

Malki  
473 Windsor Road  
Block 814, Lot 10

**BOROUGH OF RIVER EDGE  
MUNICIPAL LAND USE BOARD**

**RESOLUTION**

**GRANTING VARIANCE RELIEF TO JAMES & CHARLENE MALKI FOR  
473 WINDSOR ROAD, RIVER EDGE, NJ  
BLOCK 814, LOT 10**

**WHEREAS**, the Municipal Land Use Board of the Borough of River Edge is a duly constituted body as authorized by statute with responsibility to supervise and be concerned with the orderly development and planning of the Borough, as authorized by the statutes and ordinances made and provided; and

**WHEREAS**, James Malki and Charlene Malki (the “Applicants”) filed an application with the Municipal Land Use Board of the Borough of River Edge (the “Board”) for property known as Block 814, Lot 10 on the tax map of the Borough of River Edge, located at 473 Windsor Road (the “Property”), for variance relief to construct two-story addition, two-car paver driveway, covered front porch and steps, stone patio, platform and steps, stormwater management improvements and paver walkways on the Property; and

**WHEREAS**, the Applicants are the owners of the Property; and

**WHEREAS**, the Board deemed the application to be complete on May 27, 2026 and a public hearing was on May 27, 2026 via hybrid meeting (in person and via Zoom video conference); and

**WHEREAS**, the Applicants were not represented by counsel; and

**WHEREAS**, Charlene Malki (“Mrs. Malki”) and James Malki (“Mr. Malki”) were present, in person, at the public hearing and were duly sworn to provide fact testimony in support of the application; and

**WHEREAS**, the Applicants’ Licensed Architect, Joseph J. Bruno, RA, AIA (“Mr. Bruno”), of 29 Pascack Road, Park Ridge, NJ 07656, was present, in person, at the public hearing and was duly sworn and qualified to provide expert testimony in support of the application; and

**WHEREAS**, the public was given notice of the application and had an opportunity to participate in the hearing and 1 individual appeared to be heard; and

**WHEREAS**, the Applicants submitted proof of notification, by mail or personal service at least 10 days prior to the date set forth for public hearing on all persons owning properties within 200 feet from the extreme limits of the subject property of the subject application, as set forth on a certified list of said owners furnished to the Applicants by the Borough Tax Assessor of the Borough of River Edge and provided proof of service of such notice in accordance with the Zoning Ordinance of the Borough of River Edge, as amended and supplemented, and the Municipal Land Use Law (the “MLUL”), N.J.S.A. 40:55D-1 to -163; and

Malki  
473 Windsor Road  
Block 814, Lot 10

**WHEREAS**, the Applicants submitted proof that a copy of said notification was published at least 10 days prior to the date set forth for public hearing in the official newspaper of the Borough of River Edge in accordance with the Zoning Ordinance of the Borough of River Edge as amended and supplemented and the MLUL; and

**WHEREAS**, all jurisdictional requirements of the applicable state statutes and local ordinance were met; and

**WHEREAS**, the Applicants submitted an application and the following supporting documents:

1. Architectural Plans, signed and sealed by Joseph J. Bruno, AIA of 29 Pascack Road, Park Ridge, NJ 07656, dated March 16, 2026, revised March 19, 2026, consisting of 3 sheets.
2. Property Survey, signed by Steven L. Koestner, P.E. & L.S., of Koestner Associates, Hackensack, NJ 07602, dated October 24, 2016, consisting of 1 sheet.

**WHEREAS**, the Applicants also submitted a Letter of Noncompliance issued by Stephen A. Depken, the Borough Construction Official / Zoning Officer, dated April 10, 2026; and

**WHEREAS**, the Borough Engineer, Robert L. Costa, P.E., P.P., & C.M.E. ("Mr. Costa"), issued a review letter on the application, dated May 27, 2026; and

**WHEREAS**, at the public hearing on the application, the Applicants submitted the following exhibits, which were marked into the record:

1. Exhibit A-1: Photo Exhibit, prepared by Joseph J. Bruno, AIA of 29 Pascack Road, Park Ridge, NJ 07656, dated May 27, 2026, consisting of 8 sheets (1 cover sheet, 7 photos).

**WHEREAS**, after carefully considering the evidence and testimony presented by the Applicants, as well as the Letter of Noncompliance issued by the Zoning Officer and the Engineering Review Letter issued by Mr. Costa, the Board has made the following factual findings and conclusions:

The Property

1. The Property contains approximately 6,000 square feet and is situated in the Residential (R-1) Zoning District. The Property is an undersized, rectangular-shaped interior lot that does not conform to the minimum lot width and lot area requirements of the R-1 Zone. The Property is bounded by Windsor Road to the east and single-family dwellings to the north, south and west. Existing site improvements include a two-and-a-half-story frame dwelling, vestibule, shed, paver patio, paver driveway, wall and vinyl fence.

2. The Property has pre-existing non-conforming conditions: (1) minimum lot area, where 7,500 square feet is required and 6,000 square feet is existing; (2) minimum lot width, where 75 feet is required and 60 feet is existing; and (3) maximum lot coverage (including yard amenities), where 35% is permitted and 36.41% is existing.

Malki  
473 Windsor Road  
Block 814, Lot 10

### The Proposal

3. The Applicants are proposing to construct two-story addition, two-car paver driveway, covered front porch and steps, stone patio, platform and steps, stormwater management improvements and paver walkways on the Property. The proposed improvements will require variance relief for building coverage, lot coverage (excluding yard amenities), lot coverage (including yard amenities) and front yard setback.

4. Based on the initial documents submitted by the Applicants and the testimony provided at the public hearing, the application required variance relief for the following: (1) maximum building coverage, where 25% is permitted and 30% is proposed; (2) maximum lot coverage (without yard amenities), where 30% is permitted and 40.96% is proposed; (3) maximum lot coverage (with yard amenities), where 35% is permitted and 45.46% is proposed; and (4) minimum front yard setback, where 30 feet is required and 23.12 feet is proposed.

### Public Hearing May 27, 2026

5. The Board reviewed the application and deemed it complete on May 27, 2026. The Board began conducting a public hearing on the application, in person and via Zoom, immediately following the work session.

6. The Board considered the Letter of Noncompliance issued by Mr. Depken, which indicated that the application proposed non-conforming coverage and front yard setback, which required variance relief.

7. Mr. & Mrs. Malki were duly sworn to provide testimony in support of the application.

8. The Board heard testimony from the Applicants' Architect, Mr. Bruno, who was duly sworn and qualified. Mr. Bruno introduced Exhibit A-1 and testified regarding the existing conditions on the Property, the proposed variances, and proposed improvements. Mr. Bruno testified that the existing dwelling on the Property is modest and the lot is undersized. The proposed improvements will expand living space for the property owners.

9. Mr. Bruno testified that the Property is improved by an existing 2-story colonial home. The Applicants are proposing to expand the existing home to the rear and left side and expand the second story. The architecture is American traditional with a mix of styles and textures.

10. Mr. Bruno explained the variances requested. The front yard setback relief is required for the covered front porch. The building and lot coverage relief is required due to the undersized lot. The variances requested are created due to the constraints of the lot, which is a hardship on the development of the Property. Mr. Bruno opined that the scale of the proposed improvements is modest and in line with the neighborhood.

Malki  
473 Windsor Road  
Block 814, Lot 10

11. Mr. Bruno testified that the Applicants would like to amend their application since the initial submission to reduce the coverage slightly. The platform and stairs to the patio will have open joints with pervious surface below. The patio will be constructed with permeable pavers. The driveway expansion will be constructed with permeable pavement or pavers. The reduced lot coverage excluding yard amenities is reduced to 36.2%. The reduced lot coverage including yard amenities is reduced to 38%.

12. The proposed variance relief is mitigated due to improvements to aesthetics and because runoff can be captured and directed to an underground stormwater management system. Further, the Applicants agreed to comply with additional recommendations and comments in the Board Engineer's report.

13. In response to questions from the Board, Mr. Bruno testified that the Applicants can establish support for the variance relief under the (c)(1) hardship criteria, due to the undersized lot. Mr. Bruno further opined that the Applicants can establish support for the variance relief under the (c)(2) balancing criteria, because the proposed improvements are within the scale of the neighborhood, the project enhances an old house and brings it into modern use, the front elevations enhance aesthetics, and the driveway expansion takes a car off the street.

14. In response to questions from the Board, Mr. Bruno testified that the existing vestibule at the front of the dwelling will remain and a new portico that's open on 3 sides will be constructed. The front stair platform will be improved to be code compliant. The front porch will be approximately 23.12 feet from the front property line, but the remainder of the dwelling, including the existing vestibule, is compliant with the front yard setback requirements.

15. In response to additional questions from the Board, Mr. Bruno testified that the topography of the Property is fairly flat, but gently slopes off to the rear. No significant regrading is proposed. The proposed patio is in a similar location to the existing patio.

16. In response to questions and concerns from the Board, Mr. Malki testified that the Property has not had water issues. There is a large gap and retaining wall at the rear of the Property.

17. Mr. Bruno testified that there is existing stormwater retention on site. The Applicants agreed to comply with the Borough Engineer's recommendations regarding stormwater management.

18. The Board held a discussion regarding the front vestibule and proposed portico.

19. The Board opened the meeting to the public and 1 individual appeared to be heard, as follows:

- a. Yaking Malena Adal of Windsor Road commented that she was concerned with cumulative impervious coverage and stormwater runoff from the increased home size.

20. Mr. Bruno and Mr. Costa confirmed that the stormwater management on the Property would adequately handle the increased runoff. Mr. Bruno confirmed that the front walkway would be

Malki  
473 Windsor Road  
Block 814, Lot 10

constructed with permeable pavers to further reduce the lot coverage and eliminate a variance for lot coverage including yard amenities.

21. The Board then entertained a motion to grant the application requesting variances with conditions, pursuant to the Borough of River Edge's Zoning Ordinance.

22. A motion to grant the amended application to construct two-story addition, two-car paver driveway, covered front porch and steps, stone patio, platform and steps, stormwater management improvements and paver walkways on the Property with variance relief for: (1) maximum building coverage of 30%; (2) maximum lot coverage (without yard amenities) of 31.2%; (3) minimum front yard setback to portico of 23.12 feet, as revised at the public hearing and as otherwise depicted in the drawings submitted by the Applicants, on the conditions that: (1) the rear patio, driveway expansion, and walkway will be constructed with permeable pavers or permeable pavement (material to be confirmed with the Borough Engineer); (2) the Applicants shall confirm that the platform to the patio will have open joints and will confirm material below with the Borough Engineer to ensure permeability and compliance with the Borough Code; (3) the Applicants shall comply with additional recommendations and comments in the Board Engineer's report ; (4) the Applicants shall coordinate stormwater management improvements with the Borough Engineer; (5) the Applicants would revise the zoning table to show the correct existing and proposed lot coverage calculations; (6) the Applicants shall comply with all other the Borough Code requirements regarding construction and future development on the Property; was made by Mr. Gibbons and seconded by Mr. Gautier. A vote was taken and the motion passed by a vote of 8 to 1.

#### Justification for Relief

23. The Board found good cause to grant the Applicants' request for bulk variance relief to construct two-story addition, two-car driveway, covered front porch and steps, rear patio, platform and steps, stormwater management improvements and paver walkways on the Property.

24. The Applicants sought a (c) bulk variance, of which there are two types a (c)(1) hardship variance and a (c)(2) benefit/detriment variance. To receive a (c)(1) variance, an Applicants must establish that the physical features, topographic features, or extraordinary and exceptional situation uniquely affecting the property or structures lawfully existing thereon necessitates the variance to relieve such hardship. To receive a (c)(2) variance, an Applicants must establish that the purpose of the MLUL would be advanced by the variance and the benefits of any variance would substantially outweigh any detriment. Further, to obtain a (c)(1) or (c)(2) variance, an Applicants must also prove that the relief sought would not be substantially detrimental to the public good and would not substantially impair the intent and purpose of the Borough's zone plan and Zoning Ordinance.

25. The Board found that the variance relief was appropriate due to the limited size of the proposed addition, the undersized lot area, the provision of rear yard amenities, the location of the existing

Malki  
473 Windsor Road  
Block 814, Lot 10

dwelling on the Property, the use of permeable pavers, improvements to aesthetics, and the Applicants' agreement to comply with the recommendations of the Board Engineer and willingness to work with the Borough Engineer regarding stormwater management, among other things.

26. The Board found that the proposed development and conditions agreed to by the Applicants would advance purpose (a) of the MLUL, to encourage appropriate development in a manner which will promote the public health, safety, morals and general welfare and purpose (i) of the MLUL, to promote a desirable visual environment.

27. In addition, the Board found that the grant of the variance would have a minimum impact, if any, on surrounding properties within the R-1 Zone because no individuals appeared in opposition to the application. The Board found that the Applicants adequately addressed the concerns raised by the 1 member of the public who commented on the application. The Applicants reduced the amount of impervious surfaces on the Property and further agreed to work with the Borough Engineer regarding drainage on the Property, as necessary.

28. The Board found that the requested variance relief may be granted pursuant to N.J.S.A. 40:55D-70(c)(1) and N.J.S.A. 40:55D-70(c)(2), for the reasons discussed herein. The Board found that due to the shallow lot width, undersized lot area, and location of existing lawful structures on the Property a strict application of the Zoning Ordinance would result in an exceptional practical difficulty and undue hardship to the Applicants. The Board further found that the purposes of the MLUL are advanced by the grant of the variance relief and that the benefits of the deviation substantially outweigh any detriments, and the variance relief can be granted without substantially impairing the intent and purpose of the Master Plan and/or Zoning Ordinance. The Applicants demonstrated a basis for the grant of the variance relief pursuant to N.J.S.A. 40:55D-70(c)(1), N.J.S.A. 40:55D-70(c)(2) and Kaufman v. Warren, 110 N.J. 551 (1998). The Applicants met the burden of proof. As aforesaid, the Board was satisfied the variance relief could be granted without any substantial detriment to the public good, as well as the zone plan and Zoning Ordinance of the Borough of River Edge. The Board determined the grant of the variance relief will not impact surrounding properties in the R-1 District.

**NOW THEREFORE, BE IT RESOLVED** by the Borough of River Edge Municipal Land Use Board, Bergen County, New Jersey, that the Applicants' request for variance relief, as described herein, be and is hereby approved for the reasons set forth herein and subject to the terms and conditions contained in the body of this Resolution, and as follows:

1. The Applicants shall post all required application fees and provide sufficient funds with the Borough to satisfy any deficiency in the Applicants' escrow account. No permits or certificates shall be issued, nor will any work be performed by Board professionals or staff at any time that the Applicants'

Malki  
473 Windsor Road  
Block 814, Lot 10

escrow account balance is not paid current, which shall be set forth by certification by the Board Clerk. The Applicants shall have a continuing duty to maintain a positive balance in all escrow accounts until all conditions have been satisfied and all charges have been paid.

2. Before any permits are applied for, it is the responsibility of the owner to see if there are any open permits or violations and to address and resolve those, if any, before a new permit may be issued. When applying for permits, a copy of the signed Resolution and Board-approved plans must accompany the permit application. No certificate of occupancy shall issue unless all inspections have been performed, passed, and all prior approvals have been satisfied, which includes compliance with all conditions imposed by the Board. Prior to the issuance of a certificate of occupancy, the Applicants shall satisfy all amounts due and owing to the Board's professionals.

3. Completion of the improvements and subsequent use of the Property shall be consistent with testimony offered at the public hearing, the plans and renderings submitted with the application, the findings and conclusions of the Board stated herein, and the conditions set forth in this Resolution.

4. The Board's approval is expressly subject to all State, County and Borough statutes, ordinances, rules, regulations and requirements affecting development in the Borough, County and State. The Applicants shall comply with any and all Federal, State, County and local laws, ordinances, codes, rules and regulations with respect to all aspects of the project, property and proposed use, and with all such applicable laws and codes, and shall be responsible for all costs and fees associated therewith. The Applicants shall comply with all laws and regulations related to affordable housing and/or the payment of the non-residential development fee, if applicable.

5. The Applicants' obtaining of approvals from all outside agencies shall be a prerequisite for issuance of a building permit, including but not limited to, obtaining written final approval from the Bergen County Planning Board, Bergen County Soil Conservation District, New Jersey Department of Environmental Protection, and the Borough of River Edge, if applicable. If other agency approvals substantially modify the approved plan, same will trigger a return to the Board.

6. The Applicants shall apply for and obtain a soil movement permit from the Borough, to the extent same may be required, and shall comply with the reasonable recommendations of the Borough Engineer with respect to same.

7. Revised plans, to the extent necessary, shall be submitted to the Board and the Board professionals for review and approval, to the extent applicable.

8. The Applicants are permitted to the following variances to construct two-story addition, two-car driveway expansion, covered front porch and steps, rear patio, platform and steps, stormwater management improvements and paver walkways on the Property, as described in the plans and renderings submitted in the application, revised on the record, and as set forth in this Resolution: (1) maximum building

Malki  
473 Windsor Road  
Block 814, Lot 10

coverage of 30%; (2) maximum lot coverage (without yard amenities) of 31.2%; (3) minimum front yard setback to portico of 23.12 feet. The variance relief is expressly conditioned upon the following:

- a. The rear patio, driveway expansion, and walkway will be constructed with permeable pavers or permeable pavement (material to be confirmed with the Borough Engineer).
  - b. The Applicants shall construct the platform to the patio with open joints and will confirm material below with the Borough Engineer to ensure permeability and compliance with the Borough Code.
  - c. The Applicants shall comply with additional recommendations and comments in the Board Engineer's report.
  - d. The Applicants shall coordinate stormwater management improvements with the Borough Engineer, as needed. The Applicants shall comply with the reasonable advice and recommendations of the Borough Engineer with respect to any drainage and stormwater management required on the Property, if necessary.
  - e. The Applicants shall revise the zoning table to show the correct existing and proposed lot coverage calculations.
  - f. The Applicants shall comply with all other the Borough Code requirements regarding construction and future development on the Property.
  - g. The Applicants' use of the Property shall conform to the requirements and conditions of any prior approvals issued by the Board and the Borough, which are not inconsistent with this Resolution.
9. To the extent required, the Applicants shall comply with all recommendations and requirements of the Board Planner and the Board Engineer, subject to the reasonable satisfaction and approval of same and the Board.
10. The Applicants shall comply with all comments and conditions imposed by the Board, the Board Planner and the Board Engineer, as stated on the record and as may be stated in this Resolution.
11. If the Applicants commences work on the project, same shall constitute acceptance of the above conditions.

Malki  
 473 Windsor Road  
 Block 814, Lot 10

**Vote on the Application**

<b><u>MEMBER</u></b>	<b><u>M</u></b>	<b><u>2D</u></b>	<b><u>YES</u></b>	<b><u>NO</u></b>	<b><u>RECUSE</u></b>	<b><u>ABSTAIN</u></b>	<b><u>ABSENT</u></b>
Mayor Thomas Papaleo			X				
Councilman Glass				X			
Chris Caslin			X				
Michael Krey			X				
Ryan Gibbons	X		X				
Eileen Boland			X				
Dario Chinigo							X
Joseph Gautier		X	X				
Jorge Salva			X				
Tracy Levine [Alternate #1]			X				
Vacant [Alternate #2]							

**Vote on the Memorialization**

<b><u>MEMBER</u></b>	<b><u>M</u></b>	<b><u>2D</u></b>	<b><u>YES</u></b>	<b><u>NO</u></b>	<b><u>ABSTAIN</u></b>	<b><u>ABSENT</u></b>	<b><u>INELG</u></b>
Mayor Thomas Papaleo			X				
Councilman Glass							X
Chris Caslin			X				
Michael Krey						X	
Ryan Gibbons						X	
Eileen Boland		X	X				
Dario Chinigo							X
Joseph Gautier	X		X				
Jorge Salva			X				
Tracy Levine [Alternate #1]			X				
Vacant [Alternate #2]							


Malki  
473 Windsor Road  
Block 814, Lot 10

**BE IT FURTHER RESOLVED** that the Resolution adopted on this 24th day of June, 2026 memorialized the action taken by the Board in accordance with N.J.S.A. 40:55D-10(g), as set forth above, at its May 27, 2026 meeting, and that **a copy of this Resolution be provided to the Applicants, the Borough Engineer, the Construction Code Official of the Borough of River Edge**, and a notice of this decision shall be published in the official newspaper of the Borough of River Edge.

  
\_\_\_\_\_  
Christopher Caslin, Chairman

**CERTIFICATION**

I, Joseph Gantier, Acting Secretary, do hereby certify that the above Resolution was adopted by the Board at its meeting held on June 24, 2026. This Resolution memorializes the Board's approval of this matter at its meeting held on May 27, 2026.

  
\_\_\_\_\_  
Joseph Gantier, Acting Secretary  
Borough of River Edge  
Municipal Land Use Board