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MEETING IS CALLED TO ORDER:

MR. LEVITON: Greetings everyone, thank you for your patience. I'm going to call the meeting to order and ask you to join me in the salute to the flag.

SALUTE TO THE FLAG

MR. LEVITON: Pursuant to section five of the Open Public Meetings Act, notice of this meeting of the Manalapan Township Zoning Board of Adjustment was sent and advertised in the Asbury Park Press. A copy of that notice was posted on the bulletin board where public notices are displayed in the municipal building. In addition a copy of this notice is and has been available to the public and is on file in the office of the municipal clerk. Accordingly this meeting is deemed in compliance with the Open Public Meetings Act. Roll call please.

ROLL CALL

MS. MOENCH: Mr. Gregowicz?

MR. GREGOWICZ: Here.

MS. MOENCH: Mr. DiTota? Not with us. Mr. Rosenthal?

MR. ROSENTHAL: Here.

MS. MOENCH: Mr. Schertz?

MR. SCHERTZ: Here.

MS. MOENCH: Mr. Shalika?

MR. SHALIKAR: Here.

MS. MOENCH: Mr. Weiss?

MR. WEISS: Here.

MS. MOENCH: Mr. Mantagas?

MR. MANTAGAS: Here.

MS. MOENCH: Mr. Pochopin?

1 MR. POCHOPIN: Here.
2
3 MS. MOENCH: Mr. Wechsler?
4
5 MR. WECHSLER: Here.
6
7 MS. MOENCH: Chair Leviton?
8
9 MR. LEVITON: Here. Is that everyone? We're all here.
10
11 MS. MOENCH: No.
12
13 MR. LEVITON: Oh we're missing Rob.
14
15 MS. MOENCH: Rob.
16
17 MR. LEVITON: Rob. Okay tonight's first order of
18 business to accept the minutes from October 20th. Will someone
19 on the list make the motion and then will someone second it
20 please?
21
22 MR. WECHSLER: I'll make the motion.
23
24 MR. LEVITON: Thank you Mr. Wechsler.
25
26 MR. SCHERTZ: Second.
27
28 MR. LEVITON: Thank you Mr. Schertz.
29
30 **ROLL CALL**
31
32 MS. MOENCH: Mr. Gregowicz?
33
34 MR. GREGOWICZ: Yes.
35
36 MS. MOENCH: Mr. Rosenthal?
37
38 MR. ROSENTHAL: Yes.
39
40 MS. MOENCH: Mr. Schertz?
41
42 MR. SCHERTZ: Yes.
43
44 MS. MOENCH: Mr. Shalika?
45
46 MR. SHALIKAR: Yes.
47
48 MS. MOENCH: Mr. Pochopin?

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MR. POCHOPIN: Yes.

MS. MOENCH: Mr. Wechsler?

MR. WECHSLER: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Yes. Next up I'm sure you all had an opportunity to review the resolutions. They were uploaded yesterday. First one to memorialize this evening is 2107, Mr. Glass.

MR. GLASS: Yeah so there were a plethora of variances and waivers granted. This was an application for use variance relief with preliminary and final site plan approval. I will try to do this as succinctly as possible. The variances was front yard set back relief, one hundred feet was required, 76 feet existed. The applicant proposed outdoor storage of materials and goods associated with the landscaping and nursery whereas no outdoor storage of materials and goods is permitted. The D use variance was for the applicant to continue the existing landscaping business which was not permitted in the zone. --- non-conforming. Fifty feet of buffering is required between residential properties. The applicant proposed less than such. No loading and/or commercial use is permitted to occur within the fifty foot buffer zone. The applicant proposed loading within the buffer zone. The G5 ground sign was required to be at least ten feet from the property line. The existing and proposed sign existed --- feet one foot, however that is actually eight to nine feet from roadway. Additionally the G5 ground sign is permitted to be no more than twenty square feet in size and no more than 2.5 feet above the ground. The proposed signage was 23 square feet in size and to be located four and a half feet off the ground. The waivers the applicants requested received waivers to provide landscaping and buffering adjacent to the pole barn. Parking spaces are required to be ten feet by twenty feet in size. The applicant proposed spaces nine by eighteen feet. The parking aisle which is required to be 24 feet in width, but was proposed between 18 and 34 feet wide. Curbing is required to be installed in the parking area. The applicant proposed no curbs in the parking areas as a result of the drainage. Pavement markings and signage are required whereas the applicant proposed no signage or markings on the gravel parking. Dumpsters are required to be enclosed. The applicant requested a waiver to permit the dumpsters to be located

1 without enclosure. No disturbances are permitted within the
2 stream corridor whereas there was an existing stone
3 disturbance in the stream corridor and then the application
4 was granted with four specific conditions of approval that the
5 dumpsters, although not an enclosure shall not be visible from
6 any roadway regardless of the location. The applicant agreed
7 to hold the township, its officials, employees, and
8 professionals harmless when the paving work performed without
9 prior approval on the property. The plans are going to be
10 noted as such. The applicant agreed to provide appropriate
11 buffering within the fifty foot buffer subject to review and
12 approval with the board's professionals and the applicant to
13 enter into an executed twenty foot wide drainage easement with
14 the township on terms to be entered into between them.

15

16 MR. LEVITON: You weren't kidding.

17

18 MR. GLASS: Yeah I saw that was going to be a
19 boatload.

20

21 MR. LEVITON: Are the copious notes that you take
22 sufficient to write the resolution or do you need to go back
23 and listen to it?

24

25 MR. GLASS: Depends on how complex the application
26 is.

27

28 MR. LEVITON: Nice job.

29

30 MR. GLASS: Thank you.

31

32 MR. LEVITON: Will someone move to memorialize and
33 then will someone second it please?

34

35 MR. GREGOWICZ: I'll set the motion to memorialize.

36

37 MR. LEVITON: Thank you Bob.

38

39 MR. SHALIKAR: I'll second that.

40

41 MR. LEVITON: And thank you Joshua.

42

43 **ROLL CALL**

44

45 MS. MOENCH: Mr. Gregowicz?

46

47 MR. GREGOWICZ: Yes.

48

1 MS. MOENCH: Mr. Rosenthal?

2

3 MR. ROSENTHAL: Yes.

4

5 MS. MOENCH: Mr. Schertz?

6

7 MR. SCHERTZ: Yes.

8

9 MS. MOENCH: Mr. Shalika?

10

11 MR. SHALIKAR: Yes.

12

13 MS. MOENCH: Mr. Pochopin?

14

15 MR. POCHOPIN: Yes.

16

17 MS. MOENCH: Mr. Wechsler?

18

19 MR. WECHSLER: Yes.

20

21 MS. MOENCH: Chair Leviton?

22

23 MR. LEVITON: Yes. The next one is 2124.

24

25 MR. GLASS: Thank you. This was an application for
26 bulk variance relief. There were five variances requested and
27 granted: a minimum of lot frontage two hundred feet required,
28 100.04 provided, lot width two hundred feet required. 100.04
29 provided, a minimum set back of a principal structure thirty-
30 five feet, 20.1 feet is proposed, a minimum improvable area
31 11,000 square feet, 9,439 was proposed and the minimum
32 improvable diameter seventy feet is required and thirty feet
33 was provided.

34

35 MR. LEVITON: Thank you sir. Motion and second?

36

37 MR. SCHERTZ: So moved.

38

39 MR. LEVITON: Thank you David.

40

41 MR. GREGOWICZ: Second.

42

43 MR. LEVITON: Thank you Bob.

44

45 **ROLL CALL**

46

47 MS. MOENCH: Mr. Gregowicz?

48

1 MR. GREGOWICZ: Yes.
2
3 MS. MOENCH: Mr. Rosenthal?
4
5 MR. ROSENTHAL: Yes.
6
7 MS. MOENCH: Mr. Schertz?
8
9 MR. SCHERTZ: Yes.
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11 MS. MOENCH: Mr. Shalika?
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13 MR. SHALIKAR: Yes.
14
15 MS. MOENCH: Mr. Pochopin?
16
17 MR. POCHOPIN: Yes.
18
19 MS. MOENCH: Mr. Wechsler?
20
21 MR. WECHSLER: Yes.
22
23 MS. MOENCH: Chair Leviton?
24
25 MR. LEVITON: Yes. Okay up first tonight our first
26 hearing is Suncrest Builders, LLC and from the law firm of
27 Heilbrunn Pape, Mr. Pape. Welcome back sir.
28
29 MR. PAPE: Thank you Mr. Chairman.
30
31 MR. LEVITON: And I see you've brought Mr. Ploskonka.
32 Welcome back sir.
33
34 MR. PLOSKONKA: Thank you Mr. Chairman.
35
36 MR. LEVITON: And I see Ms. Coffin. I'm confident
37 she'll be providing testimony as well.
38
39 MR. PAPE: Mr. Chairman, board members, board
40 professionals, and the public good evening all. My name is
41 Kenneth Pape with the firm of Heilbrunn Pape. I have both ---
42 the responsibility of representing your applicant Suncrest
43 Builders this evening. This is a request for variance relief o
44 construct one single-family home on a lot that is full size.
45 I'm going to have some interesting characteristics and
46 topography and soils that trigger a variance relief. If I may
47 before we begin a substantive presentation, could we confirm

1 on the record receiving our notices and confirm the board has
2 jurisdiction?

3

4 MR. LEVITON: Counselor?

5

6 MR. GLASS: Yes agreed. Notice was proper. I
7 understand there is going to be some commentary about the
8 floor area ratio variance so to the extent that's addressed,
9 notice is proper.

10

11 MR. LEVITON: Oh so if there was an issue with F.A.R.
12 and they need further variance then noticing is not in
13 evidence?

14

15 MR. GLASS: Correct.

16

17 MR. LEVITON: Okay.

18

19 MR. PAPE: So we'll begin by stipulating we will not
20 be requesting any F.A.R. relief.

21

22 MR. LEVITON: Sweet.

23

24 MR. PAPE: This is a 20,000 square foot lot on Pine
25 Brook. This is a 20,000 little bit more than 20,000 square
26 feet. It's in a zone that requires 20,000 square feet. All of
27 the dimensions of the lot meet or exceed the requirements of
28 the ordinance and the proposed residence on the house is
29 approximately three percent less than the building coverage
30 that's permitted. It's a little under twelve percent building
31 coverage where fifteen percent is required and all of the set
32 backs front, rear, and side are met. It's not a request to
33 build on an undersized lot or to build an over-intense
34 development. What we have is topography and soil conditions
35 that require variance relief and Mr. Ploskonka is here to
36 introduce the property to you and identify that variance
37 relief to you factually. He's also here to describe stormwater
38 management which is a characteristic of the property. It needs
39 to be managed. It can and will be managed by this design.
40 Should also be noted that the property has water service and
41 sewer service available in the street immediately in front of
42 the property. There are no flood hazards or wetlands and
43 there's no environmental constraints on the property. So with
44 that as a setting of the stage I'd ask if we could have Mr.
45 Ploskonka sworn and if you wish to hear his credentials.

46

47 MR. LEVITON: We, the board, is familiar with his
48 credentials and accepts it.

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MR. GLASS: Please raise your right hand sir. Do you swear or affirm that the testimony you're about to provide is the truth, the whole truth and nothing but the truth?

MR. PLOSKONKA: I do.

MR. GLASS: Thank you.

MR. PLOSKONKA: John Ploskonka P-L-O-S-K-O-N-K-A professional engineer Manalapan, New Jersey.

MR. PAPE: Mr. Ploskonka will present the plans and go through some of the technical comments that were raised by your staff and at the conclusion of his testimony after the board's examination Ms. Coffin will address the variance proofs. Mr. Ploskonka if I may if you could introduce the project, the development project to the board and give us an executive summary of our plans request ---

MR. PLOSKONKA: Sure thank you counselor. My client Suncrest Builders is the contract purchaser of this property on Pine Brook Road Block 14.01, Lot 6.02. The address is 151 Pine Brook Road and the client in 2017 and I was before this board and asked to build the house next door to the left. I think a couple members of the board are still here that heard that application in 2017 which was approved with almost the same variances we're asking for tonight. I do have some exhibits which show the aerial of the area, the house next door, and the property in question. I'd like to pass those out so it would be easier for the board members to understand where we're at.

MR. LEVITON: We don't have them so they'll need to be marked. Okay.

MR. PLOSKONKA: Janice you marked them right?

MR. LEVITON: Outstanding.

MR. PLOSKONKA: They're A1 through A4?

MS. MOENCH: Correct.

MR. LEVITON: Thank you Janice. While they're being distributed I'm going to ask Mr. Glass if he would swear in the board's engineer Mr. Boccanfuso.

1 MR. GLASS: Please raise your right hand. Do you
2 swear or affirm that the testimony you're about to provide is
3 the truth, the whole truth and nothing but the truth?
4

5 MR. BOCCANFUSO: Yes I do Brian Boccanfuso
6 professional engineer CME Associates.
7

8 MR. LEVITON: And welcome Mr. Boccanfuso.
9

10 MR. BOCCANFUSO: Thank you Chairman nice to be here.
11

12 MR. LEVITON: I'm glad to see you.
13

14 MR. PAPE: We will continue.
15

16 MR. LEVITON: Yes.
17

18 MR. PAPE: --- Mr. Ploskonka.
19

20 MR. PLOSKONKA: If we look at exhibit A which is the
21 first map which is an aerial. You can see Pine Brook Road in
22 the center of the map and you can see Portsmouth to the right
23 and if you go from Portsmouth the first house, or the corner
24 house, the second house is the house my client built about
25 four years ago and then the next is the empty lot where he
26 wants to build a very similar house. So that's the location of
27 the property on Pine Brook Road and if you go to exhibit B
28 that's a photograph of the existing house that was built two
29 doors in from --- and the intent is to build a similar home on
30 this lot. Exhibit C shows the current lot which is partially
31 wooded and just shows the trees on it and exhibit D shows the
32 existing house to the left and then part of the lot to the
33 right which is like the property line between the two lots. So
34 this is the intent as Mr. Pape pointed out, the lot is 20,000
35 square feet. It's in the R20 zone and its all R20 zoned in the
36 houses around it. It meets lot area, lot frontage, lot depth,
37 side yard set back, front yard set back, rear yard set back,
38 building coverage, and improvable area diameter. Those are the
39 zoning requirements that are met with this home, but there is
40 a variance for the minimum improvable area which is the area
41 between the front yard, the side yards, and the rear yard. It
42 should be 6,000 square feet under the ordinance, but its 5,516
43 square feet so it's a little bit short, but it's the same size
44 as the house, the lot next door that was approved and built
45 upon. Also the grades, you can't raise the grades by more than
46 three feet and this lot has a slope. It goes from Pine Brook
47 Road down six feet to the back of the property. So this is a
48 sloping lot from front to back and we're building the house so

1 that the house sets up close to the elevation of above the
2 existing road and then it drops off in the back with a walk
3 out type basement which fits this land very well. There is
4 another section of the ordinance and these sections were
5 adopted long after the R20 zone was established years ago and
6 they require that if a lot's less than 80,000 square feet you
7 then have to have fifty feet from any lot line and of course
8 we have 20,440 square feet and we can't meet that requirement
9 with a lot that's a hundred feet wide. You should have fifty
10 feet either site line you have no house so that's impractical.
11 It's meant for lots that are 80,000 square feet as opposed to
12 20,000 --- lot. There's a design waiver for the fact that the
13 water table here is about two feet deep where if it's less
14 than six feet deep you cannot, you need another labor for the
15 depth of the original --- to the --- for example and these
16 three variances and design waivers were the same that we had
17 on the lot next door and you can see the beautiful home that
18 was constructed on that property. As I said in 2017 the Board
19 approved 153 Pine Brook Road by resolution ZBE1730 and the
20 client wishes to build a very similar home, meet the F.A.R.
21 requirement which I think is about in this house is proposed
22 is about .12 where .15 is allowed so it's less than what's
23 required and they will have a walk out. The slope as I said
24 drops off from front to back so there's a walk out basement
25 and along the house is filled up to the front, filled up on
26 the sides, and then as you get to the back its open to walk
27 out which works with this grade, but the issue that was raised
28 earlier in Brian's report was do we have a basement or a
29 cellar. A basement occurs if more than half the basement is
30 above ground. A cellar is when most of the basement is below
31 ground so in this case we're about 50/50 and in my plans we
32 intend to make some finetuning so that we're definitely 51 to
33 55 percent below grade. So we meet the cellar requirement. We
34 don't have an F.A.R. situation. On the other items that Brian
35 brought up in his report on October 31st we agreed to make
36 those changes in terms of the concentration time for drainage.
37 We'll do some more calculations, make sure the pipe is big
38 enough to hold the water. We do have a pipe plan along the
39 left side of the house which is fifty feet on 24 inch pipe
40 coarse with stones underneath it and this takes the excess
41 water from the site into the ground. Then we'll provide
42 additional spot elevations that he asked for and construction
43 details. Some discharge will be provided and the zone table
44 shows sixty foot front set back. The house is set back at 75
45 feet because the zone requires sixty feet there's some major
46 road is another requirement to push the house back to 75 feet
47 which is one of the reasons why we're a little bit short on
48 the improvable area because most lots in the zone are sixty

1 foot back and you meet the requirement. If we need --- soil
2 we'll get a Freehold Soil permit and I think that covers most
3 of my testimony. Just to point out that this is a vacant lot
4 that's going to be well maintained and well built by my client
5 who has built probably a hundred houses in town.

6

7 MR. PAPE: Mr. Ploskonka if I may, I made statements
8 but I can't testify, water is in the street and available?

9

10 MR. PLOSKONKA: City water and city sewer is
11 available in Pine Brook Road.

12

13 MR. PAPE: And no wetlands, no flood hazards?

14

15 MR. PLOSKONKA: No wetlands, not flood hazards.

16

17 MR. PAPE: There's comments in Mr. Boccanfuso's
18 letter where he identifies some modifications to the
19 stormwater design that you presented for his review. Are you
20 comfortable advising both Mr. Boccanfuso and the board that
21 you can and you will make those modifications to his
22 satisfaction?

23

24 MR. PLOSKONKA: Absolutely.

25

26 MR. PAPE: And I know that the difference between, I
27 think you described it very well, the difference between a
28 cellar and a basement in zoning terms I don't think in ---
29 terms there's any difference, but in zoning terms the
30 difference between a cellar and basement is just how much of
31 it is below grade and how much is above. In order to qualify
32 as a cellar you need to have greater than fifty percent of it
33 below grade.

34

35 MR. PLOSKONKA: Correct.

36

37 MR. PAPE: Would you confirm that with minor
38 modifications to grading that you can achieve that condition.

39

40 MR. PLOSKONKA: Absolutely.

41

42 MR. PAPE: It's necessary for that proof to be before
43 this Board --- to avoid the --- F.A.R. Mr. Chair, board
44 members I have nothing further of John and he's available to
45 all for examination.

46

47 MR. LEVITON: Thank you Mr. Pape. Ordinarily I hold
48 questions in advance and go to Brian after Allison testifies,

1 but because it's creatively done and Mr. Ploskonka is thinking
2 outside the box let's go to the Board's Engineer Mr.
3 Boccanfuso right away and ask him is that satisfactory sir?
4 That the grading will render what they have in terms of zoning
5 cellar and therefore not require an F.A.R. variance?
6

7 MR. BOCCANFUSO: It is. Assuming that Mr. Ploskonka
8 can do that, I discussed it with him today. I believe that he
9 can. Of course we would have to see a plan and it would have
10 to comply, but their representation is that they will revise
11 that plan such that it creates as per the zoning definition a
12 cellar not a basement and I appreciate the clarification Mr.
13 Pape because it's not quite what people would expect.
14 Manalapan Township's ordinance has specific definitions for
15 cellar versus basement and they have far reaching impacts.
16 Particularly as it pertains to floor area ratio; it also
17 impacts the number of stories within the building. If a
18 basement were to be proposed per the township's definition
19 we'd be talking about perhaps a three-story building and they
20 may need an additional variance, but if in fact the design is
21 adjusted so that it meets the definition of a cellar not a
22 basement then that lowest level would not be considered a
23 story. So you would have a two-story structure. It would also
24 not be included in the floor area ratio calculations. Now that
25 isn't totally the end of the discussion with regard to the
26 floor area ratio and I just want to get some clarification
27 from Mr. Ploskonka and from Mr. Pape for the record. The bulk
28 table on the plot plan that was submitted to the board
29 indicated that the proposed floor area ratio was 0.5, but
30 directly above that where it indicates the requirement for
31 minimum habital floor area ratio, a minimum of 1,600 square
32 feet is required and 3,363 square feet is indicated, 3,363
33 calculates to an F.A.R. of .166 where .15 is required. So what
34 we've asked for is if there is an approval for detailed
35 calculations to be provided to confirm that the F.A.R. again
36 excluding that lowest level, assuming it's a cellar, complies
37 with the ordinance requirements and those will subject to
38 Nancy's review. John in your direct I think you indicated that
39 it's actually closer 0.12, did I hear you correctly?
40

41 MR. PLOSKONKA: That's correct.
42

43 MR. BOCCANFUSO: Okay so you've gone through the
44 exercise of calculating the F.A.R. per the township definition
45 and per Nancy's requirements?
46

47 MR. PLOSKONKA: Yeah Nancy has a specific requirement
48 and the ordinance talks about the area that doesn't include

1 cellars, garage space, utility rooms, screen porches,
2 accessory building space. So we took out the items that are
3 not required and then we gave that number to you at one point.

4

5 MR. BOCCANFUSO: Okay.

6

7 MR. PLOSKONKA: In the house plans that are submitted
8 for building permit has to have that number.

9

10 MR. BOCCANFUSO: Okay understood and I am fine with
11 that. Again Mr. Chairman it's the applicant's representation
12 if for whatever reason the numbers don't add up unfortunately
13 they'll be back here and we'll get another bite at the apple,
14 but they've indicated that it complies. It'll be subject to
15 Nancy's review. For what it's worth I did look at the
16 architectural plans and there are some --- There's a fairly
17 large split staircase. There's a fair number of closets, a
18 number of bathrooms which are excluded as well as an open air
19 entry foyer which will kind of reduce the usable floor area
20 ratio. So I believe them when they say that they can comply,
21 but the numbers will tell the story. --- we'll all find out.

22

23 MR. LEVITON: Thanks Brian. I also see Nancy nodding
24 in the affirmative. Do you have anything to add?

25

26 MS. DEFALCO: No.

27

28 MR. LEVITON: You're good.

29

30 MS. DEFALCO: Yes

31

32 MR. LEVITON: Okay.

33

34 MR. BOCCANFUSO: And Mr. Chairman I just have one or
35 two more additional things to add. Specifically with regard to
36 the relief that's necessary here. So as Mr. Ploskonka and Mr.
37 Pape indicated they do need the one variance for improvable
38 area where 5,516 square feet is provided on the lot 6,000
39 square feet is required. It's a function of the lot regardless
40 of the size of the house or improvements there on that would
41 not change. They also need a couple of design waivers from
42 Section 9583C. It's conservation of natural topography. It
43 largely relates to the elevation of the groundwater at this
44 site. They performed soil investigations on the property
45 determined that the depth is just about two feet from existing
46 grades at the seasonal high groundwater. The ordinance does
47 not permit you to build houses with basements where the depth
48 is less than six feet on smaller lots which in this case we

1 have two feet. Now the reason I believe that this ordinance
2 was adopted was to prevent smaller lots from being developed
3 with houses that have first floor elevations way above the
4 pre-existing grade and creating an unnatural appearing house.
5 The ordinance unfortunately does not really consider
6 conditions like this property where you have an existing slope
7 that pitches away from the road. So the fact that you have a
8 lot that slopes away from the road to some extent will
9 mitigate the conditions that the ordinance was trying to
10 prevent. To give you some real numbers so that the board can
11 kind of get an idea of whether or not the relief is
12 appropriate, the proposed dwelling's first floor is at
13 elevation roughly 90.1 and that's about 5.7 feet above the
14 existing grade at the street in front of the house. The
15 neighboring lot which Mr. Ploskonka described which was built
16 by the same applicant and is shown on exhibit B is roughly the
17 first floor of that dwelling is roughly 4.9 feet above the
18 existing grade at the street. So we're talking less than a
19 foot difference. If you look at exhibit B the proposed home is
20 approved and built as shown on the plan would be about a foot,
21 a little less than a foot, difference in separation from the
22 first floor to the grade at the front of the property. So
23 that's kind of to give the board a picture of what's being
24 proposed here. That's what we would be dealing with and it
25 would be up to you to determine whether or not that design
26 waiver is appropriate.

27

28 MR. LEVITON: Brian in his direct testimony Mr.
29 Ploskonka indicated that the improvable area was affected by
30 the set back and then he testified to the fact that they're
31 going to build up with fill on the back side and you read and
32 The Board is privy to the stormwater management report that
33 Mr. Ploskonka submitted. I'm concerned that there may be
34 issues with runoff to the rear because the property slopes to
35 the rear and I want to go to you for the record and for the
36 public. Do you have concerns about runoff to the rear of the
37 property based on the fact that it slopes and that the fill
38 has to come in to make the bottom floor a cellar and not a
39 basement?

40

41 MR. BOCCANFUSO: Well what I would say Mr. Chairman
42 is that I don't believe that the proposed development, well
43 let me back up a second. The existing conditions as I
44 mentioned are such that the runoff is currently going to the
45 rear, that's the existing condition. That's not going to
46 change except for that the township ordinance has a provision
47 in it where a developer cannot build a property such that it
48 increases the rate of runoff to the neighboring properties.

1 They have to provide stormwater management calculations and
2 mitigation to demonstrate that the post-construction
3 conditions will be better than the existing conditions from
4 stormwater management and drainage standpoint. Mr. Ploskonka's
5 office has performed those calculations and provided them to
6 our office. They're satisfactory, but for a couple of minor
7 comments that we had in our report of October 31st which Mr.
8 Ploskonka has indicated he can address and the way that
9 they're going to mitigate the stormwater impact is that the
10 roof leaders from this dwelling are going to be directed to a
11 subservice dry well that's in the front left of the property.
12 One of the things I pointed out in my review is that because
13 of the elevation change it's going to be challenging to get
14 the rear roof leaders to the front dry well which is at a
15 higher elevation. Mr. Ploskonka's indicated that they will run
16 them along the side of the house if they need to or do
17 whatever is necessary to make the elevations work. So all the
18 runoff from the impervious surface associated with the roof of
19 the dwelling will be conveyed to the dry well. In addition you
20 have the driveway. Now the way that the property is proposed
21 to be graded the driveway will run off towards Pine Brook Road
22 not towards the rear of the property. So based upon the
23 proposal the only runoff that's going to be directed towards
24 the rear of the property is pervious yard areas, lawn areas
25 which is akin to what's out there now. I understand that it is
26 wooded, but it's not impervious. There's no impervious
27 improvements and when the property's developed if it's built
28 as per plan that will be the case post construction as well.

29

30 MR. LEVITON: Thank you sir. We're going to go to the
31 board and then we'll go out to the public and then we'll allow
32 Mr. Pape to continue with his affirmative case, Mr. Wechsler.

33

34 MR. WECHSLER: No questions. I was just concerned
35 about the runoff to the rear of the property, but that was an
36 excellent answer so I think we're good on that part.

37

38 MR. LEVITON: Thank you sir, Mr. Pochopin?

39

40 MR. POCHOPIN: Same for me. The applicant and the
41 engineer clarified all of my concerns.

42

43 MR. LEVITON: Mr. Mantagas?

44

45 MR. MANTAGAS: I have one concern with the runoff and
46 the heavy rain situation. Since the water table is so high
47 when it gets saturated where is that extra water going to go?
48 It's just going to keep moving to the back and its going to go

1 to the rear? There's a house in the rear of the property right
2 Mr. Ploskonka?

3

4 MR. PLOSKONKA: There is a house behind this
5 property.

6

7 MR. MANTAGAS: Right.

8

9 MR. PLOSKONKA: And as Brian pointed out the
10 impervious area that we're creating right now, the driveway
11 and the house, that's been graded are all being taken into a
12 pipe that's 24 inch in diameter on a stone bed with a porous
13 pipe. So the water runs into that pipe and into the ground as
14 opposed to running over land to the rear. Only the backyard
15 runs back.

16

17 MR. MANTAGAS: So you feel that's sufficient when
18 that pipe was filled when the heavy rain and that pipe is
19 filled and it's not going to go anywhere it's going to rise to
20 the level of the ground?

21

22 MR. PLOSKONKA: It's going to meet the criteria
23 established by the town which is a 25 year storm.

24

25 MR. MANTAGAS: Okay.

26

27 MR. PLOSKONKA: We did this same drills four years
28 ago.

29

30 MR. MANTAGAS: But the property next door is the same
31 situation as the ---

32

33 MR. PLOSKONKA: Yeah.

34

35 MR. MANTAGAS: Okay.

36

37 MR. PLOSKONKA: We did the drill four years ago and
38 the board engineer asked us to do more than simply a dry well,
39 but to put in a pretty big system for stormwater management
40 which was done.

41

42 MR. MANTAGAS: And that's handling it pretty good?

43

44 MR. PLOSKONKA: Yes.

45

46 MR. MANTAGAS: That system? Okay thank you, no more
47 questions Mr. Chairman, thank you.

48

1 MR. LEVITON: Mr. Shalika?

2

3 MR. SHALIKAR: No questions, excellent testimony
4 thank you.

5

6 MR. LEVITON: Mr. Schertz?

7

8 MR. SCHERTZ: Can anyone tell me how high the
9 groundwater table is on the property?

10

11 MR. PLOSKONKA: It's approximately two feet deep and
12 --- so in the basement of the house is set two feet above the
13 groundwater table and so this basement is almost very similar
14 to what we did next door which is working well.

15

16 MR. SCHERTZ: I assume there'd be some sort of pump
17 system in the basement or cellar or whatever.

18

19 MR. PLOSKONKA: There's always a sump pump in the
20 basement even if it's dry.

21

22 MR. SCHERTZ: Floating cellar?

23

24 MR. PLOSKONKA: In the cellar ---

25

26 MR. SCHERTZ: It would be a floating cellar?

27

28 MR. PLOSKONKA: I had one on my house for fifty years
29 never used it, but it has a sump pump hole.

30

31 MR. SCHERTZ: Okay that's it thank you.

32

33 MR. LEVITON: Mr. Gregowicz?

34

35 MR. GREGOWICZ: As long as they're in compliance with
36 the township engineer's report and recommendation and findings
37 I have no questions.

38

39 MR. LEVITON: Adam?

40

41 MR. WEISS: Mr. Ploskonka you testified with regard
42 to the home that's next door and that that system meaning the
43 drainage system appears to be working pretty well over the
44 past four years. Is the system that's designed for this home
45 the same or similar to that which is next door or is it
46 different?

47

48 MR. PLOSKONKA: Very similar.

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MR. WEISS: What's the differences, if any?

MR. PLOSKONKA: I said we have 58 feet of 24 inch pipe perforated on a stone bed in the current design. The planter next door basically is the same system. It's 58 feet of 24 inch perforated pipe on stone.

MR. WEISS: So it sounds like it's almost exactly the same?

MR. PLOSKONKA: Yes.

MR. WEISS: Okay.

MR. PLOSKONKA: And it may be a bit bigger depending upon how we finetune the calculations to meet Brian's requests.

MR. WEISS: With regard to the, it's not really testimony, but the comments by Mr. Boccanfuso I think Brian you may have said that at some point or some part of the drainage runs towards the street whereas the rest of it runs backwards to the back of the home?

MR. BOCCANFUSO: In the existing condition everything runs towards the rear just about and the proposed condition the driveway will be pitched towards the roadway. So that's significant in that it's impervious coverage that will be directed towards Pine Brook Road.

MR. WEISS: Towards the street?

MR. BOCCANFUSO: Correct.

MR. WEISS: So then the question that I have for you is what if any effect would that have in a twenty-five year storm on Pine Brook Road?

MR. BOCCANFUSO: It would have some. I don't think it's something that would flood out Pine Brook Road given the amount of impervious coverage we're talking about.

MR. WEISS: But that's only one house on Pine Brook Road?

MR. BOCCANFUSO: Correct.

1 MR. WEISS: Compared to getting it from ---

2

3 MR. BOCCANFUSO: It's compared to Pine Brook Road
4 itself. I mean the pavement, the driveway that's proposed here
5 is a drop in the bucket, no pun intended, as compared to all
6 the impervious drainage area that's already going to the
7 drainage system. And if I can just back up the ordinance
8 requirement speaks specifically to reducing flows to
9 neighboring properties not so much the public --- Now if this
10 were what's known as a major stormwater development where
11 we're talking about a quarter acre of impervious coverage
12 there would be a whole different set of more restrictive
13 requirements that the applicant would have to meet. That's not
14 the case here.

15

16 MR. WEISS: Okay and you're comfortable then with the
17 drop in the bucket roadway flow in the twenty-five year storm
18 as?

19

20 MR. BOCCANFUSO: As it pertains to what's being
21 directed to Pine Brook Road?

22

23 MR. WEISS: Correct.

24

25 MR. BOCCANFUSO: Yes I am. I don't have any concerns
26 at all about the impact of the runoff towards the roadway
27 itself.

28

29 MR. WEISS: Okay thank you.

30

31 MR. LEVITON: Thank you Mr. Weiss. Those were good
32 questions and Brian for the benefit of maybe new board members
33 and the audience can you define a twenty-five year storm and
34 it was a major site plan and there was a stormwater management
35 problem with they'd probably have to build to a hundred year
36 storm. Maybe if you could talk about that a little bit.

37

38 MR. BOCCANFUSO: Sure so the twenty-five year storm
39 is what we as engineers refer to it as a twenty-five year
40 storm, but it's kind of a misnomer because it doesn't happen
41 every twenty-five years. It is statistically could happen once
42 every twenty-five years based upon historic rainfall data. It
43 could happen today and it could happen next week again. So
44 it's not every twenty-five year. It's a four percent annual
45 chance. In this part of the state I think the quantity of
46 rainfall we're talking about with the twenty-five year storm
47 is on the order of six or seven inches of rain in a twenty-
48 four hour period. So it is a substantial rainfall event. Now

1 there has been discussion about the twenty-five year storm,
2 but what I would tell you is that the ordinance requirement
3 does not specifically call for designs to meet the standard.
4 You have to analyze theoretical design storm events comparing
5 the existing conditions to the proposed conditions. A twenty-
6 five year storm is one of those events that you can analyze
7 and that's what Mr. Ploskonka's office has done. With the
8 previous application on the neighboring lot several years back
9 I believe the board did require Mr. Ploskonka to size the dry
10 well for the twenty-five year storm and one of the reasons for
11 that is the ordinance that is in place now was not in place
12 then. The stormwater management regulations have since changed
13 where we have a more specific requirement for these types of
14 developments. So I'm not sure if that answers your questions
15 or if that was the guidance or information you were looking
16 for.

17

18 MR. LEVITON: No that was great.

19

20 MR. BOCCANFUSO: --- a twenty-five year storm is a
21 theoretical storm that based upon historical data could happen
22 and there's a four percent annual chance any given year.

23

24 MR. LEVITON: That's very clearly articulated and it
25 was useful to many of us I'm confident and you know that it's
26 a four percent chance is blowing me away here. That's amazing.
27 Terry?

28

29 MR. ROSENTHAL: Yeah just one question. I'm looking
30 at exhibit C and I'm curious as to what percent of the lot is
31 wooded?

32

33 MR. PLOSKONKA: What was the question Ter?

34

35 MR. ROSENTHAL: I'm looking at C.

36

37 MR. PLOSKONKA: Right.

38

39 MR. ROSENTHAL: And it's completely wooded so I'm
40 curious as to what percent of the lot is wooded.

41

42 MR. PLOSKONKA: I don't have that information.

43

44 MR. ROSENTHAL: But is it like a hundred percent?

45

46 MR. PLOSKONKA: No. I think it's more like fifty
47 percent and we have to go to Shade Tree to see Shari Spiro.

48

1 MR. ROSENTHAL: Right.

2

3 MR. PLOSKONKA: And we have to then if we're taking
4 trees down may have to provide new trees to meet those that
5 were taken down depending upon the ordinance.

6

7 MR. ROSENTHAL: Do you know if you plan on taking all
8 of the trees down or just what's necessary?

9

10 MR. PLOSKONKA: We'll take it down as much as we need
11 to do to build the house and put the drainage in and put the
12 driveway in and obviously you want to have a backyard. You're
13 buying a house to have some use to the property so it's a half
14 acre lot. I'd say we're taking down probably more than fifty
15 or sixty percent of the trees, but we can meet.

16

17 MR. ROSENTHAL: If you're working with Shari that
18 covers my question so thank you.

19

20 MR. PLOSKONKA: You're welcome.

21

22 MR. LEVITON: The audience stirred when the subject
23 of trees came up which makes this an opportune time to go out
24 to the public and ask if there's anyone in attendance who
25 would like to cross examine the testimony that's been entered
26 onto the record this evening. Now would be the time. I see at
27 least one hand, two hands, three, four oh my goodness. Hello
28 everyone. We'll take everyone. You'll all get to be heard. If
29 you want to ask Mr. Ploskonka a question you'll come up and
30 take the microphone and in no particular order Ms. Coffin I
31 haven't forgotten about you. Mr. Pape is going to, we're just
32 going a little bit out of order today. Come up and take the
33 microphone on the corner of the dais here. Mr. Glass will
34 swear you in and we're going to get to hear everyone who wants
35 to be heard.

36

37 MS. RAKEBRANDT: I'm sorry --- right here?

38

39 MR. LEVITON: Yeah grab the microphone. These
40 proceedings are being recorded by a court reporter. Everything
41 is being transcribed. She's amazing ---

42

43 MS. RAKEBRANDT: Hi I'm Lillian Rakebrandt.

44

45 MR. GLASS: I'll have you just raise your right hand.

46

47 MS. RAKEBRANDT: Okay.

48

1 MR. GLASS: Do you swear or affirm that the testimony
2 you're about to provide is the truth, the whole truth, and
3 nothing but the truth?

4
5 MS. RAKEBRANDT: Yes.

6
7 MR. GLASS: And now please spell and state your name
8 and your address for the record.

9
10 MS. RAKEBRANDT: Okay Lillian L-I-L-L-I-A-N
11 Rakebrandt R-A-K-E-B-R-A-N-D-T and my address is 50 Birmingham
12 Drive right behind this house.

13
14 MR. LEVITON: Rakebrandt?

15
16 MS. RAKEBRANDT: Rakebrandt.

17
18 MR. LEVITON: With a B?

19
20 MS. RAKEBRANDT: B-R-A-N-D as in David-T. So I have
21 concerns about obviously drainage. We're in the house and even
22 during regular rain it already is filling from that back part.
23 Where our yard is you can see the water come up and build up
24 over there so I'm concerned that you're saying that it's not
25 going to that you're going to provide stormage for the water.
26 I don't see how it's possible because even now during regular
27 summer rain it's not so there's a problem there. I'm concerned
28 because I don't want all the water already, that's already
29 there coming even further into my property because I do have a
30 basement in my property. I'm also worried about privacy
31 fencing. When you say you're raising the land how far are you
32 doing that? That I'm a little confused by. We just had our
33 fences put in, are we going to maintain our privacy? Is it
34 going above our fencing? I'm not really sure what that means,
35 but the most important thing is the flooding. It's covered in
36 trees. It's not part trees. It's covered in trees. The whole
37 property has been covered and it slopes down so I know it's
38 taking in a lot of water so if that is removed that's going to
39 be a lot of --- Where is that water going? Those trees take in
40 a lot of the water so I'm very concerned about and I know all
41 of my neighbors are as well. We're really concerned about
42 flooding because Manalapan has a lot of flooding. We have a
43 lot of --- as it is. There's a lot of problem with flooding
44 and that one area actually we somehow avoided a lot of
45 flooding while our neighbors across the street are often
46 flooded. We haven't been on our side, but the yard in the back
47 does flood. So I'm concerned particularly about the house

1 because I want to make sure that there's no more water runoff
2 flowing in as it is we already have enough. So that's my ---
3

4 MR. LEVITON: Mr. Ploskonka before I let you address
5 anything that Ms. Rakebrandt said I just want to tell the
6 public that this public portion of the meeting is not supposed
7 to be a dialogue, but I do want to speak to you directly.
8

9 MS. RAKEBRANDT: Okay.
10

11 MR. LEVITON: About your concerns as they relate to
12 runoff. I want to ensure that you heard Mr. Boccanfuso. He
13 represents the board. He represents you personally. He
14 represents Manalapan Township and its interests. We pay him
15 and well that's not entirely true. The applicants pay part of
16 what he does as well and we thank him for that. But his, our
17 interests are being represented and he testified this evening.
18 Well he didn't testify, but he stated that the township
19 ordinance mandates that impervious improvements do not
20 exacerbate runoff; that they have to improve them. And when he
21 tells me that the property to the rear will not suffer any
22 worse than it already does and that conditions are going to
23 improve, I believe him. We all do. Brian's been with us
24 forever. We trust him and I encourage you too as well and I
25 take the time to say that because I saw the head nodding I
26 know that her concerns maybe some that you all share as well.
27 Mr. Ploskonka I will ask you to address Ms. Rakebrandt's
28 concerns regarding her privacy and the height of the home that
29 your client intends to build.
30

31 MR. PLOSKONKA: I'm pointing to the exhibit which is
32 the variance sketch for this application. It shows the home in
33 the center back 75 feet as per the ordinance. It shows the
34 driveway. It shows the house being built with a basement
35 elevation 80 and that first floor elevation 90 and it's about
36 as Brian pointed out it's about five feet above the street. So
37 all the water that's generated in this area of the home is
38 being taken underground into a pipe that's being placed
39 underground here, a twenty-four inch pipe, 58 feet long with
40 stone beds. So that instead of the water running back to you
41 or back in that direction, it goes back into the ground at
42 this level and the driveway drains to the street and runs down
43 to a storm drain on the street. So the ordinance requires us
44 to mitigate the construction to minimize any runoff so the
45 runoff that runs from the back of the house back towards the
46 rear will continue that way which is going to be grass or a
47 wooded area.
48

1 MR. LEVITON: Mr. Ploskonka she wants to know about
2 her privacy and what the construction of the proposed home
3 will do to the privacy that she currently enjoys.

4
5 MR. PLOSKONKA: I'm not sure exactly where you live
6 on Birmingham.

7
8 MS. RAKEBRANDT: I'm directly behind ---

9
10 MR. PLOSKONKA: Can you look on this map that's
11 exhibit A and show me?

12
13 MR. BOCCANFUSO: John she's lot nine, block 14.24.

14
15 MS. RAKEBRANDT: I'm right behind it directly.

16
17 MR. BOCCANFUSO: One of the ---

18
19 MR. PLOSKONKA: You're lot nine? So half of your lot
20 is here right?

21
22 MS. RAKEBRANDT: So if it's raised is that affecting?

23
24 MR. PLOSKONKA: We're raising here. We're not raising
25 here, no. We're not raising in the rear.

26
27 MS. RAKEBRANDT: Okay so because that's a lot of
28 money we spent to make sure we follow permits, the rules to
29 make sure that.

30
31 MR. PLOSKONKA: We understand you did a nice job back
32 there.

33
34 MR. LEVITON: And also I want to restate what some of
35 the discussion up here included from Mr. Rosenthal. He spoke
36 about the trees and the removal of the trees and he referenced
37 Shari and that would be Shari Spero, I know I butchered that
38 name, but she works for Manalapan Township in the capacity of
39 the Shade Tree Commission and anything that comes down from
40 the property will have to go through the Shade Tree Commission
41 and there will definitely be trees to replace what comes down
42 and I'm confident in the absence of that that Suncrest
43 Builders will have to pay money to the township, but that's
44 the way it works. Is there anyone else who wants to come up?
45 Sir in the back and then you right here and anyone else,
46 you'll all be invited I promise.

47

1 MR. GLASS: Are we going to have them testify or just
2 ask questions?

3
4 MR. LEVITON: So that's an interesting distinction.
5 The public portion is designed for you to ask questions about
6 the testimony that was entered onto the record and on the
7 advice of counsel I'm going to ask that you limit your remarks
8 to just questions about what has been entered on the record.
9 Go ahead sir. Oh you'll need to be sworn in.

10
11 MR. GLASS: So we'll start with you sir.

12
13 MR. LEVITON: Oh.

14
15 MR. GLASS: Yeah we'll just do one at a time, yeah.
16 Do you swear or affirm that the testimony you're about to
17 provide is the truth, the whole truth, and nothing but the
18 truth?

19
20 MR. QUINTANO: Yes sir.

21
22 MR. GLASS: And please spell and state your name and
23 your address for the record.

24
25 MR. QUINTANO: My name is Brennan Quintano ---

26
27 MS. MOENCH: If you could speak into the microphone.

28
29 MR. QUINTANO: Brennan Quintano B-R-E-N-N-A-N Q-U-I-
30 N-T-A-N-O and we're at 46 Birmingham Drive.

31
32 MR. LEVITON: Mr. Quintano hold that thought for a
33 second. Mr. Glass normally I'd take questions and I allow the
34 public to address the board too. So we're separating it now on
35 the advice of counsel, but if you want to address the board
36 and talk to us directly I'll offer you an opportunity to do
37 that later as well.

38
39 MR. GLASS: I mean it would just be swearing them in
40 or not.

41
42 MR. LEVITON: Yeah.

43
44 MR. GLASS: If they're all going to ask questions
45 swearing them in isn't so much necessary because there's no
46 testimony, but since he's sworn I have no problem.

47

1 MR. LEVITON: So then go ahead and testify if it
2 pleases you. You can talk to us or you can ask your questions.

3
4 MR. BOCCANFUSO: Mr. Chairman if I could ask you a
5 question before we proceed with that.

6
7 MR. LEVITON: Sure.

8
9 MR. BOCCANFUSO: Mr. Pape I see we have Ms. Coffin
10 here are you going to present planning testimony as well?

11
12 MR. PAPE: Yes sir.

13
14 MR. BOCCANFUSO: Okay if that's the case Mr. Chairman
15 maybe it would be appropriate to limit it to questions for now
16 and allow the public to make statements once the applicant has
17 concluded their affirmative case.

18
19 MR. LEVITON: See this is why I usually have an order
20 and I'm out of order and that's a problem. Ms. Coffin is the
21 planner for Suncrest Builders and she's going to testify to
22 put on the record the proofs, the positive and negative, that
23 needs to be established for the home to be developed and then
24 you may have further questions or you may wish to direct
25 comments to the board at a later time about that so I will on
26 the advice of Mr. Boccanfuso, thank you sir, ask you to limit
27 Mr. Quintano your remarks at this time to just questions for
28 Mr. Ploskonka.

29
30 MR. QUINTANO: Okay my two major real questions is
31 one again there's the drainage and I know it was addressed by
32 the engineer, but in the new house that went in we already see
33 a difference in the backyard water.

34
35 MR. LEVITON: You're testifying, ask of anything
36 you're unclear about or what you want further ---

37
38 MR. QUINTANO: He said that the drainage system that
39 was installed on the front house is similar to the house
40 that's going in.

41
42 MR. LEVITON: He said it's identical, yes.

43
44 MR. QUINTANO: Yeah I don't see that really working
45 because all of us are getting water in the backyard.

46
47 MR. LEVITON: You're testifying which I'm going to
48 allow here --- the difference and it's not that big a deal and

1 he was sworn in so. You know what Mr. Ploskonka there isn't
2 really a question there so I'm just going to ask our engineer.
3 Brian can you address Mr. Quintano's concern? He says that the
4 house that this board approved and gave variance relief to
5 four years ago continues to have runoff to the rear and since
6 the drainage system proposed on the new one is identical to
7 the old one, he's a little underwhelmed. What can we say to
8 allay those concerns?

9

10 MR. BOCCANFUSO: What I can say is that all I can do
11 as the township's engineer and board engineer is require the
12 applicant to comply with the township's regulations. I am
13 aware that there are drainage issues in this area and
14 Birmingham Drive, Portsmouth Drive there's a high groundwater
15 table clearly, that's been established.

16

17 MR. QUINTANO: Correct.

18

19 MR. BOCCANFUSO: In fact there are some properties on
20 Birmingham, not directly adjacent to this house, but in the
21 nearby area that have actually been bought out and will be
22 leveled or are in the process of going through what's known as
23 a blue acres buyout program because of the flooding issues in
24 the area. So I am well aware of the issues in the area, not
25 specifically on your property, but on your neighbor's
26 properties and in the general area. I can't speak to what
27 happened before and what happened now. All I can tell you is
28 from an engineering standpoint and mathematical standpoint
29 what's being done here is it complies with the ordinance
30 requirements and it will not increase runoff to the downstream
31 receiving areas. In fact it should improve conditions. You've
32 sworn yourself in. You're under oath. You represent that in
33 your observation of the conditions things have gotten worse
34 since the house was developed. I don't know how I can respond
35 to that except to say when this house was developed the board
36 imposed conditions on that applicant at that time. We ensured
37 that those conditions were complied with and they were. My
38 office observed the construction of the dry well. We ensured
39 that the house was built as per plan and as per the approval
40 and since then I know that they have put in a patio. I've
41 responded to complaints to one of your neighbors who lives on
42 the corner of Portsmouth and Pine Brook. She's probably here
43 and we'll probably hear from her as well because I know she
44 has some drainage issues in her yard as well. But based upon
45 my observation I'm not seeing that the development itself is
46 causing those issues or exacerbating any pre-existing issues.
47 I would also point out for Mr. Chairman and the members of the
48 board that were here for a variance application with design

1 waivers and none of that relief that's required would change
2 the situation from a drainage standpoint. If the board were to
3 deny the design waivers that are necessary for the separation
4 from the groundwater and the grading and so forth, the
5 applicant could simply come back with a design that did not
6 propose a basement that had the same exact impervious coverage
7 if not more and it wouldn't change anything from a drainage
8 standpoint. So I am fully aware of the drainage issues out
9 there. I know it's a concern of everybody here, but I can tell
10 you that but for the couple of technical comments that Mr.
11 Ploskonka has agreed to address the design does meet the
12 ordinance requirements and mathematically and based upon the
13 acceptable engineering standards it will actually reduce the
14 amount of runoff that's being directed.

15

16 MR. QUINTANO: I completely understand that the
17 design and the math to that design proves that it would work,
18 but sometimes the actual design don't work and that's all.
19 We'll leave it at that. I understand ---

20

21 MR. BOCCANFUSO: And the Board can absolutely take
22 that under advisement as they consider how to move forward
23 with the application whether or not to grant the relief for
24 it.

25

26 MR. QUINTANO: Right and then my other concern is the
27 trees because in the first house from my backyard I was able
28 to see a beautiful forest and when that house went in now all
29 those trees are gone and I see the back of that house. So now
30 we're going to take the next house and it's really a little
31 bit to the side where they got all those trees and now I'll be
32 staring at the back of this house. That's my only really
33 concerns.

34

35 MR. LEVITON: Thank you Mr. Quintano and thank you
36 Mr. Boccanfuso. Got to apply mathematics that are way over my
37 head.

38

39 MR. BOCCANFUSO: Thank you.

40

41 MR. PAPE: Mr. Chair could I respond too?

42

43 MR. LEVITON: Of course if it pleases you.

44

45 MR. PAPE: Thank you. So the applicant's
46 responsibility isn't to cure the existing flooding condition.
47 The applican't responsibility is very clear is that he cannot
48 exacerbate it and in fact has to reduce the amount of water

1 that is going in that direction and I think that its quite
2 clear I think to the board and perhaps to the public that by
3 capturing the water that all of the water that hits the house
4 into a drainage system and diverting it away from the rear
5 yard that's one of the elements. By pitching the front of the
6 property to the street is a second element. There's also
7 something else and Brian I'm going to ask if you could comment
8 on this. In 2017 we had not yet seen the 2021 D.E.P.
9 regulations on stormwater and one of the regulations that came
10 out in 2021 is that when there's a private stormwater system,
11 an operations and maintenance manual is to be created by the
12 engineer and the operations and maintenance manual is to be
13 recorded in a restricted covenant to run with the land so that
14 the property owner does know the responsibilities in
15 maintaining the system and I think that that's worth putting
16 on the record that we understand that an operations and
17 maintenance manual has to be created by Mr. Ploskonka for that
18 system that he designed and it has to be recored as a lien
19 against the property. So the property owner in perpetuity
20 understands the maintenance responsibilities that run with the
21 land.

22

23 MR. LEVITON: Thank you Mr. Pape.

24

25 MR. BOCCANFUSO: Thank you Mr. Pape and I would point
26 out that that's certainly appreciated. I think it's a good
27 idea. I would say it's not required because again this isn't a
28 major development, but if that's something that the applicant
29 is willing to do to perhaps give the board a little bit more
30 comfort, perhaps give the public a little bit more comfort. I
31 think it's a great idea and I mean we're talking about a dry
32 well here. It's not a complicated stormwater management system
33 like you would see on a big site plan so I think most
34 homeowners would be able to do the necessary maintenance and
35 inspection so if that's something that the applicant is
36 willing to do I think it's a great idea, but while Mr. Pape is
37 mostly right he's not right that it would apply to this
38 specific application because it's not a major development.

39

40 MR. WEISS: Can I ---

41

42 MR. LEVITON: Sure.

43

44 MR. WEISS: Mr. Boccanfuso is there, now that we've
45 heard the concerns of the residents that are either adjacent,
46 behind, or near ---

47

1 MR. LEVITON: But not fully, not fully. We know that
2 there's more.

3
4 MR. WEISS: Right, yes. Is there anything that could
5 be done in terms of perhaps additional dry wells that may slow
6 discharge and runoff? Not necessarily cure anything, but at
7 least slow things down so that the ground has the ability to
8 absorb the water at a slower rate so to speak or to say yeah
9 to slow it down.

10
11 MR. BOCCANFUSO: When you say slow it down do you
12 mean the slow down the rate at which it infiltrates into the
13 soil? Or the rate at which it leaves the property?

14
15 MR. WEISS: Leaves the property.

16
17 MR. BOCCANFUSO: Yeah that's actually the requirement
18 is that they have to slow down the rate at which the runoff
19 leaves the property and the way that this design will do it is
20 that all of the runoff will flow into the dry well and only
21 when or if that dry well's capacity is exceeded will it then
22 overflow and flow overland the cross grass area before it
23 actually reached the downstream receiving areas. The analysis
24 shows that they comply with the requirement to reduce the peak
25 flow. You basically have to analyze the existing condition.
26 You apply a certain mathematical formula to it based upon
27 design storms, the twenty-five year storm for example which we
28 spoke about before, and it gives you a peak rate of runoff, a
29 flow that's leaving the property. You then have to reduce that
30 flow. There's a lot of ways you can do it. A dry well is one
31 of them. That's the way the applicant has chosen to do here so
32 they are in effect doing what you're asking I think if I'm
33 understanding your question.

34
35 MR. WEISS: Well they may be doing what we're asking
36 and they may be doing it at the bare minimum that's required
37 as opposed to going above and beyond and being a good neighbor
38 to their neighbors or there soon-to-be neighbors that are
39 behind them and so while I understand that they may only be
40 required to provide a serviceable Chevrolet I think the
41 residents deserve more of a Cadillac in terms of a drainage
42 system to ensure that ---

43
44 MR. PAPE: That's what you got. It's what a twenty-
45 five year storm is. That's not the obligation. --- the bare
46 minimum.

47

1 MR. WEISS: Listen I'm not here to enter into a
2 colloquy with you Mr. Pape. I'm talking right now to the
3 engineer to see what if anything can be done to address the
4 concerns of the residents who took the time out here tonight
5 to come and express their concern with regard to your client's
6 application. So I'm trying to see if there's a middle ground
7 so to speak that would both address their concerns and your
8 client's concerns.

9
10 MR. PAPE: You don't want to hear my statement now
11 I'll wait, but that's what we did.

12
13 MR. BOCCANFUSO: As far as what the board can require
14 I would have to defer to our attorney on it. I mean I can
15 certainly review any calculations and whatever conditions the
16 board may impose given what's before the board here in the
17 form of one bulk variance and by my count three design
18 waivers, I don't know what reasonable conditions the board
19 could impose. Whether you could require them to fully detain
20 the twenty-five year storm with a hundred year storm and again
21 getting back to this twenty-five year storm I'm not sure that
22 that's what's been done here. So if that's what the
23 requirement is going to be perhaps an additional calculation
24 would be necessary. What I would point out is that there is
25 certainly room on the property to increase the dry well or
26 provide a second dry well similar to the one that's proposed
27 on say the right side, increasing the capacity. It's not going
28 to change the grading. What it would do is it would just
29 simply provide additional capacity so a heavier storm, more
30 rainfall would be detained before it would surcharge the
31 system and flow towards the rear of the property which is the
32 natural surface drainage pattern. So I don't know what we can
33 require as a condition, I'll defer to Dustin on that as well
34 as the applicant as far as what they're willing to do. But I
35 can certainly review anything, any condition that's imposed by
36 the board.

37
38 MR. WEISS: Thank you.

39
40 MR. LEVITON: Mr. Pape if there were to be a
41 stormwater management how-to, to whom would it be filed and
42 who would be responsible for that?

43
44 MR. PAPE: What the offer was, when the 2021
45 regulations came out from the D.E.P., they have provisions for
46 operations and maintenance manuals to be drafted by the design
47 engineer submitted to the town engineer. As Brian has pointed
48 out it applies to the larger projects. What we offer is that

1 owner manual written by Mr. Ploskonka's office, reviewed by
2 Mr. Boccanfuso's office then becomes a recording at the county
3 clerk. Just like any other recording at the county clerk it
4 runs with the land. The goal is when our client builds a
5 custom home for someone he tells them there's a dry well
6 system and he explains the dry well system and it's even in
7 his contract of sale that there's a dry well system, but over
8 time that piece of information doesn't follow the property.
9 But by recording the owner manual this was the logic of the
10 D.E.P. advanced that then follows the land in perpetuity. Each
11 future property owner and the attorney representing each
12 future property owner says there's an owner manual and these
13 are your responsibilities.

14

15 MR. LEVITON: Well I will accept that offer and Mr.
16 Glass would you make a note of that so that it's a condition?

17

18 MR. GLASS: I will.

19

20 MR. LEVITON: Thank you sir. Okay back to the public,
21 ma'am would you please come forward? Hi.

22

23 MS. PEDERSEN: Hello my name is Marlene Pedersen.

24

25 MR. GLASS: If you'd just please raise your right
26 hand. Do you swear or affirm that the testimony you're about
27 to provide is the truth, the whole truth, and nothing but the
28 truth?

29

30 MR. PEDERSEN: I do.

31

32 MR. GLASS: And please spell and state your name and
33 your address for the record.

34

35 MS. PEDERSEN: Marlene Pedersen P-E-D-E-R-S-E-N 2
36 Portsmouth Road Manalapan. Brian?

37

38 MR. BOCCANFUSO: Hello.

39

40 MS. PEDERSEN: Hi I'm the person that Brian refered
41 to before. We've had a few e-mails back and forth. We were
42 here about five years ago. Our western side of our property,
43 the entire western border shares the border with the house
44 that Suncred built five years ago.

45

46 MR. PLOSKONKA: You're here on the corner?

47

1 MS. PEDERSEN: Around the corner of Portsmouth and yup
2 that's us. That's the new house. So right here ---

3
4 MR. WEISS: Mr. Ploskonka or I'm sorry Ms. Pedersen
5 could you just tell us what block and lot you're looking at
6 since you're looking at the map.

7
8 MR. PLOSKONKA: Yeah if you look at the map the lady
9 is on the corner of Portsmouth and Pine Brook Road. So she's
10 right next to the house that was built five years ago.

11
12 MR. GLASS: And what map are you referring to?

13
14 MR. LEVITON: Which exhibit?

15
16 MR. GLASS: Yeah which exhibit?

17
18 MR. PLOSKONKA: We're talking about the aerial.

19
20 MR. GLASS: Oh the aerial okay.

21
22 MR. PLOSKONKA: Aerial, A1, exhibit A, A1.

23
24 MR. BOCCANFUSO: That's block 14.24, lot 1. It's on
25 the lefthand side of the exhibit that's on display right now.

26
27 MS. PEDERSEN: Alright so okay? So we were here five
28 years ago. We were concerned because we have some, a little
29 bit of water, accumulation on our property prior to the house
30 being built, the trees being taken down, what not and we were
31 concerned that that would increase and we heard a lot back
32 then of what we're hearing right now tonight and we were
33 assured that there would be no issue and I'm here to tell you
34 tonight I guess this is testimony there is an issue. We do
35 have more water. We have water it's basically on the side of
36 their property. I know it's also flowing to the back and its
37 affecting the people who live behind them, but it's also
38 affecting us on their side. We have a row of pine trees in
39 there. We never had water accumulate there and now we have
40 water accumulate so how can we trust that what you're saying
41 is going to be fact because what was said five years ago and
42 what we were told was not what happened and I want to add one
43 more thing.

44
45 MR. LEVITON: Sure.

46
47 MS. PEDERSEN: I'm concerned also about everybody now
48 puts in a pool and patio and that is going to cause more

1 problems so --- the people who built that house next to us did
2 add a pool and a fairly substantial porch in the back like a
3 deck and then the pool with the patio around the pool so
4 that's more area that now no longer drains. So we have not had
5 a big rain storm since they put all that in so we don't know
6 how it's going to impact us, but we're concerned about it and
7 as was mentioned before our neighborhood has had a lot of
8 issues. Where we are isn't too bad. We've kind of dodged a
9 bullet with all the creek flooding, but we don't want to have
10 additional problems. We don't want to start having the
11 problems that they have down on Birmingham and anyway so my
12 concern is and my question would be how can you guarantee for
13 us or how can we believe that what you're saying is going to
14 work when it didn't work five years ago and they also
15 increased the size of the dry well. All of this we talked
16 about and this was going to take care of it and I'm telling
17 you it did not work. I have photographs and ---

18

19 MR. LEVITON: Thank you Ms. Pedersen. Your question
20 was more of one posed for effect than really designed to get
21 information so instead of having the applicant's engineer
22 field the question I'm going to go to Mr. Boccanfuso who I
23 trust. When you ask how can I trust it let's defer to the guy
24 who represents us.

25

26 MS. PEDERSEN: Okay fair enough.

27

28 MR. BOCCANFUSO: Nice to meet you Ms. Pedersen.

29

30 MS. PEDERSEN: You too.

31

32 MR. BOCCANFUSO: We've spoken on the phone a number
33 of times and exchanged e-mails as Ms. Pedersen has indicated.
34 I mean it's the same response I gave to Mr. Quintano. Ms.
35 Pedersen's been sworn in. In her opinion the conditions have
36 gotten worse. I'm not there every day so I can't speak to
37 that. What I can say is that I have gone to the site in
38 response to the conversations and e-mails I've had with Ms.
39 Pedersen, investigate the complaints. I met with the owner of
40 the adjacent property number 153 after they've put in the
41 patio. There is an existing berm along the number 153
42 property. The previous development and the Pedersen property
43 which would intercept any surface runoff and direct it towards
44 the rear. Around the patio there is I'm sorry pervious areas
45 that collect runoff from that patio before they reach any
46 property line and the pool was reviewed and approved as well.
47 I think Ms. Pedersen indicated and correct me if I'm wrong

1 ma'am I thought you said that you haven't had any major issues
2 since the pool and patio went in, is that correct?

3

4 MS. PEDERSEN: Since the patio went in, yeah we
5 haven't had. Well it's all worse than it was, but I don't know
6 what the effect of the patio is yet.

7

8 MR. BOCCANFUSO: Okay.

9

10 MS. PEDERSEN: And we probably won't know 'til next
11 spring when we start getting ---

12

13 MR. BOCCANFUSO: Okay I mean the patio has been in
14 roughly two years.

15

16 MS. PEDERSEN: No I'm talking about what went around
17 the pool, the pool, and the what went around the pool yeah.

18

19 MR. BOCCANFUSO: Okay understood. So there's no
20 issues with hurricane which one did we have at the beginning
21 of October? Ike? Ian?

22

23 MR. LEVITON: The remnants of one of them, yeah.

24

25 MR. BOCCANFUSO: Yeah I don't remember which it was,
26 but I know that it was roughly three inches of rainfall.

27

28 MS. PEDERSEN: Right well we have as I said along the
29 side of that entire length of their property we have a whole
30 line of pine trees. We had Shari come out and look at it
31 because I was concerned that the water sitting at the base of
32 those trees which I never had before were going to damage the
33 trees. She said you should be okay they're tough trees, but
34 it's still just a lot of water that accumulates there.

35

36 MR. BOCCANFUSO: And is that on your side of the
37 property or the neighbor?

38

39 MS. PEDERSEN: Well the trees kind of, they're
40 actually our side of the property yeah.

41

42 MR. BOCCANFUSO: Okay the area ---

43

44 MS. PEDERSEN: The trees are our side of the
45 property, yeah.

46

47 MR. BOCCANFUSO: Okay the area where you say water is
48 collecting.

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MS. PEDERSEN: Yes.

MR. BOCCANFUSO: At the base is that on your side?

MS. PEDERSEN: Yes it is.

MR. BOCCANFUSO: Okay so I mean again it doesn't appear to me based upon the conditions I've observed on the site that there's any runoff from the neighboring property number 153 that's getting to the Pedersen property. Perhaps I'm missing something, but I mean the topography that's shown on the surveys that have been submitted which were prepared by licensed surveyors. My observation of the conditions in the field are such that I'm just not seeing it. Now I trust Ms. Pedersen that she believes there's an issue. All I can tell you is again as I responded to Mr. Quintano all I can do is require the applicant to comply with the ordinance requirements and whatever conditions this board imposes on them.

MR. LEVITON: Let me ask you about future development like a pool or a patio. The creation of more impervious material on the property does that change the conditions as they relate to runoff?

MR. BOCCANFUSO: It absolutely could for sure.

MR. LEVITON: And do the potential construction of such structures run through your office?

MR. BOCCANFUSO: Not all. Pools do, patios do not unless of course they trigger the need for some kind of variance like a set back or an impervious coverage exceedance, something like that. The patios generally would be handled by the zoning department. Pools do get reviewed by the engineering department. If the board is concerned with such provisions perhaps it would be appropriate to include a condition of any approval that any future improvements would be mitigated. It would be subject to an engineering review. I don't know if that's something that we could or could not do.

MR. LEVITON: Let's find out, counselor?

MR. GLASS: So the question is to whether well I mean if the applicant was willing to do that I mean you could, but actually you'd be binding future purchasers to the same issue so I don't really see how if the zoning ordinance says one

1 thing or the town's ordinances say a review is X, we can't
2 override the ordinance in that respect.

3

4 MR. LEVITON: Alright so that's a no. Brian a pool is
5 going to run through your office, but a deck won't or a patio
6 won't, what would the construction of a patio do to the
7 existing stormwater management plan that you've reviewed? Is
8 it going to overtax it? Will what's proposed be sufficient to
9 still mitigate the runoff, but improve what they currently see
10 at the site?

11

12 MR. BOCCANFUSO: It's all hypothetical because I
13 don't know what we're dealing with, but in all likelihood if a
14 future homeowner were to install a patio in the rear yard it
15 probably would not, the runoff from it, probably would not be
16 mitigated by what's proposed here just because it would bypass
17 the dry well. The only thing that's going to the dry well is
18 the roof runoff. The driveway is falling towards Pine Brook
19 Road, but a rear yard patio would likely be pitched away from
20 the dwelling. You don't want to pitch a patio towards your own
21 dwelling of course. Which means it would be pitched towards
22 the rear yard so it certainly could have the potential to
23 increase rate and volume of runoff that's directed off site.
24 Now of course whether that would be a perceptible increase or
25 significant increase would depend on the dimensions and
26 location and other parameters of the patio. If it were
27 constructed impermeable pavers there probably would be little
28 to no impact. If it were a tremendous patio that extended
29 almost all the way up to the rear yard line it would probably
30 be a significant impact and of course there's thousands of
31 possibilities in between so it would depend.

32

33 MR. LEVITON: Thank you sir. Thank you Ms. Pedersen.

34

35 MS. PEDERSEN: Okay thank you very much.

36

37 MR. LEVITON: You're welcome. Sir? Grab the mic and
38 Mr. Glass will swear you in.

39

40 MR. GLASS: Please raise your right hand. Do you
41 swear or affirm that the testimony you're about to provide is
42 the truth, the whole truth, and nothing but the truth?

43

44 MR. PEDERSEN: I do.

45

46 MR. GLASS: And please spell and state your name and
47 your address for the record.

48

1 MR. PEDERSEN: Its Lars L-A-R-S last name is Pedersen
2 P-E-D-E-R-S-E-N, sounds familiar. I'm actually not here to
3 testify. I think I'm here to ask a question. I think that was
4 the rules, but I'll see what I can do about that. I'm sorry I
5 don't know how to pronounce your name sir.

6
7 MR. PLOSKONKA: John.

8
9 MR. PEDERSEN: John?

10
11 MR. PLOSKONKA: Yeah.

12
13 MR. PEDERSEN: Okay John nice to meet you, thank you.
14 Would you say that the drainage system that was put in the
15 first house, the one that's directly west of our property and
16 our property being the same one that my wife just spoke about.

17
18 MR. PLOSKONKA: The corner property.

19
20 MR. PEDERSEN: Yes, would you classify that as Mr.
21 Weiss said a Cadillac system?

22
23 MR. PLOSKONKA: As a what?

24
25 MR. PEDERSEN: Cadillac system.

26
27 MR. PLOSKONKA: Excuse me I don't point to any cars
28 at this point, but I'll tell you that it meets the criteria of
29 the ordinance that was in place at the time and I know at the
30 time there was a lot of discussion about drainage and instead
31 of simply a dry well there was a much bigger system than would
32 normally be put in for any house we worked on in this town.

33
34 MR. PEDERSEN: Okay so that system, whatever we could
35 call it.

36
37 MR. PLOSKONKA: Right.

38
39 MR. PEDERSEN: Is meant to capture the water that's
40 draining off of the roof is that correct?

41
42 MR. PLOSKONKA: Yes.

43
44 MR. PEDERSEN: Any other water at all?

45
46 MR. PLOSKONKA: I believe it's primarily the roof,
47 but no other water.

48

1 MR. PEDERSEN: Okay so if a property is raised with
2 landfill, I suppose that's how you're going to do it, five
3 feet in this case, would that not cause the land to slope down
4 at some point?

5

6 MR. PLOSKONKA: The property next to you slopes down
7 similar to what our property slopes. I think your property
8 slopes from Pine Brook Road to the back probably about five or
9 six feet right?

10

11 MR. PEDERSEN: It's not my property what I'm talking
12 about. It's this property that we're talking about here
13 tonight.

14

15 MR. PLOSKONKA: --- if I'm at the property that was
16 built on or the property before the board tonight?

17

18 MR. PEDERSEN: Before the board tonight.

19

20 MR. PLOSKONKA: It slopes from five or six feet from
21 Pine Brook Road to the rear.

22

23 MR. PEDERSEN: It will?

24

25 MR. PLOSKONKA: It does now.

26

27 MR. PEDERSEN: Okay but you're going to put some
28 landfill in it and then it's going to be five feet about the
29 current grade is that correct?

30

31 MR. PLOSKONKA: Correct.

32

33 MR. PEDERSEN: Okay so where does the water that we
34 have to drain off of that extra five feet now elevation where
35 does that go?

36

37 MR. PLOSKONKA: The water ---

38

39 MR. PEDERSEN: Because it's not being captured by the
40 storm drain correct?

41

42 MR. PLOSKONKA: The storm drain captures the
43 impervious surface from the roof.

44

45 MR. PEDERSEN: I thought you just told me that it
46 didn't capture that water that it only captures the water from
47 the roof.

48

1 MR. PLOSKONKA: No let's try it again. The driveway
2 drains to the street not to the rear.

3
4 MR. PEDERSEN: Okay.

5
6 MR. PLOSKONKA: And then the roof, the entire roof
7 area, has roof leaders and they'll be tied in to this under
8 drain.

9
10 MR. PEDERSEN: I accept that.

11
12 MR. PLOSKONKA: And then the side properties will be
13 grass and run off normally.

14
15 MR. PEDERSEN: Okay but if that grassy area is five
16 feet above elevation the water and it slopes down the water's
17 naturally going to run to the adjacent property for example.

18
19 MR. PLOSKONKA: It's a natural grade. The whole
20 property now runs from Pine Brook Road to the rear and the
21 driveway will not run to the rear, it's impervious and the
22 roof will not run to the rear. It's going into underground
23 systems.

24
25 MR. PEDERSEN: Can you tell me where the storm drain
26 is located on Pine Brook?

27
28 MR. PLOSKONKA: I'm not sure. You probably know.

29
30 MR. PEDERSEN: I don't know actually, but I think
31 before you told us that's where the water was going to go to.

32
33 MR. PLOSKONKA: I know there's drainage on Pine Brook
34 Road, catch basins.

35
36 MR. PEDERSEN: I think I'm done.

37
38 MR. LEVITON: Thank you Mr. Pedersen. Brian does the
39 fact that their proposed home is going to be five feet above
40 current grade. I'm sorry let me rephrase the question. Will
41 the fact that the home is proposed to be developed five feet
42 above current grade and given that it's a narrow piece of
43 property is there going to be runoff that's not captured to
44 the adjacent properties?

45
46 MR. BOCCANFUSO: Yes. It will be from yard areas. The
47 elevation of the house itself wouldn't change much because the

1 roof runoff has been directed to the dry well as we've said a
2 number of times already. I think that's pretty clear.

3

4 MR. LEVITON: And is ---

5

6 MR. BOCCANFUSO: But the increase of slopes on the
7 property and the clearing of trees could increase rates and
8 volume of runoff. However that impact has been accounted for
9 in the analysis and mitigated by virtue of the dry well and
10 the fact that further mitigated by the fact that the driveway
11 is pitched towards the road and I know I've said a number of
12 times. I don't believe that the benefit of the driveway
13 pitching towards the road has been considered in the analysis.
14 I think that that's a further improvement for which the
15 applicant's engineer's analysis does not take credit. But to
16 answer your question the raising of the house, the elevation
17 of the house, it could be up on stilts. It makes no difference
18 from a drainage standpoint, but the changing of the topography
19 could have an impact. I would however point out that the rear
20 half or at least the rear third of the lot while tree clearing
21 is proposed there's virtually no proposed change in grade in
22 the rear yard. That's going to stay pretty much the same as it
23 is now, virtually no change just some adjustments to smooth
24 out the topography. All of the changes in grade are along the
25 sides of the proposed home and in the front yard.

26

27 MR. LEVITON: I appreciate that Brian. It's why we
28 pay the man. It's why we keep the man. Is there anyone else in
29 attendance who wants to come up and testify or cross-examine?
30 Okay seeing none I'll close public and I'll thank Mr.
31 Ploskonka for his testimony and for fielding questions. Mr.
32 Pape you can bring up Ms. Coffin.

33

34 MR. PAPE: Thank you. Mr. Chairman, board members
35 Allison Coffin is a professional planner and has the
36 responsibility of identifying the variance relief and the
37 proofs that this applicant must show the board in order to
38 earn them. Ms. Coffin could be sworn.

39

40 MR. GLASS: Please raise your right hand ma'am. Do
41 you swear or affirm that the testimony you're about to provide
42 is the truth, the whole truth and nothing but the truth?

43

44 MS. COFFIN: Yes I do.

45

46 MR. GLASS: Thank you.

47

1 MR. LEVITON: And she's testified before this board
2 on numerous occasions and we welcome her back.

3
4 MR. PAPE: For the record Mr. Chair.

5
6 MR. LEVITON: Yes.

7
8 MR. PAPE: --- expert in her field.

9
10 MR. LEVITON: We accept her credentials.

11
12 MR. PAPE: Thank you so much.

13
14 MR. LEVITON: Yes.

15
16 MR. PAPE: Ms. Coffin I'm going to ask if you could
17 in a narrative fashion identify how you prepared for this
18 evening. What it was that you examined and if you could take
19 us through the necessary proofs to support the variance relief
20 our client is asking for.

21
22 MS. COFFIN: Sure to prepare for tonight I reviewed
23 the application materials, I read Brian's report, I met with
24 the applicant and the applicant's engineer, and I visited the
25 property, also reviewed the ordinance in the master plan. The
26 property that we're looking at is a 20,440 square foot
27 rectangular lot with frontage on Pine Brook Road. The lot is
28 currently vacant. The surrounding area is developed with
29 single-family homes on similarly sized lots. The applicant is
30 proposing to develop this lot with a new single-family home
31 similar to the home that he constructed on the adjacent lot
32 five years ago. The new home is intended to fit with the
33 existing attractive homes in the neighborhood. The site is
34 located in the R20 zone district which permits single-family
35 dwellings on minimum 20,000 square foot lots. The proposed use
36 and the residential density are permitted. The application
37 requires variance relief, bulk variances. The first is for
38 minimum improvable area where 6,000 square feet is required
39 and the existing lot has a minimum improvable area of 5,516
40 square feet. This is an existing condition which is not
41 impacted by the development proposed and it will continue to
42 remain in place. Variance relief is also requested for the
43 changing grade of the natural contour of the land by more than
44 three feet unless it meets the conditions of Section 95-8.3C7
45 which they're not so we need variance relief to change the
46 grade by more than three feet and we also need variance relief
47 for Section 95-8.3C7 because the lot is not fully conforming.
48 We have that minimum improvable area. The lot is less than

1 80,000 square feet and the grading activity is set back less
2 than fifty feet from the lot line. So again we have three
3 variances that we're looking at tonight: the minimum
4 improvable area, and two that are related to grading. The
5 variance relief that's being requested are bulk or C variances
6 and there are two tests within the municipal land use law for
7 this type of variance. The first is commonly known as hardship
8 variance, the C1 standard and this is appropriate when a lot's
9 unique shape, existing topographic conditions, or a result of
10 a pre-existing structures creates a situation where the strict
11 application of the ordinance would result in undo hardship.
12 The second standard is the C2 standard and this is justified
13 when the purposes of the municipal land use law are advanced
14 by the requested variances and the benefits of these
15 deviations substantially outweigh the detriments. It's my
16 opinion that the variance relief you're looking at tonight can
17 be granted under the C1 hardship standard and also under the
18 C2 standard. So looking first at the C1 hardship standard that
19 applies most particularly to that minimum improvable area.
20 This is an existing condition impacting the existing lot. It's
21 not caused by any proposed site development or subdivision and
22 there is nothing that the applicant can do with this
23 application to remedy that situation. It just impacts the lot
24 as it is. Then looking at the C2 standard for the variances
25 for the grading, the proposed variances advance the purposes
26 of the municipal land use law with regard to purpose A
27 promoting public health, safety, morals, and general welfare
28 and purpose G providing space in an appropriate location for
29 residential use. The benefits of the variance in this case is
30 to allow for an appropriate development of this lot with an
31 attractive new home that has that cellar level which is a
32 typical, desirable, and expected feature for a new dwelling
33 and also to change the grading of the lot in the manner that
34 has that driveway runoff towards the roadway which improves
35 the existing drainage situation on the property. There is in
36 my opinion no detriment that results from these variances. The
37 proposed grade change will not result in any detriment to the
38 area. The home will be in keeping with the visual character of
39 the neighborhood and the site has been designed to improve
40 stormwater runoff including re-grading that driveway so it
41 drains towards the street not towards the rear. The variances
42 requested will not impair the intent and purpose of your
43 master plan or zoning ordinance. The use and intensity of use
44 is permitted and appropriate for this property. The applicant
45 is not asking for anything that is excessive in terms of
46 intensity of size of the structure. The existing lot is fully
47 conforming for size and dimensions. There's not set back or
48 coverage relief being requested and that indicates to me that

1 this home that's being proposed is not oversized for this
2 property. All relief is being driven by existing grading or
3 the environmental conditions that lead to that minimum
4 improvable area variance condition and the need to re-grade
5 the site to accommodate the appropriate home consistent with
6 the character of the neighborhood. There is also in my opinion
7 no detriment to the master plan or zoning ordinance that
8 results from these variances. So for those reasons it's my
9 opinion that positive reasons exist supporting the variances
10 and they can be granted without detriment to health, safety,
11 and general welfare to the public. The granting of the
12 variances would result in the improvement of the site in a
13 manner which is consistent with both the intended purpose of
14 your master plan and your development ordinance. Sorry my
15 lungs are not feeling so hot today.

16

17 MR. LEVITON: Take your time.

18

19 MS. COFFIN: I'm good. I'm done.

20

21 MR. LEVITON: Well thank you very much Ms. Coffin,
22 Mr. Pape?

23

24 MR. PAPE: I have no examination of Ms. Coffin. She's
25 addressed positive and negative and the master plan. The only
26 thing that would be left Mr. Chair is at the conclusion if I
27 had an opportunity to do a very brief ---

28

29 MR. LEVITON: You will sir, but first let's go to the
30 board and see if they have any questions for Ms. Coffin,
31 gentlemen? Seeing none then I'll ask the public if they want
32 to ask Ms. Coffin a question about her testimony. Seeing none
33 I will close ---

34

35 MR. GLASS: Just have a question over and this may
36 have been covered and if it was ---

37

38 MR. LEVITON: She did. We'll put on the record C1 and
39 C2.

40

41 MR. GLASS: This is not my usual schpeel in that
42 respect.

43

44 MR. LEVITON: Okay.

45

46 MR. GLASS: So as to the minimum improvable area I
47 understand 5,500 in essence is provided 6,000 is required. I
48 believe there was a representation earlier that the way we got

1 to those numbers is the 75 foot set back in essence. Is that
2 your testimony or was that testimony or did I make that up?
3

4 MS. COFFIN: I believe that's what our engineer
5 testified how that impacted the minimum improvable area.
6

7 MR. PLOSKONKA: The lot's a hundred foot wide and if
8 you brought the house forward to the sixty foot set back
9 that's normally required in the zone it would mean that's
10 fifteen times a hundred is 1,500 square feet. We're only short
11 a couple hundred feet in that improvable area. So the
12 improvable area would be greater than required in a normal
13 lot, but that's not something our 75 ---
14

15 MR. GLASS: Okay and then the lots were created well
16 before your client and the prior owner?
17

18 MR. PLOSKONKA: Before you were born.
19

20 MR. GLASS: Fair enough.
21

22 MS. COFFIN: I think before anybody thought of
23 minimum improvable area as a requirement.
24

25 MR. GLASS: Sorry?
26

27 MS. COFFIN: Before anyone thought of minimum
28 improvable area as a requirement.
29

30 MR. GLASS: Fair statement. Alright I have no further
31 questions thank you.
32

33 MR. LEVITON: Thank you Mr. Glass and I want to
34 discuss any concerns that you may have about granting the
35 variance relief that the applicant seeks. We'll start with
36 David.
37

38 MR. SCHERTZ: Brian the current topography of the
39 property has a five foot drop from front to rear is that
40 correct?
41

42 MR. BOCCANFUSO: I'm sorry was that question directed
43 to me?
44

45 MR. SCHERTZ: Yeah you yeah.
46

47 MR. BOCCANFUSO: Slightly more, roughly five feet.
48

1 MR. SCHERTZ: Roughly five.

2

3 MR. BOCCANFUSO: So about 84 and a quarter at the
4 street and 78 and a half at the very rear so a little over
5 five feet.

6

7 MR. SCHERTZ: Okay and the construction plan is to
8 increase the front part of the property by another five feet
9 to accommodate the cellar?

10

11 MR. BOCCANFUSO: Not exactly. The elevations on the
12 road will not change. The applicant's not proposing to change
13 the elevation at the very front of the property. What they're
14 proposing to do is to fill the middle portion of the property
15 and what that will do is it will allow for the driveway to
16 pitch towards the road. So the area where the driveway is
17 proposed is currently pitching away from the road. They will
18 fill it such that it will pitch towards the road. What it will
19 also do is fill the areas around the proposed foundation such
20 that they will have greater than fifty percent of the volume
21 of that basement, cellar, whatever the case may be, lower
22 level below grade. So they are proposing as much as a little
23 over five feet of fill in areas on the property. I don't think
24 it's correct to say that they're filling the whole property
25 five feet nor is it correct to say that they're filling the
26 front of the property by five feet. The front's staying the
27 same, the rear's staying the same, the area's in the middle --
28 - what's being changed.

29

30 MR. LEVITON: And earlier he said, Brian said that
31 that's a great thing and that the applicant doesn't take
32 enough credit for as it relates to the runoff to the rear
33 because pitching the driveway forward is a third benefit to
34 the improving or mitigating the problems as they relate.

35

36 MR. SCHERTZ: Right but runoff, but the fill that
37 they're putting in is not going to affect the --- facing the
38 property from the street, the right side of the house will not
39 be elevated by the landfill?

40

41 MR. LEVITON: The whole house is going to be five
42 feet above grade and in fact they're going to fill so that
43 what's below grade is regarded as a cellar instead of a
44 basement.

45

46 MR. SCHERTZ: Yeah I got that.

47

1 MR. LEVITON: And they don't need a variance for
2 floor area ratio.

3
4 MR. SCHERTZ: My concern is ---

5
6 MR. LEVITON: But Brian said it's not going to affect
7 runoff. It's going to improve runoff.

8
9 MR. SCHERTZ: Yeah I got that, but in my mind I've
10 got this five feet now --- now and another five feet of fill
11 comes in and now we're ten feet.

12
13 MR. LEVITON: So that's not the case though because
14 testimony was entered onto the record this evening that said
15 the elevation of the proposed house is about a foot above what
16 the house that exists is and if you're looking from the street
17 at the two elevations it's probably indiscernible. I wouldn't
18 be able to see a foot. I don't know Brian, can people perceive
19 a difference when it's a foot?

20
21 MR. BOCCANFUSO: Depends how astute they are I
22 suppose.

23
24 MR. LEVITON: Yeah I guess.

25
26 MR. BOCCANFUSO: But I would say it's not a
27 tremendous difference. I can give you maybe some numbers that
28 might help clarify or paint a better picture as to what's
29 going on. So as I mentioned earlier the existing elevation at
30 the street's roughly 84 and a half. The existing elevation at
31 the rear of the property is about 78 and a half. In the middle
32 of the property, in the area where the front porch is going
33 just for example, the existing grade is about 80 and a half
34 and the proposed grade is about 86 so it's a little over five
35 feet where they're filling directly at the front porch. But
36 again the grade at the front is not changing. It's 84 and a
37 half and it's going to be 84 and a half so the fill is all
38 going in the middle portion of the lot where the house is,
39 right. The slopes and fill in the areas in the direct,
40 immediately adjacent to the foundation those are being filled
41 up and raised and that will result in steeper slopes, but the
42 general drainage direction pattern is as it is today is still
43 towards the rear, swales are proposed in both side yards so
44 that no runoff is going to be going to either property to the
45 left or right and the impact of the increase in slopes will be
46 offset by the dry well, the introduction of the dry well. So
47 yes are they bringing five and a half feet of fill to some

1 areas, they are, but not the entire site. They're not filling
2 the whole site.

3

4 MR. SCHERTZ: I understand.

5

6 MR. BOCCANFUSO: They're not going to go from five
7 feet to ten feet. That's not what they're proposing.

8

9 MS. DEFALCO: It goes like this. Do you want to go
10 like this where the house is?

11

12 MR. SCHERTZ: Yeah.

13

14 MS. DEFALCO: Right so they just want to raise it so
15 it's level.

16

17 MR. PLOSKONKA: David if I could maybe, if you look
18 at the map that you have in your possession which is the map
19 we submitted. As Brian pointed out from the road to the house
20 is basically the same elevation there's no fill. When you get
21 to the sides there's some fill. When you get to the back of
22 the house there's no fill, natural ground so you're just
23 filling in this area where the house is and it slopes down so
24 that there's zero fill at the back of the house and we
25 probably put a fill in the front. So we're not filling the
26 whole lot five feet, but I think one of the things mentioned
27 by Adam before is this the Cadillac or not a Cadillac and all
28 these pipes we put in the ground four years ago was like ten
29 thousand dollars for that dry well. That's really way above
30 what's normally paid for for a dry well in most places in town
31 and we're doing the same thing or maybe bigger on this lot and
32 I think the board should consider that since the area behind
33 the house is being left vacant that there's a patio or a pool
34 then that area should be reinvestigated by the engineer to see
35 if there's any increase or what can be done for water increase
36 for any improvements beyond the house. I think that would be a
37 good idea for the board to consider and my client agrees with
38 that.

39

40 MR. LEVITON: Mr. Ploskonka can you quantify way
41 more?

42

43 MR. PLOSKONKA: I'm sorry?

44

45 MR. LEVITON: How much do people typically spend on a
46 dry well? When ten thousand dollars is way more than what
47 people typically spend, I'm curious to know what.

48

1 MR. PLOSKONKA: It varies all over, but maybe a
2 thousand, two thousand dollars is a typical payment.

3
4 MR. LEVITON: Thank you sir. Let's go back to the
5 board and ask if you have other concerns that you want to talk
6 about before we go for a motion and a vote.

7
8 MR. MANTAGAS: I have one question Mr. Chairman.

9
10 MR. LEVITON: Basil.

11
12 MR. MANTAGAS: Mr. Ploskonka the house that was built
13 five years ago next door, does that have one side drainage
14 ditch that you created one side? Or does it have two sides of
15 the property? Well there was a drainage pipe.

16
17 MR. PLOSKONKA: One drainage pipe, right which
18 connects all the roof drains into that pipe.

19
20 MR. MANTAGAS: Right now by putting two pipes in will
21 that correct the situation a lot better? By putting a pipe on
22 the other side of the property to drain more water from the
23 roof?

24
25 MR. PLOSKONKA: Keep in mind that the danger here is
26 the pervious surface. So if the driveway is draining to the
27 street on the old house and the roof is going into the ground
28 then only the grass is going to the rear. So I think that's
29 what we've done before and I'm making a point that maybe we
30 can look forward if there's any other improvements in the back
31 that they should be looked at from the point of view of
32 stormwater management over and above what we're proposing now.

33
34 MR. MANTAGAS: But Brian you mentioned before by
35 putting another pipe in it would help the situation. It would
36 divert the water from one side to two sides so ---

37
38 MR. BOCCANFUSO: I think the biggest variable and the
39 biggest factor is volume and whether that volume is provided
40 in one large dry well or two smaller dry wells doesn't make
41 all that much difference. Two larger dry wells is better than
42 one larger dry well obviously. The more you put in, the more
43 capacity you have and the more factor of safety you have and
44 the less likely it becomes that there's ever an issue. But if
45 we assume that the volume is what it is I don't think there's
46 a tremendous difference between splitting it from one side to
47 the other. I mean it may be easier for the developer to split
48 it because they don't have to run roof leaders across the

1 whole other side of the house. Whether or not the cost is
2 offset I don't know; it's not really our role here to
3 determine the cost. I know it probably would be more expensive
4 to put two because you're going to have two subsurface pipes,
5 maybe it's exactly the same I don't know.

6

7 MR. MANTAGAS: Because I'm speaking about the
8 Pedersens, they are the ground zero of the first house and
9 they testified that there is water.

10

11 MR. BOCCANFUSO: The Pedersens are on the complete
12 opposite side from where the dry well is on the neighboring
13 property. So if that house were to have a second instead of
14 having one large dry well if they were to have two smaller dry
15 wells of equal volume, one on each side of the house. I don't
16 think it would change the situation at all, but it certainly
17 wouldn't improve conditions for the Pedersens. I don't think
18 it would change the situation at all or anything quite
19 honestly. The volume is the variable. If you have the same
20 volume it doesn't much matter which side of the house you put
21 it on.

22

23 MR. MANTAGAS: Okay good thank you.

24

25 MR. LEVITON: I also, Bob, I'll tell you I support
26 this application for several reasons. First I'm very sensitive
27 to the Rakebrandt family and to the Quintanos and to the
28 Pedersens, I have great empathy for the flooding conditions
29 that you all endure, but by law these people are entitled to
30 develop their property and that's what we have to consider
31 here. Beyond that when our engineer tells us that there's a
32 four percent chance that there's going to be a storm that only
33 comes once every twenty-five years in theory that's going to
34 be able to handle what this property is putting in I believe
35 that and moreover he made this point earlier and this is the
36 last thing I'm going to say before I ask the board to take
37 action and I want you to think this through. Suncrest Builders
38 and the principles if they were to get denied all they have to
39 do is go back and take away the relief that they seek. They
40 won't put in the cellar. There's still going to be developed a
41 home that is going to change the aesthetics in the community.
42 Ms. Coffin testified that it's not going to be for the worst
43 and Mr. Boccanfuso told us that the construction of the
44 proposed home is going to improve the conditions in the
45 neighborhood and so they're going to put something up no
46 matter what. They're going to develop their property and the
47 variance relief that they seek is sort of diminimus. That's

1 the way it was characterized by their planner and I don't take
2 exception to that.

3

4 MR. WEISS: Can I just go to Mr. Boccanfuso a
5 question? There was talk about the swales on the side of the
6 property what, if anything, would a swale at the back of the
7 property do with regard to diverting or somehow mitigating the
8 flow of runoff to the rear of the property and to the
9 neighbors behind?

10

11 MR. BOCCANFUSO: I don't think a swale on the rear of
12 the property would do anything because a swale, think of it is
13 as a ditch, a linear ditch that collects and directs runoff.
14 In the rear the grade for all intents and purposes flattens
15 out so adding a swale if anything in that rear portion of the
16 property would concentrate runoff. You kind of want to
17 disperse it to reduce a drainage impact. I don't think that a
18 swale would have any impact or at least no benefit. Now what
19 Mr. Ploskonka offered most recently with his client's
20 willingness to allow for an engineering review of any future
21 impervious coverage such as patios that on the other hand I
22 think would provide a benefit because what it would do is it
23 would allow my office in our capacity as the township engineer
24 to look at the impact of the patio and determine what is the
25 best way to mitigate the additional or incremental drainage
26 impact of this patio.

27

28 MR. LEVITON: The only thing about that is that would
29 run with the land in perpetuity and Dustin said we can't
30 enforce it.

31

32 MR. GLASS: I think reviewing it as long as it
33 doesn't, if you don't take it out completely out of the
34 purview of the ordinances so I guess if it's in addition. To
35 correct what I said before so Nancy would still review it,
36 give it its OK or however the mechanism would work, Brian
37 could be a secondary review.

38

39 MR. LEVITON: Outstanding so since Mr. Pape said that
40 they're good with that and since our counselor has also agreed
41 then anything that's built additionally on the property like a
42 deck or a pool already runs through our office and through our
43 engineer's office, but decks will as well going forward and we
44 thank the applicant for that and our attorney is taking those
45 notes right now. Adam anything else?

46

47 MR. GLASS: No nothing else.

48

1 MR. LEVITON: Terry or anyone?

2

3 MR. GREGOWICZ: Yeah.

4

5 MR. LEVITON: Bob?

6

7 MR. GREGOWICZ: Just to be clear for Brian that the
8 applicant met and satisfied any conditions that were in your
9 report regarding to any runoff correct?

10

11 MR. BOCCANFUSO: They haven't yet. They have agreed
12 to.

13

14 MR. GREGOWICZ: Yeah but they will?

15

16 MR. BOCCANFUSO: Yes we reviewed their stormwater
17 analysis. Generally it was in line with the ordinance
18 requirement. There were a few technical comments that we
19 identified in our report. Mr. Ploskonka has agreed to address
20 those. I think that worst case scenario in addressing those
21 comments they may have to increase the size of the dry well
22 somewhat, extend the length of it or use a larger pipe. I
23 don't think that the comments are such that it would make them
24 completely incapable of complying with the ordinance
25 requirements. If anything there would be some minor design
26 modifications, longer pipe, larger pipe, more stones something
27 like that. But they've represented that they will comply.

28

29 MR. LEVITON: Thanks Bob, anything else sir?
30 Gentlemen? Dan?

31

32 MR. POCHOPIN: Enough of this very long evening here.

33

34 MR. LEVITON: We're just getting started.

35

36 MR. POCHOPIN: You figure a second home would be a
37 lot easier since the first one was put up, but it seems as if
38 this has introduced and amplified some situations that of
39 course in all regulations I hear that from the township
40 engineer. Everybody goes by the laws and regulations, but the
41 community witnessed firsthand that these engineering systems
42 should be improved I believe. So any little thing like
43 amplifying the dry well, make it a little better. My associate
44 here said maybe on the side if you could because you're going
45 to address the front drain off from the driveway you're going
46 to take the leaders from the roof towards the front. The back,
47 though, which the people right directly behind you had a
48 concern. They see that already, but the people on the side,

1 the Pedersens also see that from the other drainage system. So
2 with the elevation now which is only a foot from the front and
3 like I said moving forward perhaps if you could just consider
4 a Cadillac so to speak.

5

6 MR. LEVITON: Yeah but Dan we don't negotiate with
7 them and this is the plan.

8

9 MR. POCHOPIN: Okay.

10

11 MR. LEVITON: That this application has run its
12 course. Mr. Pape is going to offer a summative statement
13 shortly and then we're going to take a vote. This is it and I
14 want to remind the board this is why we have professionals. We
15 have the professionals for this reason. Sometimes they tell us
16 no it's not good and often there is work behind the scenes to
17 ensure that when we have a hearing and an applicant comes
18 before us that their ducks are in a row. Brian when there's a
19 commercial application how many T.R.C. meetings do you reckon
20 you've been to with an applicant on average?

21

22 MR. BOCCANFUSO: With Mr. Pape as the attorney at
23 least a dozen and a half.

24

25 MR. LEVITON: So this is it.

26

27 MR. BOCCANFUSO: In all seriousness it's common for
28 us to have two or three T.R.C. meetings on a large
29 application. Something like this it's typically more informal,
30 but we do work on the technical aspects of the application it
31 is common.

32

33 MR. LEVITON: Thanks Brian and we don't negotiate.
34 It's not our job to tell them you should do this or you should
35 do that. They present what they want and then we tell them and
36 remember they're going to put something up. They can modify
37 their plan a little bit and they don't have to come before
38 this board and ask for permission and then the public's input
39 will be meaningless to them. Here at least we get a chance to
40 mitigate their plan and to ensure because it goes through
41 Brian that things that they're going to do are going to meet
42 the ordinances which stipulate that they have to improve
43 conditions that exist currently and with that I'm going to go
44 to Mr. Pape and ask him to sum up his case.

45

46 MR. PAPE: Mr. Chairman and board members my
47 summation is going to be very brief. Listening to the dialogue
48 amongst the board members and to the board professionals it's

1 very clear that the board fully understands the application.
2 This is a single-family residence. It's 11.85 percent
3 impervious coverage for the building where fifteen percent is
4 allowed. There are no variances for the side yard, rear yard,
5 or front yard. The variances are strictly a function of the
6 soils and the existing topography and I think that the one
7 concern that is generated by introducing fill to the property
8 is stormwater management and I'd like to believe that your
9 engineer has accepted our engineer's design. The design is at
10 a twenty-five year storm far exceeds what is required for a
11 single-family residence. We borrow that standard from the last
12 time we came before you five years ago when that was the
13 standard that you chose the applicant to follow and we
14 accepted it and carried it forward. I add the recording of the
15 owner manual which creates a long term or a permanent
16 identification of the responsibilities of maintenance should,
17 should alleviate these systems from becoming ineffective in
18 the future. We respectfully request that the board consider
19 the relief favorably.

20

21 MR. LEVITON: Thank you sir. Counselor do you require
22 anything further?

23

24 MR. GLASS: I guess just so the board is clear, I
25 don't require anything further, but as the applicant indicated
26 as Mr. Pape summarized the applicant has offered two
27 conditions of approval if the board acts favorably. The
28 creation of an operations manual to be recorded and run with
29 the land so that the current, future owners understand how to
30 use the dry well system to maintain it and the condition that
31 a future patio or impervious development would be subject to
32 an additional review by the township engineer.

33

34 MR. LEVITON: And with that I'll ask for someone to
35 make a motion.

36

37 MR. ROSENTHAL: I'll make a motion to approve the
38 application.

39

40 MR. LEVITON: Thank you Mr. Rosenthal and now I'll
41 ask for someone to second the motion.

42

43 MR. GREGOWICZ: I'll second it.

44

45 MR. LEVITON: Thank you Mr. Gregowicz.

46

47 **ROLL CALL**

48

1 MS. MOENCH: Mr. Gregowicz?

2

3 MR. GREGOWICZ: Yes.

4

5 MS. MOENCH: Mr. Rosenthal?

6

7 MR. ROSENTHAL: Yes.

8

9 MS. MOENCH: Mr. Schertz?

10

11 MR. SCHERTZ: Yes.

12

13 MS. MOENCH: Mr. Shalika?

14

15 MR. SHALIKAR: Yes.

16

17 MS. MOENCH: Mr. Weiss?

18

19 MR. WEISS: No.

20

21 MS. MOENCH: Mr. Mantagas?

22

23 MR. MANTAGAS: No.

24

25 MS. MOENCH: Chair Leviton?

26

27 MR. LEVITON: Congratulations Suncrest Builders. You
28 have a plurality. These were bulk variances and you only
29 needed four affirmative votes and you got them. I wish you
30 success.

31

32 MR. PAPE: Mr. Chairman, board members all thank you
33 and good night.

34

35 MR. PLOSKONKA: Thank you.

36

37 MR. LEVITON: Thank you Mr. Ploskonka. Thank you Ms.
38 Coffin and thank you Mr. Pape and thank you court reporter.
39 This board is going to take a five minute recess and when
40 Janice has started recording I will call the meeting to order
41 and I will call our next case Mr. Cali application number ZBE
42 2250. Welcome sir. Please come up and sit down and Mr. Glass
43 will swear you in, but I'm not going to ask you to testify
44 until Mr. Weiss gets back.

45

46 MR. GLASS: Please raise your right hand sir. Do you
47 swear or affirm that the testimony you're about to provide is
48 the truth, the whole truth, and nothing but the truth?

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MR. CALI: I do.

MR. GLASS: Alright and thank you that's all I need from you.

MR. LEVITON: So we're just going to wait for. Mr. Weiss let the record reflect is in attendance and Mr. Cali am I pronouncing your name correctly?

MR. CALI: Yes.

MR. LEVITON: Mr. Cali why don't you tell us about your portico and the type of variance relief you seek this evening?

MR. CALI: Okay I'm applying for a zoning variance for the portico that I built about twenty years ago. For some reason I had in my mind that I had an as of right to build it. I have an archeticultural background. Recently I was wrong. I went to the building department to file it and they told me that I should come here. Well first go to zoning. I talked to zoning, come to do a variance so I'm here to apply for a variance to legitimize it.

MR. LEVITON: Thank you sir.

MR. CALI: A three by seven portico on the front of my house. You saw the pictures.

MR. LEVITON: We did.

MR. CALI: It was built to keep the weather out, the snow and the rain. It doesn't harm any of the neighbors. There's a negative impact and I just want to do the right thing, file it and get it legitimized and that's why.

MR. LEVITON: Thank you sir. Let's see if the Board has any questions for you. A lot of shaking heads from side to side. Let's go out to the public. Is there anyone in attendance who wants to ask Mr. Cali a question? Seeing none I'm going to close public. Mr. Glass?

MR. GLASS: I would just ask is it your testimony that the portico has improved the aesthetics to the property and make it a more aesthetically-pleasing property in the neighborhood?

1 MR. CALI: Yes.

2

3 MR. LEVITON: Then I'll ask for someone to make a
4 motion.

5

6 MR. SHALIKAR: I'll make a motion.

7

8 MR. GLASS: I would just, sorry. There was one
9 question. With regard to the shed that was depicted, two
10 sheds.

11

12 MR. CALI: Correct.

13

14 MR. LEVITON: Uh oh.

15

16 MR. GLASS: Are they still there?

17

18 MR. CALI: Yes they are. One shed was filed.

19

20 MR. GLASS: Okay.

21

22 MR. CALI: And permitted and the othe one is a small,
23 metal shed that I added later on.

24

25 MR. GLASS: Okay.

26

27 MS. DEFALCO: So what is your intent, to remove the
28 shed?

29

30 MR. CALI: Well if you tell me I have to remove the
31 small shed I will.

32

33 MR. LEVITON: We would like that sir.

34

35 MR. CALI: Then I will ---

36

37 MR. LEVITON: Outstanding, outstanding.

38

39 MR. GLASS: --- one.

40

41 MR. CALI: Okay. How long do I have to remove it?
42 Will I get thirty days to remove it?

43

44 MR. LEVITON: You get more. What would you like?

45

46 MR. ROSENTHAL: Tonight, tonight.

47

1 MR. GLASS: If the board acts favorably it wouldn't
2 be memorialized in a resolution until the next meeting and
3 then you would have a reasonable period of time there after so
4 it's.

5
6 MR. CALI: Sure.

7
8 MR. LEVITON: We're going to take your word. You seem
9 like a nice man. Our next meeting is going to be on the 17th
10 and that's when we'll adopt --- It's not I'm a liar.

11
12 MS. MOENCH: December 2nd.

13
14 MR. LEVITON: December 2nd will be our next meeting.
15 That's a Friday December 2nd. That makes sense.

16
17 MR. CALI: Okay so I have to have the shed removed by
18 December?

19
20 MR. LEVITON: No.

21
22 MR. CALI: Okay.

23
24 MR. LEVITON: No you don't.

25
26 MR. CALI: Okay.

27
28 MR. LEVITON: Nancy give him ---

29
30 MS. DEFALCO: Thirty days is fine.

31
32 MR. LEVITON: Okay.

33
34 MS. DEFALCO: ---

35
36 MR. CALI: What's that?

37
38 MS. DEFALCO: You said thirty days? That's
39 acceptable.

40
41 MR. CALI: Yes.

42
43 MS. DEFALCO: That's acceptable.

44
45 MR. CALI: Can you give me sixty days?

46
47 MS. DEFALCO: I'll give you until spring how about
48 that?

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MR. CALI: I'm sorry?

MR. LEVITON: Spring.

MS. DEFALCO: Spring.

MR. CALI: Spring? Great.

MS. DEFALCO: Okay?

MR. CALI: Yes.

MR. LEVITON: Thank you sir.

MR. GLASS: Thank you very much.

MR. LEVITON: We have to make a motion, second it,
and take a vote and ---

MR. SHALIKAR: I'll make a motion.

MR. LEVITON: Mr. Shalika has moved to approve the
application.

MR. WECHSLER: I will second it.

MR. LEVITON: And Mr. Wechsler you're an alternate I
don't think you can Janice?

MR. MANTAGAS: I'll second it Mr. Chairman.

MR. LEVITON: If Mr. Wechsler is, he's not available.
Thank you Mr. Mantagas. Thank you anyway Mr. Wechsler.

MS. MOENCH: I'm sorry Basil made the second?

MR. LEVITON: Yes.

MS. MOENCH: Okay thank you.

MR. LEVITON: And now she'll call the ---

ROLL CALL

MS. MOENCH: Mr. Gregowicz?

MR. GREGOWICZ: Yes.

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MS. MOENCH: Mr. Rosenthal?

MR. ROSENTHAL: Yes.

MS. MOENCH: Mr. Schertz?

MR. SCHERTZ: Yes.

MS. MOENCH: Mr. Shalika?

MR. SHALIKAR: Yes.

MS. MOENCH: Mr. Weiss?

MR. WEISS: Yes.

MS. MOENCH: Mr. Mantagas?

MR. MANTAGAS: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: It's actually very pretty. It's very attractive. Thank you sir.

MR. CALI: Thank you Mr. Chairman. Thank you board.

MR. LEVITON: Okay alright Liuzzis. Am I saying that right?

MRS. LIUZZI: Yes.

MR. LEVITON: I'm not, I'm not butchering it Liuzzi.

MRS. LIUZZI: Liuzzi.

MR. LEVITON: Liuzzi okay and Mr. and Mrs. Liuzzi your application is ZBE2257. Mr. Glass will swear you both in.

MR. GLASS: Start with you ma'am raise your right hand. Do you swear or affirm that the testimony you're about to provide is the truth, the whole truth, and nothing but the truth?

MRS. LIUZZI: I do.

1 MR. GLASS: And now you sir. Do you swear or affirm
2 that the testimony you're about to provide is the truth, the
3 whole truth and nothing but the truth?

4
5 MR. LIUZZI: Yes.

6
7 MR. GLASS: Thank you.

8
9 MR. LEVITON: Okay so this will not be as quick.
10 You've got a lot of stuff going on so let's dig in. Let me ask
11 you, you're the homeowners who made all of the improvements
12 and now you're about to move?

13
14 MRS. LIUZZI: Yes that's correct.

15
16 MR. LEVITON: Okay so there were a lot of capital
17 improvements here. Did you reface this home?

18
19 MRS. LIUZZI: I'm sorry?

20
21 MR. LEVITON: Did you reface the home? I'm just
22 curious.

23
24 MRS. LIUZZI: You mean the exterior?

25
26 MR. LEVITON: Yeah.

27
28 MRS. LIUZZI: The only thing was the borders around
29 the window. We took the shutters off.

30
31 MR. LEVITON: Oh that's what you did.

32
33 MRS. LIUZZI: Yeah.

34
35 MR. LEVITON: Okay. Alright so you're here for the
36 patio around the pool, the driveway and the front.

37
38 MRS. LIUZZI: Correct. I'm here to seek approval for
39 permits for the pavers and variances for the fire pit,
40 waterfall, driveway, and front patio.

41
42 MR. LEVITON: Okay.

43
44 MRS. LIUZZI: I apologize. I didn't know I needed a
45 permit for pavers until when I went to apply for my ZCO
46 permit.

47

1 MR. LEVITON: So this board does not give permits,
2 but this board does is either grant you the relief for the
3 mistakes that you made or the violations to Manalapan Township
4 ordinances that you've incurred or we compel you to bring the
5 property back into conformity and we're going to listen to the
6 type of relief that you need. Tell the board what specifically
7 you did and what ordinance it violated and what kind of relief
8 you want them to grant you.

9
10 MRS. LIUZZI: I'm looking for approval for variances
11 because when I did the work on the home, for example the front
12 patio.

13
14 MR. LEVITON: So we're going to start with the front
15 patio. Okay tell the board about the front patio and what the
16 problem with it is and what you want us to do.

17
18 MRS. LIUZZI: I was told that it has to be within a
19 certain feet. I believe that we may be are out of range.

20
21 MR. LEVITON: From the street it encroaches on the
22 front set back. It's too close to the street.

23
24 MRS. LIUZZI: I'm not sure exactly if that was the
25 issue that it was too close to the street.

26
27 MR. LEVITON: Well let's ask our zoning officer.

28
29 MRS. LIUZZI: The side.

30
31 MR. LEVITON: She's here. It could be the side,
32 Nancy.

33
34 MS. DEFALCO: Because the patio is raised more than
35 six inches then she would have to abide by the set back of the
36 zoning. She is too close to the front line.

37
38 MR. LEVITON: It's a front yard set back issue. Can
39 you quantify it for us Nancy?

40
41 MS. DEFALCO: So ---

42
43 MR. GLASS: I think I have it.

44
45 MS. DEFALCO: Front patio is less than sixty feet
46 from the front yard more than six inches in the grade. --- is
47 the required set back.

48

1 MR. GLASS: I believe it's fifty-five.

2

3 MR. LEVITON: Okay so it's a five foot encroachment
4 into the front set back, but it's too high; six inches is too
5 high so. Let's ask the board to ask them about that. You will
6 have to characterize in your mind whether that's a big
7 infraction whether that we should grant them the relief that
8 they seek. We're going to take these one at a time. Let's
9 start with this one. Does anybody want to question them about
10 their front patio? Shaking heads side to side.

11

12 MR. ROSENTHAL: I just had a question. When did you
13 put the patio in?

14

15 MRS. LIUZZI: Yeah it was 2015.

16

17 MR. ROSENTHAL: Okay. I think it's minimus to me.

18

19 MR. GLASS: Well it's actually, Nancy corrected me I
20 was wrong on the feet.

21

22 MS. DEFALCO: So it's forty-one feet from the front
23 where sixty is required.

24

25 MR. LEVITON: So it's a nineteen foot encroachment to
26 the front set back?

27

28 MS. DEFALCO: It's the front pavers.

29

30 MR. LEVITON: The front so these --- Is this
31 exclusively the stone by the front door or is it the pavers
32 that run all the way to the sidewalk?

33

34 MS. DEFALCO: No, no the one that's by the front
35 door. It's actually a raised patio.

36

37 MR. LEVITON: So it's just what's at the front door?

38

39 MS. DEFALCO: Right.

40

41 MR. LEVITON: We have it.

42

43 MS. DEFALCO: The walkway is not an issue.

44

45 MR. LEVITON: Okay.

46

47 MS. DEFALCO: It's the raised patio.

48

1 MR. LEVITON: Okay so everybody understands then?
2 We're just talking about the raised patio. So I'll ask you
3 again gentlemen. Is there concerns about the raised patio or?
4
5 MR. MANTAGAS: Is there a step or sorry Mr. Chairman
6 I have a question. Is there a step up or it's just one step
7 going up? Are there steps?
8
9 MRS. LIUZZI: It's one step.
10
11 MR. MANTAGAS: Just one step?
12
13 MRS. LIUZZI: Yeah.
14
15 MR. MANTAGAS: Up to the patio.
16
17 MRS. LIUZZI: Right. Do you want me to show you this
18 picture maybe ---
19
20 MR. MANTAGAS: Yeah that would help.
21
22 MS. DEFALCO: Pictures are ---
23
24 MR. SHALIKAR: We all have them.
25
26 MR. MANTAGAS: Oh I didn't have one. Do you have it?
27
28 MR. GLASS: You can look at it.
29
30 MR. MANTAGAS: Okay I see it now.
31
32 MR. LEVITON: Okay so why don't we go on to the next.
33
34 MR. SHALIKAR: Chairman this is the patio that's in
35 line with the garage correct?
36
37 MR. LEVITON: No this is the one right in front of
38 the front door.
39
40 MR. LIUZZI: You would call it a porch, but it's the
41 patio because it's raised.
42
43 MR. SHALIKAR: Understood.
44
45 MR. LEVITON: Some of us regard it as a stoop.
46
47 MR. LIUZZI: Your Brooklyn's showing.
48

1 MR. MANATAGAS: Brooklyn.

2

3 MR. LIUZZI: I had a stoop.

4

5 MR. LEVITON: It's bigger than a stoop?

6

7 MS. DEFALCO: Bigger than a stoop.

8

9 MR. MANTAGAS: Bigger than a stoop.

10

11 MS. DEFALCO: It has the nice ---

12

13 MR. LEVITON: Yes.

14

15 MS. DEFALCO: It's like --- The porch is on top of
16 the pavers where you step down and there's a pad and then the
17 walkway to the garage and then the walkway to the front.

18

19 MR. LEVITON: Yes.

20

21 MS. DEFALCO: Just the one.

22

23 MR. LEVITON: Got it.

24

25 MS. DEFALCO: In the front.

26

27 MR. LEVITON: Everyone seems to be good with that so
28 let's move on. Mrs. Liuzzi what else do you need from us?

29

30 MRS. LIUZZI: So I was told that the driveway as
31 well. We have a paver border and it was slightly expanded the
32 driveway on the sides so I was told that that also was I guess
33 not within the feet that it was supposed to be.

34

35 MR. LEVITON: Okay so this is encroaching on the side
36 set back. You probably need it to be ten feet. Nancy what is
37 she?

38

39 MS. DEFALCO: Eight.

40

41 MR. LEVITON: So that's a two foot encroachment and I
42 do need to advise you that the board is obligated under the
43 municipal land use law to regard this application as if you
44 did no construction, as if it wasn't there. I just need you to
45 know that, but having said that let's go out to the board and
46 ask them what concerns they have and what they think. Do they
47 have question. Terry?

48

1 MR. ROSENTHAL: Is it eight feet from the pavers on
2 the side of the driveway itself?

3
4 MS. DEFALCO: No from the pavers.

5
6 MR. ROSENTHAL: So the driveway is compliant? The
7 driveway itself.

8
9 MS. DEFALCO: Well its part of the driveway.

10
11 MR. GLASS: The pavers are part.

12
13 MS. DEFALCO: They're part of the driveway.

14
15 MR. LEVITON: He means the black top.

16
17 MS. DEFALCO: Right.

18
19 MR. LEVITON: The black top was compliant and what
20 they ---

21
22 MS. DEFALCO: It's still considered part of the
23 driveway.

24
25 MR. ROSENTHAL: Okay.

26
27 MS. DEFALCO: Yes.

28
29 MR. LEVITON: Okay, any other questions gentlemen?
30 Concerns?

31
32 MR. MANTAGAS: I have one question Mr. Chairman.
33 You're on a corner. You're a corner lot?

34
35 MRS. LIUZZI: Yeah I'm in a cul-de-sac.

36
37 MR. MANTAGAS: So there's nobody next to that
38 driveway.

39
40 MRS. LIUZZI: Here I'll show you a picture.

41
42 MR. LEVITON: I wouldn't characterize it as a corner.
43 Nancy is it technically a corner? They're in a cul-de-sac.
44 They're the second from the end and --- corner and I don't
45 think it's a corner.

46
47 MS. DEFALCO: No.

48

1 MR. LEVITON: No Basil it's not a corner.

2

3 MR. MANTAGAS: It's not a corner?

4

5 MR. LEVITON: No.

6

7 MR. MANTAGAS: It's a cul-de-sac.

8

9 MR. LEVITON: Yeah they're the second from the end.
10 Okay then let's talk about the last thing that we need to
11 address and that's your pool patio correct?

12

13 MRS. LIUZZI: Right. The fire pit, there's a wall and
14 the waterfall that's attached to the pool.

15

16 MR. LEVITON: Okay the fire pit and the wall, Nancy
17 when I looked at the close up of the pool it's on the left
18 hand side.

19

20 MS. DEFALCO: Use the fire pit as a reference, but
21 that side of the patio where the fire pit is.

22

23 MR. LEVITON: Yes.

24

25 MS. DEFALCO: Is one foot, three inches from the rear
26 lot line and then the portion that's behind the waterfall is
27 4.8 inches.

28

29 MR. LEVITON: So they built this fire pit and this
30 wall within inches of their property line and they need it to
31 be ten feet from the property line.

32

33 MS. DEFALCO: One foot, three inches.

34

35 MR. LEVITON: Oh one foot. It's an 8.7 foot
36 encroachment into the rear set back.

37

38 MS. DEFALCO: That's correct and where the waterfall
39 is that portion of the patio is four feet eight inches.

40

41 MR. LEVITON: Four feet. So you can see, you were
42 here all night, these issues create problems as they relate to
43 runoff and it's stormwater management and what your patio is
44 it's regarded as impervious material. It exacerbates problems,
45 but from the pictures that you've supplied with us I can see
46 that there's nothing behind your house and our engineer
47 earlier characterized the Belgian block paving as more
48 beneficial than other types of impervious surfaces. I've

1 expressed my concerns. Let's go out to the board and see what
2 they think, gentlemen?

3

4 MR. WEISS: Yeah question, actually two questions
5 with the fire pit. What type of fire pit is that? Is that wood
6 burning, natural gas?

7

8 MRS. LIUZZI: It's wood burning.

9

10 MR. WEISS: It's wood burning?

11

12 MRS. LIUZZI: Yeah.

13

14 MR. WEISS: And with the waterfall with the pool, you
15 got a permit for the pool?

16

17 MR. LIUZZI: Yes.

18

19 MRS. LIUZZI: Yes.

20

21 MR. WEISS: And when they installed the pool did they
22 also install the waterfall at the same time?

23

24 MRS. LIUZZI: Yes.

25

26 MR. WEISS: And was there any issues with the
27 waterfall where it was placed when you went for the permit for
28 the pool?

29

30 MRS. LIUZZI: No.

31

32 MR. WEISS: And the permit for the pool that was
33 closed down?

34

35 MRS. LIUZZI: Correct. I know I had an updated
36 survey. I ordered a survey soon as I put my home up for sale
37 and I had found out the fence was not on the right, my fence
38 not on the right, yeah. It was supposed to be in more.

39

40 MR. WEISS: So they installed a waterfall at the same
41 time they did your pool?

42

43 MRS. LIUZZI: Yes.

44

45 MR. WEISS: Sounds like one big ---

46

47 MRS. LIUZZI: Oh yeah.

48

1 MR. WEISS: And you got the permits for that?
2
3 MRS. LIUZZI: Correct.
4
5 MR. WEISS: For the waterfall along with the pool and
6 that permit was closed out?
7
8 MRS. LIUZZI: Yes.
9
10 MR. SHALIKAR: So I have a question about the fence
11 if that's okay, the vinyl fence that's behind.
12
13 MR. LEVITON: Are we considering the fence Nancy?
14
15 MS. DEFALCO: Fence has to be relocated onto ---
16
17 MR. SHALIKAR: Because it's off the property correct?
18
19 MR. LIUZZI: It was already done.
20
21 MRS. LIUZZI: I already did that.
22
23 MR. SHALIKAR: Oh so the fence is now pulled in? Now
24 it truly is 4.8 feet from behind, okay.
25
26 MR. LEVITON: Okay, Terry?
27
28 MR. ROSENTHAL: Okay there's not another house behind
29 the pool. What is back there?
30
31 MRS. LIUZZI: It's vacant land.
32
33 MR. ROSENTHAL: Is there trees or just?
34
35 MRS. LIUZZI: It's a field and then it's all fields.
36
37 MR. ROSENTHAL: Like fescue or?
38
39 MRS. LIUZZI: What's that?
40
41 MR. ROSENTHAL: I said like fescue where you don't
42 hit your golf ball. You can't find it.
43
44 MRS. LIUZZI: It's just vacant and I was just told
45 that from what I know that they can't build back there because
46 it would be too narrow to come in.
47
48 MR. LIUZZI: It used to be a farm.

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MR. ROSENTHAL: You've answered my question.

MRS. LIUZZI: Okay.

MS. DEFALCO: Okay so I just want to clarify that that pool permit --- into the waterfall, but it was much smaller and ten feet away from the property line and there is additional pavers behind the waterfall and by the fire pit that was not part of the permit and they have been there, but the building department didn't pick up on it and to let them know that they need to get an update.

MR. LEVITON: Nancy, Mrs. Liuzzi testified that the lot behind them can't be built on. Didn't we agree about that?

MS. DEFALCO: First there is a performance application before us. There's been one or two applications that have come before, they haven't appeared before the board, but applications have been made.

MR. LEVITON: So the entrance to their street is off of Taylor Mills and the street, no?

MS. DEFALCO: Yeah.

MR. LEVITON: Yeah that's Taylor Mills.

MS. DEFALCO: Taylor Mills Road.

MR. LEVITON: And if you turn left into their street before you would turn left you'd actually head right to the municipal complex that we're sitting in now. It's not a mile away, but I'm having difficulty in my head orienting what's behind, what that field is.

MS. DEFALCO: Behind them, excuse me, behind them.

MR. LEVITON: Yeah.

MS. DEFALCO: Is ---

MR. LIUZZI: Carchesio Farms.

MR. LEVITON: Oh is that Carchesio?

MR. LIUZZI: Yeah.

1 MR. LEVITON: I appreciate that.

2

3 MS. DEFALCO: No, if you're on Taylor Mills.

4

5 MR. LEVITON: Yes.

6

7 MS. DEFALCO: Just passed Plainridge, there's two
8 little houses I think like almost ---

9

10 MR. LEVITON: Oh God forget it.

11

12 MS. DEFALCO: Conmack comes in.

13

14 MR. LEVITON: Oh I know where Conmack is, yeah.

15

16 MS. DEFALCO: --- those two small houses?

17

18 MR. LEVITON: Yeah.

19

20 MS. DEFALCO: One of them is set close to the road
21 that goes all the way back.

22

23 MR. LEVITON: Oh it's the ---

24

25 MS. DEFALCO: And that's the back of her property all
26 the way along.

27

28 MR. LEVITON: Was that Junko farm? Or was it Hidden
29 Hills?

30

31 MS. DEFALCO: ---

32

33 MR. LEVITON: Okay.

34

35 MS. DEFALCO: Behind them.

36

37 MR. LIUZZI: There used to be corn back there.

38

39 MR. LEVITON: Yeah, yeah I remember. I grew up in
40 Yorktowne and I went to Manalapan High School. My bus went
41 that way everyday.

42

43 MR. LIUZZI: --- my kids both went there.

44

45 MR. LEVITON: Yeah. Okay let's get back to business
46 and ask the gentlemen about their thoughts related to the fire
47 pit and the --- wall that is adjacent to it and let me remind

1 you if you have a problem with that then it costs the Liuzzi's
2 a lot of money to come see us tonight and it would ---

3

4 MR. GLASS: Yeah it's not a proper consideration for
5 the board.

6

7 MR. LEVITON: Sure the MLUL precludes us from
8 considering monetary issues, but I would suggest that if we
9 have a problem with part of their application that would take
10 the whole thing in piecemeal. So we take it in piecemeal and
11 not as a whole so that they can get some closure on certain
12 things if we charge them with doing anything.

13

14 MR. SCHERTZ: No point of order do we vote on each
15 one separately?

16

17 MR. LEVITON: We would if that's what ---

18

19 MR. GLASS: No, no the applicant has their
20 application before the board.

21

22 MR. LEVITON: Yes.

23

24 MR. GLASS: They choose to remove aspects of the
25 application they can do so, but the board votes on whatever
26 the final application is amended or otherwise the board votes
27 on it as a whole.

28

29 MR. LEVITON: That's the way it'll be.

30

31 MR. GLASS: Not take individual pieces.

32

33 MR. LEVITON: Thank you counselor, very good.

34

35 MS. DEFALCO: Or comments if they have an issue with
36 any part of the application.

37

38 MR. LEVITON: You understand so? I don't want to see
39 them before us anymore. I'd like to get them what they need
40 however it is that we get them there and we may ask them to do
41 things and we may not like their entire project, but we're
42 going to let them know. So now I look to you and I ask you do
43 you have concerns?

44

45 MR. POCHOPIN: I missed that whole thing. Is there a
46 buildable lot behind?

47

1 MS. DEFALCO: It's a single-family home that's very
2 close to Taylor Mills Road and their lot is very long.

3
4 MR. GLASS: But yes it's a buildable lot yes.

5
6 MS. DEFALCO: There's a structure on it already.

7
8 MR. LEVITON: Anyone else?

9
10 MR. MANTAGAS: I have a question Mr. Chairman for
11 Mrs. Liuzzi. You said what fence did you have to move? Was
12 that the rear fence by the pool?

13
14 MRS. LIUZZI: Yeah.

15
16 MR. MANTAGAS: You have to move the fence in a little
17 bit?

18
19 MRS. LIUZZI: Yeah.

20
21 MR. MANTAGAS: Because of the patio.

22
23 MRS. LIUZZI: When I hired the fencing company of
24 course I provided them my survey. I trusted that it was ---

25
26 MR. MANTAGAS: Right, how much was it off of your?

27
28 MRS. LIUZZI: I think like one part. Nick do you
29 remember?

30
31 MR. LIUZZI: Yeah.

32
33 MS. DEFALCO: And they gave you a survey.

34
35 MR. MANTAGAS: Oh it's on the survey? Okay.

36
37 MR. LIUZZI: On the one side it was twelve feet and
38 it kind of came in on an angle. I think ---

39
40 MR. MANTAGAS: Oh I see here, oh okay I got it.

41
42 MR. LIUZZI: I know why there was confusion. The guy
43 that had the corn fields had the Y irrigation poles going up
44 across the way and he tied these red strings on them. So I
45 thought that those were probably the property line because
46 there was nothing in the floor. So respectfully it could've
47 been me, I don't know. I said that must be the problem because
48 it's tied with a red string and it had the --- things, but now

1 that I see all the other fences I said well then I was wrong
2 and I ---
3

4 MR. LEVITON: But you paid for that mistake Mr.
5 Liuzzi. Let me just clarify I'm looking at the survey I see
6 the dotted, the circle line. You brought that line back to the
7 solid black line, that's what you did?
8

9 MR. LIUZZI: Yeah back to conformity.
10

11 MR. LEVITON: On the side and the rear?
12

13 MR. LIUZZI: Yes.
14

15 MR. LEVITON: Good for you and thank you.
16

17 MR. MANTAGAS: And the pictures reflect that that you
18 put on? The pictures are what after you moved the fence?
19

20 MR. LIUZZI: Yeah I had a professional fencing
21 company come in.
22

23 MR. MANTAGAS: And then they took the pictures?
24

25 MRS. LIUZZI: No.
26

27 MR. MANTAGAS: Oh that's before the pictures?
28

29 MR. LIUZZI: They already did it. Oh I'm so sorry.
30

31 MRS. LIUZZI: No go ahead.
32

33 MR. LIUZZI: No, no.
34

35 MRS. LIUZZI: It's okay.
36

37 MR. LIUZZI: You can go.
38

39 MRS. LIUZZI: These are the pictures from when my
40 home was listed.
41

42 MR. LIUZZI: Right.
43

44 MRS. LIUZZI: And the fence was moved after. However
45 I will say that it looks like the same. In a sense I mean I
46 know obviously it's in a little more, but ---
47

1 MR. LIUZZI: I mean I kind of like it because I'm
2 from Brooklyn, Staten Island so it looks a little snug, good
3 to me and I don't like a lot of property.

4
5 MR. LEVITON: But it was considerable; its twelve
6 feet.

7
8 MR. LIUZZI: I like, it looks nice.

9
10 MR. LEVITON: Okay well we thank you again you did
11 that for us. Gentlemen anything else before someone makes a
12 motion? Dustin?

13
14 MR. GLASS: I know it was noted by in the ZCCO
15 review.

16
17 MR. LEVITON: Yes.

18
19 MR. GLASS: That there are aspects of the front
20 columns and lights that are constructed in the township ---
21 portion of it is constructed in the township right-of-way.
22 It's my understanding and I think the applicants could testify
23 to it that they are going before the township committee for
24 permission to either have the structures remain and if they
25 don't receive permission they would be removed so that would
26 just be a condition of approval. It's not, since it's the
27 township easement, it's not our purview to say ye or nay to
28 it, but it would be a condition of approval to the extent the
29 township decision, whatever the township's decision is with
30 respect to that.

31
32 MR. LEVITON: And if you could all just look at the
33 photograph of the house with the front pavers that come down
34 to the street you'll see the lights there in the landscaping.
35 I just want to indicate to you all that the right-of-way is
36 typically where a sidewalk is constructed. There doesn't have
37 to be one. Janice recently told me there's always a right-of-
38 way even if there's no sidewalk. It doesn't belong to the
39 homeowners. It belongs to the township. It's called a right-
40 of-way and you're not allowed to build in it. So thank you for
41 that Mr. Glass.

42
43 MR. GLASS: --- I guess there was a comment on there
44 that if the columns and/or lights combined are over three feet
45 in height that that would require relief. I believe the
46 applicant indicated --- that they are, correct. They are less
47 than three feet in height.

48

1 MR. LIUZZI: They're less.

2

3 MR. GLASS: Thank you and to the extent if obviously
4 they were or for some reason even though the representations
5 are not they would have to come back and ---

6

7 MR. LEVITON: I'd just like to know how did you do
8 get in touch with the township committee to broker that deal?
9 How did you know to do that?

10

11 MRS. LIUZZI: I'm sorry.

12

13 MS. DEFALCO: We advised them to.

14

15 MR. LEVITON: Oh.

16

17 MRS. LIUZZI: Oh.

18

19 MS. DEFALCO: Put them in touch with the clerk's
20 office and they write a letter and submit the survey and then
21 they'll appear before the township committee. I believe you're
22 going at the end of November. November 30th?

23

24 MRS. LIUZZI: Yes.

25

26 MR. LEVITON: Well I want to commend the two of you,
27 very nice, very compliant and however it goes the efforts that
28 you've made to bring your property back into conformity are
29 laudable.

30

31 MRS. LIUZZI: Thank you.

32

33 MR. LIUZZI: It was my fault.

34

35 MR. LEVITON: It's always my fault sir. Will someone
36 make a motion?

37

38 MR. WEISS: I'll make a motion to approve the
39 application as submitted.

40

41 MR. GLASS: And just so the board is clear there
42 would be the condition of approval subject to the.

43

44 MR. WEISS: Subject to subject to, the township yes.

45

46 MR. LEVITON: And will someone second that please?

47

48 MR. SCHERTZ: Second.

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MR. LEVITON: Thank you Mr. Schertz.

ROLL CALL

MS. MOENCH: Mr. Gregowicz?

MR. GREGOWICZ: Yes.

MS. MOENCH: Mr. Rosenthal?

MR. ROSENTHAL: Yes.

MS. MOENCH: Mr. Schertz?

MR. SCHERTZ: Yes.

MS. MOENCH: Mr. Shalika?

MR. SHALIKAR: Yes.

MS. MOENCH: Mr. Weiss?

MR. WEISS: Yes.

MS. MOENCH: Mr. Mantagas?

MR. MANTAGAS: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Your new home should be as lovely as the one you're leaving and we wish you many years of health and happiness.

MRS. LIUZZI: Thank you so much.

MR. LEVITON: You're welcome.

MRS. LIUZZI: Appreciate it.

MR. LIUZZI: Now I'm going to go home and watch Law and Order.

MR. LEVITON: Okay good luck.

MRS. LIUZZI: Thank you.

1 MR. LEVITON: Go Astros.

2

3 MR. MANTAGAS: Good luck.

4

5 MRS. LIUZZI: Thank you.

6

7 MR. LIUZZI: Thank you. Thank you Janice. Thank you
8 Nancy.

9

10 MRS. LIUZZI: Thank you so much.

11

12 MS. DEFALCO: You're welcome.

13

14 MR. SCHERTZ: How wide is the right-of-way usually?

15

16 MS. DEFALCO: They're all different --- We're going
17 to stay local.

18

19 MRS. LIUZZI: My kids are in college so time to down
20 size.

21

22 MR. LIUZZI: --- family in Manalapan so we like it
23 here.

24

25 MR. LEVITON: While Nancy looks for that would ---

26

27 MS. DEFALCO: ---

28

29 MR. LEVITON: Okay will someone make a motion to
30 adjourn and then you can continue your conversation?

31

32 MR. MANTAGAS: So moved.

33

34 MR. GLASS: There's no public.

35

36 MR. LEVITON: Alright thank you Basil and I'll go out
37 to the public and does anybody want to make a comment
38 regarding non-agenda items? Seeing none I'll close public.
39 Thank you so much folks. Tonight was a tough one.

40

41 MRS. LIUZZI: Thank you so much.

42

43 MR. LEVITON: Okay good luck to you.

44

45 MRS. LIUZZI: Okay thank you. Good night.

46

47 MS. MOENCH: Who had the motion to adjourn? Steve who
48 made the?

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MR. ROSENTHAL: I'll make a motion to adjourn.

MR. LEVITON: Basil and then Terry.

MS. MOENCH: Basil.

MR. ROSENTHAL: Someone second.

MR. LEVITON: Terry seconded it.
