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MEETING IS CALLED TO ORDER:

MR. LEVITON: Please stand for the 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. Roll call please.

ROLL CALL

MS. MOENCH: Mr. DiTota is not with us. Mr. Gregowicz?

MR. GREGOWICZ: Here.

MS. MOENCH: Mr. Rosenthal?

MR. ROSENTHAL: Here.

MS. MOENCH: Mr. Schertz?

MR. SCHERTZ: Here.

MS. MOENCH: Mr. Shalika?

MR. SHALIKAR: Here.

MS. MOENCH: 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.

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MS. MOENCH: Chair Leviton?

MR. LEVITON: Here. Okay our first order of business tonight is to accept minutes from April 6th. I need a motion and a second please.

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

MR. LEVITON: Thank you Mr. Rosenthal.

MR. POCHOPIN: Second.

MR. LEVITON: Thank you Mr. Pochopin.

ROLL CALL

MS. MOENCH: Mr. Gregowicz?

MR. GREGOWICZ: Yes.

MS. MOENCH: Mr. Rosenthal?

MR. ROSENTHAL: Yes.

MS. MOENCH: Mr. Mantagas?

MR. MANTAGAS: Yes.

MS. MOENCH: Mr. Pochopin?

MR. POCHOPIN: Yes.

MS. MOENCH: Mr. Wechsler?

MR. WECHSLER: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Yes. Alright next we need to memorialize resolution number ZBE2264, Mr. Marmero.

MR. MARMERO: Sure and this was a driveway encroachment so the applicant needed a side yard setback variance. As you'll remember the applicant was seeking a permit to install a pool that's when this encroachment was discovered and the board granted bulk variance relief.

1 MR. LEVITON: Thank you Mr. Marmero, motion and
2 second please.

3
4 MR. WECHSLER: Motion.

5
6 MR. GREGOWICZ: Second.

7
8 MS. MOENCH: Who was the first?

9
10 MS. DEFALCO: Mike.

11
12 MS. MOENCH: Mike.

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14
15

16 **ROLL CALL**

17
18 MS. MOENCH: Mr. Gregowicz?

19
20 MR. GREGOWICZ: Yes.

21
22 MS. MOENCH: Mr. Rosenthal?

23
24 MR. ROSENTHAL: Yes.

25
26 MS. MOENCH: Mr. Mantagas?

27
28 MR. MANTAGAS: Yes.

29
30 MS. MOENCH: Mr. Pochopin?

31
32 MR. POCHOPIN: Yes.

33
34 MS. MOENCH: Mr. Wechsler?

35
36 MR. WECHSLER: Yes.

37
38 MS. MOENCH: Chair Leviton?

39
40 MR. LEVITON: Yes. Moving along, in case I forget ---
41 everyone needs to be careful when they leave their bears in
42 the neighborhood. Alright there's only one hearing this
43 evening. It's Temple Shaari Emeth and on behalf of Temple
44 Shaari Emeth we have the distinguished Mr. Licata.

45
46 MR. LICATA: Thank you very much Mr. Chairman.

47
48 MR. LEVITON: You're welcome sir and welcome back.

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MR. LICATA: Thank you. Peter Licata of the law firm of Sonnenblick, Parker, and Selvers on behalf of the applicant Temple Shaari Emeth good evening everyone. I have with me tonight three witnesses. I have Stuart Brown who is the executive director of the congregation. We have Fabian Burstyn, the president of the congregation in the gallery in case his testimony is needed. I also have Robert Sive our professional engineer and McKinley Mertz our planner. Mr. Chairman, if I just may in addition to swearing in Stuart if we could get Rob sworn in and admit his exhibits because it will help facilitate Stuart's testimony if Rob points out different parts of the property.

MR. MARMERO: Absolutely.

MR. LICATA: Thank you.

MR. MARMERO: Do you both want to raise your right hand at this time? Do you swear the testimony you will provide tonight will be the truth, the whole truth and nothing but the truth?

MR. BROWN: Yes.

MR. MARMERO: And Peter if you could just get us the names again for the record.

MR. LICATA: Yes, Stuart Brown.

MR. MARMERO: Is that S-T-U-A-R-T?

MR. LICATA: That's correct.

MR. MARMERO: And he's the executive director?

MR. LICATA: That is also correct.

MR. MARMERO: Alright.

MR. LICATA: And Robert Sive, S-I-V-E, professional engineer.

MR. MARMERO: S-I-V-E?

MR. LICATA: Yes. I'm sorry? Oh yes I'm sorry McKinley Mertz M-E-R-T-Z last name.

1 MR. MARMERO: Did we want to get McKinley sworn in at
2 this time too?

3
4 MR. LICATA: Sure why not.

5
6 MR. MARMERO: Ms. Mertz 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. MERTZ: I do.

11
12 MR. MARMERO: Okay and what was Ms. Mertz's role
13 again Peter?

14
15 MR. LICATA: Professional planner.

16
17 MR. MARMERO: Planner and have Mr. Sive and Ms. Mertz
18 testified here before?

19
20 MS. BEAHM: She has, yes.

21
22 MR. LICATA: Yes they both have and their credentials
23 are in good standing.

24
25 MR. MARMERO: Okay.

26
27 MR. LEVITON: The board accepts their credentials and
28 welcomes them both back.

29
30 MR. LICATA: Thank you.

31
32 MR. LEVITON: And just a second Pete. Albert swear in
33 our professionals too.

34
35 MR. MARMERO: Absolutely if you'll both raise your
36 right hand. Do you swear the testimony you will provide
37 tonight will be the truth, the whole truth and nothing but the
38 truth?

39
40 MS. BEAHM: I do.

41
42 MR. BOCCANFUSO: Yes I do.

43
44 MR. MARMERO: Okay.

45
46 MR. LEVITON: Thank you all.

47

1 MR. MARMERO: Alright we are all sworn in. It's all
2 you Mr. Licata.

3
4 MR. LICATA: Great thank you. I guess we could start
5 by having Rob offer the exhibits that he'll make reference to.

6
7 MR. SIVE: So A1 is an aerial display. A1 is an
8 aerial display of the property outlined in yellow and the
9 general vicinity of the property.

10
11 MR. LICATA: Okay.

12
13 MR. SIVE: And I have handouts to pass out.

14
15 MS. MOENCH: I do, I do.

16
17 MR. SIVE: And then A2 is a blow up of the aerial
18 showing just the site with the proposed pavilion and relocated
19 handicapped parking shown on. So it's a zoomed in image of the
20 aerial with the site and the proposed pavilion shell.

21
22 MR. LICATA: Thank you Rob and if we can get your
23 assistance at the easel as Stuart makes reference to different
24 aspects of the property appreciate that as well. So Stuart you
25 are the executive director. Are you not?

26
27 MR. BROWN: Yes I am.

28
29 MR. LICATA: Can you just give the board a quick
30 overview of your general responsibilities?

31
32 MR. BROWN: So I'm responsible for the general
33 operation of the temple. We have a board of directors and
34 president who set policy for the organization and I manage it.

35
36 MR. LEVITON: Mr. Brown excuse me for a second. Let's
37 just check to see that your audio is being --- She's going to
38 check. It's a sensitive, new system and we've been directed to
39 speak right into it. Janice? You're good. Forgive us, but the
40 proceedings are recorded and then later transcribed.

41
42 MR. LICATA: Of course.

43
44 MR. BROWN: Okay so that's what I do and I thank you
45 for allowing us to offer testimony tonight. We are now one of
46 the largest synagogues in Monmouth County. We merged with a
47 smaller synagogue that was in Marlboro about a year and a half
48 ago right at the end of the pandemic and we are now 730

1 members. We have a strong religious school, a pre-school,
2 adult education in addition to the religious services that we
3 offer. We also value our role as a member of the Manalapan
4 community. We work closely with the police department of
5 course. We've allowed our building to be used for SWAT
6 training and we've offered the building to the community for
7 use during natural disasters over the years when we had
8 electricity and just miraculously other people didn't. The
9 pavilion is really a statement of things we learned during the
10 pandemic. We've always had services outside during the summer
11 months when weather allows. At the beginning of the pandemic
12 if you remember everything pretty much went on to Zoom and for
13 the first three months from March to June about nobody was in
14 our building pretty much and nobody came to in-person services
15 and people were losing touch with the community. When people
16 still weren't able to physically get together we started
17 having drive-in services with the clergy outside and people in
18 their cars and listening on their FM radios was a little bit
19 of a throwback. As we were allowed to be together, social
20 distance we allowed people to get out of their cars. Some
21 people did, some people didn't and over time most before we
22 were able to come back inside everybody was outside, but that
23 presented issues for some of our more elderly members who got
24 very hot. We offered lots of water. It also limited as things
25 got colder it was difficult. If there was light rain it was
26 problematic because during all of this time we have to, one of
27 the new realities is that we have to livestream everything.
28 There's still even now there is probably fifteen percent of
29 our congregation that does not come into the building and
30 participates in our religious services and educational
31 programs online and that's how we started thinking about the
32 need for a pavilion. It was around that time. A year ago, a
33 year and a half ago we rented a tent for three months. That
34 cost us \$20,000.00 and we thought it would be a better value
35 to prepare for the future if we should have to have extended
36 periods outside again that we have a pavilion, a permanent
37 pavilion, where we can have our outside services. Not talking
38 about adding any additional services just really giving us the
39 tools to do what we do, have religious services, teach, and
40 get together as a community.

41

42 MR. LICATA: And Stuart with regard to how the temple
43 has operated so far, you have Friday evening services?

44

45 MR. BROWN: Yes.

46

47 MR. LICATA: And how many people come to the
48 services?

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MR. BROWN: So typically on Friday nights we have about a hundred people come. If there's something big happening like a guest musician coming in to be part of services maybe we'll have a hundred and fifty. On Saturday mornings for bar and bat mitzvahs we could have up to two hundred people, but it's usually around a hundred or a hundred and fifty. The maximum number of people that we really can have for any type of religious service in the building is about 350 because after that it's just too crowded and becomes unsafe. For our high holidays which are unfortunately kind of like Easter, Christmas the one time of year when some people come to pray we actually have those services outside of the building. We rent a high school auditorium.

MR. LICATA: And so the Friday evening services they tend to run from about 6:30 to about 8:00PM?

MR. BROWN: Yeah on the first Friday of the month it's from 6:30 to 8:00PM. Those are earlier. The rest of the Fridays in the month it's from 7:30 to about 9:00 and people maybe stay another half an hour to mingle and snack.

MR. LICATA: Right and you would typically get about how many services on a Saturday when there may be a bar or bat mitzvah? How many people not how many services, how many times a year?

MR. BROWN: Oh we still have forty, thirty-five, forty, bar or bat mitzvahs a year.

MR. LICATA: Okay and what times do the services and the bar and bat mitzvahs take place on Saturday?

MR. BROWN: So they all start at 10:30AM depending whether there's two people having a service or one and they're over by 12:30PM. The stay in the temple might continue for another couple hours if they rent our space for a small party.

MR. LICATA: Right and you also hold religious schools?

MR. BROWN: Yes.

MR. LICATA: For the younger folk right?

MR. BROWN: Yes so we have three hundred people in our religious school total. We split that over three days. Our

1 religious school meets Sunday mornings from 9:00AM to 11:00AM
2 and from Tuesdays and Wednesdays from 4:30 to 6:30 so people
3 choose one of those days to come on.

4

5 MR. LICATA: And do you have multiple entrances on
6 different sides of the building for the drop off and pick up
7 of those students?

8

9 MR. BROWN: Only for the pre-school. For religious
10 school and all other visitors now for security reasons we have
11 them come in through one door that's closest to the parking
12 lot.

13

14 MR. LICATA: And for the pre-school how do you work
15 that?

16

17 MR. BROWN: They come in either through that door or
18 a door on the school side of the building just depending where
19 they're assigned to come in. It's by class not random so we
20 can get them in the building quickly.

21

22 MR. LICATA: Okay and I'm sorry did you mention what
23 hours the religious school takes place?

24

25 MR. BROWN: Religious school yes.

26

27 MR. LICATA: Pre-school?

28

29 MR. BROWN: Not yet.

30

31 MR. LICATA: Oh okay so.

32

33 MR. BROWN: So our pre-school meets Monday through
34 Friday from 9:30AM to the latest is 3:00 if they stay full
35 day.

36

37 MR. LICATA: And how many children are enrolled in
38 that program?

39

40 MR. BROWN: A total of about seventy.

41

42 MR. LICATA: Okay and how are they transported? Do
43 you have to deal with buses or is there a mix of buses and
44 cars?

45

46 MR. BROWN: No it's all cars. A bus would be a unique
47 circumstance if they spend part of the time in a supplementary

1 program at one of the public day care centers. But for the
2 most part it's moms and dads and grandparents.

3

4 MR. LICATA: Okay and I imagine you get the
5 occasional wedding service at the temple.

6

7 MR. BROWN: Yeah I can say in the time I've been,
8 I've been there six years, and from what I understand we have
9 wedding services, but not receptions. So that means the couple
10 and their guests are in the building for about half an hour,
11 but even most of those services are at the reception location.

12

13 MR. LICATA: Right.

14

15 MR. BROWN: Yeah.

16

17 MR. LICATA: And naturally you have funeral services
18 are held off site?

19

20 MR. BROWN: Yes unless it's a circumstance where area
21 funeral homes can't accommodate the number of people.

22

23 MR. LICATA: Okay. So in terms of getting again back
24 to the pavilion it would be an outdoor amenity for people who
25 wanted to attend service outside particularly for instance
26 those who did not want to be in close proximity to other
27 parishoners indoors?

28

29 MR. BROWN: Yes it would not happen at the same time.
30 There are still some people who will come to things that we
31 hold outdoors, but not come indoors still and there are some
32 people who will come anyway. So and during the summer we have
33 all our services outside weather permitting.

34

35 MR. LICATA: Okay and also for some of the early
36 learning programs. If you had a pavilion you could have the
37 children outside doing arts and crafts in an open area.

38

39 MR. BROWN: Yeah and right now they do that outside.
40 We have picnic tables outside, but its very weather dependent
41 and heat dependent so it makes that difficult.

42

43 MR. LICATA: Okay and can you tell us about some of
44 the other amenities that we're proposing and how you came
45 about to desire them or be encouraged to seek them?

46

47 MR. BROWN: Yes. There's two areas where those come
48 from. We have a couple of security-related improvements. We've

1 received our second homeland security grant this past year in
2 2022 and part of that process requires us to have a review by
3 the state police and in partnership with the local police and
4 county prosecutor and a couple of the things that are in this
5 application are safety bollards to prevent vehicle access to
6 building. So a lot of vehicles be used as weapons basically
7 and a back up generator is now allowed under the grant to back
8 up our security infrastructure and keep the building
9 operating. So that came about when we were starting this
10 process so we have those in the plan and Rob if you can point
11 out where the generator is going to go. We have an enclosed
12 area near our main entrance door that's already enclosed for
13 HVAC equipment and it would be the obvious place to put a
14 standby generator in already kind of protected and sealed off
15 area and the bollards would go wherever there was, well two
16 areas, wherever there was a curb opening for wheelchairs or
17 access into one of the walkways. The state police told us its
18 not necessary to have them where there's a curb and they would
19 also close off what will become the former parking area where
20 we're proposing to put the pavilion because we want to make
21 sure that there's no vehicle access there either.

22

23 MR. LICATA: And you're also proposing two sun shades
24 that would measure about eighteen feet by eighteen feet?

25

26 MR. BROWN: Yeah.

27

28 MR. LICATA: And where is that and what would it
29 cover?

30

31 MR. BROWN: We have a large playground primarily used
32 by our pre-school in the back of the building and it gets
33 pretty hot out there. The playground equipment a lot of it is
34 metal and when its 89 degrees it gets hot and we have a grant
35 that would allow us to put up two sun shades to cover good
36 parts of that playground similar to the sun shades that are in
37 the Manalapan Recreation area kind of semi-permanent. They're
38 in the plan because they're not like umbrellas you take down.
39 They're deep into concrete and permanent.

40

41 MR. LICATA: Thank you. Mr. Chairman at this point I
42 would make Stuart available for questions by the professionals
43 and the board.

44

45 MR. LEVITON: They don't seem to have any. Board? I
46 have one Mr. Brown. From your testimony I became a little
47 unclear about why the intended uses of the pavilion. Are you
48 suggesting that services will regularly be conducted inside

1 and there'll be a contingent of congregants viewing from
2 outside?

3

4 MR. BROWN: No, no it will be one or the other. I
5 mean during the summer we have always held our summer services
6 outside weather-related and there are people that are going to
7 come to those that won't come to the ones inside, but we
8 regularly have a hundred people at our outside services and it
9 does get very hot and we don't have any shade covering for the
10 clergy or for our members. So this would be used for that
11 purpose. From a long-term planning standpoint we want to be
12 prepared if something like the pandemic happens again so we
13 can have outside services held more than they currently are.
14 People do enjoy them. It's more difficult for us to have
15 services outside since we are committed to streaming
16 everything we do nowadays, but its something that our members
17 seem to like.

18

19 MR. LEVITON: Thank you sir.

20

21 MR. LICATA: Thank you. One last question for you
22 Stuart, we've discussed the mandatory nature of either
23 installing sidewalks or paying into a fund and given the
24 choice I understand it's the temple's preference that they
25 would construct the sidewalk itself if and as required.

26

27 MR. BROWN: If yes. If we had a choice of either
28 paying into a fund or building we would build, but we would
29 still ask for consideration to ---

30

31 MS. BEAHM: I would recommend that the sidewalk be
32 put in.

33

34 MR. LICATA: Yeah I would anticipate given the
35 neighborhood.

36

37 MS. BEAHM: Yes.

38

39 MR. LICATA: Yeah.

40

41 MR. LEVITON: Yeah while we're talking about what the
42 synagogue is prepared or not prepared to do I just want to let
43 you know I'm thinking about the landscaping between the
44 pavilion and Craig Road so we can address it later, but I just
45 want you to know where my head's at.

46

47 MR. LICATA: Certainly.

48

1 MS. BEAHM: But with respect to the sidewalk Mr.
2 Chair.

3
4 MR. LEVITON: Yes.

5
6 MS. BEAHM: I would not recommend taking
7 contribution. I would recommend them putting the sidewalk in.

8
9 MR. LICATA: We would agree with that.

10
11 MR. BOCCANFUSO: And Mr. Chairman I would agree with
12 that. To the west of the site there's about a one mile segment
13 of continuous sidewalk and it stops at a site where there is
14 an application that was approved by the planning board for an
15 evangelical church that was required to install sidewalk. So I
16 think it's very difficult to justify any waiver in this
17 situation.

18
19 MR. LEVITON: Thank you professionals.

20
21 MR. LICATA: Thank you Stuart. I think I will ask Rob
22 to come up and address a couple of the technical points of the
23 application. Please share with us your commentary and your
24 discussions with Brian.

25
26 MR. SIVE: Sure real quickly I mean is everybody
27 familiar with the site? Do you need me to describe the site at
28 all?

29
30 MR. LICATA: No I don't think so.

31
32 MS. BEAHM: Just get to it.

33
34 MR. SIVE: Just get to it, you got it, no problem. So
35 Brian brought over a very fair review letter. It's dated April
36 18th unless you need me to go through it item by item.

37
38 MR. LICATA: I think you've discussed with him and
39 you'll comply with all his recommendations.

40
41 MR. SIVE: Yes and we discussed pretty much
42 everything with Stuart in the letter.

43
44 MR. LICATA: So Brian if you had clarification you
45 just want to get on the record.

46

1 MR. BOCCANFUSO: Yeah I think I'll go as quickly as I
2 can. I think there's a handful of items perhaps just to get on
3 the record.

4

5 MR. SIVE: Certainly.

6

7 MR. BOCCANFUSO: Verify for the board. Rob can you
8 just basically talk about the circulation. How it's going to
9 change with the pavilion? How it works on the site? Not too
10 detailed, but there are some changes to the parking area so
11 can you just detail those for the board.

12

13 MR. SIVE: The way the site works now is there's an
14 entrance, a one-way entrance, driveway on the east side of the
15 property and vehicles circulate in a clockwise fashion around
16 the existing building through the parking field and then out
17 the exit driveway on the west side of the property. There is a
18 dead end bay of about thirteen parking stalls where the
19 handicapped parking stalls are located now which is the
20 location we're proposing to put the pavilion. So we're going
21 to lose those fifteen parking stalls and relocate the
22 handicapped parking stalls to across from the main entrance.
23 So by doing that we go down to 178 parking stalls where the
24 ordinance requires 164 so we're still above what the ordinance
25 requires and there's more than adequate parking out there
26 currently. We don't anticipate it being a problem.

27

28 MR. BOCCANFUSO: Okay and along those same lines with
29 the parking the numbers that you used to determine your
30 parking requirement that's based upon the real world capacity
31 or number of pews or whatever the calculation is in the
32 building. ---

33

34 MR. SIVE: That's correct.

35

36 MR. BOCCANFUSO: Alright and you're also losing some
37 handicapped accessible parking spaces where the pavilion is
38 proposed, but you're relocating them?

39

40 MR. SIVE: That's correct.

41

42 MR. BOCCANFUSO: And you'll still fully comply with
43 the handicapped requirements?

44

45

46 MR. SIVE: Correct.

47

1 MR. BOCCANFUSO: Great. Stormwater management very
2 briefly, negligible impact correct?

3

4 MR. SIVE: There's an existing stormwater management
5 basin in the northwesterly corner, front portion of the
6 property, functioning fine. We are proposing all improvements
7 within existing impervious areas with the exception of maybe
8 if you want to consider the sun shades impervious, but they
9 are very small an area there would be an imperceptible change
10 in stormwater management.

11

12 MR. BOCCANFUSO: Understood.

13

14 MR. LEVITON: Hold up are they impervious Brian? I
15 wouldn't think.

16

17 MR. BOCCANFUSO: Yeah I mean that sun shade I would
18 think is impervious, yes. I guess it depends on the material.

19

20 MR. LICATA: The water will run off it into the grass
21 playground on it.

22

23 MR. BOCCANFUSO: I'm sorry?

24

25 MS. DEFALCO: If it has roof it still would ---

26

27 MR. BOCCANFUSO: Does the sun shade have a roof? It's
28 like a ---

29

30 MS. DEFALCO: The driveway that the plan is on ---

31

32 MR. BOCCANFUSO: Yeah.

33

34 MS. DEFALCO: According to our --- right?

35

36 MS. BEAHM: Yes the parking lot is impervious, but
37 the structure ---

38

39 MR. LEVITON: They can't agree.

40

41 MR. LICATA: Where is it?

42

43 MR. BOCCANFUSO: I would think it would be both.

44

45 MR. BOCCANFUSO: Okay alright ---

46

47 MR. BOCCANFUSO: Sure. I mean if a shade structure is
48 over, it's not doubly-impervious.

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MR. LICATA: So what was ours?

MS. DEFALCO: If this was on a residential lot we wouldn't count the impervious just the building coverage.

MR. BOCCANFUSO: Okay.

MR. LEVITON: So what's our conclusion?

MS. BEAHM: Okay so are these canopies over parking areas?

MR. LEVITON: No over the playground.

MR. SIVE: The two sun shades are over the play area.

MR. LICATA: Yeah.

MR. BOCCANFUSO: I mean I'm not speaking about impervious from a zoning standpoint. I'm talking about stormwater management.

MS. BEAHM: Yeah, yeah.

MR. LEVITON: So no?

MR. BOCCANFUSO: Right and I think Mr. Sive's point is the only potential increase in impervious coverage that's proposed is these sun shades if they are impervious and if they are impervious its negligible, imperceptible impact probably.

MR. SIVE: Correct.

MR. BOCCANFUSO: Alright great.

MR. SIVE: From a stormwater standpoint.

MR. BOCCANFUSO: Now that we've confused ourselves.

MR. LEVITON: I'm still confused, but --- and I regret bringing it up so we're going to move on.

MR. BOCCANFUSO: And while we're talking about the zoning requirements Mr. Sive you and I had a conversation yesterday about the floor area ratio. Can you just provide some testimony, get that on the record?

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MR. SIVE: Correct so the floor area ratio in Manalapan is based on not only the floor areas of the building, but also includes the curb, the pavement and the area of the stormwater management basin. So the ordinance allows in the OP-10 district which this property is in, sixty-five percent, a .65 floor area ratio we'd be at about .47, so we're well under the floor area ratio that's required.

MR. BOCCANFUSO: Great. You heard Mr. Chairman allude to it. We had a comment in our report as well. We recommended that some landscaping be provided to screen the pavilion from Craig Road. Is that something that you can agree to do on behalf of your client and work with our office during resolution --- if there is an approval?

MR. SIVE: Yes.

MR. BOCCANFUSO: Great and I think that's all we need specific clarification on Mr. Chairman, board members. There were several other comments in our report. Many of them were addressed with the applicant's response letter. Some of them are factual in nature. If you think that there's anything you'd like further clarification on of course ask me and I'll be happy to discuss.

MR. LEVITON: Board? Thank you Mr. Sive.

MR. SIVE: Thank you.

MR. LICATA: Thank you.

MR. LEVITON: Thank you Brian.

MR. BOCCANFUSO: Sure.

MR. LICATA: My last witness would be McKinley Mertz, our professional planner.

MR. LEVITON: Welcome Ms. Mertz, welcome back.

MS. MERTZ: Thank you. It's good to be back. I have to say the last time I was here Jen you were bringing your daughter to college and I heard you say she's coming home tomorrow.

MS. BEAM: I know --- done with college with the first year anyway, yeah.

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MS. MERTZ: Which is very exciting. Alright so I will try to be quick because our last two witnesses were very efficient. We're here before you tonight because we need a D2 expansion of a non-conforming use variance. The synagogue has been at this location since 1967. There was an expansion in the '70s, but since that time it's really been in the condition and configuration that you see today. So I don't have an exact date of when your zoning ordinance was adopted, but the oldest date I could find was 1995 so it certainly pre-dates the current zoning ordinance which makes it a pre-existing non-conforming use and we are expanding that use. The expansion as was testified to, a lot of it has to do with security purposes and also to provide additional services to programs that the synagogue is already running. We're not proposing any increase in intensity of use. It was simply the sun shades, the pavilion. Those will simply support the existing programs that are there. The generator and the bollards are going to provide an extra level of security for the parishoners and anybody who is inside or around the building. So for a D2 variance we have to provide our positive and negative criteria and the positive criteria manifests itself in special reasons that are derived from the purposes of the MLUL. So our proposal promotes purpose A which is to promote development of land that promotes the health, safety, morals, and general welfare of the public. As I just testified to everything that we're proposing is to support existing facilities, activities, programs on site, and to support security of the people on site. Additionally purpose G which is to provide sufficient space and appropriate locations for a variety of uses. The existing use has functioned since 1967 very successfully. There have been no problems. We have no neighbors here tonight who are concerned and after speaking with Mr. Brown they have not in his six-year tenure they have not had any complaints from their neighbors. So they have been existing in a happy co-existence with everyone around them. They're going to be better prepared to support their congregation. The negative criteria we have to prove to you that we're not going to pose a substantial detriment to your zoning plan, your master plan, or your general public. In terms of the master plan your most recent re-exam doesn't have any recommendations for the OP-10 zone or for places of worship so we are going just continue functioning the way we always have without detriment to that plan. The zoning ordinance does have standards for places of worship where they are conditionally permitted. They're mostly permitted, conditionally, in your residential zones. Again we're not within one of those zones, but any accessory structure that

1 would be in those zones has to be seventy-five feet from a lot
2 line. Our pavilion and generator and bollards and sun shades
3 they all far exceed that seventy-five foot setback so even
4 though we're not conditionally permitted we do meet your
5 conditions should we be in that conforming zone. Also there
6 would be no substantial detriment to the public good. I
7 visited the property yesterday and a lot of the vegetation
8 that's along the southern and western boundaries still hasn't
9 come in. The spring buds haven't sprung yet, but I still could
10 not see any neighbors especially to the south which is our
11 residential neighbors. The sun shades will not be seen from
12 the public right of way. They are behind the building. The
13 pavilion is towards the side that as of right now if it were
14 constructed as is would have significant visibility from Craig
15 Road. There's some vegetation there, but as was previously
16 testified we'll work with your professionals to add any that
17 they feel might be necessary. Service parking spaces while
18 they're reducing, the site really is overparked as is. Talking
19 to Mr. Brown they said even when it snows they don't have them
20 plow a third of the parking lot because they just don't need
21 it. So there's no detriment in losing those I believe it was
22 fifteen spaces that we're losing. There's no exterior lighting
23 on the pavilion so there's not going to be any glare. There's
24 no additional signage. We really don't have anybody that sees
25 into our property again so no detriment to the public good. We
26 have a handful, just three pre-existing, bulk variances. One
27 being the minimum front yard setback so just to get it on
28 record. We're required to have a hundred feet. Our building is
29 76.4 feet. The side yard setback to the eastern side, we're
30 required seventy-five feet we have 53.8 and we're required to
31 have a minimum lot depth of 800 feet. We have 553.32 feet and
32 all of those can be qualified under the C1 hardship variance.
33 Again we have existed since 1967. The addition that's 53 feet
34 from the property line was built in the 70's, pre-dating all
35 of your zoning so there really is the hardship that we've
36 always been there and no detriment created by any of those
37 existing conditions and that's all I have for you.

38

39 MR. LEVITON: Thank you Ms. Mertz. Jen do you take
40 exception to any?

41

42 MS. BEAHM: No I don't take exception to any of this
43 testimony. I think Ms. Mertz adequately presented the
44 information and I don't have a problem with any of the relief
45 that they've asked for.

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47 MR. LEVITON: A valid pre-existing use has a right to
48 continue indefinitely.

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MS. BEAHM: Correct, correct.

MR LEVITON: Board any questions for Ms. Mertz?

MR. SCHERTZ: No questions.

MR. POCHOPIN: Mr. Chair yeah I have. So the generator is that just a coincidence that you're doing the generator now? Will that supply power to the pavilion especially since you're going with services until after 9:00PM?

MS. MERTZ: So the purpose of the generator came from the applicant's recent homeland security grant and the review by the New Jersey State Police and they recommended it for emergency purposes. It's not going to be run on a weekly or daily basis. I believe they have to be tested once every two weeks.

MR. POCHOPIN: Once a month, yeah.

MS. MERTZ: Once a month yes, thank you. So besides the testing it will only be run in the case of power outages, if we have another Superstorm Sandy equivalent, not on a weekly basis.

MR. POCHOPIN: So it's an open pavilion?

MS. MERTZ: Yes.

MR. POCHOPIN: --- the sides?

MS. MERTZ: Yeah covered, but open on the sides. There's a roof, but ---

MR. POCHOPIN: And the sun shades how will they be anchored for foul weather and inclement weather?

MS. MERTZ: My understanding is that they are secure in concrete foundations, and they are and I left my notes over there, but they are tested for winds I believe up to 90MPH. Is that? Yeah so the shades themselves can withstand 90 miles an hour, but they will take the actual shades down in the winter when there's inclement weather and they don't need them anyways.

MR. POCHOPIN: Very good thank you.

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MS. MERTZ: Yeah.

MR. LICATA: Thank you Mr. Chairman that would conclude our testimony.

MR. LEVITON: Alright then at this time I'm going to go out to the public and ask if there's anyone in attendance who wants to question one of the professionals who testified tonight. Seeing none I'll close public. Board anything else from anyone? Brian, Jennifer anything else?

MS. BEAHM: No.

MR. LEVITON: Nancy?

MS. DEFALCO: All good.

MR. LEVITON: I'm curious. Is the other house of worship that was referenced in the OP zone as well?

MS. DEFALCO: --- I don't think so.

MS. BEAHM: No.

MR. LEVITON: It's ---

MS. DEFALCO: I think it's residential.

MR. BOCCANFUSO: I think it's maybe the R20 would be my guess.

MR. LEVITON: R20.

MR. BOCCANFUSO: It's in a residential zone. It was a conditional use as I recall.

MR. LEVITON: I have nothing further.

MR. BOCCANFUSO: Yeah its --- yeah.

MR. LEVITON: Albert do we need anything else?

MR. MARMERO: No but I can kind of frame the relief for the resolution if you'd like.

MR. LEVITON: Okay.

1 MR. MARMERO: So you've heard the applicant's
2 testimony obviously they need the D2 use variance. They have
3 three bulk variances which are existing, non-conforming. So
4 it's the front yard setback, the side yard setback, and then
5 the lot depth and then they are also seeking minor site plan
6 approval as well. Some of the conditions I've heard you
7 mention tonight was obviously the applicant agreed to the
8 installation of sidewalk which would be required anyway and
9 then there was the condition that landscape screening of the
10 pavilion to Craig Road and it sounded like you were satisfied
11 with the applicant working with the board professionals on the
12 screening and the applicant seemed to agree to that.

13

14 MR. LEVITON: Do you care to summate Mr. Licata?

15

16 MR. LICATA: I thank the board for its time and
17 consideration and submit it to your decision, thank you.

18

19 MR. LEVITON: Will someone make a motion?

20

21 MR. SHALIKAR: I'll make a motion to approve.

22

23 MR. LEVITON: Thank you Robert. I'm sorry thank you
24 Rob.

25

26 MR. SHALIKAR: Josh.

27

28 MR. POCHOPIN: I'll second.

29

30 MS. MOENCH: It was Josh wasn't it?

31

32 MR. LEVITON: Thank you Josh.

33

34 MS. MOENCH: Time out was it Josh?

35

36 MR. LEVITON: It's Josh.

37

38 MR. SHALIKAR: I'm helping him out.

39

40 MS. MOENCH: Josh made the first and who made the
41 second? Thank you.

42

43 MR. LEVITON: Thank you Daniel.

44

45 **ROLL CALL**

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47 MS. MOENCH: Mr. Gregowicz?

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1 MR. GREGOWICZ: Yes.
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3 MS. MOENCH: Mr. Rosenthal?
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5 MR. ROSENTHAL: Yes.
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7 MS. MOENCH: Mr. Schertz?
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9 MR. SCHERTZ: Yes.
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11 MS. MOENCH: Mr. Shalika?
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13 MR. SHALIKAR: Yes.
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15 MS. MOENCH: Mr. Mantagas?
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17 MR. MANTAGAS: Yes.
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19 MS. MOENCH: Mr. Pochopin?
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21 MR. POCHOPIN: Yes.
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23 MS. MOENCH: Mr. Wechsler?
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25 MR. WECHSLER: Yes.
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27 MS. MOENCH: Chair Leviton?
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29 MR. LEVITON: Congratulations folks.
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31 MR. LICATA: Thank you again to everyone, good night.
32
33 MR. LEVITON: Okay at this time I'm going to go out
34 to the public for anything other than agenda items. I just
35 did. I'm about to close it.
36
37 MS. MOENCH: You did?
38
39 MR. LEVITON: Seeing none I'm going to close public
40 and before we go Albert maybe you can tell the board what
41 happened to us today.
42
43 MR. MARMERO: Sure. Want me to wait for everybody?
44
45 MR. LEVITON: No I don't care.
46
47 MS. MOENCH: Rob.
48

1 MR. LEVITON: I don't care. Let them keep talking.
2 Let them do their thing it doesn't matter.

3
4 MR. MARMERO: So the application that we had several
5 months ago, the interpretation, and I forget the applicant's
6 name.

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8 MS. MOENCH: Mercer Realty.

9
10 MR. MARMERO: Yeah they went by an LLC name though.
11 It was something 51 ---

12
13 MS. MOENCH: Yes 51 Route 33 or whatever.

14
15 MR. MARMERO: So they filed a suit last week. They
16 served it on the board today. They sued both the planning
17 board and the zoning board. The suit is mainly geared at the
18 planning board because what they want the judge to do is to
19 get the case back to the planning board. They did file against
20 both parties. I do think we can get it dismissed against the
21 zoning board because all they're asking for with respect to
22 the zoning board is for the judge to overturn your decision in
23 the interpretation, but in an interpretation a judge could
24 always overrule you anyway because it's solely a legal
25 question so the judge actually doesn't have to overturn your
26 decision. So I think I can get us dismissed right away, but
27 what he's asking for is for the case to be remanded back to
28 the planning board and then for the planning board to issue a
29 decision on it. That's the worst that can happen and if that
30 occurs it will go to the planning board and the planning board
31 will either approve or deny it. If it's approved, it's
32 approved. If it's denied then they have the ability to
33 challenge that. Like Jen kind of said at the beginning it's
34 going to be a few year process probably.

35
36 MR. LEVITON: Albert it's outstanding that you think
37 that you think that you can get it dismissed.

38
39 MR. MARMERO: I think so. I mean like I said there's
40 nothing. It's purely a legal question. He could have went
41 right to the judge before going to you guys, but he wanted to
42 keep the application active, but the judge could overrule us
43 at any time. So ---

44
45 MR. SCHERTZ: I have a question. So the warehouse on
46 procedure for that. So it goes back if everything happens in
47 the way they want it and after they go back to the planning
48 board. The planning board says no then they go back ---

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MR. MARMERO: They could go back to court again, yes.

MR. SCHERTZ: And if the judge rules against them, can they start over?

MR. MARMERO: No so if the judge rules against them. Well if they get denied then they're denied and they're done if the judge rules against them then they're done. They can always come back with a different application.

MR. SCHERTZ: Right.

MR. MARMERO: But they couldn't come back with the same one.

MR. SCHERTZ: But a different application?

MR. MARMERO: Yes.

MR. SCHERTZ: That could be the same?

MR. MARMERO: Yeah so basically through the board registered --- you have to have a substantial change in your application, but courts have been pretty liberal with that. Usually if you change the location of something or maybe reduce the size of it a little bit that's usually enough to get a second crack.

MR. SCHERTZ: So this could go on forever?

MR. MARMERO: It could. It depends on how yeah it really depends on how much they want to spend, right exactly that's what it comes down to.

MR. SCHERTZ: Okay ---

MR. MARMERO: But at the end of the day I think it's more of a planning board issue.

MS. BEAHM: Yeah we're kind of like on the tail end of it right?

MR. MARMERO: Yeah, yeah.

MR. SCHERTZ: Well why did it originally get moved from the planning board to the zoning board?

1 MS. BEAHM: It didn't get moved from the planning
2 board to us. The planning board questioned ---

3

4 MR. LEVITON: Jurisdiction.

5

6 MS. BEAHM: Applicant, yes jurisdiction based upon
7 the applicant's profer that 299,000 square foot warehouse had
8 another user that was like a thousand square feet. Is that
9 actually flex? So they actually questioned jurisdiction, told
10 the applicant to come here for an interpretation. We
11 interpreted it as a warehouse so therefore made it that it
12 wasn't a permitted use at the planning board. So now they're
13 questioning the planning board even sending it to us, correct?

14

15 MR. MARMERO: Yeah, yeah.

16

17 MS. BEAHM: Our interpretation clearly because they
18 don't agree with us, but at the end of the day if worse comes
19 to worse it goes back to the planning board. It doesn't really
20 come here. We're kind of on the periphery of this.

21

22 MR. MARMERO: Yes and like I said if you read the
23 suit it's mainly aimed at the planning board.

24

25 MR. BOCCANFUSO: ---

26

27 MS. BEAHM: It won't come back here.

28

29 MR. LEVITON: So tell me about impervious coverage
30 with those umbrellas.

31

32 MS. BEAHM: What do you mean?

33

34 MR. LEVITON: I mean they've got concrete poles going
35 into the ground. You're going to count what's overhead as
36 impervious? I don't get it. Really?

37

38 MS. BEAHM: Well it takes up a whole --- It's a cell
39 tower and it's like this, no, but if it's a canopy.

40

41 MR. LEVITON: Because it directs water outward that's
42 why?

43

44 MR. MARMERO: Not for zoning, but for stormwater.

45

46 MR. BOCCANFUSO: Yeah that's all I was.

47

48 MR. MARMERO: For zoning it doesn't count.

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MS. BEAHM: If it's a canopy that doesn't let the water hit the ground, yeah.

MR. BOCCANFUSO: It's no different than a building --

MS. BEAHM: Correct.

MR. BOCCANFUSO Shed's in the way and ---

MS. BEAHM: We don't take exception to what they asked for, but they should get the proper approvals, correct?

MR. BOCCANFUSO: Yeah I mean the question ---

MR. LEVITON: Close the meeting.

MR. BOCCANFUSO: The question I raised was relative to the stormwater.

MS. BEAHM: Exactly.

MR. BOCCANFUSO: I was looking for confirmation from him that there would be no impact or virtually no impact.

MS. BEAHM: Exactly.

MR. LEVITON: I need someone to move to adjourn.

MR. SHALIKAR: The solar panels really.

MR. BOCCANFUSO: Yeah.

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