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**MEETING IS CALLED TO ORDER:**

MR. LEVITON: Okay we're good to go so I will call this meeting to order and ask you all to stand for a flag salute.

**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. Ms. Moench roll call please.

**ROLL CALL**

MS. MOENCH: Mr. DiTota?

MR. DITOTA: Here.

MS. MOENCH: Mr. Gregowicz?

MR. GREGOWICZ: Here.

MS. MOENCH: Mr. Rosenthal is not with us this evening. Mr. Schertz?

MR. SCHERTZ: Here.

MS. MOENCH: Mr. Shalikar is not with us. Mr. Weiss is not with us. Mr. Mantagas?

MR. MANTAGAS: Here.

MS. MOENCH: Mr. Pochopin?

MR. POCHOPIN: Here.

MS. MOENCH: Mr. Wechsler?

MR. WECHSLER: Here.

1 MS. MOENCH: Chair Leviton?

2

3 MR. LEVITON: Here. Okay there are no minutes offered  
4 tonight so our first order of business is to memorialize the  
5 resolution for application number ZBE2209, Mr. Marmero.

6

7 MR. MARMERO: So Mr. Chairman and board as you  
8 remember this was an application for use variance approval,  
9 bulk variance approval, and preliminary and final site plan  
10 approval, granting approval for the construction of a new  
11 funeral home on a lot which currently houses a funeral home.

12

13 MR. LEVITON: Thank you sir. Will someone make a  
14 motion to memorialize and will someone second it please?

15

16 MR. DITOTA: I'll make a motion.

17

18 MR. LEVITON: Thank you Mr. Mantagas.

19

20 MR. GREGOWICZ: Second.

21

22 MR. LEVITON: And thank you Mr. Gregowicz.

23

24 **ROLL CALL**

25

26 MS. MOENCH: Mr. DiTota?

27

28 MR. DITOTA: Yes.

29

30 MS. MOENCH: Mr. Gregowicz?

31

32 MR. GREGOWICZ: Yes.

33

34 MS. MOENCH: Mr. Mantagas?

35

36 MR. MANTAGAS: Yes.

37

38 MS. MOENCH: Chair Leviton?

39

40 MR. LEVITON: Yes that was quick. Okay we are going  
41 to move into the public hearings portion of tonight's meeting.  
42 Our first application is 2261, George C. Real Estate  
43 Incorporated and on behalf of the applicant Mr. Asadi. Welcome  
44 sir.

45

46 MR. ASADI: Thank you Mr. Chaiman, Kevin Asadi from  
47 the law firm Zager Fuchs on behalf of the applicant. The  
48 property is located at 4 McBride. When the currect owner

1 purchased the property it was in need of rehabilitation. He  
2 began that rehabilitation work and unfortunately the property  
3 caught fire and it was badly damaged. After the fire he  
4 submitted building plans to renovate the building. He also  
5 submitted it for a zoning permit and received one, but there  
6 was a mix up between the plans that were submitted to the  
7 zoning office and the plans that were submitted to the  
8 building department. That mix up was not caught and building  
9 permits were issued and my client in good faith began the  
10 process of construction. When Ms. DeFalco noticed the  
11 discrepancy she put a stop work order on it and we're here  
12 today to engage in the appropriate process to straighten that  
13 out.

14

15 MR. LEVITON: So you're looking to expand a non-  
16 conforming use. There are two principal structures on the  
17 piece of property and I'm confident that Ms. Ehlen is going to  
18 speak to that. Will now be the time?

19

20 MR. ASADI: Yes sure. Before we get to that I'm just  
21 going to introduce the nature of the enlargement just so the  
22 board kind of has a feel for it. If you look at the  
23 architectural plans which were submitted with the application  
24 you see an elevation of the property and the top image is the  
25 pre-fire version of the building. The proposal is what you see  
26 on the bottom. The height doesn't change, but that roof line  
27 extends and so it's built up partially keeping the height  
28 where it always has been though. In addition there is a small  
29 side yard porch that's being proposed and an existing deck is  
30 being proposed to be demolished and a new deck is being  
31 proposed to be in its place. So without further adieu our only  
32 witness this evening is Barbara Ehlen of Beacon Planning and  
33 she's our professional planner.

34

35 MR. LEVITON: Our attorney is going to swear you in  
36 Ms. Ehlen.

37

38 MR. MARMERO: So if you raise your right hand, do you  
39 swear the testimony you provide tonight will be the truth, the  
40 whole truth and nothing but the truth?

41

42 MS. EHLEN: Yes I do.

43

44 MR. MARMERO: Okay and could you state your name  
45 again for the record please?

46

47 MS. EHLEN: My name is Barbara Ehlen. My last name is  
48 E-H-L-E-N.

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MR. MARMERO: E-H-L-E-N? Okay and you're a professional planner Barbara?

MS. EHLEN: I'm a licensed professional planner and an AICT.

MR. MARMERO: Okay and have you testified before this board in the past?

MS. EHLEN: Not this board, but I've testified throughout New Jersey.

MR. MARMERO: Okay. Chair Leviton would you like the attorney to illicit her credentials?

MR. LEVITON: No the board accepts her credentials and welcomes her.

MS. EHLEN: Thank you.

MR. LEVITON: You're welcome.

MS. EHLEN: So I just wanted to take a quick trip over to the easel.

MR. LEVITON: You're going to need to see Ms. Moench first, the recording secretary, and she's going to give you -- a microphone. We have a new recording system.

MR. ASADI: Sounds good, no feedback.

MR. LEVITON: It's more about for transcription later. It's used to transcribe, Ms. Moench does that and it doesn't pick up any background noise, but the caveat is you really need to be very close to the mic for this.

MS. EHLEN: Will do.

MR. LEVITON: Good stuff.

MS. EHLEN: To start this evening I'd like to present a board. It's an exhibit board for images. The top left corner is an aerial exhibit. It's actually from the Monmouth County G.I.S. and it's a 2022 and it just shows the configuration of the lot. I'm just going to hand out copies of that as well. In the top right corner is actually an illustration image from August 2013 and it just shows the prior house to the rear and

1 you can see that with --- and then finally the two bottom  
2 photos are the current status of the property as construction  
3 has commenced.

4

5 MR. LEVITON: Ms. Ehlen I believe the board has all  
6 that you've submitted. The top right one I don't, I know we  
7 haven't see the construction and I don't believe it's in the  
8 G.I.S. image. So Mr. Marmero do we need to mark any of these?

9

10 MR. MARMERO: It looks --- Have they been marked  
11 down?

12

13 MS. MOENCH: We just marked them before the.

14

15 MR. MARMERO: You've named them so --- marked. I see  
16 you have an aerial exhibit is that?

17

18 MS. EHLEN: So A1 will be the aerial exhibit. A2  
19 would be the Google street view form August 2013.

20

21 MR. MARMERO: Okay.

22

23 MS. EHLEN: A3 and A4 are photos taken by myself of  
24 the building in its current condition.

25

26 MR. MARMERO: We'll call that current condition one,  
27 current condition two and that will be A3 and A4.

28

29 MS. EHLEN: So the application this evening is to  
30 renovate an existing structure which was fire damaged. The  
31 property is --- with two structures. There's a commercial one  
32 towards the north that's a single-story kind of smallish  
33 building and then the single-family to the rear. No changes  
34 are proposed to the commercial structure with this current  
35 application. As it sits is as it stays. The only changes are  
36 proposed to the single-family home. So what we're proposing is  
37 to again extend that roof line over the second floor. There is  
38 an existing porch along the home's what would be its northeast  
39 elevation. Hold on, yes. It's straight up north in your  
40 aerial, northeast. There's actually an existing porch there or  
41 there was and they're proposing to replace it. This porch does  
42 intrude into a side yard setback fifteen feet is required. The  
43 home itself is only setback 14.64 feet I believe and so the  
44 deck would intrude in from there. Additionally, they're  
45 proposing a deck along the home's northwest elevation where  
46 there is not one. The majority of this deck is conforming with  
47 the exception of like the little strip along the edge because  
48 it follows the intrusion set by the house. So the house is set

1 back fourteen point, let me make sure that's, 14.64 that  
2 version of the deck is also setback 14.6 feet.

3

4 MR. ASADI: Where fifteen feet is required?

5

6 MS. EHLEN: Where fifteen feet is required correct.

7

8 MR. LEVITON: Just a second Ms. Ehlen. Mr. Marmero do  
9 we have jurisdiction to do that part of it?

10

11 MR. MARMERO: So their notice was for any and all  
12 additional variances too so typically that's fine for you to  
13 hear that. If it was a use variance that we discussed tonight  
14 then perhaps we wouldn't, but it's a bulk variance and that's  
15 sufficient.

16

17 MS. EHLEN: Alright so the property is located in the  
18 R20 zoning district which wherein single-family homes are  
19 envisioned. What is being requested tonight is actually a D2  
20 variance which is the expansion of a non-conforming. However I  
21 understand that you may be thinking of the roof line is  
22 actually the expansion of the non-conformity, but its not.  
23 It's the decks because per your ordinances under section, I  
24 have it right here, 95-7.3E3, that's E as in --- three, a one-  
25 story, single-family home may be enlarged by the addition of a  
26 second story providing that the second-story is constructed  
27 within the same footprint as the existing one-story structure.  
28 So the ordinance is actually rather unique in that factor that  
29 it does anticipate that there are non-conforming single-family  
30 homes in the area for single-story and if you want to add a  
31 second story that would be permissible as long as you  
32 respected the setbacks that were established by that initial  
33 footprint.

34

35 MS. DEFALCO: --- You have two structures on one  
36 property so it's a non-conforming use by that alone. It has  
37 nothing to do with the structure at all. It was a single-  
38 family on --- you're a hundred percent right, but you have  
39 that commercial building because you said --- building and one  
40 is used as residential. It's a non-conforming use.

41

42 MS. EHLEN: I would respectfully disagree with your  
43 interpretation, but I understand where you're coming from  
44 because it is the section for non-conforming uses, buildings,  
45 and structures. However, that being said it is anticipated in  
46 the ordinance that there are --- non-conforming single-family  
47 homes and that it is permissible for at least if there is good  
48 intention behind to allow that second-story as long as it

1 respects the footprint of the first story. Getting into the, I  
2 kind of jumped ahead a little bit, I feel like it describes  
3 kind of what's going on in the neighborhood. So the one-story  
4 commercial building is rather unique in the area because the  
5 rest of it is defined by single-family homes, both one-story,  
6 two-story in nature so there is kind of an --- of that kind of  
7 character. Unsurprisingly the master plan does not  
8 specifically address fire-damaged structures, but it does talk  
9 a lot about encouraging development that's compatible with the  
10 existing residential neighborhood or the existing character of  
11 the neighborhood and that's what's being proposed here. There  
12 was a single-family home and it will continue to be a single-  
13 family home and it's surrounded by single-family homes. We can  
14 also --- to the municipal land use law for special reasons. I  
15 would apine that D applies provides sufficient space in  
16 appropriate locations for a variety of argricultural,  
17 residential, and recreational and to encourage coordination of  
18 the various public and private procedures and activities  
19 shaping land development in the view of lessening the cost of  
20 such development and more efficient use of land. So sufficient  
21 space as was previously testified to. This is residential and  
22 it's proposed for a residential area and to encourage the  
23 efficient use of plan, he is using an existing structure. So  
24 he's keeping the foundation, the walls, and obviously  
25 renovating and re-constructing. When you go to a D variance,  
26 the ordinance mention of a non-conforming use focus shifts. So  
27 we're not looking at the use itself, we're looking at what the  
28 deviation is --- So it's not a use variance where you're  
29 trying to say is this particularly suitable, is this the right  
30 place. In this instance you're strictly looking at how does  
31 that roof line do and how are those decks. So we're not  
32 looking at how does this, how do we, is this too commercial  
33 where residential is still permitted. It's just strictly what  
34 the deviations are. So we specifically looked in the site to  
35 accommodate the deviation. In this instance I was apine that  
36 yes it can mainly because of the character of the  
37 neighborhood. It is combined one and two-story single-family  
38 homes. The home itself was originally one and two stories so  
39 this represents slight expansion across, but we maintain the  
40 footprint of the home. The proposed porch along the northeast  
41 elevation was in --- was there before and it is proposed just  
42 the --- access and it does not actually intrude into anyone's  
43 ---- air and open space. If you look at the aerial provided  
44 you'll see that the home is actually sitting just setback  
45 potentially more than its neighbor to the north. In that  
46 instance so the homes aren't aligned so it's not like he's out  
47 on his deck he's looking at his neighbor's windows. He's set  
48 back. He's looking at landscaping so there's not that same

1 intrusion. With respect to the porch along the north again it  
2 compliments the existing interior configuration of the home  
3 and it is conforming with exception of the small area that  
4 follows the existing setback of that home. With respect to  
5 substantial detriment I do not see any. It's not creating any  
6 additional noise, --- trash, traffic. It's not creating any  
7 hazards. It is just a simple amenity for accessory structure  
8 to this home and with respect to the possible negative impacts  
9 the master plan and zoning ordinance as I noted these  
10 documents seek to help strengthen our residential  
11 neighborhoods. Therefore it is my professional opinion that  
12 the application has met the criteria. Are there any questions  
13 I can answer?

14

15 MR. LEVITON: Let's find out, Michael?

16

17 MR. WECHSLER: No we're good ---

18

19 MR. LEVITON: Danny?

20

21 MR. POCHOPIN: So I'm looking at the electrical notes  
22 here. I guess that would be up to the local subelectrical ---  
23 you're going to have them raise the entire panel --- I'm not  
24 sure if you guys wanted any --- code or.

25

26 MS. EHLEN: Yeah that's a building code.

27

28 MR. POCHOPIN: Yeah okay just wondering about that.

29

30 MR. MARMERO: The building department will review the  
31 current applications and they'll have the say on ---

32

33 MR. POCHOPIN: Just had to --- connect the existing  
34 panel so I wasn't sure if that was the ---

35

36 MR. LEVITON: Thanks Dan. Basil?

37

38 MR. MANTAGAS: Well it looks like this lot is very  
39 narrow too so there's a hardship. How many feet will the deck  
40 be from the ---

41

42 MS. EHLEN: Property line?

43

44 MR. MANTAGAS: Property line.

45

46 MS. EHLEN: Do you have a calculator?

47

48 MR. ASADI: A calculator I might --- iPhone ---



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MS. EHLEN: Yeah the current home is set back 14.6 so then it's another four feet, eleven inches from there to the end of the proposed porch and then the stairs. I don't know. I'm not sure how your zoning board interprets stairs whether they're excluded or included in the setback requirement.

MR. MARMERO: Do you need to? I'm not sure what you're thinking.

MR. LEVITON: I don't know myself, Nancy? They're included I assume.

MS. DEFALCO: Normally without.

MR. LEVITON: While they're checking, Basil they're not looking for a C variance. They're looking for a D2 which states that a non-approved existing use has a right to continue indefinitely when there's a minor expansion and all they have to do is show a special reason and she cites G from the MLUL, but there is a discrepancy here this evening. Nancy, our zoning officer, says that the problem is that there are two principal structures on the lot and Ms. Ehlen has interpreted it differently. Is that correct?

MS. DEFALCO: It's --- with her statement that the only reason why she's here tonight is because of the porch. That's not the only reason why she's here. Yes that ordinance does allow for the second story --- a non-conforming use. We have the zoning issue which is not for a non-conforming use.

MR. LEVITON: Okay.

MS. DEFALCO: --- very ---

MR. LEVITON: Okay.

MR. ASADI: And Mr. Chairman.

MR. LEVITON: Yes.

MR. ASADI: And our position on that issue with respect to --- it's the section of the ordinance that we're relying is entitled, what happened to it. Its 95-7 --- There it is.

MS. EHLEN: Yeah.

1 MR. ASADI: The title of the section that we are  
2 referring to is non-conforming uses, buildings, and structures  
3 not just structures, but non-conforming uses. There are these  
4 instructions. So we do agree that this is a non-conforming use  
5 because we have two principal structures which makes it a non-  
6 conforming use. So we're together on that. Where we deviate is  
7 that we believe that the section entitled non-conforming uses,  
8 buildings, and structures applies to non-conforming uses as  
9 well as buildings and structures and the position of ---  
10 zoning officer disagrees, but whether or not you decide in  
11 favor of our position on that one point here Ms. DeFalco's  
12 interpretation of that section our planner has put in planning  
13 testimony that justifies a D2 variance regardless of where you  
14 fall on this one interpretation of one section.

15

16 MR. LEVITON: Yes and that is my point. It's moot.  
17 It's a moot point because it won't bear on our decision  
18 making.

19

20 MR. ASADI: We could happily agree to disagree.

21

22 MR. LEVITON: Yes.

23

24 MR. ASADI: On that interpretation and still come out  
25 on the same team.

26

27 MR. LEVITON: Correct. David?

28

29 MR. SCHERTZ: So I'm getting the survey and I see a  
30 full structure. I see one that says a one-story frame  
31 development. I see a second structure that says one and a half  
32 story framed dwelling and I see a shed. Which one of these  
33 structures is going to be commercially exist?

34

35 MS. EHLEN: The survey does identify the one in the  
36 front that says one-story framed dwelling that's a one-story  
37 commercial structure.

38

39 MR. SCHERTZ: And what is that going to be used for?

40

41 MS. EHLEN: Currently it's unoccupied, but no changes  
42 are proposed to the structure or the use at this time.

43

44 MR. ASADI: It's currently set up in a last use based  
45 on my understanding is a salon or a barbershop that type of  
46 usage.

47

1 MR. SCHERTZ: And how long has that structure been on  
2 the property?

3

4 MS. EHLEN: We did it a detailed analysis of the  
5 history of that structure as the township had issued a  
6 correspondence indicating a pre-existing, non-conforming use  
7 and no changes were proposed for our --- to the structure.

8

9 MR. LEVITON: David it's at least 2013 because their  
10 exhibit is from 2013.

11

12 MR. SCHERTZ: But I'm saying so ---

13

14 MR. LEVITON: Oh yeah.

15

16 MR. SCHERTZ: Funny money and the shed is going to be  
17 used for what?

18

19 MS. EHLEN: The shed is storage, but I believe its  
20 storage of the home.

21

22 MR. ASADI: Mr. Schertz the principal of the LLC is  
23 present and if you have any questions that only he can answer  
24 we could bring him up and swear him in if you'd like.

25

26 MR. SCHERTZ: I'm just trying to get an idea of  
27 whether or not the shed is going to be used for anything other  
28 than storage.

29

30 MR. ASADI: As an accessory to the residential unit?

31

32 MR. SCHERTZ: Yes.

33

34 MR. ASADI: I can find out.

35

36 MR. MARMERO: We can stipulate the shed, the use of  
37 the shed, is strictly an accessory to the residential use,  
38 lawnmowers and that sort of thing.

39

40 MR. SCHERTZ: And there's no plans to put any  
41 electric in there or plumbing?

42

43 MR. ASADI: No not at this time. Not as far as this  
44 plan.

45

46 MR. SCHERTZ: Okay that's it, thank you.

47

48 MR. LEVITON: Thank you David. Bob?

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MR. GREGOWICZ: No questions.

MR. LEVITON: Was that Mr. Pedius that you conferred with?

MR. ASADI: Yes it is.

MR. LEVITON: And he had been the principal for four years?

MR. ASADI: Yes.

MR. LEVITON: Does he plan on living there?

MR. ASADI: I don't believe so.

MR. LEVITON: Does he plan on renting it? He said his intention to seek other business in the second structure?

MR. ASADI: I don't think he knows exactly what he's going to do with the second structure actually. Zoning wise he could seek out a tenant who might not want to operate a salon or barbershop, but if there is anything else besides that we'd have to come right back here.

MR. LEVITON: Thank you. Mr. Marmero can you touch on the standard here for the D2 variance?

MR. MARMERO: Yes so as the applicant's planner had -- a D2 variance. It's essentially a use variance and that comes with --- there. The property is essentially non-conforming because it has two separate uses on it. Our zoning ordinance does not allow that. The one use has been damaged. It's now being restored or it's being expanded upon so that creates the D2 variance. A use standard is essentially the same as any use variance that you guys deal with. It needs to be special reason which is the positive criteria and then there needs to be some negative criteria which essentially is proving that there's no detriment to the surrounding area and that there's no substantial impairment to the master plan in terms of the land. Now there's also some additional ordinance, variances that have been discovered, but they're all bulk variances. There does appear to be a bulk variance needed for the deck setback and I don't know if you want to be exact, a foot is what I gave you and I think we've heard the setback requirement is fifteen feet. I don't know if you know exactly

1 where that deck is located. From what Nancy's looking at it  
2 looks like one of the sheds.

3

4 MS. DEFALCO: One is twelve.

5

6 MR. MARMERO: Okay. So it looks like ---

7

8 MS. DEFALCO: I believe one of the existing sheds  
9 needs to be removed.

10

11 MR. ASADI: Okay with that. Which one?

12

13 MS. DEFALCO: The one that's ---

14

15 MR. MARMERO: It looks like one of the sheds would  
16 require a setback variance as well and then Nancy correct me  
17 if I'm wrong, but I think you said our ordinance only requires  
18 one shed, you guys have multiple sheds that would be a  
19 variance for that.

20

21 MS. EHLEN: Okay the framed shed that's marked demo,  
22 existing frame shed, that shed has already been removed.

23

24 MR. MARMERO: Okay. So there's only one shed on the  
25 property then?

26

27 MS. EHLEN: Yes and that's a conforming one or its --

28 -

29

30 MR. MARMERO: So the deck is twelve and the shed is  
31 ten?

32

33 MS. DEFALCO: No, the decking ---

34

35 MR. MARMERO: Oh okay.

36

37 MS. DEFALCO: --- the porch.

38

39 MR. MARMERO: Okay.

40

41 MS. DEFALCO: Which is ten, but you've got ---

42

43 MR. MARMERO: Okay so it is ---

44

45 MR. LEVITON: And to be clear there's only going to  
46 be one shed?

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48 MS. EHLEN: Correct.

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MR. ASADI: Correct.

MR. MARMERO: Okay so then there's no need for the variance for multiple sheds. So again you have your bulk variance, we have the deck setback. Nancy's indicating there's a bulk variance for a porch setback, and then the shed would also need variance relief as well.

MR. LEVITON: Thank you Mr. Marmero. I'm good, oh I'm sorry driveway.

MS. EHLEN: The driveway is staying as it is.

MS. DEFALCO: You can't.

MR. LEVITON: --- You have any questions?

MR. ASADI: No I'm good.

MR. LEVITON: You've established proofs for the positive and negative criteria. Let's go out to the public and see if there's anything that the folks in the audience want to say. I'm going to open public. I --- take the microphone from the side from Ms. Moench's --- on the counter. Mr. Marmero will swear you in and you can either ask questions of the applicant's professional or address the board, either would be fine.

MR. MARMERO: Can you raise your right hand? Do you swear that the testimony you will provide tonight will be the truth, the whole truth, and nothing but the truth?

MR. CRUZ: Yes.

MR. MARMERO: Okay what's your name sir?

MR. CRUZ: Miguel Cruz.

MR. MARMERO: What is it?

MR. CRUZ: Miguel Cruz.

MR. MARMERO: ---

MR. CRUZ: 92 Wood Avenue.

MR. MARMERO: Okay.

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MR. LEVITON: Hello Mr. Cruz.

MR. CRUZ: Can I see your plan please?

MS. EHLEN: The new plan?

MR. CRUZ: Yeah what you're proposing.

MS. EHLEN: I was just referencing the cover.

MR. CRUZ: And where's the deck going right here?

MS. EHLEN: There's one right here and there's a porch here.

MR. CRUZ: Regarding the porch I know that there's a --- easement --- planning board --- Are we going to see those lines through there?

MS. EHLEN: I do know there's easement impacted property.

MR. CRUZ: Right so how is he going to build something on the easement? ---

MR. ASADI: I'm not sure I can answer the question unless you could show us exactly where the easement is.

MR. CRUZ: Well you should ---

MR. ASADI: Objection sir please let me finish. I would appreciate it. We don't know which easement he's talking about and whether or not there's easements is not a matter for this board to consider. Now the owner of that easement could -- the water --- if there's an encroachment on that, but the easement does not belong to the neighbors. It's not within the board's purview and I don't know that she's prepared to answer the question, but if you are.

MS. EHLEN: No I'm not.

MR. LEVITON: Mr. Cruz I'm going to sustain that objection. It's not in the board's purview to consider and the porch doesn't expand the existing footprint or the prior footprint.

1 MR. CRUZ: Right, but then --- then there was deck  
2 prior to the porch and the deck was removed. --- adjoin my  
3 property as well and we had the easement and the town  
4 restricted us put any structures on that easement. So I think  
5 maybe the board should address that issue. There's an easement  
6 and I don't see how this board would even allow something to  
7 be constructed.

8  
9 MR. LEVITON: You've heard.

10  
11 MR. CRUZ: Structure in the easement.

12  
13 MR. LEVITON: You've heard from Mr. Asadi, he's the  
14 applicant's attorney. We'll defer to our own who you will  
15 trust like we do. He represents Manalapan Township and its  
16 interests.

17  
18 MR. MARMERO: So I mean obviously I don't have the  
19 easement in front of me so I would have to see what the terms  
20 of it. But you're saying it's an MUA easement?

21  
22 MR. CRUZ: Yes it's an MUA easement for sewer and  
23 water.

24  
25 MR. MARMERO: I represent some MUAs, but I know those  
26 easements usually don't require, don't allow for permanent  
27 structures over them because usually there's some type of  
28 infrastructure underneath it and that they would need to have  
29 access to. They do sometimes allow fencing and decking that  
30 could be removed. I'd have to see the terms of the easement in  
31 order to know for sure, but it is somewhat of a problem if  
32 you're being told by the township that you can't put anything  
33 on it.

34  
35 MR. CRUZ: Exactly.

36  
37 MR. MARMERO: Yet this exists there, but I would need  
38 to see the easement in order to be sure.

39  
40 MR. LEVITON: Can you produce it sir?

41  
42 MR. CRUZ: I think it ---

43  
44 MR. LEVITON: No if you can't produce it we're going  
45 to move on. If you have other concerns we're going to allow  
46 you to address them now.

47  
48 MR. CRUZ: Well.



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MR. LEVITON: That's closed. That is closed.

MR. CRUZ: Hold on, on easements require a new type of ---

MR. LEVITON: I'm not interested sir. I have already ruled. You've asked and I answered.

MR. CRUZ: You answered my ---

MR. LEVITON: We're not going to have a dialogue.

MR. CRUZ: I'm asking as the public I'm going to have a dialogue with you. You're telling me that the board is not going to ---

MR. LEVITON: I am asking you to ask another question of the applicant's professionals or to address the board one or the other.

MR. MARMERO: What the chair is saying is they can't consider the easement. Other departments of the township may so if they can't develop or if they can't put a structure on there they may run into issues with that because of that easement, but this board is not privy to that easement and they're not going to grant an approval or denial based on the easement. But if that easement does not allow them to develop whoever is the owner --- MUA --- can create problems if you do that.

MR. LEVITON: Mr. Marmero thank you for that explanation. That's the second time you've heard it so that's it. That matter's is closed.

MR. CRUZ: Well I have another matter.

MR. LEVITON: I invite you to share it then.

MS. DEFALCO: Can I?

MR. LEVITON: Yeah.

MS. DEFALCO: Mr. Cruz I don't see an easement on their property.

MR. CRUZ: There is one.

1 MS. DEFALCO: You might have an easement on your  
2 property, doesn't necessarily mean they have an easement on  
3 their property. So we have the survey in front of us which  
4 doesn't show an easement. This is the first time. I'm looking  
5 at the township tax map.

6  
7 MR. CRUZ: Right.

8  
9 MS. DEFALCO: I don't see an easement.

10  
11 MR. CRUZ: I know that there's an easement there  
12 based on my discussion with Ploskonka.

13  
14 MS. DEFALCO: Well that doesn't mean anything.

15  
16 MR. LEVITON: And he doesn't work for us.

17  
18 MS. DEFALCO: True and he's not the engineer.  
19 Actually one we'll consider it.

20  
21 MR. CRUZ: Alright.

22  
23 MS. DEFALCO: These are pretty big structures.

24  
25 MR. CRUZ: Right.

26  
27 MS. DEFALCO: It's not expanding. These are going up.

28  
29 MR. CRUZ: Okay now relative to the use who would  
30 address the use because the use is currently --- What the use  
31 is, the use is for a salon correct?

32  
33 MS. DEFALCO: Correct.

34  
35 MR. CRUZ: And the town will enforce that?

36  
37 MS. DEFALCO: Correct.

38  
39 MR. CRUZ: Okay.

40  
41 MS. DEFALCO: Any tenant will have to have a permit,  
42 anything other than a salon. His attorney has already stated  
43 he'd be back before the board for a different use.

44  
45 MR. CRUZ: Okay.

46

1 MR. LEVITON: Thank you Mr. Cruz. Is there anyone  
2 else from the public? Yes ma'am, please come. Mr. Marmero will  
3 swear you in.

4  
5 MR. MARMERO: Good evening ma'am. If you raise your  
6 right hand I'll get you sworn in. Do you swear the testimony  
7 you provide tonight will be the truth, the whole truth, and  
8 nothing but the truth?

9  
10 MS. DALY: Yes.

11  
12 MR. MARMERO: Okay if you could state your name and  
13 address for the record please?

14  
15 MS. DALY: Mika Daly 65 ---

16  
17 MR. MARMERO: Okay so last name's D-A-L-Y?

18  
19 MS. DALY: Yes.

20  
21 MR. LEVITON: How do you say it?

22  
23 MS. DALY: Mika is fine.

24  
25 MR. LEVITON: Thank you Mika.

26  
27 MR. MARMERO: And what's the address again I'm sorry.

28  
29 MS. DALY: 65.

30  
31 MR. MARMERO: 65, alright thank you go ahead.

32  
33 MS. DALY: Now I bought my house in 2015 so I've been  
34 in the neighborhood for quite some time now. I was there when  
35 the salon was there and then I was there when it was sold and  
36 --- and all of that. My concern is the use because I have seen  
37 a paint business being run out of that commercial property. So  
38 there was paint trucks. There were more trucks since the  
39 pictures they have since been removed, but there was some  
40 things being stored there. So there's commercial vehicles  
41 coming in and out. That's not really my concern ---  
42 residential --- which we all know. So I just want to make sure  
43 that I understand that you said it would have to have a permit  
44 and that's just really my concern is what the uses --- We're  
45 in a residential and I have a young child and there's guys and  
46 all the --- that were coming in and out with the paint a few  
47 years ago. It was a big argument between an employee of his on  
48 the property. I'm pretty sure there's records of me calling

1 about the use and the paint shop being run out of there so I  
2 just wanted to address that concern really.

3

4 MR. LEVITON: We're glad that you did. Keep your eyes  
5 open. He has a right to continue indefinitely with the  
6 approved pre-existing use. So if it's going to change he's  
7 going to have to get permission and you'll be notified and  
8 you'll be here --- Okay you're welcome.

9

10 MR. ASADI: Mr. Chair just to answer to that comment.

11

12 MR. LEVITON: Mr. Asadi, please the microphone.

13

14 MR. ASADI: The property has been an ongoing  
15 construction site and there's going to be contractor vehicles  
16 in and out of there until the construction is complete. So we  
17 acknowledge that no paint company or any other contracting  
18 company can be run out of that commercial building unless we  
19 get the appropriate approvals from this board.

20

21 MR. LEVITON: Thank you Mr. Asadi. Is there anyone  
22 else who wants to address the board regarding this matter or  
23 ask questions if you have --- his professionals?

24

25 MS. DALY: --- I just sat down.

26

27 MR. LEVITON: Do you want to come back up again?

28 Sure.

29

30 MS. DALY: Before the house actually.

31

32 MR. LEVITON: You understand ---

33

34 MS. DALY: Yes --- Before the house actually came  
35 down there was a paint business being run out of there. So I  
36 understand that there's construction that has been going on  
37 now years. Okay I completely understand that. There has been -  
38 -- work that has been done. I see, I work from home so I see  
39 and I see when the cars are coming early in the morning to  
40 leave the premise. So I just again I understand that there's  
41 going to be work done of course, but my concern was suggesting  
42 before there was even work then this was or the house was  
43 burnt down.

44

45 MR. LEVITON: Thank you Mika. We'll be vigilant. Okay  
46 board anything else you want to add? Mr. Asadi would you like  
47 to summate?

48

1 MR. ASADI: Yes Mr. Chair. I'm happy that we made it  
2 here tonight. It has been a long time coming. This investment  
3 and renovation that the owner engaged in and suffered some  
4 really tough setbacks and he's very relieved to get here today  
5 and we appreciate the board's consideration of our  
6 application. We feel that we have met the legal criteria for  
7 approval and we hope that the board would act favorably upon  
8 our application, thank you.

9

10 MR. LEVITON: You're welcome sir thank you. Ms.  
11 DeFalco anything else?

12

13 MS. DEFALCO: No thank you.

14

15 MR. LEVITON: Okay Mr. Marmero?

16

17 MR. MARMERO: No nothing additional, but just again  
18 to sum up for the board so what you heard tonight is a D2  
19 variance which is essentially a use variance and that's  
20 because it's an expansion of a non-conforming use that does  
21 require a super majority so that requires five votes and then  
22 what was discovered tonight was several bulk variances. All of  
23 which are just a simple majority and again for the record  
24 that's the bulk variance for the deck setback for one of the  
25 decks and --- bulk variance for the setback of a porch and a  
26 bulk variance for a setback for a shed. There was some  
27 discussion about possibly a bulk variance due to multiple  
28 sheds, but we're told that the one shed that appears on the  
29 survey has since been demolished so that variance really won't  
30 even be necessary.

31

32 MR. LEVITON: Thank you Mr. Marmero. Before I ask for  
33 a motion I want to be sure that you have all your concerns  
34 addressed. If there's anything else you want to talk about.

35

36 MR. ASADI: Sir thank you for the clarification. I  
37 just want to assure that if there is going to be a change from  
38 one business use to another that you --- and everybody has  
39 hey're going to come before the board again. --- to come.

40

41 MR. LEVITON: We need the use aspect of the property  
42 and what the applicant wants to build --- in order to ---

43

44 MS. DEFALCO: Well I think that he understands very  
45 well. We've had multiple conversations and anything but a  
46 salon would have to be before this board for approval and I  
47 would think that if they wanted to run a painting business  
48 that this would have been the time to present it to the board.

1 So I would hope that you wouldn't do it illegally. Just keep  
2 it empty until you're ready to go.

3

4 MR. MARMERO: Yeah and Nancy summed it. The legal  
5 aspect of any change of that business would require approval.  
6 We can also build that in as a condition to the resolution  
7 too. So it's in the law and it's in your resolution as well.

8

9 MR. LEVITON: Do that. Now --- Gentlemen? Alright  
10 then I'm going to ask someone to make a motion.

11

12 MR. DITOTA: I'll make that motion.

13

14 MR. LEVITON: Rob what motion are you making?

15

16 MR. DITOTA: With the stipulations in there.

17

18 MR. LEVITON: To approve the application?

19

20 MR. DITOTA: Approve the application with the  
21 stipulations.

22

23 MR. LEVITON: Thank you Rob. Will someone second  
24 that?

25

26 MR. SCHERTZ: I second.

27

28 MR. LEVITON: Thank you David.

29

30 MS. MOENCH: It was David?

31

32 MR. LEVITON: David.

33

34 **ROLL CALL**

35

36 MS. MOENCH: Mr. DiTota?

37

38 MR. DITOTA: Yes.

39

40 MS. MOENCH: Mr. Gregowicz?

41

42 MR. GREGOWICZ: Yes.

43

44 MS. MOENCH: Mr. Schertz?

45

46 MR. SCHERTZ: Yes.

47

48 MS. MOENCH: Mr. Mantagas?

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MR. MANTAGAS: Yes.

MS. MOENCH: Mr. Pochopin?

MR. POCHOPIN: Yes.

MS. MOENCH: Mr. Wechsler?

MR. WECHSLER: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Congratulations ---

MR. ASADI: Thank you.

MR. LEVITON: You're welcome. Okay next up ZBE2301. This is Kanti and Lata Gala. Oh we're going to take a moment. Gala's you can come up while we wait. Make yourselves comfortable. I'm assuming you're Mr. Dumay. You're Mr. Dumay, okay. Hello sir congratulations to you.

MR. DUMAY: Thank you.

MR. LEVITON: You're welcome and welcome to our neighborhood. You're welcome. Jen give a holler when you're ready again and take your time. Okay she's ready. So you're moving and I know first off you need to be sworn in.

MR. MARMERO: Yeah are you both planning to testify tonight?

MRS. GALA: Yes.

MR. MARMERO: Okay switch sides --- both sworn in. If you'd both raise your right hand, yeah. Do you swear that the testimony you will provide tonight will be the truth, the whole truth, and nothing but the truth?

MR. GALA: Yes.

MRS. GALA: Yes.

MR. MARMERO: Okay if you could each state your name for the record please.

MR. GALA: Kanti Gala.

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MR. MARMERO: Okay.

MRS. GALA: Lata Gala.

MR. MARMERO: Okay and I see the names and spellings are on the agenda too if anyone needs them. Okay so you guys are sworn in ---

MR. LEVITON: Okay who'll be talking tonight?

MR. GALA: We have a wood burning barbecue is off the limit --- and I think it was say that we have not kept enough distance. We did not have permit, but we always with anything we always had --- apply for the permits and did --- and bought the permit, but this time we thought we really didn't need it because it's just a wood burning so.

MR. LEVITON: Okay.

MR. GALA: But we are willing to do whatever the township requires to correct and rectify.

MR. LEVITON: So let me just ask you. This was identified through our ZCCO program. Is that correct?

MR. GALA: --- Yes.

MR. LEVITON: Okay so you intend to sell your property. You've sold your property?

MR. GALA: Yes.

MR. LEVITON: And the zoning officer --- you've has some problems and now you're here to either legitimize the problems that or to give them it's really four of them.

MR. GALA: Sure.

MR. LEVITON: One or the other. I'm sorry. --- You're going to legitimize and get variance relief are the same thing. So you're going to get variance relief or you're going to --- I've read through your attorney's letter to bring the property back into conformity in a timely fashion.

MR. GALA: Yes.



1 MR. LEVITON: Okay and the things that you need  
2 legitimized are your driveway, pavers, and fire pit, three  
3 things.

4  
5 MR. GALA: Pavers yeah and actually I didn't know  
6 that when we removed in 2017 we changed our back part of the  
7 pavers and according to us I think we did everything --- the  
8 paving blocks are there and the board signed and we put the  
9 fire pit in between as it was purchased, but I think the --- I  
10 think that it is outside of some limit.

11  
12 MR. LEVITON: Yeah I'm trying to find. I don't see  
13 it. I'll ask the zoning officer. Where is the encroachment of  
14 the side setback? She'll tell us right away.

15  
16 MS. DEFALCO: This patio is eighteen feet from the  
17 side yard and thirty-five feet is required.

18  
19 MR. LEVITON: And the driveway?

20  
21 MS. DEFALCO: The porch, the deck and the patio are -  
22 -- the extension --- from their property line five feet is  
23 existing, but ten is required five is existing for the  
24 driveway and eighteen is existing and thirty-five is required  
25 ---

26  
27 MR. LEVITON: Okay and looking at the denial it talks  
28 about elimination --- list and identify problems that you  
29 mentioned.

30  
31 MS. DEFALCO: --- It's hard. If you look at the  
32 survey it's shown what the dashed line versus a solid line,  
33 but it says --- and it says bench --- patio.

34  
35 MR. LEVITON: That's out by the pool. What about the  
36 driveway?

37  
38 MS. DEFALCO: The driveway on that side as well.

39  
40 MR. LEVITON: Yeah.

41  
42 MS. DEFALCO: Is five feet.

43  
44 MR. LEVITON: Five feet and it encroaches five feet  
45 into the setback, ten feet were required. What about  
46 elimination Nancy? The denial talks about.

47

1 MS. DEFALCO: The ordinance says when the driveway is  
2 that close and that big that you should have your trees or the  
3 lighting shouldn't be directed in the manner in which it  
4 shines onto the neighboring lawn.

5

6 MR. LEVITON: That's the ordinance. Did you observe  
7 any of that though?

8

9 MS. DEFALCO: I did not.

10

11 MR. LEVITON: Okay because I was out there and I  
12 noticed your neighbor had his driveway illuminated the whole  
13 way with street lights for lack of a better word there, ---  
14 but not yours. I also observed on your property I observed  
15 trees, evergreens, as a --- fence if you will. Also Gala's I  
16 noticed that --- that sit on big lots your neighbors are very  
17 close to you and the design is such that there's homes behind  
18 yours. Your neighbors are actually behind you. Their front  
19 yards look into your property or into the back of your house.  
20 That's unique. That's unique so. Can you tell me about the  
21 shape of your property?

22

23 MRS. GALA: Shape of the property?

24

25 MR. LEVITON: The shape yeah.

26

27 MR. GALA: It's like a narrow in the --- and then  
28 widens in the back. We also have an easement so we have to  
29 keep everything close to the house because there's a  
30 preservation in the back.

31

32 MR. LEVITON: So it's irregularly shaped and there's  
33 an easement where everything has to be skewed. You do have  
34 permission --- it was included --- there's that. You have  
35 permission from the town to build your fence over the  
36 easement.

37

38 MR. GALA: Yeah.

39

40 MR. LEVITON: Okay let's go out and see what the  
41 board thinks.

42

43 MR. WECHSLER: Just to be clear we're talking about  
44 the semicircle area that's a bench?

45

46 MS. DEFALCO: Yes.

47

48 MR. WECHSLER: That's encroaching?

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MS. DEFALCO: You've got the middle deck that comes down that's the rest of the patio.

MR. WECHSLER: Okay. --- driveway.

MS. DEFALCO: The driveway.

MR. WECHSLER: Five feet of the driveway.

MS. DEFALCO: Close to the roadway.

MR. LEVITON: And Dan?

MR. POCHOPIN: No I'm good with this ---

MR. LEVITON: Basil?

MR. MANTAGAS: That fence is illuminated that you have around your property?

MR. GALA: --- I don't ---

MR. MANTAGAS: And it just goes around the area where the pool is. It doesn't go any further?

MR. GALA: Just ---

MR. MANTAGAS: --- around the property?

MR. GALA: Yeah and the pool.

MR. MANTAGAS: Okay thank you. No more questions Mr. Chair.

MR. LEVITON: Thank you Basil. David?

MR. SCHERTZ: So the driveway is original? It wasn't extended or anything like that?

MR. GALA: No.

MR. SCHERTZ: I gather the original builder got a variance or not?

MR. LEVITON: No there's no variance. We'd know if there was. They've testified that they replaced the pavement and they put the pavers in about five or six years ago I

1 forget and they testified that their pavers cover what was  
2 existing that they didn't expand on any ---

3

4 MR. SCHERTZ: Right, right. I mean it is what it is I  
5 guess --- their property.

6

7 MR. LEVITON: It is. Can you tell us how close is  
8 your driveway at because of the irregular shape of your  
9 property where it's narrow in the front? Would you say that  
10 the driveway to your neighbor to the right and your driveway  
11 to neighbor to the left are extraordinarily close to your  
12 driveway?

13

14 MR. GALA: Not very close, no.

15

16 MR. LEVITON: Work with me here.

17

18 MR. WECHSLER: I said you saw the picture it's far.

19

20 MR. LEVITON: It is not. --- I can't testify.

21

22 MR. MARMERO: You're trying to help everybody.

23

24 MR. LEVITON: I am. I'm trying to be helpful. It's  
25 okay. Let's see what's going on.

26

27 MS. DEFALCO: I found the two acre zoning.

28

29 MR. WECHSLER: It's a lot of land.

30

31 MR. LEVITON: It's two acres yes.

32

33 MS. DEFALCO: And then ---

34

35 MR. LEVITON: Its two acres, but it goes off like  
36 this and all three driveways converge close. Their mailboxes  
37 are close. Their fronts are close. They have no other  
38 frontage. It's all in the back and the neighbors' homes are  
39 way back there looking up at the Gala's home. The MLUL could  
40 not have forseen that. There's no way and that's why this  
41 board is granted a power to provide variance relief when it  
42 needs it. Bob anything from you?

43

44 MR. GREGOWICZ: I have a question about the  
45 fireplace. Did you do that yourself or did you have a  
46 contractor?

47

48 MR. GALA: No we had somebody come in.

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MR. GREGOWICZ: Oh yeah did you think that you might need permits, look into it?

MR. GALA: Say that again.

MR. GREGOWICZ: Did the contractor mention when he broke your fireplace that you might need permits?

MR. GALA: No he didn't say anything. No and he said you are not doing gas out here, not doing electrical. So he didn't --- at all because we have taken all the permits and everything like that.

MR. GREGOWICZ: Okay.

MS. DEFALCO: It's really not the fireplace Bob. It's more the patio.

MR. GREGOWICZ: Right.

MR. LEVITON: Alright --- do you? Let's go out to the public. Is there anyone in attendance who wants to ask the Gala's a question? The board --- You'll be sworn in. First take a microphone and Mr. Marmero will swear you in.

MR. MARMERO: Raise your right hand ma'am and we'll get you sworn in. Do you swear the testimony you provide tonight will be the truth, the whole truth and nothing but the truth?

MS. ESKAMDAR: Yes.

MR. MARMERO: State your name and address for the record please.

MS. ESKAMDAR: Faten Eskamdar. My address is 58 Taylors Mills Road.

MR. LEVITON: I'm sorry I need a spelling on that and ---

MS. ESKAMDAR: F-A-T-E-N.

MR. LEVITON: Faten? Ms. Faten?

MS. ESKAMDAR: Yeah.

1 MR. MARMERO: That was the first. What was the last  
2 name?

3  
4 MS. ESKAMDAR: E-S-K-A-M-D-A-R.

5  
6 MR. MARMERO: Gotcha.

7  
8 MR. LEVITON: Ms. Eskamdar. Thank you Ms. Eskamdar.  
9 What is it you wanted to share with us?

10  
11 MS. ESKAMDAR: I just wanted to know were you talking  
12 about 60 Taylor Mills Road?

13  
14 MS. DEFALCO: No.

15  
16 MS. ESKAMDAR: No, okay that's all my concern.

17  
18 MR. LEVITON: That's next. That's the last  
19 application on our agenda.

20  
21 MS. ESKAMDAR: It's related to me so that's why I  
22 just wanted to make sure.

23  
24 MR. LEVITON: When I'm done you'll be back at that  
25 time.

26  
27 MS. ESKAMDAR: Okay.

28  
29 MR. LEVITON: And you're already sworn in --- with  
30 your right hand.

31  
32 MS. ESKAMDAR: Thank you.

33  
34 MR. LEVITON: You're welcome.

35  
36 MS. DEFALCO: ---

37  
38 MR. LEVITON: Is there anyone else who wants to  
39 address the board or ask the Gala's anything regarding this  
40 application? Okay seeing none I'll close public. Mr. Marmero  
41 do you have ---

42  
43 MR. MARMERO: So based on his testimony you heard  
44 tonight and the application you have in front of you you have  
45 a couple of different bulk variances here. It looks like the  
46 patio encroaches into the setback where thirty-five feet would  
47 be required and they have eighteen feet here and then the  
48 driveway has a setback issue as well where ten feet from the

1 property line is required, we have five feet. With bulk  
2 variances like this typically you would hear some type of  
3 hardship as the reason why to grant the variance. You did hear  
4 some testimony tonight regarding the shape of the lot --- the  
5 narrowness in the front and then the expansion in the back and  
6 also the existence of an easement. In addition as a hardship  
7 you also want to make sure that there's no detriment to the  
8 surrounding area. You did hear testimony that all of this  
9 exists tonight. It's already existed and we haven't heard any  
10 testimony from the public so the choice is yours, but that  
11 would be the standard.

12

13 MR. LEVITON: Thank you Mr. Marmero. Will someone  
14 make a motion?

15

16 MR. DITOTA: I'll make a motion to grant relief.

17

18 MR. LEVITON: Thank you Mr. DiTota.

19

20 MR. WECHSLER: I'll second.

21

22 MR. LEVITON: And thank you Mr. Wechsler for  
23 seconding it.

24

25 **ROLL CALL**

26

27 MS. MOENCH: Mr. DiTota?

28

29 MR. DITOTA: Yes.

30

31 MS. MOENCH: Mr. Gregowicz?

32

33 MR. GREGOWICZ: Yes.

34

35 MS. MOENCH: Mr. Schertz?

36

37 MR. SCHERTZ: Yes.

38

39 MS. MOENCH: Mr. Mantagas?

40

41 MR. MANTAGAS: Yes.

42

43 MS. MOENCH: Mr. Pochopin?

44

45 MR. POCHOPIN: Yes.

46

47 MS. MOENCH: Mr. Wechsler?

48

1 MR. WECHSLER: Yes.

2

3 MS. MOENCH: Chair Leviton?

4

5 MR. LEVITON: Yes, congratulations to Mr. Dumay and  
6 Gala's good luck in your new home.

7

8 MR. GALA: Thank you.

9

10 MR. LEVITON: You're welcome.

11

12 MRS. GALA: Thank you.

13

14 MR. LEVITON: And did he --- address the room?

15

16 MRS. GALA: ---

17

18 MR. LEVITON: Oh okay.

19

20 MRS. GALA: ---

21

22 MR. GALA: We are here in the home for twenty-six  
23 years and now let somebody else enjoy the home.

24

25 MR. LEVITON: Yes my home is right behind yours.

26

27 MR. GALA: Oh.

28

29 MR. LEVITON: I didn't know that until I went there,  
30 but I'm at least three miles away by car, but behind my house  
31 there's another house that's behind yours. I don't know if you  
32 could see it, but I can hit your home with a driver and a nine  
33 iron. Definitely I'm in --- so we're close, but you'd never  
34 know.

35

36 MR. GALA: Because of the woods.

37

38 MR. LEVITON: The woods, yeah ---

39

40 MR. GALA: Thank you very much, appreciate it.

41

42 MS. MOENCH: I'm going to email the ---

43

44 MR. GALA: We don't have --- we have to move because  
45 of the kids they were next door, both kids my daughter and my  
46 son. They moved to townhome Tinton Falls because of the  
47 school, private school, and we had to move because we want to  
48 stay close to them.



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MR. LEVITON: Good for them. Enjoy and have many years of health and happiness sir.

MS. DEFALCO: Good luck.

MR. LEVITON: Okay. Our last meeting is ZBE2305, Mr. Ruggiero. Come on up sir. Mr. Marmero will swear you in and then you're going to make yourself comfortable and --- before the case is --- Mr. DiTota is recusing himself for --- and being stressed out to get here and for a civic duty. Be well sir.

MR. MARMERO: Okay sir if you'd raise your right hand I'll get you sworn in. Do you swear the testimony that you will provide tonight will be the truth, the whole truth, and nothing but the truth?

MR. RUGGERIO: Yes.

MR. MARMERO: Okay and we have your name on the agenda of the application, but can you again state your name for the record please?

MR. RUGGERIO: Ralph Ruggiero.

MR. MARMERO: Okay.

MR. LEVITON: Mr. Ruggiero you're moving as well?

MR. RUGGERIO: Yes sir.

MR. LEVITON: And this application this evening is the result of the ZCCO?

MR. RUGGERIO: Yes --- back in January.

MR. LEVITON: Tell the board what variances you're going to need and what brings you here this evening.

MR. RUGGERIO: I'm seeking a side setback variance. The property in question is located on Taylor Mills Road. It's a 40/20 zone. Ignorance on my behalf I've been a homeowner there for twenty-five years. I was not under the impression that I had a thirty-foot side setback in that zone. The patio in question was installed 2006, 2007 with a roof put on, --- put on it six to seven years ago to the best of my recollection. This was all brought up to me when I went zoning

1 with a contractor in house and we've since lost the contractor  
2 because of the time of essence for the people. So I've been  
3 looking for a --- contract company or I'd stay in Manalapan. I  
4 want to go smaller, but I am seeking relief based on the  
5 hardship. The way that my lot is set up I do have heavy  
6 conservation issues on both sides in the rear of my property.  
7 The unit that was put up I believe it to be aesthetically  
8 pleasing. It was done in architecturally good taste. My  
9 neighbors to my left --- the left side of my property line to  
10 my knowledge I believe they are both non-conforming lots as  
11 well. My immediate neighbor to my left is I think her lot's  
12 only sixty-eight feet. So if I am encroaching there I don't  
13 have thirty feet. I need ---

14

15 MR. LEVITON: I've got to say you've done your  
16 homework because you're hitting all of our buzzwords. You know  
17 what it is that you need ---

18

19 MR. RUGGERIO: Had a lot of late nights, very  
20 stressful.

21

22 MR. LEVITON: And this too shall pass.

23

24 MR. RUGGERIO: Yes.

25

26 MR. LEVITON: So you spoke about the irregular shape  
27 of your property. I've seen the survey, but I'm just going to  
28 ask you. Are there right angles at the corners of you  
29 property? Is it rectangular?

30

31 MR. RUGGERIO: It's rectangular for the most part,  
32 but it is slanted so it's not quite.

33

34 MR. LEVITON: So it's more parallelogram, it's an  
35 irregular shape.

36

37 MR. RUGGERIO: Yes, yes I would say that yes.

38

39 MR. LEVITON: I see and there are easements and your  
40 own --- when you look at the street it faces in the direction  
41 of everything is in your backyard. It doesn't go straight  
42 back. It does go off to that side.

43

44 MR. RUGGERIO: Yes, yes and there was one other issue  
45 that the zoning board had. I have complied with --- having a  
46 shed. I have to take out a treehouse that I had with a fence.  
47 --- that well obviously that didn't comply to move forward.

48

1 MR. LEVITON: Well that was very nice of you. We  
2 appreciate that. Ms. Eskamdar is here. She's going to want to  
3 questions. Hold on ma'am we're going to go to the board first.  
4 We're going to hear what she has to say. Before she comes up I  
5 will go out to the board and I would say that this board is  
6 empowered to grant exceptions to the ordinances where there's  
7 a hardship which is on the record. Can you speak to your  
8 neighbor's property before they come up? Their home is set  
9 much closer to Taylors Mills Road than yours I observed.

10

11 MR. RUGGERIO: My neighbor on my left, yes really  
12 close to the road.

13

14 MR. LEVITON: On your left, but from the street it's  
15 on your right.

16

17 MR. RUGGERIO: Correct.

18

19 MR. LEVITON: And okay let's go out to the board.  
20 Let's see what the board thinks, Michael.

21

22 MR. WECHSLER: I have no questions thank you.

23

24 MR. LEVITON: Daniel?

25

26 MR. POCHOPIN: No questions Chair.

27

28 MR. LEVITON: Basil?

29

30 MR. MANTAGAS: Mr. Ruggerio what type of fireplace is  
31 that, wood burning or?

32

33 MR. RUGGERIO: It's wood burning.

34

35 MR. MANTAGAS: Thank you no more questions.

36

37 MR. LEVITON: David?

38

39 MR. SCHERTZ: No questions.

40

41 MR. GREGOWICZ: No questions.

42

43 MR. LEVITON: I also have no questions. Has anyone  
44 come to you and complained?

45

46 MR. RUGGERIO: Never on the record.

47

1 MR. LEVITON: Alright that's all so I will go out to  
2 the public now and Ms. Eskamdar if you'll take that  
3 microphone. You're --- You're still under oath and you may  
4 either ask a question of Mr. Ruggiero or address the board  
5 either one. You've been sworn in, you're fine.

6  
7 MS. ESKAMDAR: Okay thanks. So I'm moving to the  
8 house. I just have the house four months ago.

9  
10 MR. LEVITON: We don't know which one you're talking  
11 about.

12  
13 MS. ESKAMDAR: 58 Taylors Mills Road. I'm the  
14 neighbor from the left side.

15  
16 MR. LEVITON: From the left so if I'm looking at his  
17 house you're on the left?

18  
19 MS. ESKAMDAR: Yeah the left.

20  
21 MR. LEVITON: From the street she's on your left?  
22 Okay.

23  
24 MR. RUGGERIO: On the other side, not the outside,  
25 but the ---

26  
27 MR. LEVITON: Yes sir nothing.

28  
29 MS. ESKAMDAR: And my sons were just he helped more -  
30 --

31  
32 MR. LEVITON: Sure.

33  
34 MS. ESKAMDAR: He can talk more.

35  
36 MR. LEVITON: We'll swear him in and he'll speak on  
37 your behalf absolutely.

38  
39 MR. MARMERO: Raise your right hand sir. We'll get  
40 you sworn in. Do you swear the testimony you provide tonight  
41 will be the truth, the whole truth, and nothing but the truth?

42  
43 MR. ESKAMDAR: Yes.

44  
45 MR. MARMERO: Okay and what's your name for the  
46 record sir?

47  
48 MR. ESKAMDAR: My name is Baevely.

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MR. MARMERO: Can you spell the first name?

MR. ESKAMDAR: Sure B-A-E-V-E-L-Y and same last name. It's 58 Taylors Mills Road.

MR. LEVITON: Welcome Mr. Eskamdar how are you tonight?

MR. ESKAMDAR: I'm fine and how are you today? So we're just a little confused --- and we know exactly ---

MR. LEVITON: I'll explain it to you. In town when somebody moves we have a program where when the zoning officer, Mrs. DeFalco, goes out and makes an inspection and anything from what she observes that's non-conforming to our ordinances need to either be ratified here or they need to be brought back into conformance with the law. One of those two things has to happen and it is the responsibility of the applicant to notify anyone who lives within two hundred feet which is why you got noticed because you live within two hundred feet. His problem has to do with the other side of his property. His firepit is too close to the side property line. He's got to be, if this is the end of his property his fire pit has to be how many feet Nancy?

MS. DEFALCO: ---

MR. LEVITON: The patio and the fireplace?

MS. DEFALCO: Thirty-three.

MR. LEVITON: He needs to be thirty-three and he's only ---

MS. DEFALCO: Twenty-seven.

MR. LEVITON: Twenty-seven so that's a three foot encroachment. He's too close to this edge, not yours, the other edge by three feet.

MR. ESKAMDAR: Okay so he's not crossing the property line or encroaching?

MR. LEVITON: Oh no.

MR. ESKAMDAR: ---

1 MS. DEFALCO: --- near the property.

2

3 MR. LEVITON: He's on the other side. His problems  
4 are --- don't involve you.

5

6 MR. MARMERO: And --- doing anything.

7

8 MR. ESKAMDAR: So because he's ---

9

10 MR. MARMERO: He's already ---

11

12 MR. ESKAMDAR: Oh so because he's not three feet away  
13 from the property line has to come and notify in accordance.

14

15 MR. LEVITON: Correct he's twenty-seven feet away.  
16 It's only a three foot encroachment which I'm going to  
17 characterize as diminimus. It's small.

18

19 MR. ESKAMDAR: Yeah.

20

21 MR. LEVITON: It's not that big a deal.

22

23 MS. DEFALCO: ---

24

25 MR. ESKAMDAR: When we first got the letter we  
26 thought one of us was encroaching on the property line and he  
27 wanted to take our lot. We didn't understand. ---

28

29 MR. LEVITON: Okay.

30

31 MR. MARMERO: Yeah he's required by law like the  
32 Chair said, he's required by the law to give you guys notice  
33 so that's why he did that, but he's just looking to get  
34 approval to keep that patio and fire pit as it currently is.

35

36 MR. ESKAMDAR: That's fine. We're good.

37

38 MS. DEFALCO: ---

39

40 MR. ESKAMDAR: Nice to meet you.

41

42 MS. DEFALCO: Thank you. ---

43

44 MR. ESKAMDAR: --- We just moved to ---

45

46 MR. MARMERO: He's moving now. ---

47

1 MS. DEFALCO: That's the only thing in the back ---  
2 of the house that's ---

3

4 MR. LEVITON: Okay thank you Eskamdar's.

5

6 MR. ESKAMDAR: Thank you guys.

7

8 MR. LEVITON: Is there anyone else who wants to  
9 address the board or ask Mr. Ruggiero a question? He's with  
10 you, oh okay, okay. So Mr. Marmero do we need anything else?

11

12 MR. MARMERO: Unless the board has questions ---  
13 leaving his house again like the last application this is a  
14 bulk variance application. Here again we have two separate  
15 bulk variances. You have the patio which is twenty-seven feet  
16 from the side --- inside the setback will need a thirty foot  
17 side yard setback and then you have the fire pit same thing.  
18 It's a thirty foot side yard setback. That has a twenty-four  
19 foot side yard setback. Again like the last application you  
20 need to see some type of hardship. The applicant did put  
21 testimony on the record again regarding the shape of the lot  
22 and the easements that exist on the lot and then we have ---  
23 There's no substantial detriment to the surrounding area or in  
24 the --- of your zoning plan.

25

26 MR. LEVITON: Thanks Albert. Will someone make a  
27 motion?

28

29 MR. WECHSLER: I'll make a motion.

30

31 MR. LEVITON: Thank you Michael.

32

33 MR. POCHOPIN: Second.

34

35 MR. LEVITON: Thank you Dan.

36

37 **ROLL CALL**

38

39 MS. MOENCH: Mr. Gregowicz?

40

41 MR. GREGOWICZ: Yes.

42

43 MS. MOENCH: Mr. Schertz?

44

45 MR. SCHERTZ: Yes.

46

47 MS. MOENCH: Mr. Mantagas?

48

1 MR. MANTAGAS: Yes.

2

3 MS. MOENCH: Mr. Pochopin?

4

5 MR. POCHOPIN: Yes.

6

7 MS. MOENCH: Mr. Wechsler?

8

9 MR. WECHSLER: Yes.

10

11 MS. MOENCH: Chair Leviton?

12

13 MR. LEVITON: Mr. Ruggiero this board will adopt a  
14 formal resolution memorializing your application at our next  
15 regular meeting. You're not going to need to be here and I  
16 wish you luck going forward.

17

18 MR. RUGGERIO: Wonderful, thank you very much and  
19 thank you for your time tonight. Have a great night.

20

21 MS. DEFALCO: So now that he's been approved Ralph's  
22 mom was the planning board secretary and dedicated employee to  
23 Manalapan Township for more than ---.

24

25 MR. RUGGERIO: Thirty-three years.

26

27 MR. LEVITON: Wow. Pat?

28

29 MS. DEFALCO: No.

30

31 MR. LEVITON: ---

32

33 MS. DEFALCO: The one that was here ---

34

35 MR. LEVITON: Oh my goodness. I never think I even  
36 met her.

37

38 MS. DEFALCO: --- the board, but.

39

40 MR. LEVITON: Yeah I --- influence. That's Eleanor's  
41 son.

42

43 MS. DEFALCO: Yes. ---

44

45 MR. LEVITON: Now you know what's going to happen.  
46 I'm going to be --- on my way home. Right guys? --- Good luck.

47



1 MR. RUGGERIO: Thank you. Have a great night, thank  
2 you.

3  
4 MS. DEFALCO: I'll be in touch.

5  
6 MR. RUGGERIO: Thank you.

7  
8 MR. LEVITON: Does anyone have anything further?

9  
10 MS. MOENCH: ---

11  
12 MR. LEVITON: I don't. Bob's going to move to  
13 adjourn.

14  
15 MR. GREGOWICZ: I'll move to adjourn.

16  
17 MR. LEVITON: Thank you Bob.

18  
19 MR. SCHERTZ: I'll second.

20  
21 MR. LEVITON: David's going to second.

22

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