

The meeting was adjourned on a motion from Councilman Metzdorf, seconded by Mr. Triano, and carried by all.

Respectfully Submitted,



Tonya Tardibuono

Resolution #2019-5
Application #19-02
PB 3-13-19

BOROUGH OF PARK RIDGE

PLANNING BOARD

RESOLUTION

* * * * *

WHEREAS, MICHELE CALDERONI (hereinafter referred to as "Applicant"), being the owner of premises known as 178 Pascack Road, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also being known as Lot 3 in Block 1109 on the Tax Assessment Map for the Borough of Park Ridge, applied to the PLANNING BOARD OF THE BOROUGH OF PARK RIDGE (hereinafter referred to as "BOARD"), seeking Minor Subdivision Approval in order to permit the subdivision of the subject premises into two separate lots, together with lot width and lot frontage variances; and

WHEREAS, the BOARD held a hearing in connection with the application, upon due notice as required by law, on February 13, 2019; and

WHEREAS, various documents were marked into evidence at the hearings held in connection with the Application, as more particularly set forth an Exhibit A, annexed hereto and made part hereof; and

WHEREAS, the BOARD has carefully considered the application and all evidence and testimony submitted in connection therewith;

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING BOARD OF THE BOROUGH OF PARK RIDGE that the BOARD hereby makes the following findings of fact:

1. The existing lot is located in the R-15 single family residential zoning district and is currently improved with a non-conforming 2 ½ story two- family residential dwelling containing 2,212 square feet of floor area (maximum of 4,250 permitted), with a floor

area ratio of 6.61% (maximum of 25% permitted), building coverage of 1,980 sq. ft. (5.9%) (maximum of 20% permitted), an impervious surface coverage of 5,390 sq. ft. (16.1%) (maximum of 35% permitted), a dwelling width of 44.3 feet + (31.1%) (maximum of 65% permitted) and an average height of 32 feet.

2. The subject property is an irregular lot containing 33,441 square feet (15,000 sq. ft. required), having a lot width at the setback line of 142.43 feet (100 feet required), a street frontage along Pascack Road of 137.54 feet (75 feet required) and a lot depth of 224.95 feet (150 feet required). The existing two family house has a front yard setback from Pascack Road of 62.4 feet (30 feet required), a rear yard setback of 143.1 feet (45 feet required) and side yard setbacks of 18 feet and 85.6 feet (18 feet required).
3. The Applicant proposes to subdivide the existing lot into two lots. New lot 3.01 would contain 15,771 square feet, with a lot width of 68.77 (variance required), a street frontage of 68.77 feet (variance required), and a lot depth of 224.95 feet. New lot 3.02 would contain 17,670 square feet, with a lot width of 73.66 feet (variance required), a street frontage of 68.77 feet (variance required), and a lot depth of 239.77 feet.
4. The Applicant proposes to demolish the existing 2 ½ story frame two family dwelling and construct a new single family home on each of Lots 3.01 and 3.02 which would comply with all yard setbacks, building and impervious surface coverage and floor area ratio requirements within the R-15 Zoning District.
5. The proposed house on proposed lot 3.01 would contain 3,272 square feet of floor area with a floor area ratio of 20.75% . It would have a front yard setback of 43.1 feet, a rear yard setback of 127.4 feet, and side yard setbacks of 19.0 and 19.9 feet. It would have a building width of 29.0 feet± (42.7%), a building coverage of 1,956 sf (12.2%),

an impervious surface coverage of 3,503 sf (22.2%) and an average building height of 27 feet.

6. The proposed house on proposed lot 3.02 would also contain 3,272 square feet of floor area with a floor area ratio of 18.5%. It would have a front yard setback of 59.1 feet, a rear yard setback of 142.3 feet, and side yard setbacks of 19.0 and 30.5 feet. It would have a building width of 29.0 feet± (38.8%), a building coverage of 1,956 sf (10.9%), an impervious surface coverage of 3,817 sf (21.6%) and an average building height of 27 feet.
7. The Applicant presented the testimony of Sean McClellan., a Licensed Engineer, who described the minor subdivision plan and testified as follows:
 - A. The subject property slopes from back to front
 - B. All existing structures will be removed, including the existing stairway along Pascack Road.
 - C. All building setbacks, building coverage, impervious surface coverage and F.A.R. limitations will be met.
 - D. Approximately 12 trees will be removed. As per the request of the Board, the Applicant shall provide a plan showing the locations of all trees and will identify those to be removed.
 - F. Storm water runoff will be completely captured through water retention systems.
 - G. He testified as to an analysis of surrounding lots within the R-15 zone. Seven out of 9 lots were non-conforming as to lot size and eight out of nine were substandard as to lot depth. Six out of 9 lots are substandard as to lot widths, ranging from 75 feet to 96 feet. All of the surrounding lots in the R-15 zone, however, comply with the lot

frontage requirements, ranging from 75 feet to 130 feet. The frontage and width of both of the proposed lots is less than any of the other surrounding lots in the R-15 zone.

8. The Applicant also presented the testimony of Joseph Bruno, Licensed Architect. Mr. Bruno described the proposed buildings and submitted a photo display of the subject property and surrounding properties. He testified that the existing home was built at the end of the 19th century, has many small rooms, limited closets, old heating and plumbing and in need of a lot of work. He opined that it was not economical to renovate the existing house. He further testified that from a zoning perspective, it is a better zoning alternative to eliminate a non-conforming two family use and replace it with two permitted single family dwellings. He further testified that the proposed subdivision and two new single family homes would further the zoning purposes by improving the housing stock
9. The Board received a report from the Board's Engineer, Daniel Lee, of Neglia Engineering Associates, dated January 22, 2019, which report was introduced into evidence and is hereby annexed. The Applicant shall be required to submit a Soil Moving Permit with associated plans indicating grading and drainage improvements for each parcel, together with percolation rates and the seasonally high water based on testing by the Applicant's Professional Engineer. The Applicant shall submit plans to Bergen County for their review and approval. Applicant's surveyor shall determine and show the current distance from the original right-of-way centerline to the current parcel right-of-way and the current right-of-way width.
10. The Board also received a report from the Board's Planner, Joseph H. Burgis of Burgis Associates, Inc., dated January 24, 2019, which report was introduced into evidence and is annexed hereto. The Applicant testified that the air conditioning units are not

located in the side yards but are rather located in the rear yard of each of the proposed single family homes, at least 15 feet from any side lot lines and not visible from the street. Mr. Burgis opined that the variances from the street frontage and lot width requirements may be granted under N.J.S.A. 40:55D-70c(1) due to the lot depth and lot width of the subject property.

11. The BOARD discussed screening along the rear property line (adjacent to Lot 2) and along the northern side property line (adjacent to Lot 9) of the subject property. The Applicant agreed to provide a non-disturbance easement for a buffer along the rear of the subject property (adjacent to Lot 2) up to 45 feet in depth and a buffer along the northern side of the property (adjacent to Lot 9) to preserve the existing trees subject to the review and approval of the BOARD's Engineer, of a form approved by the BOARD's Attorney and acceptable to the Borough of Park Ridge, and to record same at the expense of the Applicant.
12. The BOARD also received reports from the Fire Department, which requested an upgrade to the closest fire hydrant to meet the new standards, and the Public Works Department, which requested that:
 - A. The existing water service that supplies the existing dwelling must be physically disconnected out at the water main prior to demolition.
 - B. Two new 1 inch "K copper" services must be installed all the way from the water main into the two new dwellings as per the Park Ridge Water Department's standards.
 - C. The sewer line shall meet the Borough Code and shall be 4 inches from house to main. The existing sewer lateral must be disconnected prior to demolition. If the existing main to curb sewer lateral connection will be reused, it must be inspected with a video camera and an electronic thumb drive or DVD copy must be provided to the

Sewer Department. New sewer laterals must be installed as per Borough's Standard Specifications.

D. Installation of new electric services shall be coordinated through the Park Ridge Electric Department.

13. The BOARD finds and concludes that by reason of the area of the subject premises being more than twice the minimum lot size, the irregular shape thereof, and the lot depth being far in excess of the required lot depth, the strict application of the Zoning Ordinance as to lot width and street frontage will result in peculiar and exceptional practical difficulties to, and exceptional and undue hardship upon the Applicant. The BOARD further finds and concludes that the replacement of a non-conforming two-family dwelling with two new permitted one-family dwellings would advance the purposes of zoning as set forth in the Municipal Land Use Act and that the benefits from a the deviation from the zoning ordinance as to street frontage and lot width would far exceed any detriment.

14. With respect to the negative criteria, the BOARD finds, subject to the conditions hereinafter set forth, that the variances from lot width and street frontage can be granted without substantial detriment to the public good and without substantially impairing the intent and the purpose of the zone plan and zoning ordinance by reason that both proposed lots are in excess of the minimum lot size and that the proposed houses fully comply with the required yard setbacks, building coverage, floor area ratio, impervious surface coverage, height and building width.

15. The BOARD hereby adopts the following conditions:

- A. The Applicant shall not remove or damage any shade tree within the Public Right-of-Way of Pascack Road without the permission of the Borough of Park Ridge and the shade tree committee.
- B. The Applicant shall provide a plan showing the locations of all trees and will identify those to be removed and submit same to the BOARD's Engineer.
- C. The Applicant shall be required to submit a Soil Moving Permit with associated plans indicating grading and drainage improvements for each parcel, together with percolation rates and the seasonally high water based on testing by the Applicant's Professional Engineer at the time application is made to the building department.
- D. The Applicant shall submit plans to Bergen County for its review and approval. Applicant's surveyor shall determine and show the current distance from the original right-of-way centerline to the current parcel right-of-way and the current right-of-way width.
- E. Bergen County Soil Conservation District certification will be required at the time application is made to the building department.
- F. The Applicant shall provide the Borough of Park Ridge with a non-disturbance easement for a buffer along the rear of the subject property (adjacent to Lot 2) up to 45 feet in depth and a buffer along the northern side of the property (adjacent to Lot 9) to preserve the existing trees subject to the review and approval of the BOARD's Engineer, of a form approved by the BOARD's Attorney and acceptable to the Borough of Park Ridge, and to record same at the expense of the Applicant.
- G. The existing water service that supplies the existing dwelling must be physically disconnected out at the water main prior to demolition.

- H. Two new 1 inch "K copper" services must be installed all the way from the water main into the two new dwellings as per the Park Ridge Water Department's standards.
- I. The sewer line shall meet the Borough Code and shall be 4 inches from house to main. The existing sewer lateral must be disconnected prior to demolition. If the existing main to curb sewer lateral connection will be reused, it must be inspected with a video camera and an electronic thumb drive or DVD copy must be provided to the Sewer Department. New sewer laterals must be installed as per Borough's Standard Specifications.
- J. Installation of new electric services shall be coordinated through the Park Ridge Electric Department.
- K. The Applicant shall not install air conditioning units in the side yards but rather shall locate them in the rear yard of each of the proposed single family homes, at least 15 feet from any side lot lines and not visible from the street.
- L. The Tax Lot and Block numbers shall be subject to the approval of the Borough's Tax Office.
- M. Approval shall be conditioned upon timely receipt of a favorable report on the application by the Bergen County planning Board or approval by the Bergen County Planning Board as a result of its failure to act within the required time period.
- N. Approval shall be further conditioned upon the Applicant filing with the Bergen County recording office, the Municipal Engineer and the Municipal Tax Assessor, a plat in conformity with this resolution of approval and the Map Filing Law (N.J.S.A. 46:23-9-9 et seq.), or a deed clearly describing the approved minor subdivision within the time period set forth in N.J.S.A. 40:55D-47.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING BOARD OF THE BOROUGH OF PARK RIDGE, by virtue of the foregoing, pursuant to N.J.S.A. 40:55D-70(c)(1) and (2), that the BOARD does hereby grant the Applicant's requested Minor Subdivision Approval, lot width variance and street frontage variances, as more particular set forth herein and as shown on the plans submitted, subject to all other applicable rules, regulations, ordinances and statutes of the Borough of Park Ridge, County of Bergen, State of New Jersey or any other governmental agency having jurisdiction over the same and the conditions hereinafter contained:

- A. The Applicant shall not remove or damage any shade tree within the Public Right-of-Way of Pascack Road without the permission of the Borough of Park Ridge and the shade tree committee.
- B. The Applicant shall provide a plan showing the locations of all trees and will identify those to be removed and submit same to the BOARD's Engineer.
- C. The Applicant shall be required to submit a Soil Moving Permit with associated plans indicating grading and drainage improvements for each parcel, together with percolation rates and the seasonally high water based on testing by the Applicant's Professional Engineer at the time application is made to the building department.
- D. The Applicant shall submit plans to Bergen County for its review and approval. Applicant's surveyor shall determine and show the current distance from the original right-of-way centerline to the current parcel right-of-way and the current right-of-way width.
- E. Bergen County Soil Conservation District certification will be required at the time application is made to the building department.
- F. The Applicant shall provide the Borough of Park Ridge with non-disturbance easement for a buffer along the rear of the subject property (adjacent to Lot 2) up to 45

feet in depth and a buffer along the northern side of the property (adjacent to Lot 9) to preserve the existing trees subject to the review and approval of the BOARD's Engineer, of a form approved by the BOARD's Attorney and acceptable to the Borough of Park Ridge, and to record same at the expense of the Applicant.

G. The existing water service that supplies the existing dwelling must be physically disconnected out at the water main prior to demolition.

H. Two new 1 inch "K copper" services must be installed all the way from the water main into the two new dwellings as per the Park Ridge Water Department's standards.

I. The sewer line shall meet the Borough Code and shall be 4 inches from house to main. The existing sewer lateral must be disconnected prior to demolition. If the existing main to curb sewer lateral connection will be reused, it must be inspected with a video camera and an electronic thumb drive or DVD copy must be provided to the Sewer Department. New sewer laterals must be installed as per Borough's Standard Specifications.

J. Installation of new electric services shall be coordinated through the Park Ridge Electric Department.

K. The Applicant shall not install air conditioning units in the side yards but rather shall locate them in the rear yard of each of the proposed single family homes, at least 15 feet from any side lot lines and not visible from the street.

L. The Tax Lot and Block numbers shall be subject to the approval of the Borough's Tax Office.

M. Approval shall be conditioned upon timely receipt of a favorable report on the application by the Bergen County planning Board or approval by the Bergen County Planning Board as a result of its failure to act within the required time period.

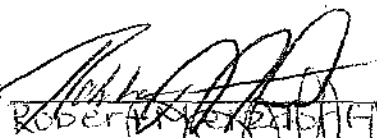
N. Approval shall be further conditioned upon th Applicant filing with the Bergen County recording office, the Municipal Engineer and the Municipal Tax Assessor, a plat in conformity with this resolution of approval and the Map Filing Law (N.J.S.A. 46:23-9-9 et seq.), or a deed clearly describing the approved minor subdivision within the time period set forth in N.J.S.A. 40:55D-47.

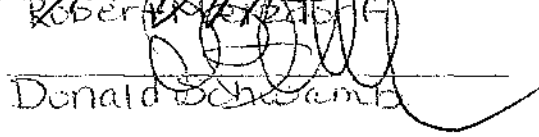
Ayes: 9

Nays: 0

Abstentions: 0

Dated: 3.13.19

Introduced by: 
ROBERT K. [unclear]

Seconded by: 
Donald Schwamb



Peter Von Bradsky Chairperson

EXHIBIT LIST

BOROUGH OF PARK RIDGE PLANNING BOARD

APPLICANT: PB 19-01
ADDRESS: 178 Pascack Road
BLOCK: 1109 LOT: 3
ZONE: R-15

EXHIBIT:	ITEM NO.	DATE:
Minor Subdivision Map 11/1/18	A1	12/20/18
Chart Neighboring Properties	A2	2/13/19
House Plans Revised 12/11/18	A3	12/20/18
Pictures of Properties & Surrounding Homes	A4	2/13/19
Application	1	12/20/18
Owners Certification		
Tax Certification		
Neglia Review Letter - Engineer	2	1/22/19
Burgis Review Letter - Planner	3	1/24/19
Review Letter - Fire Department / Fire Prevention	4	1/27/19
Review Letter - Utilities	5	1/30/19
Proof of Publication	6	1/25/19
Proof of Notice	7	1/25/19

**BOROUGH OF PARK RIDGE
ORDINANCE # 2019-**

**AN ORDINANCE TO AMEND CHAPTER 87, ARTICLE XI OF THE
CODE OF THE BOROUGH OF PARK RIDGE
ENTITLED, "SUBDIVISION AND SITE PLAN REVIEW"**

BE IT ORDAINED by the Mayor and Council of the Borough of Park Ridge, County of Bergen, State of New Jersey, as follows:

Chapter 87, Article XI of the Code of the Borough of Park Ridge, Subdivision and Site Plan Review, Sections §7-51 through 87-58 inclusive, be and are hereby repealed in their entirety and replaced by the following §87-51 through §87-58. §87-59 Remains as originally noted in Ordinance 80-10.

ARTICLE XI

Performance and Maintenance Guarantees.

§87-51. Developer's Agreement.

With respect to all applications for subdivision and site plan approval, the Borough of Park Ridge Planning Board shall condition any such approval upon the execution of a developer's agreement between the Borough of Park Ridge Planning Board (the "Board") and the applicant specifying, in part, off-site, on-tract or off-tract improvements, public improvements, bonding requirements, escrow requirements, other conditions imposed by the Borough and such other terms and conditions as the Borough deems appropriate. The Board may waive the requirement of a developer's agreement in appropriate circumstances. Unless so waived, no certificate of occupancy or building permit shall be issued respecting any application for development requiring subdivision or site plan approval unless the applicant has entered into a developer's agreement of a form specified herein.

§87-52. Furnishing of performance guarantees; improvements.

- A. Before filing of final subdivision plats or recording of minor subdivision deeds or as a condition of final site plan approval or as a condition to the issuance of a zoning permit pursuant to subsection d. of Section 52 of P.L. 1975, c. 291 (C.40:55D-65), or as a condition of approval of a permit update under the State Uniform Construction Code for the purpose of updating the name and address of the owner of property on a construction permit, the Borough shall require and shall accept in accordance with the standards set forth hereinbelow and regulations adopted pursuant to Section 1 of P.L. 1999, c. 68 (C. 40:55D-53a) for the purpose of assuring the installation and maintenance of certain on-tract improvements, the furnishing of a performance guarantee, and provision for a maintenance guarantee as set forth in this Section.

- (1) The developer shall furnish a performance guarantee in favor of the Borough in an amount not to exceed 120% of the cost of installation of only those improvements required by an approval or developer's agreement, ordinance, or regulation to be dedicated to a public entity, and that have not yet been installed, which cost shall be determined by the Borough Engineer, according to the method of calculation set forth in Section 15 of P.L. 1991, c. 256 (C. 40:55D-53.4), for the following improvements as shown on the approved plans or plat:
 - (a) Streets.
 - (b) Pavement.
 - (c) Gutters.
 - (d) Curbs.
 - (e) Sidewalks.
 - (f) Street lighting.
 - (g) Street trees.
 - (h) Surveyor's monuments, as shown on the final map and required by "the map filing law," P.L. 1960, c. 141 (C. 46:23-9.9 et seq.; repealed by Section 2 of P.L. 2011, C. 217) or N.J.S.A. 46:26B-1 through N.J.S.A. 46:26B-8.
 - (i) Water mains.
 - (j) Sanitary sewers.
 - (k) Community septic systems.
 - (l) Drainage structures.
 - m) Public improvements of open space; and
 - (n) Any grading necessitated by the preceding improvements.

- (2) The developer shall also furnish a performance guarantee to include, within an approved phase or section of a development, privately-owned perimeter buffer landscaping, as required by the Borough Code or imposed as a condition of approval. At a developer's option, a separate performance guarantee may be posted for the privately-held perimeter buffer landscaping.

- (3) The Borough Engineer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost estimate shall be appended to each performance guarantee posted by the obligor.

§87-52-1.

Safety and Stabilization.

- A. The developer shall also furnish to the Borough a "safety and stabilization guarantee" in favor of the Borough. At the developer's option, a "safety and stabilization guarantee" may be furnished either as a separate guarantee or as a line item of the performance guarantee. A "safety and stabilization guarantee" shall be available to the Borough solely for the purpose of returning property that has been

disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition, only in the circumstance that:

- (1) Site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least 60 consecutive days following such commencement for reasons other than force majeure.
- (2) Work has not recommenced within 30 days following the provision of written notice by the Borough to the developer of the Borough's intent to claim payment under the guarantee.
- (3) The Borough shall not provide notice of its intent to claim payment under a "safety and stabilization guarantee" until a period of at least 60 days has elapsed during which all work on the development has ceased for reasons other than force majeure. The Borough shall provide written notice to the developer by certified mail or other form of delivery providing evidence of receipt.
- (4) The amount of a "safety and stabilization guarantee" for a development with bonded improvements in an amount not exceeding \$100,000 shall be \$5,000.
- (5) The amount of a "safety and stabilization bond guarantee" for a development with bonded improvements exceeding \$100,000 shall be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows:
 - (a) \$5,000 for the first \$100,000 of bonded improvement costs, plus two and a half percent of bonded improvement costs in excess of \$100,000 up to \$1,000,000, plus
 - (b) One percent of bonded improvement costs in excess of \$1,000,000.
- (6) The Borough shall release a separate "safety and stabilization guarantee" to a developer upon the developer's furnishing of a performance guarantee which includes a line item for safety and stabilization in the amount required under this paragraph.
- (7) The Borough shall release a "safety and stabilization guarantee" upon the Borough Engineer's or other municipal official's (designated by ordinance) determination that the development of the project site has reached a point that the improvements installed are adequate to avoid any potential threat to public safety.

§87-52-2. Temporary Certificate of Occupancy; Guarantee.

- A. In the event that the developer shall seek a temporary certificate of occupancy for a development, unit, lot, building, or phase of development, as a condition of the issuance thereof, the developer shall furnish a separate guarantee, referred to herein as a "temporary certificate of occupancy guarantee," in favor of the Borough in an amount equal to 120% of the cost of installation of only those improvements or items which remain to be completed or installed under the terms of the temporary certificate of occupancy and which are required to be installed or completed as a condition precedent to the issuance of the permanent certificate of occupancy for the development, unit, lot, building or phase of development and which are not covered by an existing performance guarantee. Upon posting of a "temporary certificate of occupancy guarantee," all sums remaining under a performance guarantee previously furnished by the developer which relate to the development, unit, lot, building, or phase of development for which the temporary certificate of occupancy is sought, shall be released. The scope and amount of the "temporary certificate of occupancy guarantee" shall be determined by the Borough Engineer or such other municipal official designated by ordinance. The "temporary certificate of occupancy guarantee" shall be released by the Borough Engineer or other municipal official designated by ordinance upon the issuance of a permanent certificate of occupancy with regard to the development, unit, lot, building, or phase as to which the temporary certificate of occupancy relates.

§87-52-3. Acceptance of Performance Guarantee from Successor Developer.

- A. The Borough may accept a performance guarantee in favor of the municipality from a successor developer as a replacement for a performance guarantee that was previously furnished, pursuant to section 41 of P.L. 1975, c.291 (C.40:55D-53), for the purpose of assuring the installation of improvements. The Borough shall not accept a replacement performance guarantee without securing:
- (1) written confirmation from the new obligor that the intent of the new obligor is to furnish a replacement performance guarantee, relieving the predecessor obligor and surety, if any, of any obligation to install improvements, and
 - (2) written verification from the Borough engineer that the replacement performance guarantee is of an amount sufficient to cover the cost of the installation of improvements, but not to exceed 120% of the cost of the installation, which verification shall be determined consistent with section 41 of P.L. 1975, c.291 (C.40:55D-53).
- B. An approving authority shall notify the governing body whenever it accepts a replacement performance guarantee. Notice shall contain a copy of the written confirmation of the new obligor's intent to furnish a replacement performance guarantee and the municipal engineer's written verification of the sufficiency of the amount of that replacement performance guarantee.

- C. Within 30 days after receiving notice from the approving authority of its acceptance of a replacement performance guarantee, the governing body, by resolution, shall release the predecessor obligor from liability pursuant to its performance guarantee.

§87-53. Maintenance Guarantee.

- A. Prior to the release of a performance guarantee required pursuant to this Section, the developer shall post with the Borough a maintenance guarantee in an amount not to exceed 15% of the cost of the installation of the improvements which are being released.
 - (1) The developer shall post with the Borough, upon the inspection and issuance of final approval of the following private site improvements by the Borough Engineer, a maintenance guarantee in an amount not to exceed 15% of the cost of the installation of the following private site improvements, which cost shall be determined according to the method of calculation set forth in section 15 of P.L.1991, c.256 (C.40:55D-53.4):
 - (a) Stormwater management basins;
 - (b) In-flow and water quality structures within the basins; and
 - (c) The out-flow pipes and structures of the stormwater management system, if any.
 - (2) The term of the maintenance guarantee shall be for a period not to exceed two years and shall automatically expire at the end of the established term.

§87-54. Other Agencies; Utilities.

In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the Borough for such utilities or improvements.

§87-55. Regulations Concerning Performance Guarantees.

- A. The time allowed for installation of the bonded improvements for which the performance guarantee has been provided may be extended by the governing body by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed 120% of the cost of the installation, which cost shall be determined by the Borough Engineer according to the method of calculation set forth in section 15 of P.L. 1991, c. 256 (C. 40:55D-53.4) as of the time of the passage of the resolution.

- B. If the required bonded improvements are not completed or corrected in accordance with the performance guarantee, the obligor and surety, if any, shall be liable thereon to the Borough for the reasonable cost of the improvements not completed or corrected, and the Borough may either prior to or after the receipt of the proceeds thereof complete such improvements. Such completion or correction of improvements shall be subject to the public bidding requirements of the "Local Public Contracts Law," P.L. 1971, c. 198 (C. 40A:11-1 et seq.).
- C. Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the governing body in writing, by certified mail addressed in care of the Borough Clerk, that the Borough Engineer prepare, in accordance with the itemized cost estimate prepared by the Borough Engineer and appended to the performance guarantee pursuant to this Section, a list of all uncompleted or unsatisfactory completed bonded improvements. If such a request is made, the obligor shall send a copy of the request to the Borough Engineer. The request shall indicate which bonded improvements have been completed and which bonded improvements remain uncompleted in the judgment of the obligor. Thereupon the Borough Engineer shall inspect all bonded improvements covered by obligor's request and shall file a detailed list and report, in writing, with the governing body, and shall simultaneously send a copy thereof to the obligor not later than 45 days after receipt of the obligor's request.
- (1) The list prepared by the Borough Engineer shall state, in detail, with respect to each bonded improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed bonded improvement determined to be unsatisfactory. The report prepared by the Borough Engineer shall identify each bonded improvement determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guarantee relating to the completed and satisfactory bonded improvement, in accordance with the itemized cost estimate prepared by the Borough Engineer and appended to the performance guarantee pursuant to subsection a. of this section.
 - (2) The governing body, by resolution, shall either approve the bonded improvements determined to be complete and satisfactory by the Borough Engineer, or reject any or all of these bonded improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the Borough Engineer and appended to the performance guarantee pursuant to this Section. This resolution shall be adopted not later than 45 days after receipt of the list and report prepared by

the Borough Engineer. Upon adoption of the resolution by the governing body, the obligor shall be released from all liability pursuant to its performance guarantee with respect to those approved bonded improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that 30% of the amount of the total performance guarantee and "safety and stabilization guarantee" posted may be retained to ensure completion and acceptability of all improvements. The "safety and stabilization guarantee" shall be reduced by the same percentage as the performance guarantee is being reduced at the time of each performance guarantee reduction.

- (3) For the purpose of releasing the obligor from liability pursuant to its performance guarantee, the amount of the performance guarantee attributable to each approved bond improvement shall be reduced by the total amount for each such improvement, in accordance with the itemized cost estimate prepared by the Borough Engineer and appended to the performance guarantee pursuant to subsection a. of this section, including any contingency factor applied to the cost of installation. If the sum of the approved bonded improvements would exceed 70 percent of the total amount of the performance guarantee, then the Borough may retain 30 percent of the amount of the total performance guarantee and "safety and stabilization guarantee" to ensure completion and acceptability of all bonded improvements, as provided above, except that any amount of the performance guarantee attributable to bonded improvements for which a "temporary certificate of occupancy guarantee" has been posted shall be released from the performance guarantee even if such release would reduce the amount held by the Borough below 30 percent.
- (4) If the Borough Engineer fails to send or provide the list and report as requested by the obligor pursuant to this Section within 45 days from receipt of the request, the obligor may apply to the court in a summary manner for an order compelling the Borough Engineer to provide the list and report within a stated time and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.
- (5) If the governing body fails to approve or reject the bonded improvements determined by the Borough Engineer to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within 45 days from the receipt of the Borough Engineer's list and report, the obligor may apply to the court in a summary manner for an order compelling, within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the Borough Engineer and appended to the performance guarantee pursuant to this

Section; and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

- (6) In the event that the obligor has made a cash deposit with the Borough or approving authority as part of the performance guarantee, then any partial reduction granted in the performance guarantee pursuant to this subsection shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the performance guarantee, provided that if the developer has furnished a "safety and stabilization guarantee," the Borough may retain cash equal to the amount of the remaining "safety and stabilization guarantee."
- D. If any portion of the required bonded improvements is rejected, the approving authority may require the obligor to complete or correct such improvements and, upon completion or correction, the same procedure of notification, as set forth in this Section shall be followed.
- E. Nothing herein shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the governing body or the Borough Engineer.

§87-56. Regulations Concerning Inspection Fees.

- A. The obligor shall reimburse the Borough for reasonable inspection fees paid to the Borough Engineer for the foregoing inspection of improvements; which fees shall not exceed the sum of the amounts set forth hereinbelow. The Borough shall require the developer to post the inspection fees in escrow in an amount:
 - (1) Not to exceed, except for extraordinary circumstances, the greater \$500 or 5% of the cost of bonded improvements that are subject to a performance guarantee under this Section; and
 - (2) Not to exceed 5% of the cost of private site improvements that are not subject to a performance guarantee under this Section, which cost shall be determined pursuant to Section 15 of P.L. 1991, c. 256 (C. 40:55D-53.4).
- B. For those developments for which the inspection fees total less than \$10,000, fees may, at the option of the developer, be paid in two installments. The initial amount deposited in escrow by a developer shall be 50% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Borough Engineer for inspections, the developer shall deposit the remaining 50% of the inspection fees.
- C. For those developments for which the inspection fees are total \$10,000 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited in escrow by a developer shall be 25% of the inspection fees.

When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Borough Engineer for inspection, the developer shall make additional deposits of 25% of the inspection fees.

- D. If the Borough determines that the amount in escrow for the payment of inspection fees, as calculated hereinabove, is insufficient to cover the cost of additional required inspections, the developer shall deposit additional funds in escrow. In such instance, the Borough shall deliver to the developer a written inspection escrow deposit request, signed by the Borough Engineer, which informs the developer of the need for additional inspections, details the items or undertakings that require inspection, estimates the time required for those inspections, and estimates the cost of performing those inspections.

§87-57. Approved by Stages or Sections.

In the event that final approval is by stages or sections of development pursuant to subsection a. of section 29 of P.L.1975, c.291 (C.40:55D-38), the provisions of this Section shall be applied by stage or section.

§87-58. Dedication of Improvements to Borough.

To the extent that any of the improvements have been dedicated to the Borough on the subdivision plat or site plan, the governing body shall be deemed, upon the release of any performance guarantee required pursuant to subsection a. of this section, to accept dedication for public use of streets or roads and any other improvements made thereon according to site plans and subdivision plats approved by the approving authority, provided that such improvements have been inspected and have received final approval by the Borough Engineer.

Nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or Ordinance hereby repealed pursuant to this Ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed as to such inconsistencies only.

In the event that any word, phrase, clause, section or provision of this Ordinance is found by any Court of competent jurisdiction to be unenforceable, illegal or unconstitutional, such word, phrase, clause or provision shall be severable from the balance of this Ordinance and the remainder of this Ordinance shall remain in full force and effect.

§87-59.

Determination of Applicant's Share of Improvement.

Where a cash contribution or other financial distribution is determined, the following criteria shall be utilized in determining the proportionate share of such improvement to the applicant:

- A. Street widening, alignment, corrections, channelization of intersections construction of barriers, new or improved traffic signalization, signs, curbs, sidewalks, trees, utility improvements not covered elsewhere, the construction of new streets and other similar street or traffic improvements: The applicant's proportionate cost shall be in the ratio of the estimated peak-hour traffic generated by the proposed property or properties to the sum of the present deficiency in peak-hour traffic capacity of the present facility and the estimated peak-hour traffic generated by the proposed development. The ratio thus calculated shall be increased by 10% for contingencies.
- B. Water distribution facilities including the installation of new water mains, the extension of existing water mains, the relocation of such facilities and the installation of other appurtenances associated therewith: The applicant's proportionate cost shall be in the ratio of the estimated daily use of water from the property or properties in gallons per day for the existing system or subsystem and the estimated daily use of water for the proposed development. The ratio thus calculated shall be increased by 10% for contingencies.
- C. Sanitary sewage distribution facilities including installation, relocation or replacement of collector and intercepter sewers and the installation, relocation or replacement of other appurtenances associated therewith: The applicant's proportionate cost shall be in the ratio of the estimated daily flow in gallons to the sum of the present deficient capacity for the existing system or subsystem and the estimated daily flow from the proposed project or development. In the case where peak flow from the proposed development may occur during the peak flow period for the existing system, the ratio shall be the estimated peak flow rate from the proposed development in gallons per minute to the sum of the present peak flow deficiency in the existing system or subsystem and the estimated peak flow rate from the proposed development. The greater of the two ratios thus calculated shall be increased by 10% for contingencies and shall be the ratio used to determine the cost to the applicant.
- D. Stormwater and drainage improvements, including the installation, relocation or replacement of transmission lines, culverts, catch basins and the installation, relocation or replacement of other appurtenances associated therewith: The applicant's proportionate cost shall be in the ratio of the estimated peak surface runoff as proposed to be delivered into the existing system measured in cubic feet per second to the sum of the existing peak hour flow in cubic feet per second deficient for the existing system and the estimated peak flow as proposed to be delivered. The ratio thus calculated shall be increased by 10% for contingencies.

This Ordinance shall take effect upon passage and publication as provided by Law.

Council member	Motion	Second	Yes	No	Absent	Abstain	Recuse
Farinaro, Tom							
Mintz, Michael							
Capilli, Matt							
Epstein, Kelly							
Metzdorf, Robert							
Ferguson, John							

Adopted:

ATTEST:

BOROUGH OF PARK RIDGE

Magdalena Giandomenico, Borough Clerk

Keith Misciagna, Mayor