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MEETING IS CALLED TO ORDER:

MR. LEVITON: Okay I'm going to call this meeting to order and ask you all to join me in a salute to our flag.

SALUTE TO THE FLAG

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

ROLL CALL

MS. MOENCH: Mr. Gregowicz?

MR. GREGOWICZ: Here.

MS. MOENCH: Mr. Wechsler?

MR. WESCHLER: Here.

MS. MOENCH: Mr. Schertz?

MR. SCHERTZ: Here.

MS. MOENCH: Mr. Shalika?

MR. SHALIKAR: Here.

MS. MOENCH: Mr. Weiss is not in attendance. Mr. Mantagas?

MR. MANTAGAS: Here.

MS. MOENCH: Mr. Pochopin?

MR. POCHOPIN: Here.

MS. MOENCH: Mr. Harrington?

MR. HARRINGTON: Here.

1 MS. MOENCH: Ms. Klompus?
2
3 MS. KLOMPUS: Here.
4
5 MS. MOENCH: Chair Leviton?
6
7 MR. LEVITON: Here, greetings board, greetings
8 professionals, and greetings public. Tonight's first order of business
9 is to accept the minutes from February 1st. I have had an opportunity
10 to read them and therefore I do know that Mr. Gregowicz did an
11 outstanding job in my absence and I wish to publicly thank him for
12 that.
13
14 MR. GREGOWICZ: Thank you.
15
16 MR. LEVITON: You're welcome, thank you. Can I get a motion
17 to accept those minutes?
18
19 MR. WECHSLER: Motion for the meeting minute.
20
21 MR. LEVITON: Thank you Mr. Wechsler. Can I get a?
22
23 MR. SCHERTZ: Second.
24
25 MR. LEVITON: Thank you Mr. Pochopin.
26
27 MR. SCHERTZ: No.
28
29 MR. LEVITON: Okay thank you Mr. Schertz.
30
31 **ROLL CALL**
32
33 MS. MOENCH: Mr. Gregowicz?
34
35 MR. GREGOWICZ: Yes.
36
37 MS. MOENCH: Mr. Wechsler?
38
39 MR. WESHCLER: Yes.
40
41 MS. MOENCH: Mr. Schertz?
42
43 MR. SCHERTZ: Yes.
44
45 MS. MOENCH: Mr. Shalika?
46
47 MR. SHALIKAR: Yes.
48

1 MS. MOENCH: Mr. Mantagas?
2
3 MR. MANTAGAS: Yes.
4
5 MS. MOENCH: Mr. Pochopin?
6
7 MR. POCHOPIN: Yes.
8
9 MS. MOENCH: Mr. Harrington?
10
11 MR. HARRINGTON: Yes.
12
13 MS. MOENCH: Ms. Klompus?
14
15 MS. KLOMPUS: Yes.
16
17 MR. LEVITON: Okay our next order of business is to adopt
18 the annual report for 2023. Will someone move to do so?
19
20 MR. GREGOWICZ: I'll make the motion.
21
22 MR. LEVITON: Thank you Mr. Gregowicz and will someone
23 second?
24
25 MR. MANTAGAS: I'll second Mr. Chairman.
26
27 MR. LEVITON: Thank you Mr. Mantagas.
28
29 **ROLL CALL**
30
31 MS. MOENCH: Mr. Gregowicz?
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33 MR. GREGOWICZ: Yes.
34
35 MS. MOENCH: Mr. Wechsler?
36
37 MR. WECHSLER: Yes.
38
39 MS. MOENCH: Mr. Schertz?
40
41 MR. SCHERTZ: Yes.
42
43 MS. MOENCH: Mr. Shalika?
44
45 MR. SHALIKAR: Yes.
46
47 MS. MOENCH: Mr. Mantagas?
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1 MR. MANTAGAS: Yes.
2
3 MS. MOENCH: Mr. Pochopin?
4
5 MR. POCHOPIN: Yes.
6
7 MS. MOENCH: Mr. Harrington?
8
9 MR. HARRINGTON: Yes.
10
11 MS. MOENCH: Ms. Klompus?
12
13 MS. KLOMPUS: Yes.
14
15 MS. MOENCH: Chair Leviton?
16
17 MR. LEVITON: Yes. Next up we are going to memorialize
18 application number ZBE2334, Mr. Marmero.
19
20 MR. MARMERO: Sure, and as you remember this application
21 involved a proposed above ground pool and a split rail fence and did
22 require some bulk variance relief with respect to setbacks.
23
24 MR. LEVITON: Will someone make a motion?
25
26 MR. WECHSLER: I'll make the motion.
27
28 MR. LEVITON: Thank you Mr. Wechsler and will someone second
29 it?
30
31 MR. POCHOPIN: Second.
32
33 MR. LEVITON: Thank you Mr. Pochopin.
34
35 **ROLL CALL**
36
37 MS. MOENCH: Mr. Gregowicz?
38
39 MR. GREGOWICZ: Yes.
40
41 MS. MOENCH: Mr. Wechsler?
42
43 MR. WECHSLER: Yes.
44
45 MS. MOENCH: Mr. Schertz?
46
47 MR. SCHERTZ: Yes.
48

1 MS. MOENCH: Mr. Shalika?

2
3 MR. SHALIKAR: Yes.

4
5 MS. MOENCH: Mr. Mantagas?

6
7 MR. MANTAGAS: Yes.

8
9 MS. MOENCH: Mr. Pochopin?

10
11 MR. POCHOPIN: Yes.

12
13 MR. LEVITON: Okay before we call our first public hearing.
14 I wish to announce that the last time we were together I spoke to you
15 board members about procedure and I indicated that Janice would be
16 calling the roll for a motion to include alternates one, two, and
17 three. That apparently is a deviation from our standard procedure.
18 However, we've discussed it and going forward that will be our
19 practice and tonight I want to alert you Mr. Licata and board members
20 that one of our regular members is absent and so our first alternate
21 Mr. Pochopin will vote this evening and his vote will count. Okay so
22 our first public hearing is number ZBE2402. It was carried from
23 January 18th, Mr. Auriemma has some ZCCO issues and on his behalf the
24 board recognizes Mr. Peter Licata.

25
26 MR. LICATA: Good Evening everyone, board members,
27 professionals, and staff. Peter Licata of the firm of Sonnenblick,
28 Mehr, & Licata in Freehold on behalf of the applicant. Mr. Auriemma is
29 a resident who is in the process of selling his home. He has a number
30 of improvements that after installation and upon inspection for ZCCO
31 purposes were found not to be in compliance with a number of different
32 bulk requirements. I have with me here Allison Coffin a professional
33 planner to give an overview of what those deviations are and to
34 present the statements in support of the bulk variance relief.

35
36 MR. LEVITON: This board would love to hear from Ms. Coffin.

37
38 MR. LICATA: Thank you. I'll just note there are a number of
39 folks in the audience, many of them consist of the buyer's family who
40 are eagerly awaiting the results of tonight's hearing. As well as a
41 next-door neighbor who I understand has good relations with the
42 applicant.

43
44 MR. LEVITON: Welcome to you all.

45
46 MR. LICATA: Thank you.

47
48 MR. LEVITON: Ms. Coffin.

1
2 MR. MARMERO: I'll get you sworn in. Do you swear that the
3 testimony you will provide tonight will be the truth, the whole truth,
4 and nothing but the truth?
5
6 MS. COFFIN: Yes I do.
7
8 MR. MARMERO: And Mr. Chair I know Ms. Coffin has testified
9 here before.
10
11 MS. COFFIN: My license is still in good standing.
12
13 MR. LEVITON: Outstanding.
14
15 MR. MARMERO: Since we have our professionals here, I'll get
16 them sworn in.
17
18 MR. LEVITON: Let's do that, absolutely.
19
20 MR. MARMERO: Do you both swear the testimony you provide
21 tonight will be the truth, the whole truth, and nothing but the truth?
22
23 MS. BEAHM: I do.
24
25 MR. BOCCANFUSO: Yes. I do.
26
27 MR. MARMERO: Okay.
28
29 MR. LEVITON: Super.
30
31 MR. LICATA: Thank you. Allison, could you in a brief
32 narrative fashion give the board an overview of the relief that would
33 be necessary to get the ZCCO and what information and arguments would
34 you present as a planner in support of that relief?
35
36 MS. COFFIN: Sure. The property is at 2 Beena Way. It's
37 fully developed with a single-family residential lot. This is a corner
38 lot at the corner of Pine Brooke and Beena. Our site is in the R20
39 zone district. The use is permitted and there are a couple accessory
40 structures that have been put on the property over the course of the
41 last two decades. Some of which do require some relief. The first is
42 the lamp post stanchion height. Three feet is permitted. It exceeds
43 this height, but it was installed under a permit that was issued and
44 completed in 1999 for a seventy-inch-high stanchion and light. So,
45 while that requires relief, it was installed with the proper permits.
46 There's a paver patio that extends into the required Pine Brooke front
47 yard where seventy-five feet is required and it was installed at
48 sixty-three feet. A rear yard setback of ten feet required and it's at

1 6.5 feet, and a side yard of fifteen feet, that's at fourteen feet.
2 There's a walkway that was identified on the ZCCO as needing relief.
3 However, when I looked at subsection 95-7.8E of the ordinance that
4 permits walkways to encroach into required yards. So, it is within the
5 required front yard at forty feet and the side yard at zero feet, but
6 my reading of the ordinance is that no relief is required for the
7 walkway to be in this location. Then there's a pool house in the Pine
8 Brooke front yard that's seventy-five feet is required and it's at
9 seventy-three feet and a shed with a setback of five feet required
10 that's at 2.6 feet on the rear and 1.9 feet on the side that's in the
11 back corner of the lot and a fence height in the front yard where
12 three feet is permitted and the fence that was installed within the
13 Pine Brooke front yard exceeds that. So, these are all bulk or C
14 variances and there are two tests in the municipal land use law.

15
16 MS. BEAHM: Allison, how high is the fence in the front
17 yard?

18
19 MS. COFFIN: Is it six feet? I can't see it because it's
20 behind a very tall hedge so I went to look at the site I was not able
21 to get a verbal confirmation.

22
23 MR. LICATA: Going to just look at the ZCCO report to see if
24 it notes that height. If not, I have the applicant here who can.

25
26 MS. BEAHM: I don't need it right now, but I'm just saying.
27 We're going to need to understand that.

28
29 MR. LICATA: Right.

30
31 MS. BEAHM: Because I'm not a hundred percent convinced that
32 we should allow it so.

33
34 MR. LICATA: I'll stipulate for the record that it is
35 according to my client four feet high.

36
37 MS. COFFIN: Yes, I'm looking at the, there were photos that
38 were submitted and they do show the fence.

39
40 MS. BEAHM: If it's four feet high in the front yard then
41 why are we talking about it? Is it not fifty percent open?

42
43 MS. COFFIN: It is fifty percent open.

44
45 MS. BEAHM: So why are we talking about it? So is it six
46 feet high?

47
48 MS. COFFIN: No it looks like it's four feet.

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MS. BEAHM: I think it is, but.

MR. LICATA: I understand it's four feet high from him.

MR. LEVITON: We'll accept that Jennifer. It's not delineated on the denial so.

MS. BEAHM: I agree so we're going to need some kind of representation of what it is. If it's four feet high, fifty percent open then it's permitted. Then they don't need relief.

MR. LEVITON Okay well we'll take that under advisement and we'll just ask Ms. Coffin to continue her testimony.

MS. COFFIN: - - -

MS. BEAHM: A hundred percent.

MS. COFFIN: Okay so there are two tests within the municipal land use law. The first one is the C1 hardship standard. I don't think that applies here. This lot is oversized for the zone. The second is the C2 flexible C variance and that is justified when the purposes of the municipal land use law are advanced by the requested variances and that the benefits outweigh the detriments. It's my opinion that these variances if the board saw fit could be granted under the C2 standard. The proposed variances advance the purpose of the municipal land use law with regard to promoting public health, safety, morals, and general welfare in providing space in an appropriate location for residential use and typical accessory structures for residential use. The benefits of this variance therefore in this instance allow for the appropriate development and use of the lot with residential accessory structures and uses including the pool-house, fencing and walkways, and the shed. With a variance like this, the greater importance is on the negative impact. It's my opinion that there are no detriments to the variances as they are proposed in this situation because the applicant has already mitigated them. The features in the rear yard are all behind a mature and extremely large and dense evergreen screen which is fully obstructing the view into the rear yard from the public roadway and the adjacent properties. Even the fence is behind these hedges and from the photos, we have blends into the hedges on the inside of the property because it's a flat iron and mostly open fence. The only feature on the site that is visible from neighbors' yards would be that shed in the rear corner. Though both of the neighbors on their lot lines have landscaping that screen the structure from view. So in this case the primary impact that you would have from these structures being located in the yard would be the visual impact on the roadway

1 and the neighbors, but the variance conditions because the applicant
2 has heavily landscaped the perimeter of the property do not cause any
3 of these detriments on either the roadway or their neighbor and
4 therefore in this case the benefit does outweigh the detriments. The
5 variances that are requested here would not impair the intent and
6 purpose of the master plan or the zoning ordinance. The use and the
7 intensity of use is appropriate. The accessory structures in the rear
8 yard are not visible to the public or the neighbors and therefore
9 there's no detriment to the zone plan or master plan that results
10 primarily as a result of the applicant installing those hedges around
11 the perimeter of the site. So for those reasons, it's my opinion that
12 positive reasons do exist supporting the granting of variance and it
13 can be granted without detriment to the general health, safety, and
14 welfare of the public nor would it result in a substantial impairment
15 to your master plan or development ordinance.

16
17 MR. LICATA: Thank you, Allison. At this point I'd make my
18 witness available for questioning.

19
20 MR. LEVITON: Thank you for putting the proofs on the record
21 and Jennifer the fence notwithstanding, do you take exception to any
22 of her other testimony?

23
24 MS. BEAHM: I don't.

25
26 MR. LEVITON: Okay then let's go to the board and see what
27 they think and we'll start down here with Joshua.

28
29 MR. SHALIKAR: Hi there, great testimony. When was the shed
30 installed on the property?

31
32 MS. COFFIN: I don't know.

33
34 MR. LICATA: We have that in the outline here.

35
36 MS. COFFIN: Okay this says the shed was installed in 2001.

37
38 MR. SHALIKAR: Is there electrical installed in the shed as
39 well?

40
41 MS. COFFIN: Don't know that. It appears that is the pool
42 equipment in the shed?

43
44 MR. AURIEMMA: Yes.

45
46 MS. COFFIN: So yes.

47

1 MR. SHALIKAR: That was installed all according fairly with
2 the town, permits and everything?

3
4 MR. LICATA: We made an OPRA request to the construction
5 department for the permit history and according to the response that
6 we received and the information that's been submitted. The shed was
7 installed or it was issued a certificate of approval in January of
8 2001.

9
10 MR. SHALIKAR: Does that include the electrical?

11
12 MS. COFFIN: So there are a lot of permits that we got a
13 list of, but we didn't necessarily get all of those permits to review
14 in detail.

15
16 MR. LICATA: That's true. I don't know the answer to that
17 question.

18
19 MR. LEVITON: Can you answer Mr. Auriemma please?

20
21 MR. LICATA: Mr. Auriemma, could you step forward?

22
23 MR. AURIEMMA: Sure.

24
25 MR. LICATA: Maybe just swear him in.

26
27 MR. MARMERO: Yeah if he's going to testify we'll get you
28 sworn in. Will you raise your right hand sir? Do you swear the
29 testimony you provide tonight will be the truth, the whole truth and
30 nothing but the truth?

31
32 MR. AURIEMMA: Yes I do.

33
34 MR. MARMERO: Okay.

35
36 MR. LICATA: So you have a shed on the property?

37
38 MR. AURIEMMA: Yes.

39
40 MR. LICATA: What's that oh I'm sorry. The shed, does it
41 have electric power?

42
43 MR. AURIEMMA: Yes.

44
45 MR. LICATA: And do you know whether or not it was inspected
46 both for the purposes of the construction of the shed and the
47 installation of electric?

48

1 MR. AURIEMMA: I believe it was, but I'm not positive.

2
3 MR. LICATA: Okay.

4
5 MR. AURIEMMA: But I know there is electric there.

6
7 MR. LICATA: And if the board were to approve your
8 application tonight, would you commit as a condition of approval to
9 closing out any either unissued or open permits that might be
10 outstanding?

11
12 MR. AURIEMMA: Yes.

13
14 MR. SHALIKAR: Okay no further questions from me Chairman.

15
16 MR. LEVITON: Thank you Mr. Auriemma. Thank you Mr.
17 Shalika, Mr. Gregowicz.

18
19 MR. GREGOWICZ: All the improvements, the pool, the pool-
20 house, the pavers, the walkways were installed permits were taken out
21 for those right?

22
23 MS. COFFIN: There were permits taken out for those, but we
24 can't. We didn't get to see them. I have a list of the permits.

25
26 MR. GREGOWICZ: Was there any open permits? There was a few
27 open?

28
29 MS. COFFIN: Yes.

30
31 MR. LICATA: Yes, there are open permits I understand, two
32 open permits. Again I've reviewed what they were with my client and he
33 would commit to closing them out properly if you approve.

34
35 MR. GREGOWICZ: Okay no further questions.

36
37 MR. LEVITON: Thank you Bob, Basil.

38
39 MR. MANTAGAS: That was one of my questions. It was
40 answered, but I noticed there's a lot of pavers. I went to the site
41 today and there was snow so I couldn't really see. How is the drainage
42 as far as the rainwater with all that paver coverage on your property?

43
44 MR. LICATA: Mr., yeah could you comment as to whether for
45 instance you have any standing water or?

46
47 MR. AURIEMMA: No, no it has drains.

48

1 MR. LICATA: Oh sorry.

2
3 MS. MOENCH: You could just keep it up there.

4
5 MR. AURIEMMA: No it has drains and it has a dry well also.

6
7 MR. MANTAGAS: Okay so there's drains on the property with
8 all that okay very good, thank you.

9
10 MR. LEVITON: Thank you Mr. Mantagas, Mr. Wechsler.

11
12 MR. WECHSLER: No Mr. Chairman, my concerns were with the
13 shed, but the questions have been asked.

14
15 MR. LEVITON: Mr. Pochopin.

16
17 MR. POCHOPIN: Hello, so the same questions I have with the
18 gentlemen on the board here. The landscaping, you said you put the
19 trees in so the height of the light, etc. is all not infringing upon
20 anybody's. Say different seasons are they trees that are all year-
21 round or could they be infringing on light on a neighbor in winter?

22
23 MS. COFFIN: The stanchions are a separate issue. They're at
24 the end of the driveway. There's no landscaping around them. They've
25 been there for more than twenty years.

26
27 MR. POCHOPIN: Okay.

28
29 MS. COFFIN: And they would be visible all times of year,
30 but they're just little light posts at the end of the driveway. The
31 remainder of the property it is evergreens around the perimeter.

32
33 MR. POCHOPIN: No highlighting in the backyard or anything
34 like that?

35
36 MR. AURIEMMA: No and the stanchions, the lights on the
37 stanchions, there's no lights on the stanchions.

38
39 MR. POCHOPIN: Very good thank you.

40
41 MS. BEAHM: Is there landscaping proposed around them?

42
43 MS. COFFIN: Not proposed, but it exists.

44
45 MS. BEAHM: Ultimately the answer is going to be, but yeah.

46
47 MS. COFFIN: There's not proposed, but there is existing
48 landscaping around the stanchions.

1
2 MS. BEAHM: And it's legitimate landscaping that is not sad
3 looking?
4
5 MS. COFFIN: I don't think any of the landscaping on this
6 property would be described as sad looking.
7
8 MS. BEAHM: I'm just saying I would recommend should the
9 board act in the affirmative that you coordinate with Shari in Brian's
10 office to make sure that whatever is out there is legitimate.
11
12 MS. COFFIN: Yeah that's fair.
13
14 MR. LICATA: No objection to that.
15
16 MR. LEVITON: Thank you Mr. Licata. Thank you Jennifer, Mr.
17 Schertz.
18
19 MR. SCHERTZ: No questions at this time.
20
21 MR. LEVITON: Mr. Harrington.
22
23 MR. HARRINGTON: No questions at this time.
24
25 MR. LEVITON: Ms. Klompus.
26
27 MS. KLOMPUS: No questions at this time.
28
29 MR. LEVITON: Yeah I just would like to ask about the
30 linking to your neighbor's fence, the neighbor's fence. Ms. Coffin is
31 that standard practice?
32
33 MS. COFFIN: Yes.
34
35 MR. LEVITON: I've never seen it before.
36
37 MS. COFFIN: My yard is linked to my neighbor's fence so I
38 have in fact seen it before, but I don't have the pool they do.
39
40 MR. LEVITON: So I don't mean that I haven't seen fences
41 linked. I mean I haven't seen them linked in advancement of an
42 ordinance that suggests a pool needs to be encased by a fence. Let me
43 go to Jennifer and ask her is that?
44
45 MS. BEAHM: I mean the pool requirements require a fence.
46
47 MS. COFFIN: They have a variation on file I believe.
48

1 MS. BEAHM: But I will say.

2
3 MR. LEVITON: Okay.

4
5 MS. BEAHM: It's not uncommon if it's a coincident fence for
6 neighbors to coordinate. That's not uncommon.

7
8 MR. LEVITON: Beautiful. I have no questions. So at this
9 time I'm going to go out to the public and ask if there's anyone in
10 attendance who wants to question Ms. Coffin on any of the testimony
11 she entered onto tonight's record. Seeing none I'll close public, Mr.
12 Marmero.

13
14 MR. MARMERO: Yeah so you've heard the testimony this
15 evening. What the relief that's going to be required for this
16 application is summed up by Nancy on the application itself, but we
17 discussed a paver patio that is sixty-three feet from Pine Brooke Road
18 where a seventy-five foot setback is needed. That paver patio would
19 also need a ten-foot setback in the rear yard, but it has a 6.5-foot
20 setback. It would need a fifteen-foot setback from the side yard lot
21 line, but it currently has a fourteen-foot setback. We heard some
22 testimony about the walkway and Ms. Coffin indicated that she felt it
23 complies. Nancy did flag it on her report as something needing a
24 variance so I think we would want to consider that. Since Nancy, the
25 zoning officer, did flag it. The walkway is forty-three feet from Pine
26 Brooke, but it would need a setback of seventy-five feet and the
27 walkway is zero feet from the side yard and it would need a setback of
28 fifteen feet. Then we discussed the pool-house/covered bar which is
29 seventy-three feet from Pine Brooke. It would need seventy-three feet
30 and it would need seventy-five. We discussed the stanchions which
31 shall have a height not to exceed three feet and then we discussed the
32 shed and the ordinance reads a shed with a floor area of less than a
33 hundred square feet maybe located no less than five feet from the rear
34 or side and indicates a 1.9 foot side-yard setback and a 2.6 foot rear
35 yard setback. Then we discussed the fence which the report indicates
36 cannot exceed three feet in the front yard. We heard testimony that
37 the fence is four feet and then the fence would also need a setback of
38 seventy-five feet from Pine Brooke. In terms of conditions that were
39 discussed the applicant did agree to close out any open permits and
40 the applicant did agree to coordinate with CME, Brian's office on
41 landscaping around the stanchions.

42
43 MR. LEVITON: Mr. Licata, any thoughts?

44
45 MR. LICATA: We concur with the board attorney's summation
46 of the relief we're seeking and the conditions we'd stipulate to and
47 we would respectfully request a positive resolution.

1 MR. LEVITON: Then let, Bob.

2
3 MR. GREGOWICZ: Just one question, the fence is linked into
4 the neighbor's fence. If that neighbor ever took down that fence then
5 you would replace that section of fence so it would conform around ---
6 the pool?

7
8 MR. LICATA: They'd be obligated to do so.

9
10 MR. LEVITON: Okay, will someone make a motion?

11
12 MR. SCHERTZ: So moved.

13
14 MR. LEVITON: Thank you Mr. Schertz. Will someone second Mr.
15 Schertz's motion?

16
17 MR. WECHSLER: I'll second the motion.

18
19 MR. LEVITON: Thank you Mr. Wechsler.

20
21 **ROLL CALL**

22
23 MS. MOENCH: Mr. Gregowicz?

24
25 MR. GREGOWICZ: Yes.

26
27 MS. MOENCH: Mr. Wechsler?

28
29 MR. WECHSLER: Yes.

30
31 MS. MOENCH: Mr. Schertz?

32
33 MR. SCHERTZ: Yes.

34
35 MS. MOENCH: Mr. Shalika?

36
37 MR. SHALIKAR: 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. Harrington?

48

1 MR. HARRINGTON: Yes.

2
3 MS. MOENCH: Ms. Klompus?

4
5 MS. KLOMPUS: Yes.

6
7 MS. MOENCH: Chair Leviton?

8
9 MR. LEVITON: Congratulations to the folks who are moving
10 into the Auriemma house. It is gorgeous and Mr. Auriemma good luck to
11 you going forward wherever your path may take you. Your welcome sir.
12 Okay, so it's been twenty minutes. Does anyone need a break? Okay then
13 our next public hearing is No. ZBE1838 it was also carried from
14 January 18th. The applicants are Christopher and Catherine Colosi and
15 Joann Becker and they're being represented by Mr. Licata. He's already
16 seated here. I see the venerable Mr. Ploskonka on his way up as well
17 and the board recognizes Mr. Licata.

18
19 MR. LICATA: Good evening again everyone. I am representing
20 the applicant who is and has been the owner of this property which has
21 an odd and somewhat long history of being used for commercial purposes
22 in a rural/agricultural zone. We have worked with or I should say Mr.
23 Ploskonka mostly and the owners have worked with the D.E.P. as well as
24 your professionals and the zoning board staff in an effort to restore
25 wetlands that have been disturbed as well as reduced. That disturbance
26 footprint and the use profile on the site and manner which we hope
27 will be acceptable to the board. It is a use variance application so
28 we would need five affirmative votes in the event you were to approve
29 it tonight. I have with me Mr. Ploskonka who would briefly summarize
30 the use history and what has been used recently and what we would
31 propose on a go forward basis to use the property for. I do have Peter
32 and Joann Becker, they are one of the or one set of the owners. They
33 are the owner operators of Four Boys Ice Cream business which is one
34 of the occupants of the property and then Christopher Colosi who runs
35 his landscaping business and is also one of the other occupants. He's
36 here as well and we have Allison Coffin also as our planner.

37
38 MR. LEVITON: You may present your affirmative case sir.

39
40 MR. LICATA: Thank you.

41
42 MR. MARMERO: John we'll get you sworn in if you'll raise
43 your right hand. Do you swear the testimony you'll present tonight
44 will be the truth, the whole truth, and nothing but the truth?

45
46 MR. PLOSKONKA: I do, John Ploskonka professional engineer,
47 Manalapan, New Jersey.

48

1 MR. LEVITON: Welcome back Mr. Ploskonka.

2
3 MR. PLOSKONKA: Thank you very much Mr. Chairman.

4
5 MR. LEVITON: You're welcome.

6
7 MR. PLOSKONKA: I think we passed - - -

8
9 MR. LICATA: - - - recognize?

10
11 MR. LEVITON: Absolutely the board accepts his credentials.

12
13 MR. PLOSKONKA: We passed out these exhibits. I don't know
14 if everybody has a copy or not.

15
16 MR. LICATA: I could stipulate for the record they were
17 provided earlier today by email. Mr. Ploskonka also has some
18 additional paper copies.

19
20 MR. LEVITON: So I have seen them and they've been uploaded
21 to the server that we all have access to.

22
23 MR. MARMERO: And they're already labeled as well.

24
25 MR. MARMERO: And they've been marked as Exhibit A through
26 Exhibit K.

27
28 MR. LICATA: Thank you.

29
30 MR. LEVITON: You're welcome.

31
32 MR. PLOSKONKA: Thank you.

33
34 MR. LICATA: So, John could you begin by giving the board an
35 overview of this property and its history?

36
37 MR. PLOSKONKA: Yes, I can Peter. This property was the
38 subject of a zoning board application back in 1986 where the current,
39 that owner at that time got the zoning board to approve use of four
40 businesses on the site. Now this is a residential zone today. I'm not
41 sure what it was in 1986, but it's a four-acre minimum right now for
42 single-family homes, but in 1986 they did approve business use of this
43 property where there's an existing house.

44
45 MR. LICATA: And that was, I think that resolution recites
46 including storage for air conditioning equipment business?

47
48 MR. PLOSKONKA: That's correct.

1
2 MR. LICATA: Children's clothing store and an electrician's
3 office.

4
5 MR. PLOSKONKA: Correct.

6
7 MR. LICATA: But that approval has expired. It had a limited
8 duration.

9
10 MR. PLOSKONKA: That was a three-year approval, yes.

11
12 MR. LICATA: Okay thank you.

13
14 MR. PLOSKONKA: Fast forward to 2017 and my clients looked
15 at the property to use and when they went there they got information
16 from the realtor from Zillow and that's our exhibit B. Exhibit B shows
17 the ad where they said there's a single-family house and there's six
18 businesses working on the property which are outlined as.

19
20 MR. LICATA: Exhibit C1 through 6.

21
22 MR. PLOSKONKA: Yeah commercial electric company.

23
24 MR. LICATA: A masonry business I believe.

25
26 MR. PLOSKONKA: A masonry business and there was a tax
27 company there, a church, and stone and patio professionals were there
28 at that time. When they looked at the property and obviously thought
29 mistakenly that they could simply move in and do something similar to
30 that. They didn't realize this was a very environmentally-sensitive
31 area. If you go back there you can't tell it is wetlands, but most of
32 this ten acres is wetlands except for a small portion by the house and
33 behind the house which are uplands. So, when they came and purchased
34 it they started to operate and they were told that they're in
35 violation and we had to go make an application to N.J.D.E.P. to try to
36 determine how much of the wetlands are there and how much of the
37 wetlands are encroached upon. Well, the good news was that they didn't
38 encroach on the wetlands, but they encroached on the wetlands buffer
39 which is fifty-foot from the wetlands. So, they had when we looked at
40 that with the D.E.P. over a year ago they were concerned D.E.P. and I
41 suggested to the clients that they become proactive and wherever they
42 violated the wetlands buffer they should plant trees and shrubs, etc.
43 so that the.

44
45 MS. BEAHM: I mean John I'm just going to interrupt you. You
46 made an application to this board in 2018 because a complaint was
47 filed and we told you, you had to go to the D.E.P. You didn't just
48 come to this because you decided to be a good citizen. This came to us

1 because of a complaint. We told you there were issues associated with
2 the wetlands in 2018, five years ago. So now all of a sudden you're
3 here and you're making it out as if you guys decided oh well we're
4 going to do this because we feel like we need to, no. You were brought
5 to the township on a complaint. We told you definitively, multiple
6 times over the course of the past five years that you needed to go to
7 the D.E.P. and get your L.O.I. We told you in 2018. We told you in
8 2020. We told you in 2022. It took five years for you guys to actually
9 do something. So I just want the board to be aware. I get it. They've
10 been here and we're going to assess how it's going. They didn't come
11 here because they wanted to. They came here on a complaint and it took
12 them five years to decide to go to the D.E.P. So let's just be honest,
13 I mean honestly.

14

15 MR. PLOSKONKA: These are the facts. Let me go through the
16 facts, would you please? I mean.

17

18 MS. BEAHM: John I mean.

19

20 MR. PLOSKONKA: You didn't tell us in 2018. We had three or
21 four TRC meetings in about 2020.

22

23 MS. BEAHM: On March 2nd, 2020.

24

25 MR. LEVITON: Civility, civility Jennifer. Don't yell at the
26 man.

27

28 MS. BEAHM: Hold on March 2, 2022 we told you to apply to
29 the D.E.P. You said you were going to apply within thirty to sixty
30 days.

31

32 MR. PLOSKONKA: When did we apply? When did we apply?

33

34 MS. BEAHM: When?

35

36 MR. PLOSKONKA: In 2022.

37

38 MS. BEAHM: When?

39

40 MR. PLOSKONKA: In.

41

42 MS. BEAHM: Exactly when? Within thirty to sixty days of
43 March?

44

45 MR. PLOSKONKA: I had the application. I sent it into
46 Janice.

47

48 MR. LEVITON: August 17th.

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MS. BEAHM: August, that's not thirty to sixty days. I'm just here to tell you I'm not opining on the merits of the case, but let's be honest.

MR. LEVITON: Okay you made your point. So let Mr. Licata, a lot of this board is new and I did not mention at the start nor did you that the Colosi's and the Becker's were here in 2018. The board doesn't know that it's a bifurcated application. Why don't you just go back and give a broader overview for the benefit of the board so that they know where Jennifer's frustration is emanating.

MR. LICATA: Yes, there's been an application in process for some time which predated Covid. Again, they bought the property. It had a commercial history. It had six users at the time which included large fields. They did obtain a CO for their purchase. They did not obtain a commercial CO, but there were commercial businesses at the time this sale took place. A CO was issued which they received upon the only condition was to remove a pergola from the property. They were later cited for operating a commercial business in a residential zone, but again they bought the property under a false assumption and.

MS. BEAHM: I mean Peter again.

MR. LICATA: Jen if I could please.

MS. BEAHM: I mean you finished.

MR. LICATA: No Mr. Chairman I am.

MR. LEVITON: Yeah.

MR. LICATA: --- ask a question.

MS. BEAHM: Agreed.

MR. LEVITON: Jen wait until I go to you. You made your point.

MS. BEAHM: Yup.

MR. LICATA: I mean I would like the courtesy to put a case on the record without being interrupted and without. I will make my people available for questions, but we have the right to present a case.

MS. BEAHM: I one hundred percent agree.

1 MR. LEVITON: And he's going to get it. So, we're going to
2 give it to him.

3
4 MS. BEAHM: I just want to make sure it's consistent with.

5
6 MR. LEVITON: You've made your point.

7
8 MS. BEAHM: What we have.

9
10 MR. LEVITON: You've made your point. So also for the
11 benefit of the board explain to them what the businesses that are
12 currently operating there now are about and that that's the use
13 variance that they're looking to get tonight. Let them know what your
14 clients need and then going forward we'll explain to them that the
15 site plan is going to be talked about at a later time.

16
17 MR. LICATA: Understood.

18
19 MR. LEVITON: Okay, please.

20
21 MR. LICATA: Mr. Ploskonka I believe the next portion of
22 your testimony addresses current site conditions and use profile does
23 it not?

24
25 MR. PLOSKONKA: It does.

26
27 MR. LICATA: Could you explain that to the board?

28
29 MR. PLOSKONKA: As.

30
31 MR. LEVITON: Hold on, hold on a second. You've applied for
32 the letter of interpretation from the Department of Environmental
33 Protection. You did that in August of 2022?

34
35 MR. PLOSKONKA: Correct.

36
37 MR. LEVITON: You have not received the L.O.I. as of yet?

38
39 MR. PLOSKONKA: Correct.

40
41 MR. LEVITON: That's what you're testifying to, okay.

42
43 MR. PLOSKONKA: That's correct.

44
45 MR. LEVITON: Okay.

46

1 MR. PLOSKONKA: However, if you notice in the packet that I
2 provided I have a note from the D.E.P. who indicates that she's about
3 to approve that L.O.I.

4
5 MR. LEVITON: Okay. I also noticed that the current plan now
6 shows that the wetland limit lines are in evidence and I want to know
7 is that different from the wetlands and/or the wetlands transition
8 area that will be delineated in the L.O.I. and if the fifty-foot
9 buffer that you just referenced is a hard fifty-foot buffer or if that
10 could change?

11
12 MR. PLOSKONKA: As we see it right now and hope that we'll
13 have the L.O.I. next week. The wetlands stayed the same. It has not
14 been encroached upon. The buffer was encroached. The client, after we
15 met with D.E.P. the first time saw there was a real problem and I
16 didn't want to go to other issues with D.E.P. So, we started to put in
17 the trees and the plants over that last year and a half and D.E.P. has
18 been extremely busy. They're very difficult to get them out to the
19 site. They were there a couple times recently and I think at this
20 point the buffer is now almost completely filled in with plants that
21 fit the wetlands criteria and maybe one or two plants that they'll put
22 in and we'll do that. We should have the L.O.I. I think within a week.

23
24 MR. LEVITON: Okay sir continue on then. I'll also wait
25 until you finish.

26
27 MR. LICATA: Thank you and also by way of summary there have
28 been a number of meetings that have taken place with the D.E.P.
29 representative over time.

30
31 MR. PLOSKONKA: Absolutely.

32
33 MR. LICATA: And approximately how many meetings over how
34 long a period of time?

35
36 MR. PLOSKONKA: From August 2022 from the application, they
37 probably didn't get out there for almost a year. That's the current
38 situation now and then there was at least two or three meetings - - -
39 with my wetlands expert meeting with Taryn from D.E.P. at the site.

40
41 MR. LICATA: And with each of these meetings did you receive
42 additional guidance as to the plantings and where they would want the
43 plantings being done?

44
45 MR. PLOSKONKA: Absolutely.

46
47 MR. LICATA: And did you receive this advice in a sort of
48 incremental fashion and did you address it as it was received?

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MR. PLOSKONKA: That's correct and we really didn't want to appear here until we had the L.O.I. because I think it's very important to have that and have the mitigation completed. So we're now I'd say ninety-nine percent there and we should have the L.O.I. I think within a week.

MR. LICATA: And in terms of the "development of the site", is there any new development of this site being proposed? In other words, are we proposing to put in a new building?

MR. PLOSKONKA: There's nothing proposed. Actually, this site is shrinking from where it was when this application first came before the board. There's a reduction in the size of the area behind the building, the house that's been now mitigated. So it's a lesser area that we're using and there's no plans on doing any new grading, new improvements. The single-family house in the front stays where it's at and the storage of the vehicles and equipment is in the back for two businesses and one of the businesses -I'll get to in a minute- has started to move their facilities out of the property. They're probably ninety percent out and they're going to keep three trailers there for storage of equipment for events that they have.

MR. LICATA: Okay so let me ask you a couple follow up questions about what you just summarized. The pre-forestation or pre-restoration footprint, can you tell the board what that was in square feet?

MR. PLOSKONKA: Yes, we had approximately forty-five, about an acre, 46,500 square feet of area in stone when we started the project and now we replanted about a quarter acre or 13,000 square feet and we have about 33,000 or about three-quarters of an acre of the property now being utilized within the confines of the woods around there. So that we're now going to be in compliance with the D.E.P.

MR. LEVITON: While you're talking about it Mr. Licata, our environmental commission under the direction of Ms. Tankoos recommended that, that I'm sorry, restoration be reviewed by the township forester. Do you have any objection to that?

MR. LICATA: No, we have no objection.

MR. PLOSKONKA: No, we did appear at the environmental commission. Peter and I and the clients and they were very supportive of our activity and moving forward in this direction.

1 MR. LEVITON: While Mr. Marmero is writing down. It checks
2 off one of my boxes so please continue with your summation.

3
4 MR. LICATA: And would it be fair to say that aside from for
5 instance the suggested location installation if you will of telephone
6 poles or some other acceptable barrier in the parking area in the
7 rear. There's no other changes or alterations to the property being
8 proposed by this application?

9
10 MR. PLOSKONKA: That's absolutely correct. What is there now
11 and what is being finalized with D.E.P. will only allow us to use a
12 third of an acre of the property for equipment.

13
14 MR. LICATA: Okay.

15
16 MR. LEVITON: So regarding the what did you call them? Were
17 they telephone poles? Were they ---? Something for parking spaces, I
18 read them. I read about them, but I didn't see them specified on the
19 plan. To me I didn't see them so I just want the board to know this is
20 something that's going to -if this board acts favorably on the
21 application- if they get the variance relief that they need to run
22 their businesses there then they're going to have to come back to this
23 board again and this board will then have jurisdiction to talk about
24 that type of thing, what the business looks like and how it functions.

25
26 MS. BEAHM: Under the site plan.

27
28 MR. LEVITON: Under the site plan. So, I didn't see it on
29 the survey what he's talking about now. I couldn't see where they
30 were. It was a concern of mine and I want the board to know that we'll
31 have control of that on a final site plan.

32
33 MS. BEAHM: Yeah so it wasn't shown on the variance plan and
34 I just want the applicant to be aware based upon the chairman's
35 discussion, should the board act in the affirmative we're going to ask
36 you to come back for site plan. We're not going to just waive site
37 plan requirement. You're going to have to come back for preliminary
38 and final site plan approval. It's going to require you to discuss the
39 millings, the gravel, the delineation of the parking, drainage, all
40 that stuff. So if there's an expectation here tonight that any
41 affirmative action by this board is going to allow you to just go for
42 it, it's not happening.

43
44 MR. LEVITON: I've been laboring under the assumption that
45 it was originally a bifurcated application. Are you here under that
46 assumption as well?

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48 MR. PLOSKONKA: You're correct Mr. Chairman.

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MR. LEVITON: Okay.

MR. PLOSKONKA: However, there isn't that much being done on the site and obviously the professionals need to see the L.O.I. with the ties shown on the property.

MS. BEAHM: So, John at the end of the day I think what is being discussed here is this board, should they act in the affirmative and I'm not saying they will, they may, but if they do it's going to be under the condition that you come back for site plan application. So the thought process that there's going to be no site plan required is not happening. You have to come back for site plan if they say yes to the use. If they say no to the use we're done, but if they say yes to the use I think what is being said here is we will require a site plan approval.

MR. LEVITON: Okay the point's been made.

MS. BEAHM: Right.

MR. PLOSKONKA: Understood.

MR. WECHSLER: Mr. Chair?

MR. LEVITON: Let Mr. Licata finish and then I'll go out to the board. We're going to hear from Ms. Coffin and the public as well.

MR. LICATA: Yes. I think Mr. Chairman the next question that you had asked us to address is the exact uses being made of the property at this moment.

MR. LEVITON: It would be helpful to the board, yes and then if you could just clarify which business is reducing its footprint there as well because I didn't know when you said it.

MR. LICATA: John the two businesses that are there now are Four Boys Ice Cream, correct?

MR. PLOSKONKA: Correct.

MR. LICATA: And Jersey Ground Maintenance.

MR. PLOSKONKA: Correct.

MR. LICATA: Okay and Four Boys Ice Cream what have they been using the property for and what would they propose to reduce that to?

1
2 MR. PLOSKONKA: They've been using it for their business
3 where they operate in Englishtown and they also do events at a fair,
4 the Freehold Fair, or Middlesex County Fair so they have three
5 trailers there with material and in the summertime when there's an
6 event that they're working at they go to the trailer. They get the
7 stuff they need and they go to the facility and come back. Since the
8 application started they've also rented space outside of Manalapan in
9 Englishtown to run some of their business from that point and reducing
10 the amount of activity they have on this site. The second business is
11 a landscape business and he has equipment on site such as.

12
13 MR. LEVITON: I'm not exactly clear what Four Boys uses the
14 site for.

15
16 MR. PLOSKONKA: They have three large storage containers and
17 if they're doing an event like Manalapan Day they need to gather
18 materials from those containers.

19
20 MR. LEVITON: And that's it? There are no vehicles parked on
21 the property?

22
23 MR. PLOSKONKA: No vehicles.

24
25 MR. LEVITON: No vehicles, zero vehicles.

26
27 MR. PLOSKONKA: They used to, but they're now moving more of
28 their operation into another location in Englishtown and they've taken
29 some stuff away. So, they're just coming there in the summer to do
30 events throughout the ---

31
32 MR. LEVITON: We've read it's only one of the four seasons
33 that it's used by that business.

34
35 MR. LICATA: Yes.

36
37 MR. LEVITON: Can you characterize the containers?

38
39 MR. PLOSKONKA: They're basically just storage containers
40 that maybe ten by ---

41
42 MS. BEAHM: Can anybody here talk about the operation?

43
44 MR. PLOSKONKA: I'm sorry?

45
46 MR. LICATA: We'll get to it.

47

1 MR. LEVITON: I'm not really sure what the containers are.
2 I'm guessing they're not plastic that I can get from Walmart.

3
4 MR. PLOSKONKA: No they're - - -

5
6 MR. SHALIKAR: Are they shipping containers?

7
8 MS. BEAHM: No, they're trailers.

9
10 MR. PLOSKONKA: Storage container.

11
12 Audience Member: Shipping containers.

13
14 MR. LEVITON: Okay. You'd have to be mic'd up if you're
15 going to testify. Okay Mr. Ploskonka thank you, continue on with the
16 Colosi business.

17
18 MR. PLOSKONKA: The other business was the Jersey Grounds
19 Maintenance and they have three storage containers, four pick-up
20 trucks, one backhoe, and five trailers and they come in at 7:00 in the
21 morning, pick up what they need, they leave, and they come back at
22 night, and drop off the equipment and since they're not there all day
23 long working, they're at different job sites as landscapers do.
24 There's no construction materials on site.

25
26 MR. LICATA: That is my understanding and I guess at this
27 point it probably would be a good juncture to bring up Peter Becker
28 and Chris Colosi in quick succession to fill in some additional
29 detailing.

30
31 MR. LEVITON: That's a good idea. Mr. Becker, Mr. Colosi you
32 could both come up. Mr. Marmero will swear you in and Ms. Moench will
33 hand you a microphone and I'll just let you know that everything that,
34 before he does that, everything that you say notice how close I am to
35 the mic, needs to get picked up and minutes later transcribed by a
36 court reporter for posterity.

37
38 MR. MARMERO: Okay and I can get you sworn in at the same
39 time if you both raise your right hand. Do you swear the testimony you
40 will provide tonight will be the truth, the whole truth, and nothing
41 but the truth? Okay.

42
43 MR. BECKER: I do.

44
45 MR. COLOSI: Yes I do.

46
47 MR. LICATA: Great so Peter let's start with you. You're one
48 of the principals of Four Boys Ice Cream, are you not?

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MR. BECKER: Yes.

MR. LICATA: Okay and previously I understand you used both the portion of the home for the storage of paper goods, cups, plates, paper towels, things like that.

MR. BECKER: Yes, the garage.

MR. LICATA: The garage. Would you propose to use that anymore?

MR. BECKER: No.

MR. LICATA: Okay.

MR. BECKER: We have moved as of this time about ninety-nine percent of stuff out of the garage.

MR. LICATA: Okay.

MR. BECKER: We already moved it to the new facility.

MR. LICATA: And you would vacate the balance of the garage?

MR. BECKER: Yes.

MR. LICATA: Okay.

MR. LEVITON: And the new facility in Englishtown?

MR. BECKER: Yes.

MR. LICATA: Do you conduct any office work at this location?

MR. BECKER: No.

MR. LICATA: Do any customers come?

MR. BECKER: No.

MR. LICATA: Okay, let's talk about the backyard. What are these trailers? How big are they? What are they made of and what do you put in them?

1 MR. BECKER: They're forty-foot steel shipping containers
2 and we put all our equipment like grills, fryers, all that. When
3 they're clean, we clean them and put them in there.

4
5 MR. LICATA: So these are concession equipment items that
6 you use off site?

7
8 MR. BECKER: Yes.

9
10 MR. LICATA: At community holiday events.

11
12 MR. BECKER: Right like Monmouth County Fair, Middlesex
13 County Fair, Manalapan Day.

14
15 MR. LICATA: Okay.

16
17 MR. BECKER: But all the stuff we use, we use it, bring it
18 to Englishtown, we clean it, and then we bring it back there.

19
20 MR. LEVITON: Are they stacked? Are they side by side?

21
22 MR. BECKER: Side by side.

23
24 MS. BEAHM: And where are they stored?

25
26 MR. BECKER: In the back of the permitted area where we're
27 allowed to have them. None of them are encroaching on the buffer of
28 the wetlands or anything.

29
30 MS. BEAHM: Well we really don't know that yet.

31
32 MR. LEVITON: It's to be determined.

33
34 MR. BECKER: Yeah.

35
36 MS. BEAHM: Correct, but are they shown on the plans?

37
38 MR. BECKER: We have it where we know where it is though.

39
40 MR. LEVITON: Okay.

41
42 MR. BECKER: Yeah.

43
44 MR. LICATA: They are depicted on the current plan and they
45 could be called out with more specificity as required.

46
47 MR. LEVITON: Continue please.
48

1 MR. BECKER: And all we had trailers there. We had our
2 different trailers that we're getting them all out. Most of them are
3 gone now. I think I have like two left.

4
5 MR. LEVITON: So you testified there were three.

6
7 MR. BECKER: These are concession trailers.

8
9 MR. LEVITON: A concession trailer is different than a
10 shipping container?

11
12 MR. BECKER: Yeah.

13
14 MR. LEVITON: What is a concession trailer?

15
16 MR. BECKER: Let's say you go to an event, and you just open
17 the side, and you open up for business.

18
19 MR. LEVITON: I understand.

20
21 MR. BECKER: Yeah they're not there anymore.

22
23 MR. LEVITON: So those are gone, but the shipping
24 containers, three of them?

25
26 MR. BECKER: Yes.

27
28 MR. LEVITON: Are there?

29
30 MR. BECKER: Yes.

31
32 MR. LEVITON: What is your plan for your business at that
33 property going forward?

34
35 MR. BECKER: Is just to use it when we need it just to go
36 in, get our stuff out, and leave.

37
38 MR. LEVITON: To keep it as you've just described?

39
40 MR. BECKER: Yes, yes.

41
42 MR. LEVITON: Okay.

43
44 MR. LICATA: Meaning the three containers.

45
46 MR. BECKER: The three containers.

47
48 MR. LEVITON: Okay.

1
2 MR. BECKER: And we'll be there half a day maybe.
3
4 MR. LEVITON: Okay.
5
6 MR. BECKER: Get the stuff and then maybe half a day to put
7 it back.
8
9 MR. LICATA: And specifically as to that, so these are used
10 during like you said.
11
12 MR. BECKER: The summer months.
13
14 MR. LICATA: So okay do you access them during the winter?
15
16 MR. BECKER: No.
17
18 MR. LICATA: Okay.
19
20 MR. BECKER: No.
21
22 MR. LICATA: And how many times on average or maximum do you
23 in the good weather, in succession?
24
25 MR. BECKER: Yeah it's dropped a lot since Covid.
26
27 MR. LICATA: Before Covid, before Covid.
28
29 MR. BECKER: Before Covid we probably did fifteen to
30 seventeen.
31
32 MR. LICATA: A year?
33
34 MR. BECKER: A year.
35
36 MR. LICATA: Okay.
37
38 MR. BECKER: Now we're probably down to about ten.
39
40 MR. LICATA: Okay, but other than getting this equipment you
41 would not be accessing the site?
42
43 MR. BECKER: No.
44
45 MR. LICATA: Okay.
46
47 MR. BECKER: No.
48

1 MR. LICATA: Okay thank you.

2

3 MR. BECKER: Except to fix things for my sister-in-law who
4 lives in the house.

5

6 MR. LEVITON: It's your sister-in-law that lives in the
7 house?

8

9 MR. BECKER: Yes.

10

11 MR. LEVITON: Okay.

12

13 MR. BECKER: Yeah.

14

15 MR. LEVITON: Alright.

16

17 MR. LICATA: So at this point I guess at this point I'd like
18 to ask Mr. Colosi.

19

20 MR. LEVITON: Let's do it.

21

22 MR. LICATA: Similar questions. So you're obviously by what
23 is says on your shirt there, Jersey Grounds Maintenance?

24

25 MR. COLOSI: Yes.

26

27 MR. LICATA: And that's your company?

28

29 MR. COLOSI: Yes.

30

31 MR. LICATA: And you use a portion of the existing residence
32 as basically records storage?

33

34 MR. COLOSI: The garage area and then there's an office in
35 the garage.

36

37 MR. LICATA: And then there's an office in the garage

38

39 MR. COLOSI: Yes.

40

41 MR. LICATA: So is that like, I think we had it at about
42 1,075 square feet of the residence.

43

44 MR. COLOSI: Yes.

45

46 MR. LICATA: Is occupied by you?

47

48 MR. COLOSI: Correct.

1
2 MR. LICATA: Okay. Do you have an office staff that works in
3 there?
4
5 MR. COLOSI: No I don't.
6
7 MR. LICATA: Do you have clients that come in?
8
9 MR. COLOSI: No.
10
11 MR. LICATA: Do you have a showroom?
12
13 MR. COLOSI: No.
14
15 MR. LICATA: Okay so just again you have?
16
17 MR. COLOSI: We keep our records in there and when the guys
18 go out, they have lists. We keep the lists and everything inside the
19 office.
20
21 MR. LICATA: And so then in the rear let's talk about what
22 it is you store there and then let's talk about how you come and go
23 from the site in the normal cycle of your business.
24
25 MR. COLOSI: So, we keep our landscaping equipment, our
26 trucks, our trailers, lawnmowers, and the equipment we use. The guys
27 come in at 7:00AM in the morning. They load up, they go out to the job
28 sites, I give them their job site requirements, they go, they leave,
29 and then they come back around 7:30 between 7:00-7:30 obviously
30 depending on the daylight savings and all that stuff.
31
32 MR. LICATA: You just described what are kind of small.
33
34 MR. COLOSI: We're small, yeah.
35
36 MR. LICATA: Okay. How do you secure this small equipment? I
37 mean how do you collect, store, protect?
38
39 MR. COLOSI: We have the same shipping containers, forty-
40 foot shipping containers.
41
42 MR. LICATA: Right.
43
44 MR. COLOSI: We have three of them. They put them inside and
45 then they lock the doors when they leave.
46
47 MR. LICATA: Okay.
48

1 MR. COLOSI: We have locks that lock them all, lock them up.

2
3 MR. LICATA: Now what about other vehicles like pickup
4 trucks or dump trucks or front loaders. Do you have those?

5
6 MR. COLOSI: We have those. We have the Ford pickup trucks.
7 They get parked there and then the guys lock them and they take the
8 keys. The keys go in the office.

9
10 MR. LICATA: So those are work vehicles for your company?

11
12 MR. COLOSI: Yes New Jersey Grounds.

13
14 MR. LICATA: How many vehicles are those?

15
16 MR. COLOSI: Four of those.

17
18 MR. LICATA: Four of those pickup trucks?

19
20 MR. COLOSI: Yes.

21
22 MR. LICATA: Okay what about other types of vehicles either
23 dump trucks or earth movers?

24
25 MR. COLOSI: We have the one Bobcat that stays there and
26 then we have the three. We have two pickup trucks and then two dump
27 trucks that stay on site.

28
29 MR. LICATA: And they stay in the back?

30
31 MR. COLOSI: Yes behind the building.

32
33 MR. LICATA: And that's vehicle inventory to your
34 understanding that is most recent on our plans?

35
36 MR. COLOSI: Yes.

37
38 MR. LICATA: And again you can submit additional information
39 as requested?

40
41 MR. COLOSI: Yes absolutely.

42
43 MR. LICATA: In the back with these vehicles, do you
44 maintain these vehicles in the backyard? Do you take them to garages?
45 What do you do?

46
47 MR. COLOSI: No if there's any work that needs to get done
48 we bring them to the autobody shop around the corner.

1
2 MR. LICATA: Okay.
3
4 MS. BEAHM: So you don't change any oil?
5
6 MR. COLOSI: No.
7
8 MS. BEAHM: Any maintenance whatsoever?
9
10 MR. COLOSI: Not to the trucks no.
11
12 MR. LICATA: So explain for the board when you come and go,
13 at the beginning and end of the day and how many people are coming and
14 going and how they get there, where do they park, things like that.
15
16 MR. COLOSI: The guys come in there's.
17
18 MR LICATA: Okay the guys, how many guys?
19
20 MR. COLOSI: There's ten guys that come in.
21
22 MR. LICATA: Okay.
23
24 MR. COLOSI: Ten to twelve guys.
25
26 MR. LICATA: Do they come in separate vehicles? How do they
27 come in?
28
29 MR. COLOSI: They come in in three vehicles. Three vehicles
30 they park. Actually, they come in three vehicles. One is one of our
31 pickup trucks that one of the employees take home.
32
33 MR. LICATA: Okay.
34
35 MR. COLOSI: The other two are two personal cars.
36
37 MR. LICATA: Okay.
38
39 MR. COLOSI: And they bring other guys with them.
40
41 MR. LICATA: And where do they park when they arrive?
42
43 MR. COLOSI: They move the trucks and they park in the same
44 spot where the trucks are.
45
46 MR. LICATA: Where the trucks were?
47
48 MR. COLOSI: Yes.

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MR. LICATA: Okay. So they come in around what time of day?

MR. COLOSI: Between 7:00 and 7:30 in the morning.

MR. LICATA: Okay and then.

MR. COLOSI: And this is only between March and November.

MR. LICATA: In other words, the landscaping season?

MR. COLOSI: Correct.

MR. LICATA: Okay and then at the end of the day?

MR. COLOSI: They come back around 7:00 and 7:00PM and then they park the trucks, put the stuff away, lock everything up, and then they go.

MR. LICATA: Anything else you want to tell the board?

MR. COLOSI: I don't think so no.

MR. LICATA: I'd make these witnesses available.

MR. LEVITON: So Mr. Colosi you have a few small pieces of equipment out there, but you additionally to Mr. Becker have three shipping containers.

MR. COLOSI: Correct.

MR. LEVITON: There are six shipping containers in the back.

MR. COLOSI: On the property yes.

MR. LEVITON: And your business like his is seasonal. You don't have ten guys coming and going now?

MR. COLOSI: Right now no we don't.

MR. LEVITON: Okay.

MR. COLOSI: Only if it snows a few guys come in to get the trucks and then they leave.

MR. LEVITON: Thank you sir. Alright so Mr. Licata is there anything else you want to offer?

1 MR. LICATA: Yeah I would move on to Allison Coffin.

2
3 MR. LEVITON: Let's do that then.

4
5 MR. LICATA: Okay, thank you.

6
7 MR. LEVITON: Welcome back Ms. Coffin. Mr. Marmero will
8 swear you in again.

9
10 MR. MARMERO: - - - sworn in again.

11
12 MR. LEVITON: We accept her credentials.

13
14 MR. MARMERO: Do you swear that the testimony you provide
15 tonight will be the truth, the whole truth, and nothing but the truth?

16
17 MS. COFFIN: Yes I do. So the subject site that we're
18 looking at is an eleven and a half acre approximately, irregularly-
19 shaped site with 241 feet of frontage on Iron Ore Road. The site
20 contains a residential dwelling at the frontage and has been occupied
21 by various commercial entities since the 1980s. The rear of the site
22 is heavily encumbered by sensitive environmental features including
23 wetlands and a stream and the rear lot line abuts the Freehold-
24 Jamesburg railroad line. The site has a long history of containing
25 multiple commercial businesses in addition to the dwelling. In 1986
26 the board granted a use variance for the occupation of the site by
27 four businesses. I did read this resolution, resolutions from the '80s
28 are often fun. It approved the applicant's prior use without
29 identifying it and storage for three other business uses which it did
30 identify as air conditioning equipment firm, children's clothing
31 store, and an electrician. That use approval was granted for a period
32 of three years and is therefore expired, but the commercial use of the
33 site did not expire in 1989, it continued. The site.

34
35 MR. LICATA: Meaning the approval expired, but it didn't
36 cease.

37
38 MS. COFFIN: The use continued, yes.

39
40 MR. LICATA: Without proper.

41
42 MS. COFFIN: Yes, yes so it continued without the benefit of
43 having approvals. The site has continued to be used for office and
44 storage for other businesses and it's now used for the operation of
45 the two businesses that the board has heard about tonight in addition
46 to a residential dwelling and the applicant is requesting the board's
47 permission by way of use variance to legitimize the current uses of
48 the site. There are three of them, the residential use, the Jersey

1 Grounds Management which has the vehicle and equipment storage and
2 three shipping containers, and Four Boys Ice Cream which is limited to
3 three storage containers that are accessed only in summer. The site is
4 located in an area of the township which is primarily agricultural and
5 low density residential. The property in question is in the R-AG4
6 single-family zone. Permitted uses in the zone include single-family
7 detached dwellings, community residences for developmentally disabled,
8 single-family detached residential clusters, municipal facilities,
9 township parks, playgrounds and swimming areas, and farms. The
10 proposed commercial businesses on the site are not permitted in the
11 zone therefore a D1 variance is being requested. There's some existing
12 non-conforming bulk conditions on the site. There's a front yard
13 setback of a hundred feet that is required and the existing dwelling
14 is at 44.7 feet. This will not be changed and a side yard setback of
15 thirty-feet is required and that existing building is 30.4 feet. Other
16 than that the site conforms with the concept plan to the bulk
17 requirements of the zone. There is another variance that would be
18 required for site plan, an access driveway. The ordinance doesn't
19 permit a driveway that is accessory to a business or industrial use to
20 be located in a residential zone. This would be subsumed within the
21 use variance should the board grant it. The intent of this ordinance
22 requirement appears to be for the purpose of preventing a commercial
23 or industrial use located in a different lot from having their
24 driveway go through an adjacent residential zone or property.

25
26 MR. LICATA: Allison would it be correct to say that is
27 part of the use variance relief we're seeking, we're seeking relief to
28 have more than one principal use?

29
30 MS. COFFIN: Yes, yes. There would be three principal uses
31 on the property.

32
33 MR. LICATA: I just wanted to make sure we said that okay .

34
35 MS. COFFIN: So it's my opinion that the board could find
36 special reasons for the granting of these use variances and the
37 granting of the variances would not substantially impair the master
38 plan or the zoning ordinance nor would it result in a substantial
39 detriment to the health, safety, and general welfare of the public.
40 Special reasons for the granting of the use variances exist due to the
41 site being particularly suited to this use. The site is located in an
42 area of the township with agricultural and other non-residential uses
43 including a nursery school that had operated on the adjacent lot,
44 another non-residential use. The lot has been used for commercial
45 purposes for decades and was previously determined by the board to be
46 appropriate for multiple commercial entities. The lot is extremely
47 large and deep. It has sufficient size and depth to allow for the
48 storage of the commercial vehicles behind the home in a manner which

1 is screened from the roadway and the adjacent homes so it would have
2 no impact on the surrounding area. It's my opinion that there's no
3 substantial detriment to the surrounding area that would result from
4 the requested use variances. The uses are located in a quiet corner of
5 the township where the majority of the lands are commercial farming
6 operations and there are some residences and some other non-
7 residential uses. The commercial parking and storage is located behind
8 the home where it is not visible from the roadway. There is no signage
9 proposed to identify the site as commercial. So the commercial use is
10 not readily visible from the road and the site has a residential
11 appearance. The traffic.

12
13 MR. LICATA: Does the site also back up to a railroad right
14 of way?

15
16 MS. COFFIN: Yes, yes.

17
18 MR. LICATA: Thank you.

19
20 MS. COFFIN: The traffic coming to the site is limited to
21 morning and evening trips, seasonally by the employees of the
22 landscape company and infrequent visits by the concession business. So
23 this would not create a detrimental impact on the roadways in terms of
24 traffic. Lastly it's my opinion that approval of that variances would
25 not impair the intent and purpose of the zoning ordinance. The
26 purposes of the master plan are advanced by the proposed use
27 specifically providing sufficient space in an appropriate location for
28 a variety of uses including residential and commercial and maintaining
29 and attracting beneficial commercial uses. The continued use of this
30 site for business use as proposed would therefore in my opinion not be
31 a substantial detriment to your master plan. For those reasons it's my
32 opinion that positive special reasons do exist for the granting of the
33 use variances that can be granted without detriment to the health,
34 safety, and general welfare of the public in the granting of the
35 variances would result in the use of the site in a manner which would
36 not impair the intent and purpose of the master plan and the zoning
37 ordinance.

38
39 MR. LEVITON: Thank you Ms. Coffin.

40
41 MS. COFFIN: You're welcome.

42
43 MR. LEVITON: Ms. Beahm?

44
45 MS. BEAHM: So I love Allison, but there are definitely
46 aspects of the testimony I take exception with. No traffic study was
47 submitted as part of this application. There's no information that
48 tells us that there's no detriment associated with a commercial

1 operation traffic wise in the neighborhood. Trips in, trips out and
2 the volume in the neighborhood associated with the one use, let alone
3 the two uses let alone the three uses. There's been nothing provided
4 to us.

5
6 MR. LEVITON: Well there is testimony though.

7
8 MS. BEAHM: No there's not, not from a traffic engineer and
9 there's no traffic study that's submitted. No counts, no nothing.
10 They're saying it's not a big deal. There's nothing that we have that
11 justifies that.

12
13 MR. LEVITON: So I'm asking, given what we do have does the
14 testimony raise red flags?

15
16 MS. BEAHM: I would say running commercial operation off of
17 a residential lot in a residential neighborhood with no information
18 provided to us as opposed to trips in, trips out, etc. there's no way
19 for them to say there's no negative impact because we don't have the
20 information to justify there's no negative impact. I mean if I lived
21 next door to a landscaper that was mobilizing x amount of people in,
22 equipment out, in, out next to my house I would think that that's
23 significant, but we don't have the information to say they provided
24 the information to show that it's not causing a negative impact.

25
26 MR. LEVITON: Brian do you have any information about the IT
27 I don't know trip generation based on the industry standards for that
28 type of business?

29
30 MR. BOCCANFUSO: No I do not. All we have to rely on is the
31 applicant's testimony based upon their operations. To Jen's point
32 there was no traffic study submitted. So the board and we as its
33 professionals can only rely upon testimony. I'm not in a position to
34 dispute the testimony nor am I in a position to confirm that it's
35 accurate. So I think that all the board can do at this point is give
36 the applicants' testimony, the planner, the engineer and the operators
37 its due weight based upon the fact that they are not traffic
38 engineers. No traffic study's been submitted and use the operational
39 testimony and the other testimony that's been provided to try to
40 assess the traffic impact and determine if there is or is not a
41 negative impact. I would point out that if this application was
42 submitted in 2018, if it was submitted more recently in the past two
43 years or so a traffic study would have been a requirement. Since the
44 time that the application was originally submitted the submission
45 requirements were changed by ordinance and use variance applications
46 now do require the preparation and submission of a traffic study or
47 impact analysis or something of that nature. We don't have that
48 benefit here because frankly it wasn't required. The board could

1 require it or request it and I'm not saying I recommend that, but I am
2 saying that all we have to rely on is operational testimony that was
3 not prepared by a traffic engineer.

4
5 MR. LEVITON: Jennifer what about the positive proofs
6 entered into the record. Do you take exception to them, site
7 suitability?

8
9 MS. BEAHM: I mean it's residentially-zoned property and the
10 testimony about the balance of the properties, ninety percent of this
11 property is encumbered by wetlands. So, I do kind of take exception to
12 the characterization of the property. If this property is
13 characterized as exceptional resource value which they have not
14 presented us that information, but we don't have a formal L.O.I.
15 Almost the entirety of the property is not developable so not
16 appropriate for commercial development. We don't have that
17 information. We asked for it back in 2018. I understand they submitted
18 in 2022 and we're still waiting which I totally understand because I
19 have been in other circumstances trying to get permits out of the
20 D.E.P. that have taken forever. However, if the D.E.P. comes back and
21 says it's exceptional resource value the entirety of the back of the
22 property is undevelopable because right now they have a very limited
23 window with fifty feet. If it's 150 feet it's going to look like this.
24 There's going to be no developability in the back.

25
26 MR. LEVITON: How can it get to 150 feet?

27
28 MS. BEAHM: If it's exceptional resource value which
29 requires endangered species or landscape projects hit which in this
30 section of town is not unheard of. We have seen exceptional resource
31 value come in in this area which is one of the reasons why we asked
32 them five years ago to go down this path and we're waiting and they
33 did do it in 2022 and I'm not saying that they should have heard back
34 because I could tell you it's pretty standard for it to take this
35 long, but it could impact the developability of the site. In fact,
36 currently if you look at the plans, a portion of the existing house
37 wouldn't fit a fifty-foot buffer. So, I think that there's definitely
38 questions associated with the particular suitability. I can understand
39 the one business running out of the existing structure, parking in the
40 front. The second business in the back is still a question mark for me
41 because number one I'm not a hundred percent sure sorry. I'm not a
42 hundred percent sure it's actually developable. So, do I think it's
43 particularly suited? Probably not, but.

44
45 MR. LEVITON: Which business is running out of the front and
46 which business is running out of the back?

47

1 MS. BEAHM: Well, the secondary business is using the back
2 for their vehicle storage which may or may not be allowable, so I.

3
4 MR. LEVITON: And then which is running out the front?

5
6 MS. BEAHM: My guess is the landscape business because he
7 owns the property. His mom lives in the house. He's running his
8 business out of that house. He's parking the majority of his vehicles
9 up there, but.

10
11 MR. LEVITON: Hold on a second. I thought Mr. Becker
12 testified that it was his sister or sister-in-law that lives there,
13 not Mr. Colosi's mother.

14
15 MS. BEAHM: Regardless.

16
17 MR. LEVITON: Not regardless we got to get it right.

18
19 MS. BEAHM: Okay.

20
21 MR. LEVITON: Okay and as it relates to where the business
22 is running out of Mr. Becker testified there are no vehicles that he's
23 utilizing on the property and he only has the shipping containers
24 there.

25
26 MS. BEAHM: No.

27
28 MR. LEVITON: And.

29
30 MS. BEAHM: No, that was Mr. Becker.

31
32 MR. LEVITON: Yes Mr. Becker.

33
34 MS. BEAHM: Mr. Colosi who's running the landscape business
35 has landscaping equipment running off this property.

36
37 MR. LEVITON: Small, small machines in the back, he said.

38
39 MS. BEAHM: I understand what he's saying.

40
41 MR. LEVITON: Let me go to the professionals in front of us
42 and ask. I've seen you conferring. Do you understand what our
43 professional is telling us as it relates to exceptional?

44
45 MR. LICATA: Resource value?

46
47 MR. LEVITON: Resource value and how your buffer can greatly
48 expand?

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MR. LICATA: Yes. Mr. Ploskonka can you speak to that point based on your interaction with the folks of the D.E.P.?

MR. PLOSKONKA: Yes Taryn from D.E.P., we've --- three or four times has requested us to fill in the buffer up to fifty foot from the wetlands.

MR. LEVITON: You testified to that earlier.

MR. PLOSKONKA: Yes.

MR. LEVITON: Speak to the exceptional resource value and how the fifty-foot buffer can expand to 150. Have they spoken to you about that?

MR. PLOSKONKA: That's why I want and Jen wants the L.O.I. because we expected ninety-nine percent to be a fifty-foot buffer because we've been working with her for a year and a half.

MR. LEVITON: Okay.

MR. PLOSKONKA: And that's what she's telling us.

MR. LICATA: Has she given you any indication that they will determine that this property is exceptional resource value that would result in an expanded buffer?

MR. PLOSKONKA: None at all.

MR. LEVITON: Okay.

MS. BEAHM: But you don't have the L.O.I.

MR. PLOSKONKA: Correct.

MR. LEVITON: We understand that.

MR. PLOSKONKA: That's why we're coming back for site plan approval.

MS. BEAHM: I hundred percent.

MR. PLOSKONKA: With the L.O.I. in front of us.

MS. BEAHM: Hundred percent agree with you. I hundred percent agree.

1 MR. LEVITON: Let's see what Brian has to say, Mr.
2 Boccanfuso.

3
4 MR. SCHERTZ: I have a point of information.

5
6 MR. LEVITON: Yeah.

7
8 MR. SCHERTZ: Could somebody please define exceptional
9 resource value?

10
11 MS. BEAHM: I can do that. So, when you go to D.E.P. and you
12 ask them to verify your wetlands line and then categorize the resource
13 value associated with it. Ordinary resource value has zero buffer
14 meaning the line is here, anything outside the line is free game.
15 Intermediate resource value is fifty feet, that's like ninety percent
16 of the wetlands in the area which require a fifty-foot buffer before
17 you get to the wetlands. If you have anything that's in terms of
18 threatening endangered species whether it's critters or plants or
19 whatever or they feel like it's in an area that is so significant they
20 will categorize it as exceptional resource value that's 150-foot
21 buffer. So, we cannot determine that. That's a D.E.P. issue which
22 they've submitted for that. They have based upon their conversations
23 assumed a fifty-foot buffer which I'm not saying is inappropriate
24 assumption because it's like ninety percent of the wetlands in the
25 area. However, we have seen here in Manalapan and not that far from
26 here where there is exceptional resource value because there are.

27
28 MR. PLOSKONKA: Swamp pig.

29
30 MS. BEAHM: Swamp pig. Swamp pig is a plant, but there are
31 endangered species whether it's plants or species whether it's bog
32 turtles, treefrogs, whatever that require an exceptional resource
33 value which is 150-foot. So, it's not unheard of in this area to have
34 that exceptional resource value. It's not common. I'm not saying it's
35 common, but it has happened and in this particular instance when you
36 look at the rear of this property if it goes from fifty to 150 you're
37 pretty much done. Right? There's no developable area in the back.

38
39 MR. LEVITON: So the applicant.

40
41 MS. BEAHM: We're dealing with just the house and whatever's
42 already developed in the front. So it is impactful on this property to
43 determine what exactly it is the D.E.P. is going to determine. They
44 submitted 2022 right, summer 2022?

45
46 MR. PLOSKONKA: Yes.

47

1 MS. BEAHM: And you've been told that you should receive an
2 answer from them shortly. I get it, they're ridiculous. So I get that
3 it takes them forever to do anything. So we're expecting an answer on
4 the L.O.I. eminently. So I would recommend that if the board were to
5 act in the affirmative on the multiple businesses, I think Peter you
6 said three uses, but the house, it is what it is right? And then you
7 have the landscape business and then the one other business, correct?
8

9 MR. LICATA: That is correct, yes.
10

11 MS. BEAHM: So if the board were to act in the affirmative,
12 I would recommend that it be acting in the affirmative subject to them
13 coming back for site plan which we need anyway and we're hoping that
14 by the time they come back for site plan I would recommend and I think
15 we talked about this earlier today that there be a limit on how long
16 it takes them to come back for site plan because this has been hanging
17 out there for quite a while. That any decision be subject to site plan
18 approval and whatever D.E.P. decision is made. Right? I mean it's
19 going to impact your site plan anyway. Correct?
20

21 MR. LICATA: Certainly yes.
22

23 MR. LEVITON: So our planner is suggesting that if we vote
24 in the affirmative and grant the applicants the variance relief that
25 they need to continue to do business on the property that it would be
26 subject to their returning in a timely fashion for site plan approval.
27 They would have to develop a site plan and they would come back with
28 the letter of interpretation from the D.E.P. in hand. Because while
29 it's not likely their buffer can expand to 150 feet from what everyone
30 assumes is going to be fifty feet and stay at fifty feet. So those
31 would both be conditions and it shouldn't impact on our ability to
32 grant the relief that they seek tonight which is solely the use
33 variance, the permission to conduct business for both businesses.
34

35 MS. BEAHM: To use the property for what they requested.
36

37 MR. LEVITON: Correct. Brian let's go to you.
38

39 MR. BOCCANFUSO: About what?
40

41 MR. LEVITON: Oh Brian. He will be instrumental, our board
42 engineer, will be instrumental during site plan review. Not so much
43 tonight.
44

45 MR. BOCCANFUSO: I do have a number of questions and
46 comments. I'm just not sure if there's something specific that you
47 want me to talk about right now or you just want to kind of.
48

1 MR. LEVITON: Our board is chomping at the bit. They'd like
2 to cross-reference, cross-examine some of the testimony so.

3
4 MR. BOCCANFUSO: I think we've beat the wetlands issue
5 sufficiently to death. I think the determination relative to the
6 buffer could speak to the particular suitability which is a variance
7 issue. However, if it is determined and I know it seems unlikely at
8 this point that it's an extraordinary or exceptional resource value
9 with a 150 foot buffer, the site plan is basically dead on arrival
10 anyway so. I think there's no risk in the board moving forward,
11 hearing the use variance application, making a determination on that
12 tonight, and if there is a positive conclusion the applicant will
13 hopefully have this L.O.I. soon and all the questions will be answered
14 before they --- for site plan. Since we have Ms. Coffin here, I'll
15 start with her. The one question I have which I think Peter answered.
16 The three principal uses are the two that we heard from, the
17 landscaping business, the Four Boys Ice Cream business, and the
18 residential use, is that correct?

19
20 MS. COFFIN: Correct.

21
22 MR. BOCCANFUSO: Okay so that's what's under consideration
23 here tonight. The two commercial uses would be if the board approve
24 them permitted to operate as we heard tonight and that includes the
25 quantity of the equipment and material and storage facilities and so
26 forth. I have a couple of questions about those which we'll get with
27 Mr. Colosi and Mr. Becker here shortly. But the one other thing that I
28 have for Ms. Coffin, you indicated that the uses aren't visible from
29 the roadway, but if you go on Google Street View images you can
30 clearly see commercial trailers, commercial equipment, you can see a
31 dumpster, and another trailer along the side of the garage. I don't
32 know if that's the current conditions as it is right now.

33
34 MS. COFFIN: I drove by tonight you couldn't see them.

35
36 MR. BOCCANFUSO: Okay. What my recommendation would be is if
37 the board is amenable to an approval that that approval be conditioned
38 upon no storage of equipment or anything whatsoever associated with
39 the commercial uses in front of the building or in plain sight and
40 that includes one of the plans that was submitted. The variance plan
41 shows an existing twenty-two by eight by six thirty cubic yard
42 dumpster to remain along the side of the building that's in the
43 wetlands buffer area. That's not shown on the wetlands plan so I would
44 recommend that that be.

45
46 MS. BEAHM: Agreed.

47

1 MR. BOCCANFUSO: Required to be relocated as part of the
2 site plan application.

3
4 MR. LEVITON: Or mitigated?

5
6 MR. LICATA: Yeah we would stipulate to it's relocation or -
7 --

8
9 MR. LEVITON: Okay done, it's so easy.

10 MS. BEAHM: No vehicles stored in the front.

11
12
13 MR. LICATA: Absolutely.

14
15 MS. BEAHM: Okay.

16
17 MR. BOCCANFUSO: Great. I think that's all I have for
18 Allison. If we can recall Mr. Colosi or Mr. Becker.

19
20 MR. LICATA: Certainly.

21
22 MR. BOCCANFUSO: Questions for them.

23
24 MR. LICATA: While they come up, just not to beat the horse
25 any further, but Exhibit E of John's testimony for your record was an
26 email from the D.E.P. point person from two days ago saying we're
27 almost there.

28
29 MS. BEAHM: We saw.

30
31 MR. LICATA: Yeah.

32
33 MS. BEAHM: Yup.

34
35 MR. LICATA: Submit the digital image so I just wanted to
36 make sure ---

37
38 MR. BOCCANFUSO: I did see that. I did see that Pete. Thank
39 you, what I would ask is that the rest of that email be submitted that
40 was a response to something Vince Prevly I assume sent to Taryn.

41
42 MR. LICATA: Certainly.

43
44 MR. BOCCANFUSO: Can we get that whole email so we can see
45 what the discussion was about?

46
47 MR. LICATA: Absolutely.

48

1 MR. BOCCANFUSO: Great, okay. So Mr. Becker okay, alright so
2 you indicated if I understood you correctly and if I'm wrong please
3 correct me. Almost nothing in the garage, just about all of your
4 equipment and material and so forth is in the three shipping
5 containers, largely concession equipment. You access them I think you
6 said about with business kind of going down the last couple of years
7 since Covid about ten times a year.

8
9 MR. BECKER: Yes.

10 MR. BOCCANFUSO: Did I hear that correctly?

11
12
13 MR. BECKER: Yes.

14
15 MR. BOCCANFUSO: So is that ten events a year?

16
17 MR. BECKER: Yes.

18
19 MR. BOCCANFUSO: So once to pick them up, once to return
20 them about twenty trips more or less?

21
22 MR. BECKER: Exactly.

23
24 MR. BOCCANFUSO: Okay and these events, how long do they
25 last? Are they like one day? Are they a week?

26
27 MR. BECKER: No, most of them are three or four days.

28
29 MR. BOCCANFUSO: Okay so you come in on, I assume they're
30 probably multiple weekend.

31
32 MR. BECKER: Like a Tuesday and.

33
34 MS. BEAHM: Thursday.

35
36 MR. BECKER: Yeah you come back Monday.

37
38 MR. BOCCANFUSO: Okay got it alright. So you have the three
39 shipping containers, on the variance plan that Mr. Ploskonka prepared
40 there's some other trailers, some other trucks, some other storage
41 containers, are any of those other pieces of equipment or storage
42 facilities yours or are you limited to just the three?

43
44 MR. BECKER: It's going to be just the three. We're almost
45 out. We have about three more trailers I have to get out of there and
46 then we're done.

47
48 MS. BEAHM: So you're in the process of moving out?

1
2 MR. BECKER: Yes.
3
4 MS. BEAHM: Off the site?
5
6 MR. BECKER: Yes.
7
8 MR. BOCCANFUSO: Okay.
9
10 MS. BEAHM: But that's what you think is going to be on the
11 site moving forward?
12
13 MR. BECKER: Exactly.
14
15 MR. BOCCANFUSO: The three?
16
17 MS. BEAHM: Understood.
18
19 MR. BOCCANFUSO: Three total.
20
21 MR. BECKER: Three total.
22
23 MR. BOCCANFUSO: Is what you're trying to get to?
24
25 MR. BECKER: Yes, that we will get to.
26
27 MR. BOCCANFUSO: Understood okay.
28
29 MR. BECKER: Yes.
30
31 MR. BOCCANFUSO: So I guess the bulk of the rest of this
32 stuff that's shown on the variance plan is Mr. Colosi's.
33
34 MR. BECKER: Yes.
35
36 MR. COLOSI: Yes.
37
38 MR. BOCCANFUSO: Okay. Alright so you stated sir if I heard
39 you correctly, I thought you said four pickup trucks, but then you
40 said two pickup trucks and two dumps. I just want to make sure I'm
41 understanding.
42
43 MS. BEAHM: And a Bobcat.
44
45 MR. BOCCANFUSO: Yeah I know we'll get to that.
46

1 MR. COLOSI: The Bobcat's there. The four pickup trucks,
2 there's two F250s and then two F550s. The F550s have a dump body on
3 the back of them.

4
5 MR. BOCCANFUSO: Got it.

6
7 MR. COLOSI: But they're not big. It's not heavy duty dump
8 trucks.

9
10 MR. BOCCANFUSO: Got it so this shows the four pickup trucks
11 that's the two different kinds.

12
13 MR. COLOSI: Yes, correct.

14
15 MR. BOCCANFUSO: And the three employee parking spaces.

16
17 MR. COLOSI: Correct.

18
19 MR. BOCCANFUSO: That's what you spoke about earlier. You
20 have about three cars that come and go on a daily.

21
22 MR. COLOSI: Yes, correct.

23
24 MR. BOCCANFUSO: Okay understood and then you have five
25 trailers, two enclosed, three flatbeds. I guess that's to get your
26 landscaping equipment from the site to the job.

27
28 MR. COLOSI: Yes that's correct.

29
30 MR. BOCCANFUSO: And then you keep the three storage
31 containers that's to kind of keep your equipment.

32
33 MR. COLOSI: The smaller.

34
35 MR. BOCCANFUSO: Out of the elements.

36
37 MR. COLOSI: Yes.

38
39 MR. BOCCANFUSO: And safe from vandalism and theft and that
40 sort of thing.

41
42 MR. COLOSI: Yes, correct.

43
44 MR. BOCCANFUSO: Okay. Now what is this? Mr. Ploskonka said
45 at least I thought he said there was no landscape material on the
46 site, but there is an outdoor miscellaneous supply storage in the rear
47 of the site. What is that area used for?

48

1 MR. COLOSI: That's where we turn around so when the trucks
2 come in they could turn around back there and they pull out.

3
4 MR. BOCCANFUSO: Gotcha okay. So you don't keep stone,
5 mulch, sod, seed, fertilizer, none of that stuff is kept on site?

6
7 MR. COLOSI: No we don't.

8
9 MR. BOCCANFUSO: Okay.

10
11 MR. COLOSI: We buy the materials and then go to the site.

12
13 MR. BOCCANFUSO: Okay. Now if that answer changes before you
14 come back for site plan.

15
16 MR. COLOSI: Okay.

17
18 MR. BOCCANFUSO: We need to know where it's going to be and
19 there need to be appropriate provisions for it.

20
21 MR. COLOSI: Okay.

22
23 MR. BOCCANFUSO: So I think that, my opinion is the
24 testimony that's been provided here tonight as far as the equipment
25 and storage of equipment and trailers and cars and so forth is
26 probably sufficient. I can't speak for the board I don't have a vote,
27 but it's probably sufficient for them to understand what it is that
28 they're considering as far as the use is concerned, but if you're
29 going to have anything on site going forward as part of your site plan
30 application we're going to need to know where that is. So make sure
31 you have a real conversation with Mr. Ploskonka and everybody knows
32 when you come back for site plan, where that stuff is going to be, if
33 it's going to be. If it's not, that's fine too.

34
35 MR. COLOSI: Okay.

36
37 MR. BOCCANFUSO: But don't come back for site plan, say no
38 we don't keep mulch on site and then you get the approval and three
39 months later there's mulch on site because you're going to have a
40 problem.

41
42 MR. COLOSI: Okay.

43
44 MR. BOCCANFUSO: Alright I think that's all I have. Yes,
45 yes.

46
47 MS. BEAHM: So there was definitely some concern about the
48 delineation of what the storage area.

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MR. BOCCANFUSO: Yeah and I think there was a note on the plan about existing fourteen inch diameter logs.

MS. BEAHM: Yeah.

MR. BOCCANFUSO: Around the wetlands buffer. The chairman spoke a little bit about it earlier. That is something when you come back for site plan we're going to want to see details on. It's going to need to be shown. I'm not going to comment on it now.

MS. BEAHM: Right.

MR. BOCCANFUSO: I'm not going to punt on the possibility that we may want more than logs. We may want a split rail fence. We may want something in addition, but whatever it is it needs to be clearly shown on the site plan so that if it gets moved inadvertently in the future, we know where it was supposed to be and we can go back to it.

MR. LICATA: You gentlemen understand that?

MR. COLOSI: Yes.

MR. BOCCANFUSO: Alright, a couple of things regarding the earlier testimony. We all understand that this application's been going on for a long time. There was discussion about a 1986 approval and previous uses on the site and Zillow ads and all that stuff and while those facts are fine and nice, I don't think they have any bearing on our proceedings here tonight. The '86 approval was first of all had a deadline on it which I've never seen before, a three-year deadline, but importantly it did permit commercial uses, but not in the rear of the site, in the oversized garage and based on my conversations with Nancy DeFalco, our zoning officer, that previous use the electrician and the school, and whatever else it was operated within the garage. What happened here was when these applicants purchased the property in 2017 within a matter of months it can be seen on aerial images, there was a substantial expansion of operations in the rear of the site that included apparently some clearing, the establishment of either dirt or gravel parking areas, and storage of equipment. Now Mr. Ploskonka indicated earlier that the site is shrinking. There were some numbers thrown out there about 46,500 square feet of stone being reduced to about three-quarters of an acre. While that's true it started out at zero when these applicants purchased the property. They were the ones who disturbed the 46,500 square feet. Now they're moving in the right direction. I don't take any exception to that and that's with guidance from D.E.P. apparently, but I just want the board to understand it's not as if they bought

1 this fully disturbed site and improved it. It was disturbed and then
2 approved after the fact. I just want to make sure that the board
3 understands that.

4
5 MR. LEVITON: Mr. Licata, did you clients drop stone in the
6 rear of the property?

7
8 MR. LICATA: I'll defer to my clients to answer in a moment.
9 My understanding is that there was clearing that was done before they
10 got there in the rear. There was a concrete company back there. They
11 may have done more, but I'll ask them to.

12
13 MR. LEVITON: Before you do that, let me ask our engineer
14 Brian if the D.E.P. doesn't come back with exceptional resource value
15 can we assume that whatever they dropped back there, whatever tonnage
16 they dropped is not going to be impacting on the Matchaponix stream
17 corridor? That there's no disruption or degradation to aquatic
18 habitats.

19
20 MR. BOCCANFUSO: Not.

21
22 MR. LEVITON: I can't assume that? So then if we can't,
23 would we be comfortable even if they've upset the balance of what's
24 there, asking them to come back with a grading plan.

25
26 MR. BOCCANFUSO: I think.

27
28 MR. LEVITON: Would that be sufficient?

29
30 MR. BOCCANFUSO: It would be sufficient, but my concern
31 isn't so much the grading. When they come back for site plan, one of
32 the site plan submission requirements is a stormwater management
33 analysis and if the applicant comes in and asks for a waiver because
34 they're not proposing anything, that waiver is going to be denied
35 because they're not proposing anything because they've already done
36 it. You can't circumvent the rules by doing it and saying we're not
37 doing anything additional.

38
39 MR. LEVITON: Okay let's.

40
41 MR. BOCCANFUSO: Their engineer is going to have to address
42 the stormwater impact of what they have already done and specifically
43 they're going to have to determine and establish whether or not what
44 they have done rises to the level of what's known as a major
45 stormwater development which triggers a requirement to comply with a
46 whole different set of regulations. Now if it's not a major
47 development that's based upon the amount of disturbance and the amount
48 of regulated vehicle coverage that's been created. If it's not a major

1 development it becomes fairly straight forward for them. If it is a
2 major development it becomes quite problematic for them quite
3 honestly, but that's something that's a site plan issue. I don't think
4 it's something that we need to beat to death here except to say that
5 Pete don't bother requesting a waiver. It's going to be denied. It's
6 going to need to be addressed at the final site plan even if it's some
7 type of statement that speaks to the stormwater management.

8
9 MR. LEVITON: And so that the applicants know, what he just
10 referenced is new. How new is that Brian? Within a year?

11
12 MR. BOCCANFUSO: It's not new.

13
14 MS. BEAHM: It's not new.

15
16 MR. BOCCANFUSO: It's been recently changed in the past two-
17 ish years.

18
19 MR. LEVITON: It's more rigorous.

20
21 MR. BOCCANFUSO: Another new one.

22
23 MS. BEAHM: Another new one is coming imminently.

24
25 MR. BOCCANFUSO: The D.E.P. and all their infinite wisdom
26 likes to perpetually change these things as soon as people become
27 experts on them. So they try to keep us on our toes.

28
29 MR. LEVITON: Okay so let's ask Mr. Colosi what did you do
30 in terms of stone in the rear of the property?

31
32 MR. COLOSI: When we bought the property there was trucks
33 back there and there was stone back there. We made it a little bit
34 larger so we could have a turn around for our trucks with the
35 trailers, but there was a concrete company, a paper company that was
36 there and they had dump trucks back there and they had all gravel and
37 stuff back there.

38
39 MR. LEVITON: Okay and you heard Mr. Boccanfuso. You
40 understand the need for this board to compel a site plan?

41
42 MR. COLOSI: Yes.

43
44 MR. LEVITON: Okay.

45
46 MR. BOCCANFUSO: Okay. I'm just trying to see if there's
47 anything else on our report that we haven't spoke about. I know we've
48 kind of bounced around here tonight. We talked about disturbance. We

1 talked about commercial uses. There was something in the original
2 application that spoke about a woodlands management plan.

3
4 MR. BECKER: Yes.

5
6 MR. BOCCANFUSO: Is that something that's on this property
7 and if so could you talk a little bit about that?

8
9 MR. LICATA: Yes we do have an approved woodlands management
10 plan. John can you give Brian the details on that?

11
12 MR. PLOSKONKA: When they bought the property, they applied
13 for a woodlands management plan. They received it and it's good for
14 ten years into 2031. It's part of the package I sent to you today.

15
16 MR. BOCCANFUSO: And what does it permit them to do and what
17 do they do as part of this woodlands management?

18
19 MR. PLOSKONKA: It allows them to cut wood down in the
20 wetlands so much a year. It becomes more of a farmland assessment-type
21 thing to my knowledge.

22
23 MR. BECKER: It was in effect when we bought it and we just
24 continued it.

25
26 MR. PLOSKONKA: It was in effect when they bought the
27 property and they continued the woodlands management plan.

28
29 MR. BOCCANFUSO: Okay.

30
31 MR. PLOSKONKA: It's Hardwood Ecological Consulting. They're
32 specialists. They do this all the time throughout New Jersey for
33 different properties.

34
35 MS. BEAHM: So does it restrict commercial activity on the
36 property?

37
38 MR. PLOSKONKA: I'm sorry?

39
40 MS. BEAHM: Does it restrict commercial activity on the
41 property? If it's supposed to be farmland and woodlands management,
42 does it restrict the use of this same area for non-farmland/woodland
43 management activities?

44
45 MR. PLOSKONKA: I have no idea.

46
47 MS. BEAHM: I would suggest Mr. Chair I understand that
48 we're going to require it should the board act in the affirmative

1 they're going to be required to come back for site plan. This is
2 definitely a piece of information that we're going to need to know.

3
4 MR. LEVITON: You're presenting it as a plus for your client
5 and we don't know what it is.

6
7 MR. PLOSKONKA: It was in effect when they bought the
8 property and they continued it and it's normally used to keep a
9 property more as a farm assessment not the one acre that includes the
10 house with the rest of the property.

11
12 MS. BEAHM: No I get it, but if it's intended to continue
13 the use of the property as farmland it's not envisioning using the
14 property for commercial uses in terms of vehicle storage, etc. So I'm
15 not saying it's something we have to consider tonight.

16
17 MR. LEVITON: Okay.

18
19 MS. BEAHM: What I'm saying is when they come back for site
20 plan, it's definitely something we're going to need to understand a
21 little bit better because if you're taking that credit and it
22 restricts what happens on the property we need to know that.

23
24 MR. LICATA: I understand that.

25
26 MR. LEVITON: And we didn't see the Hardwood Ecological
27 Consulting report. We don't have it.

28
29 MR. BOCCANFUSO: We have the cover sheet.

30
31 MR. PLOSKONKA: You have the cover sheet.

32
33 MR. LEVITON: Yeah.

34
35 MR. BOCCANFUSO: It's Exhibit G.

36
37 MR. LEVITON: So you want the whole thing and you want to
38 independently evaluate what?

39
40 MR. BOCCANFUSO: Well I think it depends more on what we
41 need to understand if this is like a farmland assessment and they're
42 getting the tax benefit because it's farmland assessed.

43
44 MS. BEAHM: We can't allow commercial development.

45
46 MR. BOCCANFUSO: Right.

47

1 MS. BEAHM: To benefit and then them also get a farm-
2 assessed tax break on the property.

3
4 MR. PLOSKONKA: ---

5
6 MS. BEAHM: You need to understand what this means in terms
7 of what is anticipated on the property and what is not permitted on
8 the property moving forward and I get it you just got this what today,
9 yesterday. So I'm not saying we should not move forward tonight, but
10 we understand they have to come back for site plan. So it's definitely
11 something we're going to need to understand before any site plan
12 consideration is given because is there's restrictions that's going to
13 impact.

14
15 MR. LEVITON: Of course Mister.

16
17 MS. BEAHM: What the site plan is going to allow.

18
19 MR. LEVITON: Albert you got that, Albert?

20
21 MR. BOCCANFUSO: I was going to ask if our attorney has any
22 comments I mean.

23
24 MR. MARMERO: I've never seen this before.

25
26 MR. BOCCANFUSO: Possible for us, could the board grant a
27 use variance, the necessary use variance relief, contingent upon it
28 not violating some of the terms.

29
30 MR. MARMERO: Yeah so one of the conditions I'm going to
31 indicate with respect to this woodland management plan we would need
32 some information to ensure that it doesn't restrict commercial
33 development.

34
35 MR. LEVITON: That's fine and for the record Mr. Licata
36 you're on board with that?

37
38 MR. LICATA: Yes, Jen and Brian, and Albert's point is well
39 taken and they would need to understand that and we would provide that
40 information.

41
42 MR. LEVITON: Smooth, love it. Brian anything else?

43
44 MR. BOCCANFUSO: The only other thing I have in my report
45 that I don't think has been --- yet, there was an August 5, 2021 memo
46 from the township health department which is no longer a thing, but
47 about potential conflicts with the existing septic system which isn't
48 shown on any of the plans submitted. Do you know?

1
2 MR. PLOSKONKA: We will locate the septic system and show it
3 correctly on the site plan.

4
5 MR. BOCCANFUSO: Okay.

6
7 MR. LEVITON: The concern was that they didn't want vehicles
8 on top of it. Correct Brian?

9
10 MR. BOCCANFUSO: I mean that's my understanding. All I had
11 was the benefit of reading their report, but I don't even know how
12 they knew where it was because it's not shown on the plan. I guess
13 they probably had records somewhere that identified the location.

14
15 MR. LEVITON: Okay well.

16
17 MR. BOCCANFUSO: I assume that's their concern. They don't
18 want nor would I think Mr. Becker, Mr. Colosi would want heavy
19 equipment parked on top of the septic system.

20
21 MR. LEVITON: Okay. Thank you Brian. Now let us go to the
22 board. Is there anyone who wants to cross-examine any of the testimony
23 offered on the record tonight? There was a lot of information. If you
24 want you can ask our professionals a question. You can ask the
25 applicants' professionals a question.

26
27 MR. SCHERTZ: I've got a question.

28
29 MR. LEVITON: David, I'll start with you.

30
31 MR. SCHERTZ: So this property environmentally-sensitive has
32 been used since 1986 for commercial purposes, continually. Am I right?

33
34 MR. LEVITON: Yeah, but Brian told us we shouldn't consider
35 it. It's not relevant.

36
37 MR. BOCCANFUSO: I mean what I would say is we heard
38 testimony from I don't know if it was Mr. Becker or Mr. Colosi that.

39
40 MS. BEAHM: I think it was John actually.

41
42 MR. BOCCANFUSO: Or from someone on the applicants' team
43 that there was commercial use on the property when they purchased it.
44 All I have the benefit of is the township records and available aerial
45 images. I didn't see any evidence of that. They're under oath. They
46 said that it was there. You have to take the testimony for what it's
47 worth. I did not see any evidence of that based on old aerial images
48 or the records that were available to me.

1
2 MR. LEVITON: But it shouldn't impact on our decision.

3
4 MR. SCHERTZ: No, but I have a question based on that. So
5 let's assume for that it's been used for commercial purposes since
6 1986 and there have been vehicles used on the property, stored on the
7 property, and other types of equipment. Has there ever been a soil
8 study done since 1986 to see if the soil is contaminated?

9
10 MR. PLOSKONKA: No and I think the testimony is that in 1986
11 there was activity, but it was not in the back and when they purchased
12 it, you saw the listing that I gave you. There were six businesses,
13 but that's in 2017.

14
15 MS. BEAHM: But no phase one was ever done or preliminary
16 assessment? I mean typically that's something that's evaluated when
17 commercial property changes hands. So my question is, was that done?

18
19 MR. PLOSKONKA: Was a phase one done?

20
21 MS. BEAHM: Yes.

22
23 MR. PLOSKONKA: No.

24
25 MS. BEAHM: Okay so we don't know.

26
27 MR. SCHERTZ: So then we need to address it.

28
29 MS. BEAHM: It's up to you guys.

30
31 MR. SCHERTZ: We need to address it.

32
33 MS. BEAHM: I mean we're here for a use variance. They're
34 here to tell us if the site's particularly suited, making sure it's
35 particularly suited is definitely within your purview.

36
37 MR. SCHERTZ: Now I'm just concerned that the wetlands could
38 be contaminated for all we know. I mean that's right to the
39 Matchaponix.

40
41 MS. BEAHM: I understand. I understand your concern for
42 sure.

43
44 MR. LEVITON: Anything else David?

45
46 MR. SCHERTZ: Nope.

47
48 MR. LEVITON: Stacey? John? Dan?

1
2 MR. POCHOPIN: I just agree with everything that was said
3 tonight. You guys just coming in here, David has a point that perhaps
4 they contaminated it before you and you're living on there now so you
5 probably would want to know that. So that's all the rest of my ---
6 very good questions. I have no more, thank you.

7
8 MR. LEVITON: Michael?

9
10 MR. WECHSLER: Yeah on the plantings, thank you. Are the
11 plantings proposed or they existing?

12
13 MR. PLOSKONKA: Most of them are existing, about ninety
14 percent.

15
16 MR. WECHSLER: Okay.

17
18 MR. LICATA: And have they been installed based upon the
19 meetings that have happened with the D.E.P. representative?

20
21 MR. PLOSKONKA: Correct.

22
23 MR. WECHSLER: So that's after contact with D.E.P.? The
24 planters were done?

25
26 MR. PLOSKONKA: I'm sorry?

27
28 MR. WECHSLER: So after contact with the D.E.P., the
29 plantings were done?

30
31 MR. PLOSKONKA: Yeah, meeting with D.E.P. and going back and
32 forth with D.E.P., having a landscaper on site that does plantings. He
33 was able to buy and put in many plantings that D.E.P. required and
34 there's a couple more left that he has to do, but I'd say he's ninety-
35 five percent, ninety-eight percent done with what D.E.P. wants.

36
37 MR. WECHSLER: Okay that's all I had.

38
39 MR. LEVITON: Basil?

40
41 MR. MANTAGAS: My question, first question is for Mr.
42 Colosi. You testified that there was pickup trucks, but I heard you
43 say trailer turn around. You pull a trailer behind the pickup trucks
44 with your equipment I guess?

45
46 MR. COLOSI: Yes, correct.

47

1 MR. MANTAGAS: Now at the end of the day you store the
2 trailers with the equipment on the trailer or you put the equipment?
3

4 MR. COLOSI: The smaller equipment goes in the storage
5 containers, shipping containers.
6

7 MR. MANTAGAS: Right, the trailers attached to the pickup
8 trucks.
9

10 MR. COLOSI: Yes.
11

12 MR. MANTAGAS: Always so they're always going in and out.
13

14 MR. COLOSI: Yes, correct.
15

16 MR. MANTAGAS: Okay, thank you and also Jen spoke about
17 traffic. I mean that road is not very heavily traveled. I know that
18 road. I drive it a lot, but people do speed on that road. I know it's
19 a forty-five mile an hour speed limit I think, but people do fifty,
20 sixty like nothing. So I would think it could be an issue getting in
21 and out of the driveway with that type of situation. So you never had
22 a problem?
23

24 MR. COLOSI: We've never had an issue.
25

26 MR. MANTAGAS: Going in and out?
27

28 MR. COLOSI: Getting in and out, no.
29

30 MR. MANTAGAS: Okay. Also I noticed in the front when you
31 pull up to the house. I pulled up in the driveway on the left side,
32 the first driveway, you could see it's barren. There's nothing. It's
33 all open land. It's not, it could use some kind of privacy tree or
34 something to block off that side just that one side where the house
35 is. Other than that I would have never known if I didn't go back.
36

37 MR. COLOSI: Right. In the winter time it's barren, but in
38 the summertime you can't really see it.
39

40 MR. MANTAGAS: Right well where the house is, on the side of
41 the house when you look inside you could see actually you see, what
42 there's no trees. It's all cleared and also there was mud. I noticed
43 it when you pulled into the driveway. I guess there's a turnaround
44 there where the tree is. You probably turn around there, there's also
45 mud. It could use some stone on that driveway too. It looks ---
46

47 MR. COLOSI: We could put a little bit more stone. We've
48 just been waiting for all the ---

1
2 MR. MANTAGAS: Those are just things that I noticed when I
3 was there.

4
5 MR. COLOSI: We could definitely clean it up.

6
7 MR. MANTAGAS: And I think. Oh I had a question for Jen. The
8 wetlands line that was made years ago, the wetlands line.

9
10 MS. BEAHM: So I'm assuming and John you can correct me if
11 I'm wrong.

12
13 MR. PLOSKONKA: Sure.

14
15 MS. BEAHM: Had somebody got out there and delineate the
16 wetlands and flag it right and then survey it before you submit an
17 L.O.I.

18
19 MR. PLOSKONKA: We have our expert go out. He delineates the
20 wetlands. D.E.P. comes out and they say okay here, not okay here, move
21 the line back, move the line forward.

22
23 MR. MANTAGAS: So it was established that that's the line.

24
25 MS. BEAHM: They haven't approved it yet. I would venture to
26 guess because and Brian you can correct me if I'm wrong, most of the
27 time they don't challenge the location of the line. What we're
28 concerned about is the designation of what kind of wetland it is. So
29 I'm not super worried about where the line is because the
30 environmental guys go out there, they take ---, they look at the soil,
31 they look at the vegetation. They look at all kinds of stuff. They
32 locate it. You have a surveyor go out and locate the line. I think the
33 line is probably okay. The question becomes what kind of wetland is
34 it. If it's intermediate resource value which is what they have
35 assumed which is ninety percent of the wetlands that we deal with.
36 That's a fifty foot buffer which they've shown on their plans. If it
37 comes back as exceptional resource value which means there's some kind
38 of endangered species whether it's plants, an animal, whatever it's
39 150 foot buffer.

40
41 MR. MANTAGAS: So that's in dispute now?

42
43 MS. BEAHM: Well it's not really in dispute. It's just
44 they've applied for it and they're waiting for a determination. If it
45 comes back exceptional resource value the entire back of the property
46 is undevelopable.

47

1 MR. LICATA: Our application is over if they make the
2 determination.

3
4 MS. BEAHM: Correct. So at the end of the day, what I would
5 say is what we're asked to consider tonight is the uses of the
6 property.

7
8 MR. LICATA: No.

9
10 MS. BEAHM: Which I think they've provided us information. I
11 think that we also have established and Peter you can correct me if
12 I'm wrong that there's going to be a requirement to come back if they
13 act in the affirmative for site plan approval.

14
15 MR. LICATA: Yes I understand that.

16
17 MS. BEAHM: So I think that you guys can act on the uses
18 subject to them coming back for site plan. At which time and I'm
19 assuming based upon the information that John has provided us today
20 actually that you're anticipating they're going to give you an answer
21 on that L.O.I. imminently.

22
23 MR. LICATA: Yes.

24
25 MS. BEAHM: Probably before you're able to come back for
26 site plan so we will know what the scenario is in the back of that
27 property and I would also I don't know if we brought this up. Did we
28 bring this up about the time frame? I would say if the board is going
29 to act in the affirmative on the use variance, we give them a time
30 limit on coming back.

31
32 MR. MARMERO: Yeah.

33
34 MS. BEAHM: Did we talk about this yet?

35
36 MR. MARMERO: The time limit came up. You would need to
37 establish what that time limit would be. I know we've talked about
38 ninety days can sometimes be a reasonable number, but I do have a time
39 limit as a condition. We'll just need you guys to establish what you
40 want that time limit to be for the turnaround on that site plan.

41
42 MS. BEAHM: So I think if we give them, if you guys act in
43 the affirmative tonight and then at, I'm not putting pressure on you,
44 but at the next meeting or a relatively subsequent meeting we do the
45 resolution that they have ninety days. My recommendation will be
46 ninety days from the time that we memorialize the resolution for them
47 to come back in for site plan because this application has been
48 hanging out there for quite awhile and I would be hopeful that in that

1 time period you would get your response from the D.E.P. and that will
2 be reflected on the plans. Like you said, if it comes back 150 feet my
3 guess is that they're not coming back right? So I think that it's
4 definitely something we need to watch, but I think as far as the uses
5 are concerned with these caveats moving forward I think we'd be okay.

6
7 MR. MANTAGAS: Great thank you.

8
9 MR. LEVITON: Thank you Jennifer.

10
11 MR. BOCCANFUSO: I would agree. The professionals that do
12 these L.O.I.s and these wetlands delineations are very good at their
13 job. They usually get it right. --- resource value - - , but the
14 limits are ninety-eight percent of the time by the time it gets put on
15 plans and submitted to the D.E.P. usually are wetlands --- It's not
16 an exact science whether it's here or two feet over or four feet over.
17 That's why they have the buffer so there's a little bit of wiggle room
18 there. So I would be willing to wager that this limit is going to be
19 correct. It's going to be verified and as Mr. Ploskonka indicated
20 based on his conversation with D.E.P. that no indication that it's
21 going to be exceptional resource value, but you never know until you
22 get that L.O.I.

23
24 MR. LEVITON: Thank you Brian.

25
26 MR. GREGOWICZ: No questions.

27
28 MR. LEVITON: Thank you Mr. Gregowicz.

29
30 MR. SHALIKAR: I do have a question. So I understand that
31 the site plan will indicate the location of the containers, the
32 equipment, all that fun stuff. Is the property conducive, this might
33 be a little premature, but I just want to hear what you have to say,
34 but is the property conducive to having all eight containers, all four
35 trucks, all the trailers? Meaning if we do act in the affirmative will
36 it actually work with the sheer quantity of equipment and material?
37 Will it actually work? Will we get there to the finish line?

38
39 MR. COLOSI: Yes we can.

40
41 MR. LICATA: Yeah Chris I guess you would be a good person
42 to respond as it relates to your business. You heard?

43
44 MR. COLOSI: Yes.

45
46 MR. LICATA: The board member's question. How would you
47 respond to that?

1 MR. COLOSI: Yes there will be enough room for us.

2
3 MR. LICATA: And in terms of the timing of your operation
4 and their operation, the seasonality, the time of day?

5
6 MR. COLOSI: Yeah.

7
8 MR. LICATA: Are you conflicting with each other?

9
10 MR. COLOSI: No not at all.

11
12 MR. BECKER: Yes it would work for us.

13
14 MR. SHALIKAR: Okay and we recognize that what you say is
15 what goes. Right? There's no adding? There's no changing? There's no
16 changing times of business, all that fun stuff?

17
18 MR. LICATA: Gentlemen do you understand that if the board
19 were to grant you a use variance approval, it is a very narrowly-
20 defined approval of what it is you describe your use of the property
21 to be, okay?

22
23 MR. BECKER: Yes.

24
25 MR. LICATA: This is not, if you just pass it along to some
26 other business and they can come in and do their thing. This is the
27 businesses you have there as you conduct them. So you know you can't
28 increase your vehicle compliment beyond what's currently on the
29 variance plan and what subsequently would be on the site plan.
30 Likewise you can't turn your three storage containers into four
31 storage containers or five storage containers.

32
33 MS. BEAHM: But we're not introducing any new uses to the
34 site.

35
36 MR. BECKER: Right.

37
38 MR. LICATA: Right. You're not going to have another
39 tenant, business coming into the property.

40
41 MS. BEAHM: Exactly.

42
43 MR. BECKER: No.

44
45 MR. LICATA: Okay.

46
47 MR. SHALIKAR: Okay thank you, no further.

48

1 MR. LEVITON: Okay, I'm inclined to support the relief that
2 you seek. I am troubled by the fact that it's taken five years for the
3 application to come back to this board for us to revisit it. I'm glad
4 that our professionals have recommended a ninety day return for you if
5 we were to act in the affirmative to get the site plan approved. I
6 would like to also put on the business, a restriction in the present
7 time. Given that they're seasonal work anyway, I'd like to restrict
8 parking to the front of the business and keep them from putting
9 vehicles in the back. I want to hasten their return. I want it to be
10 important.

11
12 MS. BEAHM: Agreed.

13
14 MR. LEVITON: To them to come back.

15
16 MS. BEAHM: So is it physically possible for all the
17 vehicles between both uses to be parked in the front currently?

18
19 MR. LEVITON: Okay so let's talk about them why not. Who is
20 parking in the back currently? Let the record reflect that both Mr.
21 Colosi and Mr. Becker are returning and Mr. Colosi has the microphone.

22
23 MR. COLOSI: All my trucks are parked in the back of the
24 property.

25
26 MR. LEVITON: And they're not being used at the present
27 time?

28
29 MR. COLOSI: Only when it snows.

30
31 MR. LEVITON: Oh.

32
33 MR. COLOSI: Or if we get an emergency call or something.

34
35 MR. LEVITON: I understand and Mr. Becker you testified
36 earlier, you have no vehicles on the property.

37
38 MR. BECKER: No I still have a few, but they're in the
39 process of being moved out. So I'm ninety-five percent out of there.

40
41 MS. BEAHM: What's the timeline? Do you know?

42
43 MR. BECKER: The next two weeks.

44
45 MS. BEAHM: So within two weeks all your vehicles are going
46 to be off?

47
48 MR. BECKER: Will be out of there.

1
2 MS. BEAHM: So it's really just your vehicles?

3
4 MR. BECKER: Right.

5
6 MR. COLOSI: Yes.

7
8 MS. BEAHM: So how many are we talking about?

9
10 MR. COLOSI: We have the four vehicles, the five trailers,
11 and then the shipping containers.

12
13 MR. LEVITON: You know what with Mr. Becker leaving in two
14 weeks, I'm good with what you've testified to, but I want you to try
15 to read the seriousness of my face and understand that it's very
16 unusual what we're experiencing here tonight. The amount of time that
17 has passed is unheard of. You've got to come back in a reasonable time
18 and before we leave tonight, our recording secretary and your
19 professionals are going to hammer out a date wherein that has to
20 happen and your professionals are going to need to work closely with
21 you to develop a site plan and then in turn work with our
22 professionals prior to coming back again to ensure that everyone's on
23 the same page.

24
25 MR. LICATA: We understand.

26
27 MR. LEVITON: Okay. I have nothing further. I'm going to go
28 out to the public and ask if there's anyone in attendance who would
29 like to ask questions of the professionals that entered testimony onto
30 the record tonight or address the board. Seeing none I'll close
31 public.

32
33 MR. SHALIKAR: Chairman I have one more question.

34
35 MR. LEVITON: Yes.

36
37 MR. SHALIKAR: One more clarifying question. So you have
38 three trailers on the property now plus additional equipment or the
39 three trailers will be removed from the property? So you'll have
40 nothing left.

41
42 MR. COLOSI: Yeah two trailers.

43
44 MR. LEVITON: And Mr. Becker?

45
46 MR. BECKER: Three trailers are staying.

47
48 MR. SHALIKAR: They're staying?

1
2 MR. BECKER: Yes.
3
4 MR. SHALIKAR: Okay.
5
6 MS. BEAHM: But your vehicles are going.
7
8 MR. BECKER: My vehicles will be out.
9
10 MR. LICATA: The storage containers.
11
12 MR. BECKER: Yes, right.
13
14 MS. BEAHM: But the vehicles are going?
15
16 MR. BECKER: The vehicles are going.
17
18 MR. SHALIKAR: Thanks.
19
20 MR. BECKER: Those are trailers too. I'll have them ---
21
22 MR. LEVITON: Thank you Mr. Shalikar. Thank you Mr. Becker.
23 I have nothing further. Board, anybody else? Okay then, let's go to
24 the esteemed Mr. Marmero so that he can review for the board the
25 conditions.
26
27 MR. MARMERO: And I think you opened to the public, but I
28 was.
29
30 MR. LEVITON: I did and I closed it, I did.
31
32 MR. MARMERO: Okay so the conditions that well first of all
33 let's talk about the relief that's required. So it's really D1
34 variance relief essentially mainly because you have more than one
35 principal use here. You have the residence. You have the two
36 businesses. It's also D1 variance relief because each of the
37 businesses by themselves would not be permitted here as well. We did
38 hear some testimony and I think the professional letters point out
39 that there's some bulk variance relief that already exists with
40 respect to the home and then Ms. Coffin brought up the driveway that
41 would require variance relief as well. So that is essentially the
42 variance relief that would be required and if the board saw fit to
43 grant such relief we did discuss several conditions. So I just want to
44 go over those as well and make sure they make sense to the board and
45 to the applicant. We talked about a reforestation being reviewed by
46 the township Forrester. We talked a lot about a site plan application
47 that would need to be submitted. We talked about putting a time limit
48 on that site plan. We talked about a ninety-day period for submission

1 of the site plan. That period would typically run from the time the
2 resolution is adopted which would normally be two weeks from now, but
3 I think Janice is saying our next meeting.

4
5 MS. MOENCH: --- I think it's the 21st.

6
7 MR. LEVITON: You get a little extra time, but still it's
8 going to be a top priority.

9
10 MR. MARMERO: Yes so it would be ninety days from that
11 resolution being adopted. In terms of additional conditions we heard
12 about the business Four Boys and we talked about it sounds like at
13 least in the future that would be restricted to three forty foot steel
14 storage containers and really nothing more. There was testimony that
15 the indoor operations, any kind of storage has been relocated and
16 there was testimony that all of the vehicles are currently being
17 moved. The applicant indicated that would take place within the next
18 two weeks or so. I think we can use the condition really as our next
19 zoning board meeting which I guess is a little more than two weeks
20 away, but he said approximately two weeks, but I think you can apply
21 it that way. We then discussed the landscaping business which they did
22 indicate that there is no indoor office or they indicated they do use
23 an indoor office space and some storage, but no staff, no customers,
24 no showroom. They indicated that they do use the rear of the property
25 for trucks, trailers, and landscape equipment. They specified that
26 with respect to trucks there are four pickup trucks, but two of them
27 are obviously we call them normal pickup trucks, two of them are more
28 dump truck types. There is a Bobcat. There are five trailers and there
29 are also storage containers as well, three forty-foot steel storage
30 containers that store the equipment. We made it clear that there would
31 be no vehicle maintenance occurring at the site. Obviously, we made it
32 clear that the letter of intent would need to be submitted and that
33 sounds like it's imminent and that would be submitted along with the
34 site plan anyway, but I would imagine if you get it sooner than that
35 it would be submitted. We indicated that there would be no storage in
36 the front of the property or in plain sight. We indicated that there
37 would be no storage of landscape materials, but we did indicate that
38 if for some reason that changes make sure that it's shown on the site
39 plan and if that is something that would be done. We discussed the
40 woodland management plan and the question arose as to whether or not
41 that actually would restrict commercial development or businesses
42 here. So we did indicate that as a condition we will need some proof
43 that the commercial development does coincide with the woodland
44 management plan. We indicated that the septic system would need to be
45 located and shown on the site plan. I think all of the parties agreed
46 including myself and applicant's counsel that as a condition this will
47 be a very narrowly-defined approval meaning that the businesses that
48 are currently there and of course the residential use would be the

1 only things that are allowed to remain and they would be allowed to be
2 conducted in the future as conditioned in the resolution and the last
3 condition I had was removal of the vehicles from the Four Boys
4 operation, but I think we indicated that when we discussed that
5 specific one and I think that covers all the conditions unless anyone
6 has any.

7
8 MS. BEAHM: No, I think you got them all.

9
10 MR. LEVITON: Thank you Albert.

11
12 MR. BOCCANFUSO: I don't know if you said it Al, there was a
13 condition about the reforestation plan to be subject to our township
14 forester, landscaping expert, however.

15
16 MR. MARMERO: That was number one.

17
18 MS. BEAHM: Number one.

19
20 MR. MARMERO: Yeah it was.

21
22 MR. BOCCANFUSO: Oh it was? Sorry.

23
24 MR. MARMERO: You have a however.

25
26 MR. BOCCANFUSO: However, I would have no issue deferring
27 that to site plan application.

28
29 MR. MARMERO: Okay.

30
31 MR. BOCCANFUSO: Because it's something that we're going to
32 review as part of the site plan anyway.

33
34 MR. MARMERO: Okay alright so we'll indicate that the
35 reforestation will be simply reviewed at site plan by the board
36 professionals.

37
38 MR. BOCCANFUSO: I would be fine with that.

39
40 MR. LEVITON: Albert, we've compelled them to return in
41 ninety days.

42
43 MR. MARMERO: Ninety days from the.

44
45 MR. LEVITON: But what about submission?

46

1 MR. MARMERO: Of the site plan? Oh I'm sorry so I understood
2 it as submission of the site plan within ninety days. They can't
3 control when they appear.

4
5 MR. LEVITON: Okay. They can because we're going to hammer
6 that out right now. Okay I'm going to defer to your legal acumen.

7
8 MR. MARMERO: Once they submit their site plan and they get
9 --- complete, our professionals may have issues with it so that may --
10 -

11
12 MR. LEVITON: That's fine so site plan submission in ninety
13 days.

14
15 MR. MARMERO: Yes.

16
17 MR. LEVITON: They have to work in earnest with our
18 professionals.

19
20 MR. MARMERO: Correct and that'll be a condition of approval
21 too so that's something that's enforceable. If the time period passes
22 and the site plan hasn't been submitted it's then a violation of a
23 condition of the use variance.

24
25 MR. LEVITON: Mr. Licata?

26
27 MR. LICATA: We fully appreciate that this application has
28 been before this town for something on the order of seven or eight
29 years and we appreciate it has a tortured history and the willingness
30 of everyone to work with us. As well as frankly the level of
31 frustration that can be justifiably drawn and we appreciate the
32 conditions and would accept them and appreciate the conditions if the
33 board were willing to approve this application.

34
35 MR. LEVITON: Thank you sir. Is there anything else you'd
36 like to say in summation?

37
38 MR. LICATA: Simply that again the applicant did not act
39 prudently at the start and has tried to dig themselves out of the
40 situation that got progressively worse. However, they have reduced
41 their proposed usage of the property and we hope that that is
42 acceptable to you.

43
44 MR. LEVITON: Thank you sir.

45
46 MR. LICATA: Thank you.

47

1 MR. LEVITON: Okay my fellow board members I need someone to
2 make a motion.

3
4 MR. GREGOWICZ: I'll make the motion to approve the
5 application for the use variance along with any and all conditions met
6 which were raised by the board professionals.

7
8 MR. LEVITON: Thank you really much Mr. Gregowicz. Will
9 someone second that?

10
11 MR. WECHSLER: I will second the motion.

12
13 MR. LEVITON: Thank you Mr. Wechsler and Mr. Pochopin let me
14 remind you, your vote counts tonight as alternate number one. Okay
15 Janice.

16
17 **ROLL CALL**

18
19 MS. MOENCH: Mr. Gregowicz?

20
21 MR. GREGOWICZ: Yes.

22
23 MS. MOENCH: Mr. Wechsler?

24
25 MR. WEECHSLER: Yes.

26
27 MS. MOENCH: Mr. Schertz?

28
29 MR. SCHERTZ: No.

30
31 MS. MOENCH: Mr. Shalika?

32
33 MR. SHALIKAR: No.

34
35 MS. MOENCH: Mr. Mantagas?

36
37 MR. MANTAGAS: Yes.

38
39 MS. MOENCH: Mr. Pochopin?

40
41 MR. POCHOPIN: Yes.

42
43 MS. MOENCH: Chair Leviton?

44
45 MR. LEVITON: Congratulations folks.

46
47 MR. LICATA: Thank you everybody.

48

1 MR. LEVITON: You're very welcome. Okay at this time I'm
2 going to go out to the public and ask if there's anyone in attendance
3 this evening who wants to address the board on items other than what
4 were on the agenda. Seeing none I'll close public. That was fun. Bye
5 Allison. Bye Peter. Brian, let's offer you a formal congratulations
6 on. Brian is the new administrator of the zoning office. He's the big
7 boss now. Well in a month, in one month.

8
9 MS. BEAHM: He will replace Nancy.

10
11 MR. LEVITON: No one's going to replace Nancy.

12
13 MS. BEAHM: Well yes. He's going to attempt to replace
14 Nancy.

15
16 MR. MARMERO: So you'll still be here Brian?

17
18 MR. BOCCANFUSO: Yeah.

19
20 MR. MARMERO: You'll be at the meetings?

21
22 MR. BOCCANFUSO: First of all thank you Mr. Chair, board
23 members. Yes, for the short to medium term I will still be here at the
24 meetings just as Nancy is. In fact I'll be here more often than I am
25 now. My capacity will be a little bit different. I'll still be a
26 licensed engineer. In fact my title among other things I think is the
27 township engineer, but my role here will be that of the zoning
28 officer, administrative officer to the zoning board. I don't know. I'm
29 going to be wearing a lot of hats.

30
31 MS. BEAHM: I can't wait.

32
33 MR. BOCCANFUSO: Yeah.

34
35 MS. BEAHM: I'll be like oh.

36
37 MR. BOCCANFUSO: For site plan applications, I think another
38 engineer from CME will be here. I'll do my best not to undermine that
39 person. But I'm available for whatever questions that you might have
40 whether they're related to zoning, administration, engineering,
41 whatever the case may be, but for the foreseeable future I'll still be
42 here. So, but I appreciate the congratulations.

43
44 MR. SCHERTZ: So you're the township engineer now?

45
46 MR. BOCCANFUSO: Not until March 13th, but yes.

47

1 MR. SCHERTZ: And there was no full-time township engineer
2 previous right?

3
4 MR. BOCCANFUSO: That's correct. What happened was with
5 Nancy's announcement of retirement I guess the township had considered
6 bringing in an in-house engineer. Some towns have it, other towns
7 don't. I guess Manalapan felt it's a big town, affluent town. We're
8 growing. They thought it was the right time and with Nancy's departure
9 they could kind of get somebody in there who could wear both hats.

10
11 MR. SCHERTZ: Right.

12
13 MR. LEVITON: You won't be working for CME anymore? You'll
14 be working for Manalapan Township.

15
16 MR. BOCCANFUSO: I'll be an employee of Manalapan Township,
17 that's right. Obviously it's a big decision, a lot of factors go into
18 it, but just for all your information the factor that weighed most
19 heavily and there was nothing on the other side was it's going to
20 allow me more time to spend with my two young kids.

21
22 MR. MANTAGAS: That's important.

23
24 MR. LEVITON: Outstanding.

25
26 MR. BOCCANFUSO: Fewer night meetings, fewer political
27 functions, and after hours obligations so my three-year-old son and
28 seventh month old son will get more of me. So thanks, I'm looking
29 forward to it.

30
31 MS. MOENCH: You too can get phone calls in the middle of
32 our meeting.

33
34 MR. BOCCANFUSO: I get them now. So thank you. I'm excited.
35 I'm looking forward to it. Looking forward to the challenge and the
36 new opportunity.

37
38 MR. SCHERTZ: You can travel the town looking for
39 violations. You know that?

40
41 MR. BOCCANFUSO: Our public works director is chomping at
42 the bit to get me in his truck on a regular basis. There's a lot, a
43 lot. Our administrator is trying to keep him at bay, but he can't wait
44 to kidnap me and drag me all over town and go over all the things that
45 he wants to ---

46

1 MR. LEVITON: I have nothing further board. Does anyone here
2 have anything that they want to? Let's just ask, let's just revisit
3 the idea of an in-service before we walk out the door.
4
5 MS. BEAHM: A what?
6
7 MR. LEVITON: In-service, training Albert.
8
9 MS. BEAHM: Oh yeah.
10
11 MR. LEVITON: Albert is consented to.
12
13 MR. MARMERO: Yeah I'm good whenever you guys. We just need
14 to establish the date. I'm good.
15
16 MR. WECHSLER: You want to do it now?
17
18 MR. MARMERO: Let's do it. Where do you want to start? Let's
19 start with use variances.
20
21 MR. LEVITON: That was interesting right? A use variance,
22 that's the first time we've seen one.
23
24 MS. BEAHM: Our mandatory training.
25
26 MR. LEVITON: Well, Mr. Harrington.
27
28 MR. MARMERO: See I don't know.
29
30 MS. BEAHM: Yeah, but Steve so I'm certified through the
31 N.J.P.O. I do the training so if we have it here we should coordinate
32 through the N.J.P.O. that would count as their mandatory training for
33 new.
34
35 MR. HARRINGTON: That would be wonderful.
36
37 MR. MARMERO: - - - You can get credit.
38
39 MS. BEAHM: Right so as a new person you're obligated to
40 N.J.P.O. to do this training, but I'm certified as the.
41
42 MR. SCHERTZ: Trainer.
43
44 MS. BEAHM: Correct and between the two of us or the three
45 of us. I'm going to lump you back in, you're not getting out of this
46 crap.
47

1 MR. LEVITON: Well just before we put the cart before the
2 horse, I don't know Janice did you speak to Tara about this?

3
4 MS. MOENCH: Yes we did get approval.

5
6 MR. LEVITON: Okay so there's going to be finite funds. Okay
7 we're not gazillionaires and we're not paying for it out of pocket.

8
9 MS. BEAHM: I'm not worried about the funds.

10
11 MR. LEVITON: I am, I am.

12
13 MS. BEAHM: It shouldn't.

14
15 MS. MOENCH: We pay for them to take the course.

16
17 MR. LEVITON: We do. Okay so that maybe Tara can add that to
18 what she's going to allocate.

19
20 MS. BEAHM: But I'm just saying if we do it on a meeting
21 night.

22
23 MS. MOENCH: What she's saying is if we do it on a meeting
24 night which is.

25
26 MS. BEAHM: We're here anyway you're just paying us for the
27 hours that we're here which probably will be like an hour or two.

28
29 MR. LEVITON: That's a wonderful suggestion.

30
31 MS. BEAHM: Way less than paying for the training to go
32 wherever.

33
34 MR. LEVITON: So let's just let our new folks know what it
35 is that they're expected to do. They need to and some of you newer
36 members can help me bring them up to speed. You need to take a test. I
37 think you have a year. Is that right folks?

38
39 MR. SCHERTZ: Year and a half.

40
41 MS. MOENCH: Within the year. --- Nancy always ---
42 yourselves so when you go into it you're not --- terminology and
43 everything so you have another language.

44
45 MR. LEVITON: We know it's another language. We know it's
46 overwhelming. You need to pass a test and if Jennifer is going to
47 administer the test, is that?

1 MS. MOENCH: --- approval for ---

2
3 MR. LEVITON: Okay.

4
5 MS. MOENCH: You know what I mean? ---

6
7 MR. LEVITON: Okay so Albert can you administer the test as
8 well? You can't. Jennifer can.

9
10 MS. BEAHM: I'll get it. I'll get it. I can talk to Gene
11 Dunlap at the N.J.P.O. I can get the test. What? Ten questions,
12 something ridiculous. I can get the test. I can make sure that they
13 acknowledge this as the required test. I'll call Gene Dunlap at
14 N.J.P.O.

15
16 MR. LEVITON: Okay, let's ask Janice if she would run that
17 up the flagpole.

18
19 MS. MOENCH: I don't --- Albert to possibly --- I'm sure we
20 can ask.

21
22 MR. LEVITON: I would like you, Tara to be asked and I'd
23 like it to be explained to her that it would be a benefit for our
24 folks who need to take the test because if Jennifer is administering
25 it and there's only ten questions and there's a requirement of seven
26 Jen can say go take a look at number six again.

27
28 MS. BEAHM: Of course and the other benefit too.

29
30 MR. LEVITON: That needs to be communicated. It's important
31 to me.

32
33 MS. BEAHM: I could talk to ---

34
35 MR. LEVITON: That my people pass their tests.

36
37 MS. BEAHM: But at the end of the day, the N.J.P.O. offers
38 the mandatory training right for the new board members, but they also
39 offer the extended training right. So you're getting the benefit of
40 both for two hours of my time. You know what I'm saying? Because
41 everyone already got the mandatory training when they first came on
42 the board. There's the extended training or the.

43
44 MR. LEVITON: Continuing education.

45
46 MS. BEAHM: Extra whatever which is more question and answer
47 kind of stuff so we could do both in the same time frame. So give the
48 benefit of those who have been on the board for a while who have

1 questions on how to handle things. It'd be to the benefit of the new
2 members. We can get the new members certified. We could deal with the.

3
4 MR. LEVITON: Yeah that's a plus, the certification is a
5 plus, but this isn't, this is a board largely comprised of neophytes
6 who need training.

7
8 MS. BEAHM: No, I get it. I'll talk to Tara, yeah.

9
10 MR. LEVITON: And Brian you're our new administrator, you
11 understand what's important and you can advocate for us if the need
12 arises.

13
14 MR. BOCCANFUSO: I absolutely can. I don't think I'm going
15 to have to because it's the law. I mean it's required.

16
17 MS. BEAHM: I mean the mandatory training is the law.

18
19 MS. MOENCH: It wasn't the mandatory training that was
20 supposed to be done. It was just a recap.

21
22 MS. BEAHM: But I think that.

23
24 MR. BOCCANFUSO: Oh the supplemental.

25
26 MS. BEAHM: Probably do the mandatory training here.

27
28 MR. LEVITON: If it subsumed in the larger picture, some of
29 these people are brand new. I mean it's their first meeting.

30
31 MR. BOCCANFUSO: It's very important. I mean you as board
32 members have to understand what your role is here.

33
34 MR. LEVITON: Correct.

35
36 MR. BOCCANFUSO: And what the criteria are for these
37 approvals and what the criteria are not.

38
39 MR. LEVITON: Correct.

40
41 MR. BOCCANFUSO: Very important. Otherwise you're just
42 winging it, you're swayed inappropriately by factors that have nothing
43 to do with what you're supposed to do under the law.

44
45 MR. LEVITON: Yes, yes that's a big concern.

46
47 MR. BOCCANFUSO: I think it's very important so I have no
48 doubt that.

1
2 MR. LEVITON: And you all legitimately have one vote. You
3 all have the same power and tonight to me we just squeaked by the use
4 variance. It was five affirmatives, two negatives and to me that
5 would've been a problem because that applicant would've come back and
6 sued us and then we'd had to pick up their fees. They referred it back
7 to us anyway and what? We have to know what we're hanging our hat on.
8 That's what training for me is all about. So my professionals who are
9 listening need to know. They need to know what it is that they hang
10 their hat on when they say yes or when they say no. That's what I'm
11 looking for.

12
13 MS. BEAHM: But Janice I would call Pat Dunlap at N.J.P.O.
14 to make sure that we can get those new members if we do this because
15 they get a planner and attorney to do the training.

16
17 MS. MOENCH: Just run it past Tara.

18
19 MS. BEAHM: I will a hundred percent, but I will say if we
20 can get that here.

21
22 MR. LEVITON: That would be beneficial to them.

23
24 MS. BEAHM: --- offer the advanced training as well. We do
25 both at the same time.

26
27 MS. MOENCH: I just think it's important, very, very
28 important and I know I've said it before to put it in layman's terms.

29
30 MS. BEAHM: A hundred percent which is why I think it's
31 helpful that.

32
33 MS. MOENCH: That's where the problem.

34
35 MS. BEAHM: I agree.

36
37 MS. MOENCH: And I don't mean just for use variances I mean
38 for.

39
40 MS. BEAHM: Bulk variances.

41
42 MS. MOENCH: Setbacks, bulk variances.

43
44 MS. BEAHM: Hardship vs. C2 versus.

45
46 MS. MOENCH: Why would you allow a zero lot line with a
47 complaint?

48

1 MS. BEAHM: Right so I think that.

2

3 MR. LEVITON: That's one of Janice's pet peeves and she
4 looked directly at me because I'm probably guilty of it.

5

6 MS. BEAHM: I'll talk to Tara. I will call Tara. I will see
7 if I can get the two of us. If we do it here for you specifically,
8 they don't have to go to the separate training, obviously.

9

10 MR. POCHOPIN: So new members me and Mike just did that.

11

12 MS. MOENCH: Yeah I just got Mike's thing.

13

14 MR. POCHOPIN: Yup and that was five hours virtual a couple
15 months ago for that training.

16

17 MR. BOCCANFUSO: Was that the advanced training?

18

19 MR. POCHOPIN: I don't know it was five hours. I took it and
20 it was like you said ten questions or something.

21

22 MS. BEAHM: You have to take a test at the end?

23

24 MR. POCHOPIN: Yeah.

25

26 MS. BEAHM: That's the mandatory training.

27

28 MR. WECHSLER: It was rough.

29

30 MS. BEAHM: But I will say.

31

32 MR. LEVITON: Congratulations.

33

34 MS. BEAHM: It would be better to do it here specific to
35 Manalapan than go to a training where you're talking with people from
36 other areas of the state that have nothing to do. Their issues have
37 nothing to do with the stuff that you guys are dealing with, right?

38

39 MS. MOENCH: I do think it's important that you get a couple
40 meetings under your belt. When I took my classes I'm glad that I
41 worked where I worked for years and then I was able to be like oh yeah
42 I'm familiar with this. I could apply it. I could learn it. ---

43

44 MS. BEAHM: But I will call Tara.

45

46 MR. LEVITON: It is.

47

1 MS. BEAHM: And if she says yes which I'm assuming she will,
2 I will talk to Gene Dunlap and then I will get us, the two of us, I
3 don't want to throw your name too Dave you're not out of it.

4
5 MR. LEVITON: Brian not Dave.

6
7 MS. BEAHM: I'm sorry, but he's still to the --- of
8 Manalapan right? So I will because typically you need an engineer.

9
10 MR. BOCCANFUSO: Whatever you need.

11
12 MS. BEAHM: To get us to do this here as the certification
13 because we're not going to do five hours.

14
15 MR. LEVITON: Do you have a Powerpoint Jennifer?

16
17 MS. BEAHM: No.

18
19 MR. LEVITON: Do you Albert?

20
21 MR. MARMERO: I don't have one. I have ---

22
23 MS. BEAHM: I mean I can make one.

24
25 MR. LEVITON: I mean to me it's important.

26
27 MS. BEAHM: I would rather hand out paper.

28
29 MR. LEVITON: If you hand out paper like Janice said, they
30 should see everything visually. I'm a visual learner. I need to see
31 it.

32
33 MS. MOENCH: --- I asked past applicant that just ---

34
35 MS. BEAHM: Past ones we can talk about.

36
37 MS. MOENCH: We could use.

38
39 MR. MARMERO: Yeah and I could do a Powerpoint and share it
40 with everyone. I mean I do OPRA training. I do labor and employment
41 training. I just get the thumb drive. I put it on whatever equipment
42 the client has and just run it from there.

43
44 MS. BEAHM: Not it.

45
46 MR. SCHERTZ: As part of the syllabus for this meeting, can
47 we also go over procedure for this quasi-judicial unit?
48

1 MS. BEAHM: Of course. That's going to be the first part of
2 it.

3
4 MS. MOENCH: You took the training?

5
6 MS. BEAHM: Yeah so we can discuss that, what our role is,
7 what we're hearing. There's differences between residential single-
8 family, residential versus this which was a use variance, and this was
9 kind of a baby use variance versus a major use variance and what
10 exactly it is we're supposed to look at, and how it's supposed to
11 work. That's fine.

12
13 MR. LEVITON: And there was bulk variance relief subsumed
14 and also.

15
16 MS. BEAHM: Sometimes yes, yes.

17
18 MR. LEVITON: Tonight there was and there was also waivers
19 that we extended to them.

20
21 MS. BEAHM: Correct, yes sometimes.

22
23 MR. LEVITON: Our members need to know what all those things
24 are.

25
26 MS. BEAHM: Agreed and so sometimes it's very easy to lump
27 the bulk variances in with the use and then sometimes the uses
28 depended on how much bulk relief is requested.

29
30 MR. LEVITON: Yes, but that's so technical. They don't even
31 understand what a bulk relief is.

32
33 MS. BEAHM: I agree.

34
35 MR. LEVITON: They don't know. They can't.

36
37 MS. BEAHM: Agreed a hundred percent.

38
39 MR. LEVITON: They need to.

40
41 MS. BEAHM: So regardless if we can get this as the
42 "mandatory training", which I'm pretty confident we can make that
43 work, but if not I still think we should do this on a light night or a
44 night when we don't have anything or whatever. Just kind of roll
45 through it where.

46
47 MS. MOENCH: I have to tell you I just got six applications
48 in, in the last two weeks.

1
2 MS. BEAHM: Yeah, but that's going to take awhile to get
3 through the completeness process and get scheduled. We do have
4 probably a month or we get that.

5
6 MR. LEVITON: Janice, you're leaning towards a dedicated
7 evening of training? Is that what you're?

8
9 MS. MOENCH: Well I mean I was looking at that March 7th,
10 but then that doesn't really work.

11
12 MR. SCHERTZ: It's too soon.

13
14 MS. MOENCH: I think that's what Dan's getting at, saying
15 it's too soon.

16
17 MS. BEAHM: We'll figure it out. I will coordinate with
18 N.J.P.O. and Tara to see what we can do, but we did have a training
19 Steve as you remember a couple years ago.

20
21 MR. LEVITON: Who was here? Only.

22
23 MS. BEAHM: I think.

24
25 MR. LEVITON: Myself David, and maybe Joshua. Josh wasn't
26 even here.

27
28 MR. SCHERTZ: No.

29
30 MR. LEVITON: Bob, David, and me.

31
32 MR. SCHERTZ: Adam maybe.

33
34 MS. BEAHM: Yes.

35
36 MR. LEVITON: Adam was probably, yeah.

37
38 MS. BEAHM: Yes, yes.

39
40 MR. LEVITON: But that means Josh and Basil, and Michael,
41 Dan.

42
43 MS. BEAHM: Definitely several years ago right? I would say
44 two or three years ago.

45
46 MR. SCHERTZ: More than that. It was before Covid.

47
48 MR. LEVITON: Oh my God.

1
2 MS. BEAHM: Right before Covid, yup.

3
4 MR. MARMERO: I'm at your disposal, let's just pick a date,
5 a time and.

6
7 MR. LEVITON: I think for now we're going to table it.

8
9 MS. MOENCH: I think everybody --- a meeting night. They
10 want to do it. ---

11
12 MS. BEAHM: No, I agree with that.

13
14 MS. MOENCH: We have to --- a special meeting.

15
16 MR. LEVITON: Okay so just let me ask John and Stacey. Are
17 we sufficiently scaring you? Are you afraid?

18
19 MR. HARRINGTON: No.

20
21 MS. BEAHM: Not yet.

22
23 MR. MARMERO: Try harder.

24
25 MR. LEVITON: Okay and also that's good because if you are
26 you should reach out to myself or to Bob and we will talk you off the
27 ledge. There's nothing frightening going on here. And this board said
28 no to a developer who wanted to put a fast food restaurant on Taylor
29 Mills Road and Route 9, we're currently under litigation. That firm is
30 called Yum and Chill and I'm about to ask Albert so you know what I'm
31 talking about. Our last lawyer who no longer works for us, he is in
32 charge of the litigation. It was our option. We decided to let him
33 handle it since it was his case to begin with and he understood it.
34 Albert could have done it. We chose to go that other route maybe with
35 regrets now.

36
37 MR. MANTAGAS: Who did it John?

38
39 MR. LEVITON: No not John, Ron. Ron is doing it. Albert is
40 being cc'd on the things going through that other attorney's office
41 and we recently saw Albert a request for exhibits that he misplaced.

42
43 MS. MOENCH: A judge lost them.

44
45 MR. LEVITON: A judge lost them and the attorney couldn't
46 replace them. So I haven't seen anything and I assume there's nothing
47 else Albert, but.

48

1
2 MR. MARMERO: It sounds like something should be pending,
3 but it sounds like the court lost exhibits which I never heard of in
4 my life so.
5
6 MS. BEAHM: You submitted that.
7
8 MR. SCHERTZ: I've never heard of that.
9
10 MR. POCHOPIN: Lose exhibits?
11
12 MR. SCHERTZ: Yeah.
13
14 MR. POCHOPIN: I'm from Brooklyn we lose exhibits, we lose
15 witnesses, we lose a lot of things.
16
17 MR. LEVITON: It was a big case. They brought in a
18 stenographer. It happens and the court lost everything.
19
20 MS. MOENCH: Especially when it's submitted through e-court.
21
22 MR. LEVITON: We are expecting a decision soon. I'm excited.
23 I can't wait to find out. I have nothing further. Professionals?
24
25 MS. BEAHM: Nothing.
26
27 MR. MARMERO: Nothing.
28
29 MR. LEVITON: And board?
30
31 MR. SCHERTZ: Done.
32
33 MR. LEVITON: Then someone move to adjourn.
34
35 MR. MANTAGAS: So moved.
36
37 MR. LEVITON: Thank you Mr. Mantagas.
38
39
40 *****
41