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**MEETING IS CALLED TO ORDER:**

MR. LEVITON: Okay, greetings audience, public. Welcome to tonight's zoning board of adjustment meeting and may I ask if you would all please join me in a flag salute.

**SALUTE TO THE FLAG**

MR. LEVITON: Pursuant to section five of the Open Public Meetings Act, notice of this meeting of the Manalapan Township Zoning Board of Adjustment was sent and advertised in the Asbury Park Press. A copy of that notice was posted on the bulletin board where public notices are displayed here 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. WECHSLER: Here.

MS. MOENCH: Mr. Schertz is not with us. Mr. Shalika?

MR. SHALIKAR: Here.

MS. MOENCH: Mr. Weiss?

MR. WEISS: Here.

MS. MOENCH: Mr. Mantagas?

MR. MANTAGAS: Here.

MS. MOENCH: Mr. Pochopin is absent. Mr. Harrington?

MR. HARRINGTON: Here.

MS. MOENCH: Ms. Klompus?

MS. KLOMPUS: Here.

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MS. MOENCH: Chair Leviton?

MR. LEVITON: Here. Okay, board we need to accept the minutes from June 20th. Will someone make a motion?

MR. WEISS: So moved.

MR. LEVITON: Thank you and will someone second that?

MR. GREGOWICZ: I'll second.

MS. MOENCH: Who was the first? I'm sorry.

MR. LEVITON: Adam and Bob.

MS. MOENCH: Thank you. Oh Adam was that from the 20th you just did? Yes, he wasn't here. I'm sorry so I just need a first.

MR. WECHSLER: I'll make the motion to accept.

MS. MOENCH: Thank you.

**ROLL CALL**

MS. MOENCH: Okay, Mr. Gregowicz?

MR. GREGOWICZ: Yes.

MS. MOENCH: Mr. Wechsler?

MR. WECHSLER: Here.

MS. MOENCH: Mr. Shalika?

MR. SHALIKAR: Here.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Here. Okay we also need to accept minutes from 18th of July and Adam you were not here on the 18th. You cannot make the motion. Will someone else?

MR. GREGOWICZ: I'll make the motion.

MR. LEVITON: Thank you Bob and will someone second that? Mike, Josh you're the only two who are eligible.

1 MR. SHALIKAR: ---

2  
3 MR. LEVITON: Josh, thank you.

4  
5 **ROLL CALL**

6  
7 MS. MOENCH: Mr. Gregowicz?

8  
9 MR. GREGOWICZ: Yes.

10  
11 MS. MOENCH: Mr. Wechsler?

12  
13 MR. WECHSLER: Yes.

14  
15 MS. MOENCH: Mr. Shalika?

16  
17 MR. SHALIKAR: Yes.

18  
19 MS. MOENCH: Chair Leviton?

20  
21 MR. LEVITON: Yes. Okay tonight we need to memorialize  
22 application 2403, Mr. Marmero.

23  
24 MR. MARMERO: Sure Mr. Chairman and board as you guys will  
25 remember this was a resolution for 143 Route 33, LLC amended  
26 preliminary and final site plan approval essentially just for the  
27 modification of a prior condition of approval along with the  
28 associated bulk variances.

29  
30 MR. LEVITON: Thank you solicitor.

31  
32 MR. MARMERO: Sure.

33  
34 MR. LEVITON: Can I get a motion please?

35  
36 MR. WECHSLER: I'll make the motion to approve.

37  
38 MR. LEVITON: Thank you Michael. Can I get a second please?

39  
40 MR. GREGOWICZ: I'll second it.

41  
42 MR. LEVITON: Thank you Bob.

43  
44 **ROLL CALL**

45  
46 MS. MOENCH: Mr. Gregowicz?

47  
48 MR. GREGOWICZ: Yes.

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MS. MOENCH: Mr. Wechsler?

MR. WECHSLER: Yes.

MS. MOENCH: Mr. Shalika?

MR. SHALIKAR: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Yes. Albert, before we call our public meeting, will you swear in our professionals? Mr. Danny Lopez is here this evening. He joins our dais and of course Ms. Beahm, ever present.

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

MS. BEAHM: I do.

MR. LOPEZ: I do.

MR. MARMERO: Okay.

MR. LEVITON: Thank you counselor and now we'll recall ZBE2401. The applicant is 191 Highway 9, LLC and on behalf of the Sitars, Mr. Kenneth Pape. Welcome back Mr. Pape.

MR. PAPE: Thank you. Good Evening Mr. Chairman, members of the board, board professionals, and public. Kenneth Pape of the firm Heilbrunn Pape on behalf of your applicant 191 Highway 9, LLC. I'll begin by thanking you for taking the application at the top of the agenda. This is third time that we have appeared before the board here. In June, the board was very gracious in allowing us the opportunity to listen to your comments and concerns and give us an opportunity to go home and work. We did so. I have spent time with my clients, the Sitars, who own this property and I remind the board that the Sitars are your applicant. And I also had the opportunity to review the comments that you had for Mr. Buckley I am going to ask. I have a bit of a summary of commitments that have been made and some things that we'd like to add as additional commitments and with your permission I'm going to ask that I can call Mr. Sitar very briefly because he is the applicant. His voice has not been made part of the records so I ask him to make some affirmative presentations to the board.

MR. LEVITON: Yes of course Mr. Pape.

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MR. PAPE: I'll call Mr. Sitar in just a moment.

MR. LEVITON: Janice are you picking him up?

MS. MOENCH: Yes.

MR. PAPE: It's picking up?

MS. MOENCH: Barely though.

MR. PAPE: I don't usually have difficulty being heard.

MR. LEVITON: And I forgot that you have a reporter here yourself who's transcribing the proceedings and.

MS. MOENCH: Is the mic on?

MR. LEVITON: Had I remembered I never would have interrupted you so forgive me. Hello ma'am.

MR. PAPE: Take that one for Mr. Sitar.

MR. LEVITON: Thank you Janice.

MR. PAPE: The board took the time to identify concerns that we had created during our presentation. You shared with us a number of concerns. There were activities at night and we agreed that we would reduce the hours so that there were no activities after 8:00. There was concern with regard to crowds gathering. There were opinions that large crowds couldn't occur. There was no testimony that it would ever occur. In fact, the only testimony with regard to gathering of crowds was when Mr. Buckley was asked, he said it's never happened in his career, but I think the concern was that there was going to be broadcasting from the building. One of the changes that I've been authorized by both the property owner and the proposed tenant is there'll be no studio. We'll just remove the studio. The goal is to be only the business that does appraisals, repairs, and the sales of jewelry and watches. It's a significant reduction of what we had asked the board to consider.

MR. MARMERO: Mr. Pape, just to repeat the appraisal, sale, and what was it?

MR. PAPE: Appraisals, repairs, and sales of jewelry and watches. The concept of there being a studio on the property is removed. The studio room that's in there will be amended to be a storage room. It's the way the plans will be submitted to the

1 township. The concern about there being gatherings in the parking lot,  
2 I believe that if we are only a jewelry and watch business, I think  
3 that concern goes away. There's no gathering in the parking lot for  
4 that type of activity. There were some requests along the way that  
5 were made by your professionals and by the board. One of the earlier  
6 requests that came from Mr. Rizzo was that we have a security system.  
7 He wants to know what the security system would be and we testified to  
8 it. There were three elements to the security system. There will be an  
9 indoor camera system. There will be an outdoor camera system and, in  
10 this industry, the jewelry industry, there is I'm going to call it  
11 proprietary security systems. Know that those proprietary systems  
12 would be in place in addition to any exterior and interior cameras.  
13 There would be that additional security. There's also a vault. This is  
14 a bank that has a vault. There was also some discussion about some  
15 simple things. The sign on the property is a pylon. The board  
16 recognized that it wasn't very attractive and asked that the pylon be  
17 removed and asked that there be a monument sign with architecture  
18 compatible to the building and we had agreed to that. We also agreed  
19 that the size of the monument sign would be consistent with the  
20 ordinance. We had agreed that there would be no activity at all, no  
21 marketing, nothing that takes place outside of the building. The hours  
22 of operation that we had agreed to were limited to, and the doors  
23 would be closed, completely closed, to everyone at 8:00 at night. That  
24 the retail operation would end at 6:00. The only activity 6:00 to 8:00  
25 would be office activity and nothing else. There was a request that we  
26 put aside a walk along the highway where there isn't one and we agreed  
27 to it. There was a request that we have an interconnection, a  
28 pedestrian interconnection of our sidewalk with the adjacent roadways  
29 and we had agreed to that. And we also were asked to remove the  
30 pneumatic tube system and to not use that. We had agreed that we would  
31 do the same thing. All of the asks that this board had of the  
32 applicant, I got permission from the Sitars to place on the record  
33 that the Sitars agree to those. I discussed briefly the Sitars with  
34 you. The Sitars are a family that has a very large footprint in the  
35 state of New Jersey. They have some forty-five properties and six  
36 hundred tenants; they are experienced and strict landlords. I'm going  
37 to ask Mr. Sitar in a minute to join us to confirm the accuracy of  
38 those statements and also to confirm that he is prepared to strictly  
39 enforce the terms of the lease that he has and also to make this very  
40 clear. In the event that there was ever to be a violation of any of  
41 the approval granted by this board, the Sitars are prepared that their  
42 lease with this tenant, that Mr. Buckley's a member of, would provide  
43 that he can terminate the lease. So that you know that it's the  
44 Sitars' word that you can rely upon and the experience of the Sitars.  
45 I'd like to call Mr. Sitar to join us and then make a couple of  
46 statements and just a couple of statement in summary after that.

1 MR. LEVITON: Mr. Sitar, our board attorney Mr. Marmero is  
2 going to swear you in.

3  
4 MR. SITAR: Okay.

5  
6 MR. MARMERO: Mr. Sitar if you'll state your name and  
7 address for the record, please.

8  
9 MR. SITAR: Sure, William Sitar 1481 Oak Tree Road Iselin,  
10 New Jersey 08830.

11  
12 MR. MARMERO: Okay and you're a representative of the owner  
13 Mr. Sitar?

14  
15 MR. SITAR: Yes, my brother and I actually own the building  
16 ourselves.

17  
18 MR. PAPE: Mr. Sitar you heard my opening remarks, if you  
19 could just share, I called it your footprint in New Jersey, if you  
20 could just confirm your footprint in New Jersey as commercial ---  
21

22 MR. SITAR: Sure, we own and manage forty-five to fifty  
23 buildings throughout the state of New Jersey. We have approximately  
24 600 tenants. We run a midsize commercial brokerage firm. We've got  
25 about thirty-five brokers in two different offices. We're a member of  
26 the TCN network which is a national network of forty to fifty  
27 commercial companies around the country that are similar to our  
28 entrepreneurial, small real estate firms and commercial firms. I'm  
29 actually on the board of that network as well.  
30

31 MR. PAPE: I made a statement that you're experienced and  
32 strict landlords. Would you comment on those words?  
33

34 MR. SITAR: Yes, and I would just like the board to know  
35 that we value the relationship with the town and other towns that  
36 we're in. I think we enjoy a good relationship throughout the state.  
37 We tried to adhere to what's required and we make our tenants do that  
38 as well. We enjoy good relationships generally with our tenants and we  
39 plan to do so here if this board is willing to grant the approval for  
40 this tenancy. I also want the board to know that my brother and I plan  
41 to be in this state for a long time. We would not knowingly bring a  
42 bad tenant to this community or any community. I'd rather just as soon  
43 move on and get a different tenant if that's the case, but I've gotten  
44 to know John and his group over the last six to nine months and I  
45 generally believe that he is a good business man. I think he runs a  
46 good company and I think it would be a benefit to this building that  
47 we've owned since March of '22 and it's been vacant during that whole  
48 time and even before for a while when Ocean First owned it. We did

1 initially try to get another bank and stuff in there, but banks are  
2 not expanding and so we've tried other tenants. I think this is a good  
3 fit and I think it would be good for the community.

4  
5 MR. PAPE: And I had indicated that mine are just remarks,  
6 but I indicated that the tenancy that you will permit will be limited  
7 to appraisal, repair, and sale of jewelry and watches and will not  
8 include a broadcast studio, is that correct?

9  
10 MR. SITAR: That's correct.

11  
12 MR. PAPE: You're prepared to ---

13  
14 MR. SITAR: That will be the permitted use. That is the  
15 permitted use in the lease, yes.

16  
17 MR. PAPE: I have nothing further Mr. Sitar. As the property  
18 owner and I'm going to say a man of his stature I wanted to hear it  
19 from him. We know that earlier in the presentation there were some  
20 personalities that might not have rubbed the board right, but I want  
21 you to know that your applicant is Mr. Sitar. Mr. Sitar's commitment  
22 to the town is now part of the record. I had a couple of ---

23  
24 MR. SITAR: Okay.

25  
26 MR. PAPE: I had a couple of other remarks I just wanted to  
27 make. The board and this are an experienced board so I say these words  
28 knowing that everyone knows what I'm about to say. The record that's  
29 made before the board is the record. The testimony that's placed  
30 before the board is the testimony. You heard from the engineer who  
31 took us through the physical property and how well it works for this  
32 purpose. You heard the engineer from where its traffic had identified  
33 that this is a ---

34  
35 MS. MOENCH: Ken.

36  
37 MR. PAPE: Oh, thank you. This is a low generator, a low  
38 traffic generator and it's a very good fit on the property. You heard  
39 the applicant say yes to each of the requests that was made of the  
40 applicant. The concerns that you shared with us and we don't challenge  
41 those concerns, but those concerns were whether we would be  
42 incompatible with the neighborhood. By removing this studio which is  
43 the only unusual element and restricting the hours the applicant has  
44 addressed that concern. There's been discussions about letters. There  
45 are discussions about videos. All of which is not part of the record.  
46 It's not what we presented to you to support the request that we made.  
47 I would ask that the board consider all of the testimony that's been  
48 placed before you here, the concessions that have been made, the firm



1 commitment to Manalapan that's made by the property owner, and the  
2 commitment to enforce those terms with his tenant and consider the  
3 application favorably.

4  
5 MR. LEVITON: Was that your summation?

6  
7 MR. PAPE: That was.

8  
9 MR. LEVITON: Okay. Jennifer let me go to you before we go  
10 out to the board.

11  
12 MS. BEAHM: So, I have a question Mr. Sitar.

13  
14 MR. SITAR: Sure.

15  
16 MS. BEAHM: So, I understand and I am not challenging your  
17 reputation. I've worked with your dad in many locations.

18  
19 MR. SITAR: Yes.

20  
21 MS. BEAHM: And I understand your position, but how do you  
22 justify the fact that the applicant is currently in the building  
23 running those quote-unquote gambling operations at night from the  
24 building?

25  
26 MR. SITAR: I don't believe that's true at all.

27  
28 MS. BEAHM: I mean there's video evidence on the internet  
29 for all to see that they're in the building.

30  
31 MR. SITAR: I know they have been in the building to put  
32 some boxes in there. They've been in there planning in anticipation.

33  
34 MS. BEAHM: I mean the video basically showed them having  
35 pizza and playing cards so I'm just questioning.

36  
37 MR. PAPE: Having pizza and playing cards is not a crime and  
38 they are in the building to acknowledge that.

39  
40 MS. BEAHM: But they're not to be occupying the building.  
41 They don't have approvals to be in the building.

42  
43 MR. PAPE: There's no business that's being conducted.

44  
45 MS. BEAHM: I mean respectfully I understand your position.  
46 I don't understand how exactly there's an expectation of this board to  
47 be able to enforce that because it's a private matter between you and  
48 your tenant in terms of your lease, but I will tell you that my

1 concern is, is that the representations that have been made have been  
2 challenged and I don't find your tenant's testimony to be credible  
3 honestly. I feel like he is even as recently as, he is looking to get  
4 whatever he wants to get and we're going to be left holding the bag  
5 and having to enforce something.

6  
7 MR. PAPE: Ms. Beahm those remarks are absolutely  
8 inappropriate. You have a fellow who has come here and asked to  
9 operate a jewelry and a watch business.

10  
11 MS. BEAHM: He also asked for other things.

12  
13 MR. PAPE: Provided the terms of that and placed it before  
14 the board for consideration.

15  
16 MS. BEAHM: So respectfully I let you finish, I don't  
17 appreciate being cut off, but I'll just leave it at that.

18  
19 MR. LEVITON: So, let me ask you Mr. Pape, can you review  
20 the concession you made this evening that the Sitars would enforce as  
21 it relates to a lease with the tenant that's been?

22  
23 MR. PAPE: Sure.

24  
25 MR. LEVITON: That's been put before us.

26  
27 MR. WEISS: Before we even get there, has the lease been  
28 introduced to this board?

29  
30 MS. BEAHM: No.

31  
32 MR. WEISS: So, I don't need to hear about it. I'd rather  
33 see what it says.

34  
35 MR. PAPE: The lease is a proprietary.

36  
37 MR. WEISS: They're proprietary, but you're talking about a  
38 term that's in a lease that you want the board to rely on your  
39 representation that the lease says something.

40  
41 MR. PAPE: No, no Mr. Weiss I'd go much further than that.

42  
43 MR. WEISS: Okay.

44  
45 MR. PAPE: We would, I made a commitment to the board as to  
46 what the language would be. I'll gladly provide the language to your  
47 attorney to review and any relief that this board grants it would be  
48 conditioned on those terms being incorporated into the lease.

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MR. LEVITON: But if you would just let us hear it again because I have concerns based on what I thought I heard I just want to ensure that I heard it correctly.

MR. PAPE: In the event that there are any notices of violations from the township to the property owner activities that are taking place there that are taking place.

MR. LEVITON: Okay.

MR. PAPE: That are not consistent with what this board permits this landlord will have a term in the lease that says the tenant will be removed.

MR. LEVITON: Okay.

MR. SHALIKAR: Sorry if I may. So, the tenant is now operating or not now, but has been operating without a lease?

MR. SITAR: No, the tenant is not operating in the building.

MR. SHALIKAR: But they've been in the building.

MR. SITAR: They've been in the building sure there's no denying that. They've moved some boxes in.

MR. SHALIKAR: Okay.

MR. SITAR: They've done some planning.

MR. SHALIKAR: And I'm not challenging --- a little bit.

MR. SITAR: Yeah, just things like that.

MR. SHALIKAR: So larger and I'm just asking both for you counselor and obviously you and obviously the tenant, but have you done your own analysis of the social media content that is available? That is public for everyone to see?

MR. PAPE: No and I've indicated it's not part of the record that we placed before you.

MR. SHALIKAR: I respect that, I do, but we are also entitled to do our own level of research to ensure that the business that's coming in or proposing to come in is doing business lawful, I'm confused. They're there so they're there, it's obvious. The tenant is there.

1  
2 MR. PAPE: Mr. Buckley is in the building. He has been in  
3 the building.

4  
5 MR. SHALIKAR: So, for the record then he's operating in  
6 that facility without a lease.

7  
8 MR. SITAR: He's not operating out of the building. He's  
9 been in the building.

10  
11 MR. PAPE: There's no business operation. There has not  
12 been.

13  
14 MR. SHALIKAR: That's for the record?

15  
16 MR. SITAR: Yes.

17  
18 MR. SHALIKAR: You're confident to say? You are also  
19 confident to say that he's been that there's no operation or business  
20 being conducted in that building for the record?

21  
22 MR. PAPE: I've asked Mr. Buckley that and I've asked Mr.  
23 Sitar.

24  
25 MR. SHALIKAR: Or the parking lot or anywhere on the  
26 facility there has been no business conducted on that property?

27  
28 MR. SITAR: Not to my knowledge. There has been no business  
29 conducted in that building. Okay as far as I know they've been in the  
30 building. Yes, they've done a safe. I know they've analyzed the safe  
31 for the insurance company. They've been in the building with some  
32 boxes like I said things like that.

33  
34 MR. LEVITON: Mr. Sitar this board has expressed concerns  
35 about the negative criteria, the proofs, that needed to be put onto  
36 the record. They had difficulty with the voracity of the tenant's  
37 testimony. They found him to be incredulous at times and now this  
38 evening you're asking this board to trust that should there be  
39 violations that we have to identify that need to come through this  
40 board. This board needs to now become enforcers of what's going on in  
41 your building with your tenant and should we identify a problem you  
42 will sever business ties with him. Am I characterizing that correctly?

43  
44 MR. PAPE: If there's a violation of the terms that you  
45 have. We're anticipating or hoping that you'll create terms. We accept  
46 those terms. If there is a violations of those terms brought to the  
47 attention of the landlord, the landlord will terminate.

1 MR. LEVITON: But the way you define complaints for a lack  
2 of a better word, they need to be generated through the zoning office.

3  
4 MR. PAPE: Usually that's how a violation becomes known.

5  
6 MR. LEVITON: Well complaints could come from the  
7 neighborhood as well.

8  
9 MS. BEAHM: Or the police.

10  
11 MR. LEVITON: Or the police yes and those aren't being  
12 stipulated to. You're asking us to become for lack of a better term,  
13 zoning officers.

14  
15 MR. SITAR: There was an offer I believe to try to assuage  
16 fears of I guess the unknown that everyone seems to be afraid of the  
17 fact that they're broadcasting or using social media. So, I think that  
18 was the offer that hey if you really find this tenant is doing things  
19 in the building that are really upsetting to the town and in violation  
20 of whatever conditions you would give us to get the approval then you  
21 would, someone would send us a letter and saying they're in violation  
22 of this and we would then terminate them.

23  
24 MR. LEVITON: So, I accepted the proposal as a means to  
25 ameliorate concerns that we've expressed towards you except I don't  
26 know I'm only one person I don't know that they actually do. I do want  
27 to go to Mr. Wechsler because Michael, I know you bore witness to an  
28 event this morning. Can you talk to us about that please?

29  
30 MR. WECHSLER: Oh, thank you Mr. Chairman. Mr. Sitar I just  
31 have one question before I go into that. So, you would cancel their  
32 lease if they had a studio in the building? But you wouldn't stop them  
33 from creating content then? Is that correct?

34  
35 MR. SITAR: Creating content, I mean if they were filming in  
36 the studio other than an iPhone I would. I mean I don't think anyone  
37 would find an iPhone video posted to social media objectionable. Every  
38 small business does that these days and you almost need to keep up  
39 with what's going on in the world. Everybody, every company that wants  
40 to survive uses social media and I wouldn't begrudge any company from  
41 using social media if they're using anything more than an iPhone or  
42 they got camera equipment set up and things like that, yeah then  
43 that's a violation I would think.

44  
45 MR. WECHSLER: So, then it would be in terms to use an  
46 iPhone in the parking lot to do a social media post. Would they be  
47 allowed to use the parking lot?

1 MR. SITAR: I don't, I mean everyone has a cell phone and  
2 everyone uses social media. I don't see how using an iPhone would be a  
3 problem.

4  
5 MR. SHALIKAR: I would agree with your statement with one  
6 exception. When it's a primary part of your business model that social  
7 media and content creation is your primary business model as I think  
8 was stipulated.

9  
10 MR. LEVITON: I think he testified that the watch part was  
11 his primary business.

12  
13 MR. SHALIKAR: Is the new, proposed primary, but the  
14 testimony tonight.

15  
16 MR. SITAR: I mean I'm not the tenant, but the testimony I  
17 read in the transcript and I think it's in the record is ninety  
18 percent of there. I believe it's a ten- or eleven-million-dollar  
19 business. Ninety percent comes from watch sales and about ten percent  
20 from social media. I think it's even five percent from social media  
21 and five percent from other which could be sponsorships or things like  
22 that.

23  
24 MR. WECHSLER: Well, I think those numbers might be askew  
25 because they have their own private channel or private monthly fee for  
26 access.

27  
28 MR. SITAR: Yeah, that's the five percent.

29  
30 MR. WECHSLER: Yeah I might be a little and the way the  
31 economy's going and luxury items watches per se are not selling as  
32 much you would look to change your business model to adapt to be able  
33 to maintain and pay the rent, but I guess my concerns what I see on  
34 social media might not be a representation of what I feel and this is  
35 personal or other people might feel is representation of Manalapan and  
36 to me I take it personal when people call us well we're acting like we  
37 are Mayberry and we are on a power trip and brings up certain cases  
38 that they were present to while they're waiting for other hearings.

39  
40 MR. LEVITON: Michael, would you put that in context for the  
41 record. Where it was that you heard?

42  
43 MR. WECHSLER: So, I heard this morning and Mr. Buckley had  
44 said that he was having a conversation back and forth in one of his  
45 live broadcasts and comments are made by his followers so we're going  
46 to come down, do you need our support, hey you guys only sell watches.  
47 I mean he has a large following so I think more than five percent or  
48 ten percent of it is social media when it comes to business, but my

1 concerns this morning were that with such a large following he had  
2 followers say hey we're going to come down.

3  
4 MR. PAPE: To this meeting?

5  
6 MR. WECHSLER: We're going to be behind you, I'm going out  
7 fighting who's coming I heard.

8  
9 MR. SITAR: These are comments from Mr. Buckley?

10  
11 MR. WECHSLER: These are comments off the --- this morning.

12  
13 MR. SITAR: From Mr. Buckley or?

14  
15 MR. WECHSLER: Yeah and.

16  
17 MR. SITAR: I'm unaware of those comments.

18  
19 MR. WEISS: So, if I can Mr. Sitar and this is nothing  
20 against you, your business because you're very reputable and I realize  
21 that sometimes reputable businesses get involved in situations that  
22 are not the best. I have concerns with Mr. Buckley in that I found him  
23 to be very credible last time he was here until I dug deeper and found  
24 him calling us, this board, a rubber stamp. Saying that the planner  
25 has already approved the application and that this board is just a  
26 rubber stamp. Well Mr. Buckley this board is not a rubber stamp. I  
27 think you know that from being here three times. With that also being  
28 said I have problems that Tyler, Mr. Buckley's partner, was posting a  
29 video probably I think it was either between three and twelve days ago  
30 in which he said, "I have some gold then I'm going to go shooting then  
31 I'm going to go do some Jiu jitsu, and then I'm going to buy a car."  
32 Well, the words were one thing, but then when I saw Tyler shooting a  
33 long gun at a makeshift target outdoors which could've been Manalapan  
34 for all I know, hand gun, long gun, Mr. Buckley that has nothing to do  
35 with jewelry and guess what Mr. Buckley that's not going to happen  
36 here in this town next to a residential neighborhood. Who do you think  
37 we are? Who do you think you are?

38  
39 MR. LEVITON: Okay so Mr. Sitar I also am glad that you've  
40 amended the proposal. I also find you to be a reputable business man.  
41 I have always supported Mr. Buckley's tenancy and his application, but  
42 as you know you've been here. This board primarily does not and they  
43 have their good reasons. It has to do with the municipal land use law,  
44 the negative proofs that need to be put onto the record, have to  
45 stipulate that there's no substantial detriment to the neighborhood or  
46 to the master plan and they cannot reconcile the testimony with the  
47 lack of the negative proofs.

48

1 MR. WEISS: Can I say one more thing?

2  
3 MR. LEVITON: Well with respect you may.

4  
5 MR. WEISS: Yes, this is important.

6  
7 MR. WEISS: Give me one moment. Mr. Buckley testified that  
8 there would not be a jewelry exchange. Mr. Buckley had video saying  
9 we're going to have jewelry exchange. It's still posted, so one thing  
10 we say under oath, another thing we say. I get that you want to get  
11 followers and all that, but what is it because we have testimony under  
12 oath saying there's going to be no jewelry exchange. We have Mr.  
13 Buckley on video I don't know when the video was made, but I accessed  
14 it yesterday.

15  
16 MR. SITAR: Mr. Weiss I believe and I know that video, but I  
17 believe that was initially his thought and then when he testified, he  
18 said it's not going to be one so that as I recall.

19  
20 MR. SHALIKAR: Yeah, and to correct that testimony I had  
21 raised that the session that I was a part of.

22  
23 MR. SITAR: Yeah, I remember you.

24  
25 MR. SHALIKAR: I had to expose that truth. Again, this is  
26 just correlating the fact that we are consistently trying to in the  
27 spirit of transparency bring honesty to the table. If you want to  
28 bring comfort to the board, right? Comfort to the board, we're asking  
29 for transparency and honesty not a power trip.

30  
31 MR. LEVITON: So, I have a sense of humor and I like content  
32 creation and if we're regarded as Mayberry then so be it. I can deal  
33 with that and I don't hold it against the man. I have a sense of  
34 humor, it's okay, but I do want to go to the rest of the board. I want  
35 to go out to the public and I want to wrap things up. So, Bob?

36  
37 MR. GREGOWICZ: I was just going to say what Mr. Weiss said  
38 because I saw the same video regarding trying to get twelve businesses  
39 in for a jewelry exchange. Like I always said, my concerns for the  
40 neighborhood I think the board's being played and I think once Mr.  
41 Buckley gets this approval, he's just going to let things fly any  
42 which way he wants to let it fly. He already has the address on his  
43 website. I heard enough. I've been here three times already and I  
44 don't know what to believe. I just think the board's being played and  
45 right now I'd like to make the motion to deny the application.

46  
47 MR. WEISS: Second.

48



1 MR. LEVITON: Let me just ask the rest of the board if they  
2 want to ask any questions of Mr. Sitar or Mr. Pape and then I'm going  
3 to go out to the public and then we'll ask for a motion. So Basil,  
4 John, or Stacey?

5  
6 MR. HARRINGTON: I have no questions.

7  
8 MR. MANTAGAS: No questions.

9  
10 MR. LEVITON: Michael anything further?

11  
12 MR. WECHSLER: No I am good thank you.

13  
14 MR. LEVITON: Okay at this time I'm going to go out to the  
15 public and ask if there's anyone in attendance who wants to cross-  
16 examine Mr. Sitar or address the board, now would be the time. Seeing  
17 none I'm going to close public. Let me go back to our professionals.  
18 Mr. Rizzo, we haven't heard from you. Anything? Oh yeah, Mr. Lopez.  
19 Forgive me, Danny. Is there anything that you want to contribute sir?

20  
21 MR. LOPEZ: No Chairman no further questions.

22  
23 MR. LEVITON: Thank you, sir. And Jennifer anything else?

24  
25 MS. BEAHM: No, I'm good.

26  
27 MR. LEVITON: Mr. Boccanfuso? How'd I do Janice? Boccanfuso,  
28 it's the way he pronounces his name. I over-syllabicate.

29  
30 MR. BOCCANFUSO: Nothing to add Mr. Chairman.

31  
32 MR. LEVITON: Thank you Mr. Boccanfuso. Okay, Mr. Pape  
33 before they make their motion, is there anything else you'd like to  
34 say in summation?

35  
36 MR. PAPE: Mr. Chairman thank you for the opportunity to  
37 speak this evening. Our remarks are on the record, there's nothing  
38 further.

39  
40 MR. LEVITON: Thank you Mr. Pape. You're always a gentleman  
41 and Mr. Sitar thank you for your testimony. Okay, Bob do you want to  
42 make a motion?

43  
44 MR. GREGOWICZ: I'll make the motion to deny the  
45 application.

46  
47 MR. LEVITON: And Adam wants to second it. Before we call  
48 that Janice, Albert the motion is to deny.

1  
2 MR. MARMERO: The motion is to deny so a yes vote would be a  
3 vote to deny the application and what you heard this evening.  
4 Obviously, the applicant is here for a use variance. The application  
5 was a bit amended this evening as the use variance would be limited at  
6 this point now to the, and let me just make sure I have it, to the.

7  
8 MS. BEAHM: Appraisal, sale, and repair.  
9

10 MR. MARMERO: Yeah, I'm looking for it yeah so appraisal,  
11 sale, and repair of jewelry and watches. The studio and the  
12 broadcasting have been removed from the use variance application and  
13 some of the conditions that were discussed. Again that, there would be  
14 no crowds, there would be no activity inside or outside the building  
15 after 8:00 PM, there would be a security system. We did discuss the  
16 signage. There would be a monument sign consistent with the ordinance.  
17 We discussed the hours of activity, which essentially the doors would  
18 be closed at 8:00 PM. Only retail would be done until 6:00 PM and then  
19 office-only activity until 8:00 PM. The applicant agreed to install  
20 sidewalks along the highway. The applicant agreed to make the drive-  
21 thru system inoperable by removing the pneumatic tube system and then  
22 we heard some testimony which was new this evening regarding the lease  
23 --- that would be proposed that would indicate if there was any type  
24 of violation of the approval that the landlord would terminate the  
25 lease with the tenant and then of course we heard further questions  
26 from the board regarding some of the subsequent videos that members of  
27 the board have reviewed and then we heard the motion to deny the  
28 application and again for the record a yes would be to deny the  
29 application.

30  
31 MR. LEVITON: Okay.

32  
33 MR. PAPE: I have a single comment to make.

34  
35 MR. LEVITON: Of course.

36  
37 MR. PAPE: Board members and chair share the reasons for  
38 their vote as they put their vote on the record.  
39

40 MR. LEVITON: I've already addressed that. Their concerns  
41 are the negative criteria. They're uncomfortable with the proposed  
42 business, its use, and the credibility of its tenant. They are  
43 concerned that while you stipulate to conditions here at the hearing  
44 that what he'll do is inconsistent with what you say and they're  
45 afraid that the potential damage to the neighborhood is inconsistent  
46 with the bucolic nature of Manalapan Township.  
47

1 MR. PAPE: Mr. Chair I only ask that they state the reasons  
2 for each of the members as they vote if they would affirm that.

3  
4 MR. LEVITON: Okay board members.

5  
6 MR. WEISS: One moment if I can, Mr. Marmero is that a  
7 requirement?

8  
9 MR. MARMERO: You're not required to. You've put on the  
10 record that you've heard testimony and you've had discussions and  
11 you've asked questions. The chairman has put reasons on the record.  
12 You're certainly free to affirm whether or not those are the reasons  
13 and you can certainly state the reasons for the record, but a simple  
14 yes or no would suffice.

15  
16 MR. LEVITON: Call it Janice.

17  
18 MS. MOENCH: Okay I have Mr. Gregowicz with the motion to  
19 deny and Mr. Weiss second to deny.

20  
21 MR. LEVITON: Correct.

22  
23  
24 **ROLL CALL**

25  
26 MS. MOENCH: Okay, Mr. Gregowicz?

27  
28 MR. GREGOWICZ: Yes.

29  
30 MS. MOENCH: Mr. Weiss?

31  
32 MR. WEISS: Yes.

33  
34 MS. MOENCH: Mr. Wechsler?

35  
36 MR. WECHSLER: Yes.

37  
38 MS. MOENCH: Mr. Shalika?

39  
40 MR. SHALIKAR: Yes.

41  
42 MS. MOENCH: Mr. Mantagas?

43  
44 MR. MANTAGAS: Yes.

45  
46 MS. MOENCH: Mr. Harrington?

47  
48 MR. HARRINGTON: Yes.

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MS. MOENCH: Chair Leviton?

MR. LEVITON: Yes.

MR. PAPE: Mr. Chair and board members thank you all for your deliberation.

MR. SITAR: Thank you.

MR. LEVITON: Thank you Mr. Pape. Good night, Mr. Sitar. Okay, moving on to our next public hearing.

MS. BEAHM: Good night.

MR. LEVITON: Oh professionals, thank you as always. Jennifer, Danny always good to see you. Brian do me a favor. If you were going to introduce me to your dad, you'd say Steve this is Mr.?

MR. BOCCANFUSO: Mr. Buck.

MR. LEVITON: Oh he's goes by Buck I know.

MR. BOCCANFUSO: He goes by Buck.

MR. LEVITON: He goes by Buck.

MR. BOCCANFUSO: You have the pronunciation correct, it's Boccanfuso.

MR. LEVITON: Boccanfuso?

MR. BOCCANFUSO: You annunciate more than most, but you also pronounce it more accurately than most. It's a fair trade-off, I'll take it.

MR. MARMERO: What do people usually say?

MR. LEVITON: Okay.

MR. BOCCANFUSO: Bachenfuso, Boccanfusco, Buddafuco.

MR. MARMERO: Yeah.

MR. BOCCANFUSO: Put t's in there.

MR. LEVITON: Okay.

1 MR. BOCCANFUSO: The letters, extra syllables.

2  
3 MR. LEVITON: Board members, does anybody need a break?

4  
5 MR. BOCCANFUSO: A lot.

6  
7 MR. LEVITON: We're good to move on. Okay then I'm going to  
8 call application 2424, Ritesh Dhimmarr and Nipa Shah. Hello sir, how  
9 are you? Mr. our attorney will swear you in.

10  
11 MR. MARMERO: Sir if you'd raise your right hand. Do you  
12 swear the testimony you will provide tonight will be the truth, the  
13 whole truth, and nothing but the truth?

14  
15 MR. DHIMMAR: I do.

16  
17 MR. MARMERO: Okay and could you state your name and address  
18 for the record sir?

19  
20 MR. DHIMMAR: My name is Ritesh Dhimmarr. I live at 73 East  
21 Parsonage Way Manalapan, New Jersey 07726.

22  
23 MR. LEVITON: Mr. Dhimmarr, thank you for coming in and your  
24 application is going to be relatively easy. The board has reviewed the  
25 papers that we've been privy to. We've seen the letter of approval  
26 from your H.O.A. and we want you to state for the record what brings  
27 you here this evening and the type of relief that you're seeking.

28  
29 MR. DHIMMAR: Sure, Mr. Chairman and board members good  
30 evening, and thank you for presenting my case. So, I submitted two  
31 exhibits, A1 and A2.

32  
33 MS. MOENCH: I'm sorry there's two exhibits, only four  
34 copies.

35  
36 MR. LEVITON: --- share.

37  
38 MR. DHIMMAR: So, exhibit A1 shows my backyard as my current  
39 shape and as you can see there is a slope in my backyard. In order for  
40 me to make a patio we have to build a retainer wall and that is going  
41 to raise our patio. That could be the reason several of my neighbors  
42 including my very next-door neighbor raised their patio and that is on  
43 that picture that I've shown. So, their patio is raised. That is one  
44 point. Second point is my backyard faces golf course so there is no  
45 immediate neighbor or there won't be any so my patio isn't going to  
46 create any issue to anyone. So that is the reason I requested for this  
47 variance.

48

1 MR. LEVITON: Thank you Mr. Dhimmar. Board members, any  
2 questions for the applicant?

3  
4 MR. SHALIKAR: No chairman.

5  
6 MR. WECHSLER: No chairman, thank you for your testimony,  
7 Mr. Dhimmar.

8  
9 MR. DHIMMAR: Thank you.

10  
11 MR. LEVITON: Hold on sir. We're almost finished, but we  
12 need to go through some --- measures.

13  
14 MR. DHIMMAR: I don't know how.

15  
16 MR. LEVITON: It's okay. It's quite alright. I need to go  
17 out to the public and ask if there's anyone here who wants to question  
18 Mr. Dhimmar or address the board. I'm seeing some sideways head  
19 shaking.

20  
21 MR. BOCCANFUSO: Mr. Chairman would it be appropriate to  
22 have Mr. Dhimmar place on the record the relief that he needs?

23  
24 MR. LEVITON: Mr. Dhimmar would you place on the record the  
25 relief that you need? Talk about the setback. Talk about how much  
26 relief you need from the setback.

27  
28 MR. DHIMMAR: Sure so.

29  
30 MR. LEVITON: Quantify it.

31  
32 MR. BOCCANFUSO: Before you do that, I know very well  
33 because I wrote the denial. You could literally read it or summarize  
34 it, but I just think it's important to get it on the record so that  
35 everyone here.

36  
37 MR. DHIMMAR: Only --- relief I ---

38  
39 MR. BOCCANFUSO: Board members or members of the public know  
40 what the requirement is and what you're requesting.

41  
42 MR. DHIMMAR: Sure, requirement is twenty-five feet setback  
43 from the fence and I'm requesting ten feet setback from the fence so  
44 allowing me the remaining yard to be able to build my patio.

45  
46 MR. LEVITON: Thank you Mr. Dhimmar.

47

1 MR. BOCCANFUSO: Isn't it twenty feet and you're proposing  
2 plus or minus eight feet to the patio?

3  
4 MR. DHIMMAR: So, the size of my patio is going to be  
5 thirteen by thirty-six. Thirty which is going from my wall of my house  
6 to you know.

7  
8 MR. BOCCANFUSO: Yup.

9  
10 MR. DHIMMAR: Correct so.

11  
12 MR. BOCCANFUSO: Your house is currently about twenty-one  
13 feet from the rear property line.

14  
15 MR. DHIMMAR: I thought it's twenty-three. That was my  
16 knowledge. They said twenty-three feet and thirteen feet I'm going and  
17 ten feet I'm looking a setback from the fence.

18  
19 MR. BOCCANFUSO: Okay so the measurement is not necessarily  
20 from the fence. I would hope that the fence was on your property, but  
21 the measurement is from the property line.

22  
23 MR. DHIMMAR: Sure.

24  
25 MR. BOCCANFUSO: In reviewing the survey markup that you  
26 submitted in connection with this application it looked to me like  
27 your patio was about eight feet from the property line where twenty is  
28 required on this property.

29  
30 MR. DHIMMAR: Sure.

31  
32 MR. BOCCANFUSO: So, I think I've given you just all the  
33 answers.

34  
35 MR. DHIMMAR: Yes. I mean yes. I'm requesting the relief  
36 for.

37  
38 MR. BOCCANFUSO: What he said.

39  
40 MR. DHIMMAR: Help me said that, thank you.

41  
42 MR. BOCCANUSO: You're welcome, sir.

43  
44 MR. DHIMMAR: I request relief of --- and having setback of  
45 eight feet.

46  
47 MR. BOCCANFUSO: For sure and while I have the microphone, I  
48 did review the application. As I think is clear at this point, the

1 dimensions of the patio as indicated do appear to be thirteen feet by  
2 whatever the width is. It's kind of irrelevant to the application. The  
3 only relief that I identified was that rear setback where twenty feet  
4 is required. There are other patios in the area that have similar  
5 setbacks. I would expect that they've been before this board.  
6 Otherwise, they wouldn't be permitted either that or they built them  
7 without permits and as Mr. Dhimmarr indicated I think that not the  
8 proposed non-compliant condition is at least somewhat mitigated by the  
9 fact that he backs up to a golf course which is effectively open space  
10 and there is slope away from his house going towards that golf course  
11 so any drainage impact that there might otherwise be I think would be  
12 mitigated by the fact that runoff would be directed towards that golf  
13 course.

14  
15 MR. LEVITON: Thank you Mr. Boccanfuso. Will someone make a  
16 motion?

17  
18 MR. BOCCANFUSO: To the public?

19  
20 MR. LEVITON: I've been out to the public.

21  
22 MR. BOCCANFUSO: Okay.

23  
24 MR. LEVITON: I've been out.

25  
26 MR. WEISS: Move to approve the application as submitted.

27  
28 MR. LEVITON: Thank you.

29  
30 MR. SHALIKAR: I'll second that.

31  
32 MR. LEVITON: And thank you.

33  
34 MS. MOENCH: Who was the second? I'm sorry.

35  
36 MR. LEVITON: Joshua Shalika.

37  
38 MR. DHIMMAR: Thank you.

39  
40 MR. LEVITON: We're going to have to vote and then you can  
41 go in peace.

42  
43 MR. DHIMMAR: I'll be here.

44  
45 MR. LEVITON: It's okay.

46  
47 **ROLL CALL**

48



1 MS. MOENCH: Mr. Gregowicz?  
2  
3 MR. GREGOWICZ: Yes.  
4  
5 MS. MOENCH: Mr. Wechsler?  
6  
7 MR. WECHSLER: Yes.  
8  
9 MS. MOENCH: Mr. Shalika?  
10  
11 MR. SHALIKAR: Yes.  
12  
13 MS. MOENCH: Mr. Weiss?  
14  
15 MR. WEISS: Yes.  
16  
17 MS. MOENCH: Mr. Mantagas?  
18  
19 MR. MANTAGAS: Yes.  
20  
21 MS. MOENCH: Mr. Harrington?  
22  
23 MR. HARRINGTON: Yes.  
24  
25 MS. MOENCH: Chair Leviton?  
26  
27 MR. LEVITON: And before we send you on your way, we're  
28 going to let you know that your application will be memorialized in  
29 September at the beginning at our first meeting and that's when you  
30 can begin your work and if you have questions about it you can call  
31 Janice in the office and she'll be glad to help you.  
32  
33 MR. DHIMMAR: Will do that, thank you for all your help.  
34 Thank you.  
35  
36 MS. MOENCH: You're welcome.  
37  
38 MR. LEVITON: Congratulations Mr. Dhimmarr and you as well.  
39 Okay, we're going to call application 2426, Tara and Michael  
40 Martorana. Martorana, did I say that right?  
41  
42 MR. MARTORANA: Martorana.  
43  
44 MR. LEVITON: Martorana, welcome sir and who is it that you  
45 have with you?  
46  
47 MR. MARTORANA: Al Caputo, he's, my realtor.  
48

1 MR. LEVITON: Hello Mr. Caputo. Mr. Marmero, the board's  
2 attorney, will swear you both in.

3  
4 MR. MARMERO: If you'd both raise your right hand. Do you  
5 swear the testimony you will provide tonight will be the truth, the  
6 whole truth, and nothing but the truth?

7  
8 MR. CAPUTO: Yes.

9  
10 MR. MARTORANA: Yes.

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

14  
15 MR. MARTORANA: First name is Michael Martorana One  
16 Longstreet Manalapan, New Jersey 07726.

17  
18 MR. MARMERO: And you sir?

19  
20 MR. CAPUTO: My personal address or?

21  
22 MR. MARMERO: Business address is fine I just missed the  
23 name too.

24  
25 MR. CAPUTO: Sure, it's Al Caputo and it's Coldwell Bankers  
26 on 335 Route 9 Manalapan.

27  
28 MR. MARMERO: Okay and is that C-A-P-U-T-O?

29  
30 MR. CAPUTO: Correct.

31  
32 MR. LEVITON: Mr. Martorana, your application has a lengthy  
33 denial. Mr. Boccanfuso has written two pages so it's quite extensive  
34 and I want you to I don't know the best way to go through this. Why  
35 don't you talk to us about the variance relief that you need, what  
36 brought you here this evening, and what you need from us.

37  
38 MR. MARTORANA: I'm actually looking for some hardship due  
39 to the lot shape that I have.

40  
41 MR. LEVITON: We've seen the shape of your property. It is  
42 not, it's not a rectangle. It's not a square. How would you  
43 characterize it?

44  
45 MR. MARTORANA: Very irregular.

46  
47 MR. LEVITON: It is very irregular and the municipal land  
48 use law does grant this board the power to give you the variance

1 relief that you seek due to the hardship that you are asserting. Tell  
2 us specifically how it relates to the things that Mr. Boccanfuso  
3 identified.

4  
5 MR. MARTORANA: I would say the first one would be the  
6 fence.

7  
8 MR. LEVITON: Okay.

9  
10 MR. MARTORANA: That's, I would say is in my side yard which  
11 is the front of my property. It states that it should be a three-foot  
12 fence if I'm not mistaken, but right behind that fence, I have an in-  
13 ground pool so I would have to have at least a four-foot or a six-foot  
14 fence.

15  
16 MR. LEVITON: So, the fence which is too high satisfies the  
17 pool height requirement?

18  
19 MR. MARTORANA: Yes.

20  
21 MR. LEVITON: Okay, what else have we got?

22  
23 MR. MARTORANA: Which was there when I first purchased the  
24 home.

25  
26 MR. LEVITON: Yes, you're not there very long. You're there  
27 just a few years, is that correct?

28  
29 MR. MARTORANA: Yes.

30  
31 MR. LEVITON: Since 2019 if I recall reading.

32  
33 MR. MARTORANA: Yes, I think it was September, October 2019.

34  
35 MR. LEVITON: And you'll be moving again and it's the ZCCO  
36 process that identified these infractions and that's why you're here.

37  
38 MR. MARTORANA: Yes it's time for me to go assist my parents  
39 down south. Their health is not the greatest.

40  
41 MR. LEVITON: That's laudable sir. What else can we talk  
42 about? How about the shed?

43  
44 MR. MARTORANA: The shed?

45  
46 MR. LEVITON: Yes, the shed is encroaching into the setback  
47 where sixty feet is required and you're at about thirty-nine.

48

1 MR. MARTORANA: Yes, when I purchased the home, the shed was  
2 there.

3  
4 MR. LEVITON: The shed was there. Janice, did he assert the  
5 ten-foot?

6  
7 MR. BOCCANFUSO: No, there was a small shed there. The shed  
8 was either replaced or expanded at some time since the original.

9  
10 MR. LEVITON: Okay so you're going to need to be completely  
11 transparent and trust that the process is going to play out however it  
12 will.

13  
14 MR. MARTORANA: Sure.

15  
16 MR. LEVITON: And you don't want to mislead the board  
17 because you will incur their wrath.

18  
19 MS. MOENCH: I think it was replaced.

20  
21 MR. BOCCANFUSO: Yeah, so to summarize in.

22  
23 MS. MOENCH: They did replace it.

24  
25 MR. LEVITON: Janice is indicating Brian that it's not the  
26 gentleman sitting before us that replaced the shed.

27  
28 MR. BOCCANFUSO: It may not have been. I can't say that with  
29 any degree of certainty based upon the information that's available.  
30 What I can say is that in the late nineties, there was a permit  
31 obtained for a less than a hundred-square-foot shed with a compliant  
32 setback. What's there now is a shed that's more than twice as large,  
33 taller, and has the non-compliant setback.

34  
35 MR. LEVITON: Okay.

36  
37 MR. BOCCANFUSO: At some point, the shed was replaced  
38 without obtaining the required permits. It was expanded and it was  
39 apparently relocated. Now it may or may not have been the applicant  
40 who did it, but as it's the applicant's property he's here requesting  
41 relief.

42  
43 MR. LEVITON: And Mr. Martorana you are testifying that you  
44 did not replace the shed?

45  
46 MR. MARTORANA: No, I did not.

47  
48 MR. LEVITON: You bought the property as is?

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MR. MARTORANA: Yes sir.

MR. LEVITON: Now that shed encroaches into the setback by about twenty feet, but Mr. Boccanfuso even if the shed was located at the back of his narrow piece of property, wouldn't it still be non-compliant?

MR. BOCCANFUSO: Not necessarily, as I mentioned.

MR. LEVITON: It may well be though.

MR. BOCCANFUSO: Listen, it is. I'm certainly not arguing the lot is irregularly shaped and challenging to develop both by virtue of its geometry as well as its topography, but what I can say is that a permit was issued for a compliant shed in roughly the same location just a little further from the property line. So, to say that it's impossible to build a compliant shed on the property is clearly not true. Is it challenging? Certainly, I think that's fair.

MR. LEVITON: Are you advocating for a new permit?

MR. BOCCANFUSO: Well, if there is an approval the applicant will need to obtain permits for everything. If you read the memorandum, a lot of this work was done without permits at all.

MR. LEVITON: Yes.

MR. BOCCANFUSO: So, what would happen is he's not able to obtain permits because a lot of this stuff doesn't comply that's why he's here. If he gets an approval, he would then need to obtain permits and it would effectively be just legitimizing what's there and taking one step further on the board's action so he would need to still get permits for everything, but it would be largely a formality at that point if the board does approve the necessary variance relief.

MR. LEVITON: And Brian while we have you, the principal structure encroaches ten feet or so into the front yard setback. There's nothing that can be done about that so?

MR. BOCCANFUSO: No there can't, however, since the applicant is here, it makes sense for him to request the necessary relief because if he doesn't, and if God forbid that house burns to ash in the future, the future homeowner would not be able to rebuild in the exact same location unless the relief is granted. They would be bound by the zoning requirements that are applicable to the property unless the board grants the relief here tonight.

1 MR. LEVITON: Thank you, Brian. Moving along, Mr. Marmero  
2 how about the patio? Talk to us about the patio.

3  
4 MR. MARTORANA: The patio also was there when I purchased  
5 the home. And it's on the original survey from 2019 along with the  
6 deck also.

7  
8 MR. LEVITON: Yes, the patio was there when you purchased  
9 it. Subsequent to your moving in, the township passed a new  
10 requirement for sellers in that they would have to come through the  
11 process you're in right now, the ZCCO, and its incumbent upon either  
12 yourself or I could be getting this wrong. Albert, I'll need help  
13 here. Or the buyer to bring the property back into conformance without  
14 variance relief.

15  
16 MR. MARMERO: Yeah, my understanding is they allow either  
17 party to do it.

18  
19 MR. LEVITON: Janice.

20  
21 MS. MOENCH: The buyer is not involved in this. He's not an  
22 applicant. He's doing it on his own.

23  
24 MR. LEVITON: So okay then it's going to fall to you to  
25 bring that property back into conformance Mr. Martorana even though  
26 you bought the property as it is and the patio is pre-existing your  
27 residency. So, tell us what it is about the patio that's not compliant  
28 and what you need from us.

29  
30 MR. MARTORANA: I would say if you guys have a what is it  
31 fifty feet now?

32  
33 MR. CAPUTO: It's short of the distance that's close to the  
34 fence to the neighbor that's all it is.

35  
36 MS. MOENCH: You need a microphone or just put it in between  
37 you.

38  
39 MR. MARTORANA: So, from my property line.

40  
41 MR. LEVITON: It's a side setback issue.

42  
43 MR. MARTORANA: Yes. My backyard which is very short,  
44 narrow.

45  
46 MR. LEVITON: Yes.

47

1 MR. MARTORANA: I need fifty feet from my property line and  
2 I don't have those fifty feet. I think my house is only fifty-three  
3 feet from the property line or fifty-two feet even and I have a door.  
4 How would I even put something to step out of the door?

5  
6 MR. LEVITON: Okay.

7  
8 MR. MARTORANA: Or it's thirty-eight feet I'm sorry. I'm  
9 not good at this. It's thirty-eight feet.

10  
11 MR. LEVITON: Brian would you quantify it for us?

12  
13 MR. BOCCANFUSO: Would I quantify what?

14  
15 MR. LEVITON: The setback of the patio and its encroachment  
16 onto the setback.

17  
18 MR. BOCCANFUSO: So, a patio that is no greater than six  
19 inches above grade, basically a grade-level patio has to comply with  
20 the setback requirements applicable to accessory structures which in  
21 this zone the rear setback is ten-foot requirement whereas the paver  
22 patio.

23  
24 MR. LEVITON: Goes right up to it.

25  
26 MR. BOCCANFUSO: About a foot, plus or minus a foot, yeah.

27  
28 MR. LEVITON: And on the side, also ten feet?

29  
30 MR. BOCCANFUSO: No actually the side, no I'm sorry on the  
31 side yes, it is ten feet is also the requirement, and it's zero feet,  
32 right up to the property line on the side.

33  
34 MR. LEVITON: And that was there when you bought it?

35  
36 MR. MARTORANA: Yes, sir yes.

37  
38 MR. LEVITON: Okay I think we've addressed all of the  
39 issues.

40  
41 MR. WEISS: Has the neighbor been noticed, adjoining  
42 property owners?

43  
44 MR. MARTORANA: Yes, I mailed out I think twenty-four  
45 certified letters to all the neighbors.

46  
47 MR. LEVITON: And in response to Mr. Weiss' question, the  
48 board attorney Mr. Marmero was shaking his head in the affirmative and

1 had that not taken place we would not have had jurisdiction to hear  
2 your application this evening. So, all of that is in order and we  
3 thank Mr. Weiss for his question. Let's ask.

4

5 MR. BOCCANFUSO: Mr. Martorana.

6

7 MR. MARTORANA: Yes sir.

8

9 MR. BOCCANFUSO: Before we move any further, I just want to  
10 make sure that we're being honest on the record here. You bought the  
11 property in 2019, right?

12

13 MR. MARTORANA: Yes sir.

14

15 MR. BOCCANFUSO: I'm looking at an aerial image of the  
16 property from 2020 where none of these improvements, none of the patio  
17 is there. Are you sure you don't want to double-check that you did not  
18 install any of this stuff yourself? No one under while your ownership  
19 of the property? Your father didn't? Your wife didn't coordinate with  
20 somebody? Because I'm looking at an aerial image from 2020, I'm not  
21 seeing a patio in the rear yard.

22

23 MR. LEVITON: He has access to special software.

24

25 MR. MARTORANA: The patio was there. The deck was there.  
26 Everything was there.

27

28 MR. BOCCANFUSO: The patio, the retaining walls, all that  
29 stuff was there?

30

31 MR. MARTORANA: No, no the pavers and the retaining wall  
32 I've put that in, yes.

33

34 MR. BOCCANFUSO: The pavers are the patio. The pavers are  
35 the patio so I think that we need to clarify the record here so that  
36 the board doesn't.

37

38 MR. MARTORANA: I'm sorry I thought you were talking about  
39 the sunroom, my all-season.

40

41 MR. BOCCANFUSO: No, no, no we're talking about the flat  
42 patio, the pavers.

43

44 MR. MARTORANA: I'm sorry, my misunderstanding. I had the  
45 pavers. My father had the pavers put in.

46

47 MR. LEVITON: It's okay. We're going to appreciate and  
48 acknowledge Mr. Boccanfuso's interjection with the point and we're



1 going to accept that he was confused. Now you bring up the sunroom. We  
2 had pictures of that, but we have also since thank you to Ms. Moench  
3 discovered that there was a variance for the sunroom and that's not  
4 under our purview this evening. So that is good to go, that's not  
5 going to be a problem. Now let's talk about the pavers or the patio  
6 and tell us who built it and when and why.

7  
8 MR. MARTORANA: Okay so what happened was when we moved in  
9 2019 me and my wife were granted a two-week vacation from Make-A-Wish  
10 Foundation for my two sons. I had my father stay at my house to watch  
11 my dog and when we came home this project was like ninety-five percent  
12 done. He did it as a home gift to us.

13  
14 MR. LEVITON: So, your sons were ill and the Make-A-Wish  
15 Foundation sent your family on vacation.

16  
17 MR. MARTORANA: Both of them.

18  
19 MR. LEVITON: Both of them.

20  
21 MR. MARTORANA: One had leukemia and then my middle son had  
22 retinol blastoma which is eye cancer.

23  
24 MR. LEVITON: You have this boards, the township's, and my  
25 personal condolences.

26  
27 MR. MARTORANA: Yes, thank you.

28  
29 MR. LEVITON: You're welcome and while you were away your  
30 father or your father-in-law built this.

31  
32 MR. MARTORANA: He had somebody do it yes.

33  
34 MR. LEVITON: He had somebody do it.

35  
36 MR. MARTORANA: Yes sir.

37  
38 MR. LEVITON: Okay and so he did it without permits which  
39 you're going to need to get and he did it without consulting the  
40 zoning office.

41  
42 MR. MARTORANA: Correct.

43  
44 MR. LEVITON: Typically, this board doesn't like when  
45 patios, fences, or anything is right up against the property line and  
46 you were correct when you testified that you have a hardship due to  
47 the shape of your land.

48

1 MR. MARTORANA: Yes.

2

3 MR. LEVITON: And then you've gone and pulled on our  
4 heartstrings and there's nothing in the MLUL that allows us to  
5 consider that, but we're human so we're going to go out to the board  
6 and see what they think. Let's start with Bob.

7

8 MR. GREGOWICZ: I have no questions.

9

10 MR. LEVITON: Adam?

11

12 MR. WEISS: No questions.

13

14 MR. LEVITON: Joshua?

15

16 MR. SHALIKAR: Yes, sorry the sunroom was there when you  
17 purchased it already?

18

19 MR. MARTORANA: Yes sir.

20

21 MR. SHALIKAR: Okay.

22

23 MR. MARTORANA: Yes.

24

25 MR. LEVITON: Sunroom is good.

26

27 MR. SHALIKAR: Got it I'm just curious. No questions.

28

29 MR. MARTORANA: It was there.

30

31 MR. LEVITON: Michael?

32

33 MR. WECHSLER: No questions sir.

34

35 MR. LEVITON: Basil?

36

37 MR. MANTAGAS: On this picture, whose property is that on  
38 top of your retaining wall?

39

40 MR. MARTORANA: That is my property.

41

42 MR. MANTAGAS: That's your property?

43

44 MR. MARTORANA: Yes, and then there's a wall like I would  
45 say a foot before my fence because the people behind me are way higher  
46 than me and they'll come down into me and then I will fall into Three  
47 Longstreet. So, it kind of structured everything, made everything  
48 sound.

1  
2 MR. MANTAGAS: Right, no more questions Mr. Chairman, thank  
3 you.

4  
5 MR. LEVITON: John?

6  
7 MR. HARRINGTON: No questions.

8  
9 MR. LEVITON: Stacey?

10  
11 MS. KLOMPUS: No questions.

12  
13 MR. LEVITON: I have nothing further. At this time, I'm  
14 going to go out to the public. There are only two ladies sitting out  
15 there and I'll ask if there's anyone who wants to cross-examine the  
16 testimony that was entered onto the record now would be the time.  
17 Seeing none I'll close public. Mr. Caputo, do you have anything  
18 further?

19  
20 MR. CAPUTO: No, I don't. I just appreciate working with the  
21 zoning department. We first were discussing about this property. We  
22 were very proactive as far as trying to make sure there was no open  
23 permits. We got another survey that was done right away. We met the  
24 zoning board. We got a topical graphical survey to get done. We tried  
25 to do everything ahead of time to make sure that we were in compliance  
26 and that's why we're here. This was over probably a two-and-a-half-  
27 month period where we were just trying to get everything up to date  
28 and just making sure there was no issues here.

29  
30 MR. LEVITON: And you have been very nice to work with and I  
31 know that because the board's secretary Ms. Moench has spoken about  
32 what nice people you are.

33  
34 MR. CAPUTO: Thank you.

35  
36 MR. MARTORANA: Thank you.

37  
38 MR. LEVITON: Thank her.

39  
40 MR. MARTORANA: Thank you.

41  
42 MR. BOCCANFUSO: Mr. Chairman.

43  
44 MR. LEVITON: Yes.

45  
46 MR. BOCCANFUSO: Just before you request a motion I just  
47 want to make sure that we dot all our I's and cross all our T's.  
48

1 MR. LEVITON: Let's do that.

2  
3 MR. BOCCANFUSO: If there's any additional relief that's  
4 necessary the board can consider it. There were a couple of footnotes  
5 in the memorandum that I attached to the zoning report. One of which  
6 talks about pool equipment. Now I know it's not likely that you did  
7 anything with the pool equipment, but there is a ten-foot setback  
8 requirement for the pool equipment. It's not shown on any of the  
9 surveys that you submitted. Can you describe where the pool equipment  
10 is located?

11  
12 MR. MARTORANA: The pool equipment is I guess on the side of  
13 the shed.

14  
15 MR. BOCCANFUSO: Okay let me pull up a plan here.

16  
17 MR. MARTORANA: In between the fence and the shed.

18  
19 MR. LEVITON: Mr. Boccanfuso is ensuring that all possible  
20 things that you may need to close on your home are being taken care  
21 of.

22  
23 MR. MARTORANA: Perfect.

24  
25 MR. BOCCANFUSO: With all that you've been through sir I  
26 would hate to not catch everything and then you can't move forward  
27 when you could very well address it by getting some extra testimony.

28  
29 MR. MARTORANA: I understand a hundred percent.

30  
31 MR. BOCCANFUSO: Let me just find, okay.

32  
33 MR. LEVITON: Does he need relief?

34  
35 MR. BOCCANFUSO: So when you say it's between the shed and  
36 the fence do you mean the fence that fronts on Longstreet or the fence  
37 that is kind of in the backyard there?

38  
39 MR. MARTORANA: Kind of in the backyard. I can show you in a  
40 picture if you'd like.

41  
42 MR. LEVITON: He understands. He's quantifying.

43  
44 MR. BOCCANFUSO: So, the shed is based on the survey you  
45 submitted nearly thirty feet from the property line. The equipment  
46 needs to be ten feet. Would you say that the equipment is closer to  
47 the shed or closer to the fence?

48

1 MR. MARTORANA: It's actually in between the fence and the  
2 shed. I would say it's equal distance yes.

3  
4 MR. BOCCANFUSO: Like halfway between? Then I would say it's  
5 very likely fine, very likely fine.

6  
7 MR. WEISS: Mr. Boccanfuso do you think just to be sure so  
8 they don't have to come back that we just put it in there? Is that a  
9 thing?

10  
11 MR. BOCCANFUSO: I wouldn't have any objection to it. The  
12 only issue is I don't know how Mr. Marmero would craft that into an  
13 approval because we don't really know where it is. It's not shown on  
14 the survey. We can estimate it if it's halfway it's fourteen, fifteen  
15 feet in which case it complies. If it's a little closer to the fence  
16 it still might be fine.

17  
18 MR. LEVITON: This board has every confidence in his  
19 ability.

20  
21 MR. MARMERO: Probably want to be safe and put twenty feet  
22 or so I think -- the case.

23  
24 MR. LEVITON: That's good.

25  
26 MR. MARMERO: A little bit beyond halfway.

27  
28 MR. BOCCANFUSO: It needs to be ten so as long as it's ten  
29 or more.

30  
31 MR. MARMERO: Right.

32  
33 MR. BOCCANFUSO: He's fine and it probably is based on the  
34 description that's been provided I mean.

35  
36 MR. MARMERO: Yeah, okay I think we can.

37  
38 MR. LEVITON: The attorney's going to write in what needs to  
39 be there to ensure that you're good to go either way.

40  
41 MR. MARMERO: Yeah, he needs ten feet. Yeah so I think maybe  
42 it's safe that we say he's encroaching five feet this way just in case  
43 he is then he is, but it sounds like he's probably not, but I think  
44 that should cover it.

45  
46 MR. BOCCANFUSO: Okay and maybe would it be appropriate to  
47 say we grant the relief, but should the equipment ever need to be  
48 replaced in the future by a future homeowner it would need to comply.

1  
2 MR. MARMERO: Yeah and we did that with a recent pool  
3 equipment.

4  
5 MR. BOCCANFUSO: Yup great and then the only other question  
6 I have pertains to the shed that and I know you stated you didn't  
7 install it yourself. Do you know how tall that shed is? How high it  
8 is?

9  
10 MR. MARTORANA: I think it would be eleven feet at the peak.

11  
12 MR. BOCCANFUSO: Okay.

13  
14 MR. MARTORANA: And then on that slope when it starts to go  
15 down, I would say it would travel maybe a foot and then it's at ten  
16 feet.

17  
18 MR. BOCCANFUSO: So, at its highest point it's eleven feet.

19  
20 MR. MARTORANA: Yes, that peak.

21  
22 MR. BOCCANFUSO: Okay just for the board's information sheds  
23 are only permitted to be ten feet so it would require relief. I don't  
24 take any exception to the relief that's necessary. We don't have  
25 anybody here complaining about the aesthetics or anything like that.  
26 To some extent its mitigated by the topography with the neighboring  
27 property sloping up. They would look right over it anyway, but again  
28 just to make sure that we get it on the record and don't run into any  
29 issues down the road if the board's comfortable with the application I  
30 think it's appropriate to consider.

31  
32 MR. MARMERO: So we'll say eleven and a half?

33  
34 MR. LEVITON: Write it at twelve. Write it at twelve.

35  
36 MR. MARMERO: I was going to say twelve.

37  
38 MR. LEVITON: Yeah.

39  
40 MR. MARMERO: I didn't know if it was too much.

41  
42 MR. LEVITON: Just in case.

43  
44 MR. WEISS: Mr. Boccanfuso just for my own edification is  
45 that ten feet from grade, or is it?

46  
47 MR. BOCCANFUSO: Technically the way you measure height is  
48 from average grade so usually on a small structure it's pretty level

1 around the perimeter. Sometimes with houses you get a little bit of  
2 variation. You got to do a little arithmetic to calculate the height  
3 based upon the township's regulations. In this case I mean looking at  
4 the topography on the plan it may deviate a few inches, but I don't  
5 think it's going to make any difference especially if he's saying it's  
6 eleven and we say twelve. We're going to be fine.

7  
8 MR. LEVITON: Are you good to go Albert?

9  
10 MR. BOCCANFUSO: That was all I had Mr. Chairman. I just  
11 wanted to want make sure we got everything on the record so that we  
12 can move forward in a clean way.

13  
14 MR. LEVITON: The board thanks you Mr. Administrator and  
15 we're asking Albert now. Are you good sir?

16  
17 MR. MARMERO: Yes, so for purposes of variances that I've  
18 heard this evening and from looking at the memorandum that Brian put  
19 together I think so far what we have this evening is that the  
20 principal structure, the house, actually needs variance relief. We  
21 require a setback for the front yard sixty feet whereas the existing  
22 home has a 50.8-foot setback and as Brian indicated if that relief  
23 were not to be granted and if the home were ever to burn down and  
24 needed to be replaced it wouldn't be able to be built so you would  
25 need that variance. We heard about the existing shed and the existing  
26 shed would need also a front setback of sixty feet. The shed appears  
27 to have a setback that exists of 38.9 feet. Brian, on your memorandum  
28 you discuss the retaining wall. We indicate that the minimum required  
29 rear setback for accessory structures in the R20 zone is ten feet  
30 whereas the rear setback to the existing retaining wall which is at  
31 least 3.06 feet in height was constructed without a permit and is  
32 proposed to remain is 0.8 feet so we do have that variance. Then we  
33 talked about the paver patio which needs a couple of different  
34 variances. We have a required rear setback of ten feet and we indicate  
35 that the rear setback existing for the paver patio is plus minus one  
36 foot, and then we also have a side yard setback of ten feet and we  
37 indicate that the existing paver patio is at the line zero feet. We  
38 have a variance with respect to the height of the fence which the  
39 applicant did address where the fence is located is technically the  
40 front yard so the height could not exceed three feet. The existing  
41 fence is six foot in height and the applicant did provide testimony  
42 that because the pool is there that the fence would need to be six  
43 feet in height and is there also a setback issue there Brian?

44  
45 MR. BOCCANFUSO: With what?

46  
47 MR. MARMERO: With the fence setback plus or minus twenty-  
48 eight feet from the front property line?

1  
2 MR. BOCCANFUSO: Yeah so, it's kind of depending which way  
3 you write it. If it's in excess of three feet high then it's principal  
4 structure.

5  
6 MR. MARMERO: Yup okay alright so we'll cover that with the  
7 fence and then those were the six variances listed in Brian's  
8 memorandum, but then we discussed two more in the further discussion.  
9 We talked about the pool equipment. The applicant indicated that the  
10 pool equipment likely complies with the required setback, but we  
11 indicated to be safe that the applicant could seek a five foot  
12 encroachment into the setback with respect to the pool equipment with  
13 the condition that if the pool equipment is ever replaced and if the  
14 variance was needed the pool equipment would be placed in a compliant  
15 location upon replacement and then we discussed the shed height which  
16 appears to be eleven feet or slightly over eleven feet where ten feet  
17 is permitted and again to be on the safe side we indicated that  
18 perhaps a shed height of twelve feet should be the variance that is  
19 sought. These are all bulk variances so they all have the same vote  
20 requirement and the same testimonial requirements so they all can be  
21 handled in one motion.

22  
23 MR. LEVITON: Very comprehensive Mr. Marmero, thank you sir.

24  
25 MR. MARMERO: Thank you to Brian.

26  
27 MR. LEVITON: Thank you Mr. Boccanfuso.

28  
29 MR. WEISS: I'll make a motion to approve the application  
30 with the conditions that Mr. Marmero just stated.

31  
32 MR. LEVITON: Thank you Adam and will someone second that?

33  
34 MR. SHALIKAR: I'll second that.

35  
36 MR. LEVITON: Thank you Mr. Shalikar.

37  
38 **ROLL CALL**

39  
40 MS. MOENCH: Mr. Gregowicz?

41  
42 MR. GREGOWICZ: Yes.

43  
44 MS. MOENCH: Mr. excuse me, Mr. Wechsler?

45  
46 MR. WECHSLER: No.

47  
48 MS. MOENCH: Mr. Shalikar?



1  
2 MR. SHALIKAR: Yes.  
3  
4 MS. MOENCH: Mr. Weiss?  
5  
6 MR. WEISS: Yes.  
7  
8 MS. MOENCH: Mr. Mantagas?  
9  
10 MR. MANTAGAS: Yes.  
11  
12 MS. MOENCH: Mr. Harrington?  
13  
14 MR. HARRINGTON: Yes.  
15  
16 MS. MOENCH: Chair Leviton?  
17  
18 MR. LEVITON: Congratulation sir. The variance relief has  
19 been granted and we will memorialize your application in September  
20 when we reconvene. We wish you well going forward.  
21  
22 MR. MARTORONA: Thank you so much. Thank you to everybody.  
23  
24 MR. LEVITON: Good night Mr. Caputo.  
25  
26 MR. CAPUTO: Have a good night.  
27  
28 MR. LEVITON: You're welcome and Ms. Salvador we have saved  
29 the best for last. Your application is number 2428. You're here for  
30 your raised patio. Your application is going to be very easy.  
31  
32 MS. SALVADOR: I hope so.  
33  
34 MR. LEVITON: And we're sure of it and before we begin, our  
35 attorney will swear you in.  
36  
37 MR. MARMERO: Sure, Ms. Salvador if you'll raise your right  
38 hand, do you the testimony you will provide tonight will be the truth,  
39 the whole truth, and nothing but the truth?  
40  
41 MS. SALVADOR: Yes.  
42  
43 MR. MARMERO: Okay and you indicated your name, but again  
44 could you indicate your name and address for the record please?  
45  
46 MS. SALVADOR: Samantha Salvador.  
47  
48 MR. MARMERO: Okay.

1  
2 MR. LEVITON: Okay Ms. Salvador you're out there on LaValley  
3 Drive and you want to put up.

4  
5 MS. SALVADOR: A raised patio.

6  
7 MR. LEVITON: A raised patio and you want to tie it into the  
8 house. Is that's right? That's the reason you're here because the  
9 setback wouldn't be an issue if it wasn't tied to the principal  
10 structure.

11  
12 MS. SALVADOR: I believe so. I think the lot is too small.

13  
14 MR. LEVITON: Yeah, Brian can you expand on that a little  
15 bit?

16  
17 MR. BOCCANFUSO: I can Mr. Chairman. So, it is a very long  
18 and very narrow lot. The buildable area that would comply with the  
19 side setback requirements which is thirty feet, thirty-feet in the  
20 zone is so narrow that I don't think you could really build a  
21 functional house on it. The existing house is existing non-conforming.  
22 The setback, the side setback, to the existing home is 13.9 to 14.0  
23 feet so the side facade of the home just a little bit askew from the  
24 side property line. Ms. Salvador is proposing to construct a covered  
25 rear porch or rear patio. Covered, correct? With a roof over it that  
26 adjoins the rear facade of the home. Basically, the side covered porch  
27 would be parallel to the side of the house so by virtue of that fact  
28 it would also not comply with the setback requirements. It would be  
29 from 14 to 14.08 feet from the side property line where thirty-five  
30 feet is required. I think we do have a hardship here with the very,  
31 very narrow lot. The only potential negative impact I could really see  
32 for this aside from the aesthetics if there was any negative impact,  
33 would be drainage, Ms. Salvador if the application is approved can you  
34 agree that any roof leaders, or gutter downspouts would be directed in  
35 a certain way that they won't directly towards your neighbor's  
36 property?

37  
38 MS. SALVADOR: Yes, I agree.

39  
40 MR. BOCCANFUSO: Okay with that said Mr. Chairman I really  
41 don't think there's a whole lot to this application.

42  
43 MR. LEVITON: He's an engineer.

44  
45 MS. SALVADOR: I figured.

46  
47 MR. LEVITON: Let's go out to the board. Starting with  
48 Stacey.

1  
2 MS. KLOMPUS: I have no questions.  
3  
4 MR. LEVITON: Okay, John?  
5  
6 MR. HARRINGTON: No questions.  
7  
8 MR. LEVITON: Basil?  
9  
10 MR. MANTAGAS: No questions.  
11  
12 MR. WECHSLER: No questions.  
13  
14 MR. LEVITON: Michael thank you, Josh?  
15  
16 MR. SHALIKAR: No questions.  
17  
18 MR. LEVITON: Adam?  
19  
20 MR. WEISS: No questions.  
21  
22 MR. LEVITON: Bob?  
23  
24 MR. GREGOWICZ: No questions.  
25  
26 MR. LEVITON: I have a question. Has the new construction  
27 impacted on your quality of life?  
28  
29 MS. SALVADOR: The new construction?  
30  
31 MR. LEVITON: Behind you?  
32  
33 MS. SALVADOR: Oh my gosh. They're okay, yes.  
34  
35 MR. LEVITON: Can you see?  
36  
37 MS. SALVADOR: I cannot see anything anymore.  
38  
39 MR. LEVITON: You can see houses now.  
40  
41 MS. SALVADOR: Yes, yes.  
42  
43 MR. LEVITON: What a shame.  
44  
45 MS. SALVADOR: It's annoying.  
46  
47 MR. LEVITON: And how about off of Madison Avenue? Have they  
48 begun to open that up to La Valley yet?

1  
2 MS. SALVADOR: Where's Madison Avenue?

3  
4 MR. WEISS: The warehouses.

5  
6 MR. LEVITON: There's a doctor's office, Franklin Park is  
7 over there, and there's self-storage. It's on 33.

8  
9 MS. SALVADOR: Okay.

10  
11 MR. LEVITON: Right before the gas station. You don't even.

12  
13 MS. SALVADOR: Oh, no I don't know.

14  
15 MR. LEVITON: Yeah, and it hasn't happened. To the end of  
16 your block if you went past your home to the end, I guess by the scout  
17 camp.

18  
19 MS. SALVADOR: Yes.

20  
21 MR. LEVITON: They're going to open up to 33 that's what's  
22 supposed to happen.

23  
24 MS. SALVADOR: Oh.

25  
26 MR. LEVITON: Okay it's okay that you don't know. I have no  
27 questions for you beyond that. I was just curious. So, I will ask for  
28 someone to make a motion. Hold it I need to go out to the public.  
29 Seeing none I'll close public.

30  
31 MR. SHALIKAR: I'll make a motion to approve the  
32 application.

33  
34 MR. MANTAGAS: I'll second it.

35  
36 MR. LEVITON: That's Josh and Basil.

37  
38 **ROLL CALL**

39  
40 MS. MOENCH: Mr. Gregowicz?

41  
42 MR. GREGOWICZ: Yes.

43  
44 MS. MOENCH: Mr. Wechsler?

45  
46 MR. WECHSLER: Yes.

47  
48 MS. MOENCH: Mr. Shalikar?

1  
2 MR. SHALIKAR: Yes.  
3  
4 MS. MOENCH: Mr. Weiss?  
5  
6 MR. WEISS: Yes.  
7  
8 MS. MOENCH: Mr. Mantagas?  
9  
10 MR. MANTAGAS: Yes.  
11  
12 MS. MOENCH: Mr. Harrington?  
13  
14 MR. HARRINGTON: Yes.  
15  
16 MS. MOENCH: Chair Leviton?  
17  
18 MR. LEVITON: Congratulations and thank you for your  
19 patience. We know you've been here for more than an hour.  
20  
21 MS. SALVADOR: No problem.  
22  
23 MS. MOENCH: Yes so, we can get your permits going and get  
24 your permits in and get them reviewed by the construction.  
25  
26 MR. LEVITON: Okay board members it's going to be just a  
27 couple of things before we get to go home and watch Simone Biles and I  
28 guess we're going to look to Albert. I saw memorandum from Robin,  
29 Ron's attorney, requesting what did she want Janice?  
30  
31 MS. MOENCH: A resolution that - - -  
32  
33 MR. LEVITON: Ron Cucchiaro. She wanted the resolution that  
34 they needed.  
35  
36 MS. MOENCH: The court, I'm sorry, Mr. who is the defense  
37 attorney on that I can't think of his name.  
38  
39 MR. MARMERO: Probably - - - Mr. Cucchiaro - - -  
40  
41 MS. MOENCH: We're talking about I'm sorry?  
42  
43 MR. LEVITON: Yeah Ron Cucchiaro.  
44  
45 MS. MOENCH: Okay so Mr. Saks reached out to Robin and said  
46 that he got a letter from e-Courts that she did not get requesting the  
47 resolution and she only had an unsigned version so we provided it to  
48 them for the third time with the resolution.

1  
2 MR. LEVITON: That is unbelievable.

3  
4 MR. MARMERO: ---

5  
6 MR. LEVITON: Yes. It does signify that they are that the  
7 court is getting close.

8  
9 MR. MARMERO: One would think I mean I have not seen the  
10 email. I wasn't copied on it, but.

11  
12 MS. MOENCH: I'm sorry.

13  
14 MR. MARMERO: You guys don't run the copy.

15  
16 MS. MOENCH: No, but she called me and I'm sorry.

17  
18 MR. MARMERO: Yeah, it sounds like they're coming to  
19 something you would think though if they're asking for that, but as  
20 you remember this the one where currently they lost the entire file.

21  
22 MR. LEVITON: Everything yes.

23  
24 MR. MARMERO: Everything which is kind of strange for the  
25 court.

26  
27 MR. LEVITON: Have we heard anything from the warehouse or  
28 flex space?

29  
30 MR. MARMERO: No, I think it was a meeting or so ago I  
31 indicated I can certainly check in with them - - -

32  
33 MR. LEVION: Poke the bear, yes.

34  
35 MR. MARMERO: But obviously they're not pushing for it  
36 because again it is their case so they certainly could push to bring  
37 it to a hearing at this point, but is kind of just disappear. As I  
38 indicated before I think my sense is they're waiting to see what a  
39 couple other things how they shake out at the planning board level  
40 similar applications I think and then perhaps they will come to some  
41 type of agreement. I'm not sure though because again it's more of a  
42 case where they'd be negotiating with the planning board at that  
43 point.

44  
45 MR. LEVITON: Brian do you know why there are big warehouses  
46 just west of Manalapan Township in Millstone that's sit unoccupied?

47  
48 MR. BOCCANFUSO: I'm sorry what was the question?

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MR. LEVITON: There are a couple of huge warehouses on Route 33 just west of Manalapan Township in Millstone. They're unoccupied and they have been for a long, long time. Do you know why?

MR. BOCCANFUSO: I don't know.

MR. LEVITON: Janice?

MR. MARMERO: Share my insight just from some of the towns I'm involved in especially as a redevelopment attorney. In a few towns we're seeing that some of these warehouses that were built it seemed to be it was kind of a race to get these things finished. It was really the hot thing. This was going to be where it's at. Everything is in the cloud. Everyone's shopping online, that was the new trend, but it sounds like too many of them were built. A lot of them were built on space and now they're having trouble filling them. I'm involved with some towns where some of them got full approval. They came in with all these bells and whistles. They kind of told the board anything they wanted. Now they're coming back and trying to amend those approvals, trying to scale them back. They're asking for very generous pilots, much more generous than what other applications receive because they're not able to close the deal on that because the market has changed.

MR. LEVITON: Interesting. Can we talk about the attorney's request for the board members to state their reasons for denial?

MR. MARMERO: Sure.

MR. LEVITON: I'm always afraid because clearly then litigation can follow.

MR. MARMERO: Sure.

MR. LEVITON: And I don't want to give them anything more than they already have.

MR. MARMERO: Sure. Yeah, and as I stated there's no requirement for you to do that. Obviously when I draft a resolution and certainly you guys get them ahead of time so pay specific attention to this one. Obviously, the resolution I'm going to do my best to encompass what I understood was your reasons for denying it throughout what I heard over the three meetings because he is entitled to know. In fact, he has to know what your reason is because he's entitled to appeal that, but you're right I think by asking you each to put your reason on the record right as you vote is kind of setting you up.

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MR. LEVITON: He's setting us up to exploit.

MR. MARMERO: Yeah, someone might say and I would imagine again with the nature of that application I would imagine and with how long this has been going on and everything you've offered them. I imagine this one would not head towards litigation, but perhaps he was using that as a way to catch it, find a reason.

MR. LEVITON: Yeah, I don't. They did a lot on the record I don't know if we can talk about it, but.

MR. MARMERO: It's done yeah you can now.

MR. LEVITON: Mr. Pape.

MR. WEISS: Just be careful because this is on the record though.

MR. LEVITON: Yes.

MR. WEISS: And it still can be.

MR. LEVITON: Yes. Mr. Pape on behalf of the Sitars worked diligently throughout the week touching base with our attorney and trying to hammer things out in advance. Different proposals were bandied about what we were privy to this evening is what they settled on, the applicant, what the applicant settled upon not Albert but. We learned that they were working earnest and that beyond the tenancy that was proposed they may have other propositions.

MR. MARMERO: Good.

MS. KLOMPUS: So, if the application is denied and this guy's been in the building and already has boxes there, I didn't know any of this. I learned all of this tonight. He can't be in there anymore.

MR. LEVITON: He has to go.

MS. KLOMPUS: He needs to go.

MR. MARMERO: Well, I mean they're allowed to physically.

MS. KLOMPUS: I can see another video of him still in the building.



1 MR. LEVITON: The owner doesn't want him there now because  
2 he.

3  
4 MR. MARMERO: If the owner were to allow him to be in there  
5 he can be in there. I mean if he's in there eating pizza for some  
6 reason I mean that's fine.

7  
8 MR. LEVITON: He can't do business there.

9  
10 MR. MARMERO: Playing cards recreationally that's fine as  
11 long as the owner is okay with him being in there. If he's operating a  
12 business that's when it becomes a problem and if he's doing something  
13 illegal that's when it becomes a problem.

14  
15 MS. KLOMPUS: Because then if he sees another video and he's  
16 in there who's responsible to say something or contact them to say  
17 you're doing something illegally?

18  
19 MR. LEVITON: We have a zoning officer now. We have an  
20 enforcer.

21  
22 MS. KLOMPUS: I'm sorry I just didn't mean to put work on  
23 you.

24  
25 MR. LEVITON: What's his name? Dominic, Dominic Donatelli.  
26 He was a police officer here in town and he's retired and now he works  
27 about four hours a day, five days a week downstairs and his  
28 responsibility is code enforcement. He's very tall. He's very  
29 intimidating. No one's going to say no to him.

30  
31 MS. KLOMPUS: So you're going to send him over to the shed -

32 - -

33  
34 MR. LEVITON: With Adam.

35  
36 MR. WEISS: With a ruler.

37  
38 MR. LEVITON: And Bob. Bob's going too.

39  
40 MR. WECHSLER: Bob's not doing anything.

41  
42 MR. SHALIKAR: So I asked the counsel essentially if he's  
43 done his due diligence right? He affirmed that he had. Isn't it odd  
44 though that if you're playing recreational cards or eating pizza. It's  
45 filmed, it's posted, that's monetized. They're making money. It's part  
46 of their business. His testimony is completely defunct. Am I crazy for  
47 thinking that? Because that was the last card I was going to pull out

1 of my back pocket if this continued, but he's doing business by eating  
2 pizza and playing cards.

3  
4 MR. MARMERO: Yeah and that's the fine line. I guess if he's  
5 monetizing.

6  
7 MR. SHALIKAR: All of his content is monetized.

8  
9 MR. LEVITON: Yeah I did some research and I found out that  
10 every million followers translates roughly to \$500.00 a month. He has  
11 more than three million, \$1,500 bucks give or take.

12  
13 MR. SHALIKAR: There's also views too. It's not just about  
14 followers. It's also how many times your videos are viewed. It's  
15 dollars on top of dollars.

16  
17 MR. LEVITON: My understanding is very limited, but it's not  
18 bad --- pretty well right? Yeah,

19  
20 MR. SHALIKAR: I'm telling you it was just so weak.

21  
22 MR. MARMERO: Now this might be one too where we do that end  
23 of the year deal where we talk about things that maybe need to be  
24 considered. This whole aspect of the social media and the monetization  
25 and whether or not that's business, whether or not that's a primary  
26 business, whether or not it's listed. It's a new thing obviously your  
27 zoning code wouldn't have encompassed that many years ago, but it may  
28 be something you start looking at.

29  
30 MR. LEVITON: I hope we don't because we don't all see eye  
31 to eye on it.

32  
33 MR. MARMERO: Well it would be counsel that would have to  
34 come up with some solution, but it made it a little difficult on this  
35 one because it was always we're here to sell jewelry and watches and  
36 we do have the social media which is a portion of the business. He had  
37 to re-notice and then incorporate it as one of the uses he's asking  
38 for, but it's not really listed in our code and the use not listed in  
39 the code is technically not permitted. So you can make the argument  
40 that he can't really do that from there which is why he had to add it  
41 to the notice. So it's strange, it's very strange situation.

42  
43 MR. BOCCANFUSO: It is. I would imagine it is  
44 extraordinarily difficult to enforce any restriction or regulations  
45 tied to content creation, social media activity, how it's monetized,  
46 how much it's monetized. I mean it would give me fits just thinking  
47 about it.

48

1  
2 MR. LEVITON: I put that on the record so that an  
3 administrative judge would understand it's part of our concern.  
4

5 MR. BOCCANFUSO: Yeah and I understand the concern for sure.  
6 I'm just saying if the township committee felt it was appropriate to  
7 adopt an ordinance that somehow sought to control it or allow it in  
8 certain zones or under certain circumstances, I personally think my  
9 initial reaction at least is it would be a terrible idea because I  
10 don't know how the heck I or Dom.

11  
12 MR. LEVITON: You can't it's impossible.  
13

14 MR. BOCCANFUSO: Or anyone on the police would be able to  
15 enforce it.  
16

17 MR. LEVITON: And you know what, but just because there is  
18 no studio doesn't mean that they don't have capacity. He did and  
19 they're eliminating their studio, but the principal said that what  
20 they do with their phone if they create content is their business. So  
21 to me taking away a studio doesn't change a thing.  
22

23 MR. WECHSLER: The studio comment came out because this  
24 morning he said we don't really need a studio because everything's  
25 done on our iPhone.  
26

27 MR. LEVITON: Right.  
28

29 MR. WECHSLER: So that's how they got that part right.  
30

31 MR. MARMERO: Gave away their playbook.  
32

33 MR. LEVITON: Right and what Michael didn't say it in  
34 public, but he saw after we were referred to Mayberry.  
35

36 MR. WECHSLER: I really wanted to cross-examine him. I know  
37 such good lines.  
38

39 MR. LEVITON: He martialled his audience to come out and  
40 support him which to me is parcel of the problem that we had in the  
41 first place. That people are going to show up en masse.  
42

43 MS. KLOMPUS: Back there was some people. ---  
44

45 MR. LEVITON: Oh Janice you're so clever. And did you notice  
46 that there was a police presence in the room tonight? That's not an  
47 accident.  
48

1 MS. KLOMPUS: That what?

2

3 MR. LEVITON: That there was an officer standing in the  
4 back.

5

6 MR. BOCCANFUSO: Well to be fair, there is nothing in the  
7 land use law that says an applicant can encourage his supporters to  
8 come out and legally and in accordance with the land use law speak in  
9 support of him or his application.

10

11 MR. LEVITON: --- fight.

12

13 MR. BOCCANFUSO: It's a fine line from.

14

15 MR. LEVITON: Yeah.

16

17 MR. BOCCANFUSO: Soliciting support and seeking to  
18 intimidate. I think that's where you have to be careful.

19

20 MR. LEVITON: Well actually.

21

22 MR. BOCCANFUSO: You can't rally people to your cause I  
23 don't agree with that, you definitely can.

24

25 MR. LEVITON: Brian.

26

27 MR. BOCCANFUSO: And in fact if more applicants did, I think  
28 the process would be a lot smoother because we only always hear the  
29 objectors. We never hear from the people who say you know what this is  
30 a good thing for the town.

31

32 MR. WEISS: But you can rally supporters it should be from a  
33 Manalapan neighborhood.

34

35 MR. BOCCANFUSO: Sure, sure that's fair, that's fair.

36

37 MR. LEVITON: When the attorney looked at you people and  
38 told you to only consider what was entered onto the record it was for  
39 pure intimidation purposes. It was.

40

41 MR. MARMERO: Yeah and I've always made it clear to you guys  
42 you can certainly consider that stuff. That's all public. That's no  
43 different if we had some large, let's say we had Gregory's Coffee, he  
44 came here and he said certain things, but if we go home and see a  
45 commercial on TV from him saying something totally different you're  
46 allowed to have.

47

48 MR. WEISS: We're not suspending reality here.

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MR. SHALIKAR: That's absurd. That was a slap in the face.

MS. KLOMPUS: But there are businesses that do go online and sell things. There's --- stores. They go online and they hold a shirt up and everybody says I want one in a medium or whatever.

MR. LEVITON: It's the new paradigm. Mr. Sitar is right.

MS. KLOMPUS: Right they're doing so they can come back and say what other people in town are doing.

MR. WEISS: He's not Gary Michaels though. Tonight they were trying to say we are Gary Michaels. It's just going to be watch repair and jewelry sales.

MR. LEVITON: Yeah.

MR. WEISS: And that's not part of their business model.

MR. LEVITON: Who do they think we are? Someone move to adjourn. Simone Biles is on.

MR. GREGOWICZ: Motion to adjourn.

MR. MARMERO: It will be interesting to see what's on social media the next few days for him.

MR. LEVITON: Oh yeah. We're going to get crucified. Adjourned, yes. Bob moved to adjourn and Josh seconded it.

\*\*\*\*\*