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MEETING IS CALLED TO ORDER:

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

SALUTE TO THE FLAG

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

MR. SHALIKAR: Here.

MS. MOENCH: Mr. Mantagas?

MR. MANTAGAS: Here.

MS. MOENCH: Mr. Harrington?

MR. HARRINGTON: Here.

MS. MOENCH: Ms. Klompus?

MS. KLOMPUS: Here.

MS. MOENCH: Mr. Weiss and Mr. Pochopin are not with us this evening. Chair Leviton?

1 MR. LEVITON: I am here. Before we get down to our regular
2 business, it's my regret to inform you that I have received and
3 accepted the resignation of Mr. David Schertz from his position here
4 on the board. Over the years Mr. Schertz has been an exceptional
5 member of our team, contributing his expertise and dedication to our
6 community. His insights and commitment to upholding zoning regulations
7 have influenced our decisions and have had a positive impact on the
8 development of our town. We regret to see him leave, but we wish him
9 well in his future endeavors. Okay, our first order of business
10 tonight is to accept the minutes from September 19th. I'm sure you've
11 all had an opportunity to review them. Can I get someone to make a
12 motion to accept?

13
14 MR. WECHSLER: I'll make a motion to accept the minutes.

15
16 MR. LEVITON: Thank you Mr. Wechsler. Will someone second
17 that please?

18
19 MR. SHALIKAR: I'll make a motion to second that.

20
21 MR. LEVITON: Thank you Mr. Shalikar.

22
23 **ROLL CALL**

24
25 MS. MOENCH: Mr. Gregowicz?

26
27 MR. GREGOWICZ: Yes.

28
29 MS. MOENCH: Mr. Wechsler?

30
31 MR. WECHSLER: Yes.

32
33 MS. MOENCH: Mr. Shalikar?

34
35 MR. SHALIKAR: Yes.

36
37 MS. MOENCH: Mr. Mantagas?

38
39 MR. MANTAGAS: Yes.

40
41 MS. MOENCH: Mr. Harrington?

42
43 MR. HARRINGTON: Yes.

44
45 MS. MOENCH: Chair Leviton?

46
47 MR. LEVITON: Yes. Okay up next, we need to memorialize
48 resolution number 2432, Mr. Marmero.

1
2 MR. MARMERO: Sure, so for the Board's recollection this was
3 a resolution that memorializes variance approval at 11 Nottingham
4 Road. This was variance relief to legitimize existing, non-compliant
5 features which included pool infrastructure, a pool patio, a driveway,
6 and a deck.

7
8 MR. LEVITON: Thank you counselor.

9
10 MR. MARMERO: Sure.

11
12 MR. LEVITON: Will someone move to memorialize?

13
14 MR. SHALIKAR: I'll make the motion to memorialize.

15
16 MR. LEVITON: Thank you Mr. Shalikar and will someone second
17 that?

18
19 MR. MANTAGAS: I'll second Mr. Chair.

20
21 MR. LEVITON: Thank you Mr. Mantagas.

22
23 **ROLL CALL**

24
25 MS. MOENCH: Mr. Gregowicz?

26
27 MR. GREGOWICZ: Yes.

28
29 MS. MOENCH: Mr. Wechsler?

30
31 MR. WECHSLER: Yes.

32
33 MS. MOENCH: Mr. Shalikar?

34
35 MR. SHALIKAR: Yes.

36
37 MS. MOENCH: Mr. Mantagas?

38
39 MR. MANTAGAS: Yes.

40
41 MS. MOENCH: Chair, sorry.

42
43 MR. LEVITON: Okay, if you're here this evening for
44 application ZBE2408, Ace Sign Company, that application is being
45 carried to November 7th without further notice. Is that correct
46 counselor?
47

1 MR. MARMERO: Yes, that's correct. They did file public
2 notice which was compliant. That public notice was for a meeting that
3 would be this evening so now anyone who was present for that
4 application now has notice of the new date.
5

6 MR. LEVITON: Thank you Mr. Marmero. Okay, our first hearing
7 this evening is number ZBE2434, and the board calls Mr. Yadgarov. Am I
8 saying that correctly?
9

10 MR. YADGAROV: Yes.
11

12 MR. LEVITON: You may come forward sir. You'll come up to
13 the podium. Your baby's fine. You don't need to worry about nothing.
14 Mr. Marmero will swear you in and then I'll ask that you bring the
15 microphone up close to your face like I am.
16

17 MR. MARMERO: Okay, well said sir. Could you raise your
18 right hand? I'll get you sworn in. Do you swear that the testimony you
19 will provide tonight will be the truth, the whole truth, and nothing
20 but the truth?
21

22 MR. YADGAROV: I do.
23

24 MR. MARMERO: Okay and could you state your name and address
25 for the record please sir?
26

27 MS. MOENCH: Could you just step by the microphone? I'm
28 sorry - - - on the mic
29

30 MR. LEVITON: That would be fine. The proceedings are
31 recorded and then transcribed by law so the audio system is sensitive
32 and you do need to be up close.
33

34 MR. YADGAROV: Peter Yadgarov 109 Thompson Manalapan.
35

36 MR. MARMERO: Okay thank you sir.
37

38 MR. LEVITON: And your witness, will he be testifying as
39 well?
40

41 MR. YADGAROV: Yes.
42

43 MR. LEVITON: He should come up and be sworn in as well.
44

45 MR. GRIMM: Good evening members of the board, my name is
46 David Grimm.
47

48 MR. MARMERO: Okay and are you an engineer sir?

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MR. GRIMM: Registered architect in the state of New Jersey.

MR. MARMERO: Architect, okay let's get you sworn in. Do you swear that the testimony you'll provide tonight will be the truth, the whole truth, and nothing but the truth?

MR. GRIMM: I do.

MR. MARMERO: Okay and Mr. Chairman would you like him to elicit some credentials?

MR. LEVITON: Yeah voir dire him. Ask him how to spell his name too.

MR. MARMERO: Sure, if you could spell your name for the record sir.

MR. GRIMM: Yeah absolutely, David D-A-V-I-D, last name Grimm G-R-I-M-M.

MR. MARMERO: Okay and you're an architect you said?

MR. GRIMM: I am, licensed architect in the state of New Jersey, been licensed since 2020, and I'm active, actively licensed and actively insured.

MR. LEVITON: Okay the board accepts your credentials, thank you sir.

MR. GRIMM: Wonderful thank you, good evening board.

MR. LEVITON: Okay Mr. Yadgarov you're here to get variance relief for an addition and several other things. Why don't you tell the board what your proposal looks like and the relief that you need. Sit down, be comfortable sir. Pull the mic close, wonderful.

MR. YADGAROV: Good evening Board, my name is Peter Yadgarov and I'm excited to be and present our application for my future house for my family. I guess the most presentation I will allow to my architect to explain what we're planning and how we're planning to do that.

MR. LEVITON: Mr. Grimm.

MR. GRIMM: Good evening members.

1 MR. LEVITON: Ms. Moench has a handheld mic if you want to
2 stand near your easel.

3
4 MR. GRIMM: That may be easier for me so I can.

5
6 MS. MOENCH: No.

7
8 MR. LEVITON: We don't have one anymore. It's a new system.

9
10 MR. GRIMM: Bear with me then I'm going to set the board
11 down so I can view a little bit what I'm doing. I assume the board has
12 drawings in front of you.

13
14 MR. LEVITON: We have, we have.

15
16 MR. GRIMM: Alright I think that's easiest or is this going
17 to pick me up if I project?

18
19 MS. MOENCH: ---

20
21 MR. GRIMM: So, we're here this evening seeking a C1
22 variance relief for a pre-existing non-conforming lot. Are we hearing
23 that?

24
25 MS. KLOMPUS: Wait, can I put my mic over here?

26
27 MS. MOENCH: Yeah ---

28
29 MR. GRIMM: Whatever's easiest for you, I can sit it, I can
30 stand.

31
32 MS. MOENCH: Perfect.

33
34 MR. GRIMM: Alright great. So again, thank you for your time
35 this evening. Good evening board, good evening board professionals. As
36 Peter indicated we're here today with an application for improvements
37 at his residence. The residence itself is a pre-existing residence,
38 single-family, two-story structure. We're here for C1 variance relief
39 for the undersized lot itself. The lot itself is 61,813 square feet
40 where 80,000 square feet is required for the zone. In front of you on
41 the board is the existing conditions and this represents the removals.
42 I'm going to turn the page to the A2 because I think that's the more
43 telling of the plot plans where we talk about the proposed. And what I
44 think is important in telling about this proposed and this application
45 in general is that all the existing improvements on the lot are
46 conforming. They're conforming in setback. They're conforming in
47 coverage and they're conforming in bulk, and then everything that
48 we've presented today or everything's that proposed continues down

1 that path where the existing home remains compliant, the proposed
2 improvements stay compliant, and that is again in regard to setbacks,
3 coverage, both building and impervious. So, with that in mind, we can
4 take a quick rundown of what the improvements are. We have an existing
5 single-family, two-story home. We're looking to add an entry foyer
6 with a covered entry. We're putting a one-story addition off the rear
7 of the home, a two-car garage to the south of the home, multi-level
8 rear patio. The upper portion being uncovered, the lower portion being
9 covered. Then we have an existing pool that we're looking to expand, a
10 pool as well as a cabana adjacent to the pool with the idea that the
11 improvements are situated to complement the existing features and
12 expand them on this existing lot itself. Again, --- being the existing
13 lot we're not changing the side of the lot, we're not intensifying any
14 of the lot size. Right, we're not making the lot smaller. We're not
15 subdividing or anything like that, and we're looking to provide
16 improvements that are fully compliant with the ordinances in place. So
17 with that in mind, I would like to take you through the interior of
18 the home if we're interested in seeing what's going on there.

19

20 MR. LEVITON: I don't mind, but if you would first tell me
21 what is the justification for the C1 variance that you're seeking?

22

23 MR. GRIMM: Sure, so the hardship itself is the fact that we
24 have a pre-existing, non-conforming lot that right? We have a single-
25 family residence and we'd just like to continue that use and we'd like
26 to maximize the lot to the intent possible for a compliant lot.

27

28 MR. LEVITON: Mr. Marmero did he need to send letters to the
29 neighbors asking if they're interested in selling their property to
30 get a hardship?

31

32 MR. MARMERO: It's one of the ways to perfect the argument
33 and we have seen some do that before. I've seen C1's granted without
34 doing that, but when you do that, you can certainly make the argument
35 that I truly have a hardship because I have this undersized lot. I've
36 tried to purchase additional land. I've tried to sell my land and I
37 couldn't do that. It strengthens the argument, but it's up to you
38 guys.

39

40 MR. GRIMM: And if you don't mind, I can provide some
41 testimony to that. In anticipation of expectation of that I did look
42 up the adjacent lots, 30.3 here and 206 right so these would be my
43 most natural lots to approach as it would keep a lot that was properly
44 shaped not an irregular-shaped lot. I mean I do have a pseudo-
45 irregular shaped lot. I mean both of them are either non-conforming
46 with 206 being 78,000 so undersized and 3.3 is just at 80,150 so they
47 would only have 150 so I don't have options to either of my side to
48 purchase if we so desired.

1
2 MR. LEVITON: Well, thank you for your diligence, Mr. Grimm.
3 Continue with your presentation.
4

5 MR. GRIMM: Absolutely. So, with that in mind, the building
6 itself is 930 square feet. We're putting a 2,000-square-foot addition
7 off the three sides fully compliant with setbacks. Keeping the only
8 existing structure is the shed to remain. So, I forgot to mention we
9 do have a compliant accessory structure shed set to remain, and then
10 the new exterior cabana. Once I bring you through the interior of the
11 home, I'll bring you through what we're proposing in that cabana so we
12 can also provide testimony on how we think that complies with the
13 intention of zoning. So really quickly we'll be here just for a
14 minute. This is the existing home; it's technically classified as two-
15 story with we're calling first and ground. The ground floor is let's
16 call it, fifty percent underground. It's predominantly underground and
17 we're not expanding that. The site is sloped into the rear yard so as
18 we would project it towards the back, we'd go more and more
19 underground, no interest there. But we have three-bedroom, two-bath
20 existing, and you'll see we're expanding to a five-bedroom, four-
21 bathroom configuration, and as my client indicated he's looking
22 forward to making this his primary residence. He is a father of five
23 and a grandfather of.
24

25 MR. YADGAROV: Two.
26

27 MR. GRIMM: A bunch, more coming hopefully God willing, and
28 the idea is this residence is his opportunity to come from the busy
29 city and hopefully show his family how excited he is to be in
30 Manalapan, but also right? This is a little bit of the bait. How are
31 we setting the bait for the family? The house itself, we come into the
32 entry foyer. We see a large table. We're projecting twenty-two people
33 here for this growing family. The front, the right-hand side of the
34 home we view as the sleeping side of the home and we go through the
35 age classes. In the front of the home, we're set up for the grandkids.
36 The middle of the home is set up for a suite for the kids or a pseudo-
37 suite, right? We have no door. This is function as a hall bath and a
38 bath, and then in the rear is the expansion for Peter and his wife for
39 the master suite. Complementing that in the center of the home, right?
40 This is kind of the shared communal space where we have the dining,
41 large kitchen, great room in the rear, and the idea is this whole
42 configuration is really set to optimize both the indoor experience,
43 but then the outdoor experience with upper and lower patios falling
44 out to that pre-existing pool and cabana we're looking to expand, and
45 then the proposed ground floor that remains as is. We're happy with
46 that as is and as I mentioned, as you project towards the back, we
47 just lose light there as we continue to dig underground, and we're
48 just really happy with this configuration as it sits on the first

1 floor. With that in mind, we can quickly flip through the elevations,
2 but this is the front of the home. Primary entrance, we're enhancing
3 that entrance, keeping the home. Secondary entrance into a mudroom
4 pinched between the two-car garage. This I think is the star elevation
5 of the show. This looks out over that patio and cabana with the idea
6 of light and air coming into the home and that idea that Peter will be
7 able to entertain both indoors and outdoors, escape the city a little
8 bit, enjoy the land that he does have here is the real objective of
9 this application. And then with that in mind that kind of then mirrors
10 into the idea that we do have neighbors to the rear, to the side so
11 these are our more private elevations, right? These are also the
12 elevations that reflect the bedrooms so the facades of the building
13 reflect this exact idea. So, we think architecturally speaking does a
14 good job of respecting the existing home on the front, adding a
15 meaningful addition in square footage, but without being overwhelming
16 to the neighbors, right? We're not going as big as possible. We are
17 expanding to the rear, but we think in a respectful manner, right?
18 It's keeping in scale and then where we do have a lot of openness is
19 towards the interior of the lot, and then towards the exterior, we
20 think organized, clean but private elevations which we think are some
21 nice design features for this home itself, and this brings us to my
22 testimony on the cabana, right? So, we have an existing pool that
23 we're looking to expand and this honestly may be a phase two of our
24 application. We're still pricing, but in respect to the process and
25 the board's time we want to ask for everything. So, the idea is the
26 home and the cabana are what we're really looking to do. The expansion
27 of the pool is kind of our dream item if budget allows, but with that
28 in mind so the pool would be plan adjacent. We have the cabana
29 centered on the pool. The cabana itself continues this theme of
30 entertaining our family. We have a twenty-person table. The cabana is
31 shown open and closed with the idea that this is predominantly going
32 to be used in an open configuration. We have no heating and cooling in
33 this cabana, but we would like the glass to close at the end of the
34 season to be able to winterize this space. With that in mind right we
35 have pocket doors on the two sides and sliding doors on the face which
36 will remain open. Again, inclement weather we close it. Other features
37 we have here, this is outdoor seating space, indoor barbecue, and
38 storage for storage and laundry. So, the idea is right we have, you
39 make a mess at the pool with towels, like to be able to clean and
40 display these things here for guests, and then reinforcing the idea
41 this building is not for habitation we enter the bathrooms from the
42 rear. Right so if you're inside the space, if the doors were all
43 closed, you do still need to exit the cabana itself, go to the
44 exterior, and enter the bathrooms. Really the idea is I don't want wet
45 feet running around inside here. I want them to go around to the
46 outside. We also provide a shower. The idea that we want anyone to
47 come over, have a great time, friends of the family be able to use
48 facilities before they use the pool, and not have to enter the home

1 proper. So, we provide those facilities in the cabana here as well and
2 so with that in mind no heating and cooling and I think that's a
3 summary of what we're looking to do here. Bear with me, and then these
4 reflect those elevations for the cabana, and finally I have here. This
5 was a document that was produced in the design review. You may or may
6 not have included in your package, during the process, during the
7 review in zoning there was a question on the building coverage and
8 this is just providing testimony to how we calculated building
9 coverage. As we'll note, we're right on the nose for our total
10 building coverage. The upper patio will not be covered with a roof,
11 wasn't proposed to be covered with a roof, but if it was that would
12 push us over. So just providing testimony that we're not.

13
14 MR. LEVITON: So, I don't believe I've seen that as part of
15 our packet. Oh it's in there?

16
17 MS. MOENCH: It's in there. It's on Google Drive.

18
19 MR. MANTAGAS: Yeah, it was among ---

20
21 MR. LEVITON: Okay so you don't need an F.A.R. is what
22 you're saying.

23
24 MR. GRIMM: Exactly and it was questioned during the review
25 process if we were under or over and worked with Brian in the zoning
26 office by way of this diagram to get on the same page.

27
28 MR. LEVITON: So, you've seen Mr. Boccanfuso's note about
29 the cabana and the cooking facilities. He indicated that cooking
30 facilities would bump the cabana to a secondary structure which is not
31 permitted, and I want to ask Mr. Marmero. Are they seeking approval
32 for a secondary structure? Would that be part of what this board
33 grants in the way of relief?

34
35 MR. MARMERO: So, it seemed to be an accessory structure as
36 far as I could tell classifying it as a cabana.

37
38 MR. LEVITON: Because when they talk about an enclosure,
39 they come close to flirting with that line in my estimation. Mr.
40 Boccanfuso, what are your thoughts?

41
42 MR. BOCCANFUSO: Thank you Mr. Chairman. So, the issue at
43 hand is whether or not the cabana is considered a second dwelling unit
44 which would be strictly prohibited in residential zones. In the bulk
45 of the residential zones in Manalapan residences with multiple
46 dwelling units such as two-families, mother-daughters, and the like
47 are strictly prohibited. The definition of a dwelling unit, while I
48 don't have it committed to memory, it does have a couple of key

1 points. The one that we typically point to is the cooking facilities
2 and provisions for cooking. It also must have provisions for sleeping.
3 It also must have sanitary provisions. So in this case while it does
4 have cooking facilities, I'm not really seeing anything in the
5 structure that could be used as a sleeping facility and I guess you
6 could sleep anywhere. I enjoy camping so I sleep outdoors in the snow,
7 but I'm not really seeing any separate bedroom or anything of that
8 nature. Further the shower and bathroom are accessible only from the
9 outside of the building. So, the structure itself doesn't really have
10 its own provisions. You kind of have to leave the structure to utilize
11 the provisions. So, I think in this case, although it does have
12 cooking facilities given that there's no area that could easily be
13 converted to a bedroom nor is there any area where you could easily
14 access the bathroom and shower from the interior of the home plus the
15 fact that as Mr. Grimm indicated, it's not climate controlled and it's
16 glass effectively on three sides. I would be comfortable with the
17 conclusion that this is not a dwelling unit. The one thing I would ask
18 is that if the board approves the application and the applicant moves
19 forward to zoning permitting that they submit a single-family use
20 affidavit which is basically an acknowledgment that multiple dwellings
21 units are not permitted on the property. They acknowledge that
22 regulation and they agree to comply with it.

23
24 MR. LEVITON: Do you consent to do that Mr. Yadgarov?

25
26 MR. YADGAROV: Absolutely.

27
28 MR. LEVITON: Okay good.

29
30 MR. MARMERO: And I did pull up the definition and I would
31 have to agree with Brian. So the definition for the dwelling unit is a
32 building or part thereof having cooking, sleeping, and sanitary
33 facilities. So it's in hand it has to have all of them which is
34 designed for or occupied by one family and which is entirely separated
35 from any other dwelling unit in the building by vertical walls or
36 horizontal floors. It appears except for access to the outside or a
37 common cellar I think like Brian said the lack of any HVAC system here
38 really does away with the idea or the thought that just design for
39 occupation.

40
41 MR. LEVITON: So, it's an accessory structure and Mr.
42 Yadgarov will sign the affidavit.

43
44 MR. MARMERO: And we can include it as a condition too that
45 there can't be any dwelling in there.

46
47 MR. LEVITON: Let's go out to the board. We'll start with
48 Bob.

1
2 MR. GREGOWICZ: Yeah, are you going to have a washer and
3 dryer in the cabana?
4

5 MR. GRIMM: The objective was to be able to clean towels
6 without bringing the chlorinated objects down.
7

8 MR. GREGOWICZ: Okay could you go further in describing your
9 cooking in there?
10

11 MR. GRIMM: Sure, yeah, we have just two elements we're
12 seeking. We're seeking to have both a gas barbecue and we're seeking
13 to have what would be in my mind like a Brazilian barbecue where you
14 have the ability to have an open fire, charcoal or wood, and then
15 you're familiar maybe with the item that lowers the meat up and down
16 and then a custom hood. So those would be the only features, cooking
17 features, we're looking to have the two barbecue types, and then
18 counter space. So, no dishwasher, no refrigerator again I understand
19 we can prepare food, but the objective is to barbecue in this space
20 and not be in the rain as we do it.
21

22 MR. GREGOWICZ: Okay no more questions.
23

24 MR. LEVITON: Thank you, and Josh?
25

26 MR. SHALIKAR: Yeah, hi there, thank you for your testimony.
27 Just a question on utility back there. I understand that it's a septic
28 system.
29

30 MR. GRIMM: Sure.
31

32 MR. SHALIKAR: Do you have to expand the septic system or
33 it's going to be maintained?
34

35 MR. GRIMM: Sure, so we'll walk you through. I'll come here
36 to the letter. There's kind of four points and I did have the
37 opportunity to speak to and I'll forget her name. I have it here, bear
38 with me.
39

40 MR. LEVITON: Margaret Young.
41

42 MR. GRIMM: Margie, Margie at Freehold Area Department of
43 Health so we received this letter. I called her. We had discussion.
44 We're in complete agreement on point one, two, and three. We have an
45 existing system that's failed. We do not plan to reuse it. The current
46 improved plan is three bedrooms. We have five and an additional bed
47 and bath or excuse me an additional bathroom in the cabana so we'll
48 design a system for six. It will be a new system. So we're absolutely

1 in agreement one, two, and three, and then item number four she brings
2 by way of the review letter the attention that we are also on a well.
3 We have worked diligently to get the exact location of the well, have
4 not yet succeeded, but with that in mind we are fully prepared to have
5 our application contingent on approval from both Freehold Health
6 Department and the engineering team here with the idea that the septic
7 system will be new. It will be sized for all the bathrooms on the site
8 and it will be located in the front yard. We will either, the well
9 will either be outside of the buffer once we figure out where that
10 well is. We've metal detected it. We actually think it's under the
11 driveway where we do not want it, but we're not ready to start ripping
12 things up, but the idea is we will come to the board with a fully
13 compliant well and septic system. If that means a new system or
14 absolutely new septic system, we're prepared as well for a new well if
15 necessary to become compliant and with my conversation with Freehold
16 Department of Health. She seemed perfectly reasonable that we could
17 relocate the well, if necessary, as well to accommodate that septic
18 system.

19

20 MR. LEVITON: So, for the benefit of board members who may
21 not know and the public who may or may not care, our health officer
22 has retired in the recent past and we are sharing services with
23 Freehold Township and their health officer serves as our health
24 officer. I also spoke with Ms. Young about this application and she
25 has indicated that he will be working alongside of her and he will be
26 compliant with the things that Mr. Grimm has testified on his behalf
27 for and Mr. Marmero will write that in as a condition.

28

29 MR. MARMERO: That was my next question.

30

31 MR. LEVITON: Yeah.

32

33 MR. MARMERO: Yeah so, I always include a condition for any
34 outside agency approvals in that because of the shared service that'll
35 include as an outside agency.

36

37 MR. LEVITON: And that letter was addressed to our board and
38 we thank Ms. Moench for forwarding it to Mr. Yadgarov on our behalf.
39 Anything else?

40

41 MR. SHALIKAR: That's it, thank you.

42

43 MR. LEVITON: Mr. Shalikar, thank you. Mr. Wechsler?

44

45 MR. WECHSLER: Thank you Mr. Chairman. Are you currently
46 living here Peter or do you just?

47

48 MR. YADGAROV: No.

1
2 MR. WECHSLER: You're not currently living here. So, with
3 all the additions and removals I see we're all picking up about seven
4 percent impervious.

5
6 MR. GRIMM: That's correct.

7
8 MR. WECHSLER: Now are we encountering issues with water
9 runoff from the roofs and any other areas?

10
11 MR. GRIMM: I've walked the site three times. Currently
12 everything drains to the street right so we're sloped from front to
13 back. Currently I have no pooling or ponding, but to be fair it has
14 been very dry over the last three months. Any and all, again we'll
15 work with the engineering department and we plan on providing grading
16 and drainage plan for review and approval with our application as
17 well. We just have not mobilized our engineers in advance of this C1
18 variance, but the idea is we project no water building up on adjacent
19 properties due to our addition. We'll have grading and drainage review
20 as part of our application.

21
22 MR. WECHSLER: And you know approximate where the closest
23 drain is to this property? The closest to the drain?

24
25 MR. GRIMM: Bear with me I just want to, I don't know off
26 hand. I'm not sure it was noted on my survey here. Yeah, unfortunately
27 I don't have it noted on the front, but the objective would be to
28 direct all water, work with the land, direct all water to the front
29 and/or if we don't believe as though we can through natural resources
30 and we do believe we're going to create any type of issue with pooling
31 or ponding in the rear or negative impact on adjacent properties we'll
32 of course work with the engineering team for water retention on site.

33
34 MR. WECHSLER: And I understand this is all --- of the
35 process right now, but where would you be placing the new septic
36 system?

37
38 MR. GRIMM: Sure, so the new septic system will be in the
39 front yard within between the street and the front. The objective
40 right now is to utilize this open space in the front. We think to the
41 best of our knowledge the well is currently located under the drive
42 right here. So ideally that gives us our hundred-foot buffer. The
43 first thing we'll do is test soils, right? We will poke around in the
44 front yard and look for compatible soils before we have to bring in
45 any type of select fill in, but obviously soil is going to tell us
46 where we can put it in the front yard, and then ideally there will be
47 an existing hundred-foot buffer. If not, we'll either relocate well to

1 one of our two side yards to gain that buffer based on our soil excuse
2 me soil testing in the front yard.

3
4 MR. WECHSLER: So, you'd see no concern in additional seven
5 percent water plus runoff running past the septic system?

6
7 MR. GRIMM: No, I think we have adequate land and separation
8 between the septic in the front and our heavy addition in the rear.
9 We'll bring the water around the front retaining if necessary.

10
11 MR. WECHSLER: Okay thank you, we're good.

12
13 MR. LEVITON: Mr. Grimm testified that they were going to
14 submit an engineering plan. Is that necessary? Does he have to?

15
16 MR. BOCCANFUSO: So, any time you do a pool, you do have to
17 do a grading plan prepared by an engineer or I believe an architect
18 can do it, but it needs to be based upon the survey which Mr. Grimm
19 has already done. Given the, let me back up a second, if it's just a
20 building addition or an accessory structure, it is not a standard
21 requirement to provide a grading and drainage plan. However, given the
22 scope and nature of what's proposed here and given the fact that a
23 grading plan is required for the pool anyway, I would recommend that a
24 grading plan for the entirety of the proposed improvements be
25 provided. It's something I already discussed with Mr. Grimm in this
26 application's infancy. He has no issue with it. He just wanted to go
27 through the process and make sure that first of all hopefully he can
28 get an approval, but even if he needed to make some revisions, he
29 wanted to make those first before engaging in employing an engineer.

30
31 MR. LEVITON: Makes sense.

32
33 MR. BOCCANFUSO: I don't take any exception to the
34 testimony. I think that the property is generally graded from back to
35 front. I don't anticipate that there's going to be any issue with an
36 engineer designing a plan that's going to handle the stormwater runoff
37 from the new impervious areas. Our ordinance requires, does have
38 specific requirements for stormwater management for what we call non-
39 major stormwater developments, essentially smaller type improvements.
40 It's just that you really can't increase flow and usually, it's a
41 pretty simple fix implementing at most a dry well or dry wells or
42 recharge trench or something like that. I mean given the size of the
43 property, the existing grading, the fact that there isn't a whole lot
44 of increase in impervious coverage, I think it's going to be a
45 relatively simple design for any engineer.

46

1 MR. LEVITON: So, Mr. Yadgarov you'd have no problem with
2 the submission of a grading plan being a condition of approval as
3 well?

4
5 MR. YADGAROV: No, no problem.

6
7 MR. LEVITON: Mr. Marmero, you'll write that in?

8
9 MR. MARMERO: Absolutely.

10
11 MR. LEVITON: And Brian is that something that we'd have Mr.
12 Danny Lopez, our engineer, review?

13
14 MR. BOCCANFUSO: I will probably keep this one in house.
15 Typically, only new, single-family homes do we kind of shop out to our
16 consulting engineer. I handle most of the pool reviews because there's
17 no engineering inspections for those. They're just kind of approved
18 and it's expected that the applicant is going to do what they show on
19 their plan, so to be determined. Most likely I'll keep this one in
20 house and review it myself.

21
22 MR. LEVITON: And for the public's benefit, Mr. Boccanfuso
23 up until very recently he's now the administrator of zoning, but he
24 was this board's engineer and I believe he is the township engineer
25 now. Is that correct?

26
27 MR. BOCCANFUSO: That's correct.

28
29 MR. LEVITON: Okay.

30
31 MR. BOCCANFUSO: It wasn't very recently anymore. It's been
32 recently, but not very, seven, eight months.

33
34 MR. LEVITON: I stand corrected. Okay, now Mr. Grimm you
35 said you were going to poke around the front to look for a new place
36 to put your well and your septic field. I go by this property almost
37 every day. It's well set back as you know. It's in a very wooded area.
38 I'd also, I don't know what Mr. Yadgarov or you know about Manalapan
39 Township, but there's a Shade Tree Commission and The Shade Tree
40 Commission, they want to be involved with every tree removal and I'd
41 like you to commit to working with The Shade Tree Commission as well.

42
43 MR. GRIMM: We commit to meet all requirements of the Shade
44 Tree Commission and work with whatever members of the town to move our
45 application forward.

46
47 MR. LEVITON: So, I will point out that our counselor is
48 making copious notes and we thank you for that, Mr. Mantagas.

1
2 MR. MANTAGAS: No questions Mr. Chairman. Mr. Grimm answered
3 my question.

4
5 MR. LEVITON: Thank you, sir. John?

6
7 MR. HARRINGTON: No questions Mr. Grimm. Thank you for your
8 testimony.

9
10 MR. LEVITON: Thank you Mr. Harrington and Ms. Klompus?

11
12 MS. KLOMPUS: No questions unless he has somebody else he'd
13 let live here because this looks very nice.

14
15 MR. GRIMM: Thank you.

16
17 MR. LEVITON: Thank you Ms. Klompus.

18
19 MR. MARMERO: Mr. Chairman can I ask a clarifying question?

20
21 MR. LEVITON: Yes of course.

22
23 MR. MARMERO: Just to clarify we've talked about several
24 different improvements. There's the addition to the home, the cabana,
25 the potential expansion of the pool, and I think you testified all of
26 the improvements comply in terms of bulk standards so there's no bulk
27 variance issues there with the locations. It's just the undersized lot
28 that necessitates the variance, is that accurate?

29
30 MR. GRIMM: That's correct.

31
32 MR. MARMERO: So, anything, anything you put on this lot, a
33 shed or anything is going to require variance relief at this point
34 because of the undersized nature?

35
36 MR. GRIMM: Exactly and so we tried to put our arms around
37 everything we were looking for because we understand and appreciate
38 the lot in of itself.

39
40 MR. MARMERO: And then one more if I could. So in terms of
41 timing, if you were fortunate enough to receive approvals tonight, how
42 long would you anticipate for pulling permits for these improvements?

43
44 MR. GRIMM: Sure, so we have our engineers set to mobilize
45 as of next week, so ideally month or two to complete that back-and-
46 forth process with engineering. We'll be performing construction
47 documents architecturally in conjunction with the objective of

1 submission by end of year. We know it's aggressive timeline, but Peter
2 would love to break ground as early as start of next year.

3
4 MR. MARMERO: Okay, and I ask because one of the issues the
5 board has had in the past was variances that have been granted and
6 then have lingered over time because our code doesn't have a duration.
7 I think it will in the near future, but what we'd like to do is apply
8 a one-year duration of time from the resolution that grants the
9 variance until the time of pulling the permits. So, I just wanted to
10 make sure that timing worked for you guys.

11
12 MR. GRIMM: Well within our objective, thank you.

13
14 MR. LEVITON: Thank you Mr. Marmero. At this time, I'm going
15 to go out to the public and ask if there's anyone who wants to ask Mr.
16 Grimm or Mr. Yadgarov a question about their proposal or address the
17 board. Okay, seeing none I will close public and ask someone to make a
18 motion.

19
20 MR. GREGOWICZ: I'll make the motion to approve the
21 application along with any and all conditions that were raised by the
22 board professionals and the board members.

23
24 MR. SHALIKAR: I'll second that.

25
26 MR. LEVITON: Mr. Shalikar second and gentlemen I thank you
27 both.

28
29 MR. MARMERO: So yeah, then just to sum up the relief. So,
30 the motion as granted was with all conditions and relief as mentioned
31 by the professionals. So again, as I just asked the applicant, this is
32 a C1 variance related solely to the undersized nature of the lot.
33 There're several different improvements being proposed, but all of
34 them meet the setback requirements so there's no individual relief
35 needed for those improvements; it's just due to the nature of the lot
36 being undersized. In addition to that relief, we did hear a few
37 different conditions that were discussed. We talked about the
38 applicant's agreement to submit a grading and drainage plan as
39 necessary. We talked about a condition that there would be no dwelling
40 in the cabana house. We talked about the applicant agreeing to meet
41 and/or comply with any conditions of The Shade Tree Commission.
42 Obviously, I always include a condition for outside agency approvals
43 and that will include the septic and the well approvals from the
44 shared service with Freehold, and then we discussed a one-year
45 duration of the variance which would run from the time the resolution
46 was memorialized until the time that the permits were pulled.

47
48 MR. LEVITON: Thank you Mr. Marmero. Call it Janice.

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ROLL CALL

MS. MOENCH: Mr. Gregowicz?

MR. GREGOWICZ: Yes.

MS. MOENCH: Mr. Wechsler?

MR. WECHSLER: Yes.

MS. MOENCH: Mr. Shalika?

MR. SHALIKAR: Yes.

MS. MOENCH: Mr. Mantagas?

MR. MANTAGAS: Yes.

MS. MOENCH: Mr. Harrington?

MR. HARRINGTON: Yes.

MS. MOENCH: Ms. Klompus?

MS. KLOMPUS: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Mr. Grimm your design is lovely and Mr. Yadgarov congratulations to you and welcome to Manalapan Township.

MR. YADGAROV: Thank you very much.

MR. GRIMM: Thank you for your time, members of the board, thank you.

MR. LEVITON: The board calls Dr. Klepner, if it pleases them, and friend. Hello sir hello.

MR. KLEPNER: Good evening.

MR. LEVITON: Mr. Marmero will swear you both in.

MR. MARMERO: If you raise your right hand, I'll get you sworn in. In fact, if you're both going to testify, I'll wait until you're both up. Take your time. All three of you can raise your right hand or just two of you whatever - - - Do you swear the testimony that

1 you'll provide tonight will be the truth, the whole truth, and nothing
2 but the truth?

3
4 MRS. KLEPNER: Yes.

5
6 MR. MARMERO: Okay and can each of you state your name and
7 address for the record please?

8
9 MR. KLEPNER: Stephen Klepner 33 Shira Lane Manalapan.

10
11 MR. MARMERO: Okay and your name ma'am?

12
13 MRS. KLEPNER: Rebecca Klepner also 33 Shira Lane.

14
15 MR. MARMERO: What was the last name?

16
17 MRS. KLEPNER: Klepner K-L-E-P-N-E-R.

18
19 MR. MARMERO: Gotcha.

20
21 MR. LEVTON: Get comfortable and before we get started with
22 the relief that you need; I need to put on the record that I got a
23 call today from Ms. Moench who I know you've been working with in
24 advance and she wanted to know if I was going to recuse myself from
25 hearing your case. I'm not on the 200-foot list as you know since you
26 mailed it out, but I live at number 28. I'm across the street and
27 three or four houses down so we are neighbors and I and you as well
28 Dr. Barnet I am not recusing myself because we don't know each other
29 and we have no financial dealings. So why don't you tell the board
30 what you're here for this evening and the variance relief that you
31 seek.

32
33 MR. KLEPNER: So, our current house is in violation of the
34 front yard setback and we're trying to expand our house for our
35 growing family. So, our proposed addition would be seven and a half
36 feet over in one area of the side yard setback and we'd like it to
37 meet the current conditions of the front yard setback that we have in
38 our current house and so we're asking for relief of the variance.

39
40 MR. LEVITON: So, the house as it is compliant?

41
42 MR. KLEPNER: Yes.

43
44 MR. LEVITON: It's the ---

45
46 MR. KLEPNER: Well, isn't it I was told if it's a hundred-
47 foot setback, the front of our house is ninety feet from the street.

48

1 MR. LEVITON: Brian is this a pre-existing, non-conforming
2 home?

3
4 MR. BOCCANFUSO: It is. So, the existing front setback does
5 not comply with the zoning regulation, the current zoning regulations.
6 The proposed addition while I have the microphone, I would like to
7 point out that in my report I indicated that the proposed setback to
8 the addition is 90.2 feet. In fact, that appears to be incorrect. That
9 is the existing setback to the house. The proposed setback is 92.18
10 feet so just about two feet more. Still non-compliant, not as non-
11 compliant as the existing home, but still requires a variance relief
12 in addition to the side setback relief that we'll get to shortly.

13
14 MR. LEVITON: Do you know the history and how that came to
15 be?

16
17 MR. BOCCANFUSO: Quite honestly, I don't. Oftentimes I did
18 not find any previous variance relief. So sometimes there is zoning
19 changes on these properties. I'm not sure if that was the case here.
20 If the house was originally constructed where ninety feet was required
21 and then subsequently the zoning regulations changed to require a
22 hundred feet. That is fairly common particularly in these rural zones
23 of the township, but I'm not sure exactly if that's what happened here
24 or if it's something that just simply got missed. Occasionally that
25 happens as well.

26
27 MR. LEVITON: Do you typically check for previous?

28
29 MR. BOCCANFUSO: Yes. I do check for previous resolutions
30 because depending on the way it's worded it could potentially allow
31 for additions. If there was a variance granted depending on the
32 language in the resolution, any conditions associated with it, it
33 could have been a situation where this proposed addition, the 92.18-
34 foot front setback may not require variance relief so it is something
35 that I do check as part of my review of these variance applications.

36
37 MR. LEVITON: So that's interesting to me because I was
38 friendly with the Weinstein's from whom you purchased your home and
39 they had plans for an addition and obviously these are new plans that
40 you have nothing to do with that. It's surprising that that's not on
41 record, but you went and did this independent of what the previous
42 owner did.

43
44 MR. KLEPNER: Yes, yes.

45
46 MRS. KLEPNER: I wonder if they were doing something
47 similar.

48

1 MR. BOCCANFUSO: I suspect Chairman that it was a zoning
2 change, that would be my guess.

3
4 MR. LEVITON: Thank you sir, Bob?

5
6 MR. GREGOWICZ: No questions.

7
8 MR. LEVITON: Joshua?

9
10 MR. SHALIKAR: No questions.

11
12 MR. LEVITON: Michael?

13
14 MR. WECHSLER: No questions.

15
16 MR. LEVITON: Basil?

17
18 MR. MANTAGAS: No questions.

19
20 MR. LEVITON: John?

21
22 MR. HARRINGTON: No questions.

23
24 MR. LEVITON: And Stacey?

25
26 MS. KLOMPUS: No questions.

27
28 MR. LEVITON: I also have no questions. I'm going to go out
29 to the public and they have no questions. It's a theme. Albert?

30
31 MR. MARMERO: So, the applicant this evening needs variances
32 for a couple of items. We heard testimony mainly regarding the front
33 yard setback variance and it sounds like as we heard there's a hundred
34 foot required front yard setback the home as it exists already is into
35 that front yard setback at about ninety feet. It sounds like what the
36 applicant wants to do is have the addition line up or somewhat line up
37 with the front of the home so obviously the addition would also be
38 encroaching. The other encroachment which we haven't really addressed
39 is the side setback. So according to Brian's report the minimum
40 required side setback is thirty-five feet whereas a side setback of
41 27.45 feet is proposed for the addition.

42
43 MR. LEVITON: Will someone make a motion?

44
45 MR. SHALIKAR: I'll make a motion to accept the application.

46
47 MR. MARMERO: Yeah, that might be a good idea. Mr. Chairman
48 really quick one of the things being discussed since the home itself

1 is also within the setback it may make sense just to also grant that
2 variance relief too. It already exists there and then that leaves like
3 as Janice says it legitimizes the location of the home as well.

4
5 MR. LEVITON: So, it'll be subsumed in the ---

6
7 MR. MARMERO: Yeah, you might want to include that within
8 there.

9
10 MR. LEVITON: Any objections folks? Okay so Mr. Shalika has
11 moved to accept and I need someone to second the motion.

12
13 MR. WECHSLER: I'll second the motion.

14
15 MR. LEVITON: And Mr. Wechsler, we thank you as well.

16
17 **ROLL CALL**

18
19 MS. MOENCH: Mr. Gregowicz?

20
21 MR. GREGOWICZ: Yes.

22
23 MS. MOENCH: Mr. Wechsler?

24
25 MR. WECHSLER: Yes.

26
27 MS. MOENCH: Mr. Shalika?

28
29 MR. SHALIKAR: Yes.

30
31 MS. MOENCH: Mr. Mantagas?

32
33 MR. MANTAGAS: Yes.

34
35 MS. MOENCH: Mr. Harrington?

36
37 MR. HARRINGTON: Yes.

38
39 MS. MOENCH: Mr. Klompus, Ms. Klompus sorry?

40
41 MS. KLOMPUS: Yes.

42
43 MS. MOENCH: Chair Leviton?

44
45 MR. LEVITON: So, congratulations and you heard Mr. Marmero
46 tell our last applicant that you have a year to pull permits.

47
48 MS. MOENCH: Can I just put something on the record?

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MR. LEVITON: Mr. Marmero will explain further. They look confused, but before he does go ahead.

MS. MOENCH: I just want to clarify I know you're having issues with the actual survey, providing the actual survey to scale to us. So, when you do go to submit this, this plan will not work. You're going to need the actual.

MR. KLEPNER: It's coming in the mail. They're sending me.

MS. MOENCH: Perfect so when you get that, make a bunch of copies so that, okay? Alright, I'm sorry.

MR. LEVITON: Albert?

MR. MARMERO: And with respect to what the Chairman was saying about the one-year duration, what Manalapan is looking to do is to create a one-year duration for the variance. So once the variance is granted at the next meeting there will be a resolution that memorializes the variance. There would then be a one-year period of time for you to pull construction permits for what you're planning to do. If for some reason you needed more than a year you could always come back and explain to them why you need more than a year.

MRS. KLEPNER: Okay that makes sense.

MR. LEVITON: You understand? We're going to make it a condition and it'll appear in the resolution that this board will memorialize at our next regular meeting. So, you effectively have a year and two weeks. Okay?

MR. KLEPNER: Thank you very much.

MRS. KLEPNER: And I think we can start construction until it's warmer again. Once it approaches winter, I think they would so hopefully would be fine.

MR. LEVITON: The thing is the board has in the past approved certain things that never get finished. They just hang out there and so we're in the process of having our ordinance retooled to prohibit that and until such a time as it's rewritten, we're going to start including it in resolutions.

MR. MARMERO: Once you pull permits, you're good with them you can always extend your permits if it's cold, or the weather's not right, or whatever, but once you pull the permits you then clear everything you need to with this group.

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MR. BOCCANFUSO: Yeah, the threshold is the pulling of permits which I would think a year is more than enough time assume that you are going to go ahead with this. If it takes you awhile, and then you run into weather delays during construction there's really no deadline on that. You can get extensions as it pertains to this approval. It's just the permit is the threshold.

MR. LEVITON: Your plans are beautiful by the way.

MR. KLEPNER: We're excited about them, thank you.

MR. MARMERO: Best of luck.

MR. LEVITON: You're welcome. Good luck to you all. Anybody need a break before we go on?

MR. MARMERO: You serving coffee?

MR. LEVITON: In that case the board calls Mr. McKenna, application 2430. Mr. McKenna, hello sir.

MR. MCKENNA: Hi, how are you?

MR. LEVITON: I'm well thank you. How are you?

MR. MCKENNA: Hanging in there. First, I'd like to apologize

MS. MOENCH: Just make sure you talk,

MR. LEVITON: Before you tell us about being misled, and we're going to listen.

MR. MCKENNA: I was misled so I apologize.

MR. LEVITON: Don't, don't be sorry. It's fine. You need to be sworn in.

MR. MARMERO: Yeah, let me get you sworn in first. Do you swear the testimony you will provide tonight will be the truth, the whole truth, and nothing but the truth?

MR. MCKENNA: Yes, I do.

MR. MARMERO: Okay, go ahead sir.

1 MR. LEVITON: And Mr. McKenna, also remember you need to
2 speak into the mic the way I am so that it's recorded, okay. Talk to
3 us sir.

4
5 MR. MCKENNA: So, when I bought the house, I bought my house
6 back in January. When I bought it needed repairs on the black top that
7 was there. So being that I was doing the black top, I figured I'd do
8 some more work in front of the house, make it look better and
9 presentable. Also on my side yard, when I went out my side door if it
10 rained three or four days, you couldn't go out there, mud and grass.
11 You couldn't walk out there. So, I called the landscaper. When I
12 called the landscaper, the landscaper told me I did not need no
13 permits or anything else. It was all landscaping. I wasn't cutting no
14 curbs out to make a driveway or anything like that. So, I said okay
15 and that's why I apologize because I didn't come down and find out if
16 it was true. I had a couple of guys come give me estimates, and they
17 basically said the same thing. You're not making any curb cuts so
18 you'll be okay. What I did do is I took the driveway from one side
19 and transferred to the other side, and then I made a patio behind the
20 fence in the yard, but I did put drainage in there. I put stone so it
21 didn't bother my neighbors after I knocked on their doors and said
22 listen, I don't want to come in and just claim my spot. This is what I
23 would like to do if it's okay with you, and I know it's hearsay, but
24 they were okay with it. It made the property look better than it was
25 and more livable. That's basically what I did and then the zoning
26 officer came by, which I never saw him, left a letter. I didn't see it
27 because they were all working, everything was going on out there until
28 it practically was done. So again, I'm asking if I can get a variance
29 for leaving the work that I did do the way it is.

30
31 MR. LEVITON: Okay Mr. McKenna there's a lot to unpack
32 there. You need to legitimize the patio. Is that the backyard patio?

33
34 MR. MCKENNA: Yes, the backyard patio.

35
36 MR. LEVITON: You also need to ---

37
38 MR. MCKENNA: And I submitted one of these where I drew up
39 exactly what I did.

40
41 MR. LEVITON: Okay so you're holding up a survey that I
42 believe was from 1983.

43
44 MR. MCKENNA: Right.

45
46 MR. LEVITON: Am I correct?

47

1 MR. MCKENNA: Well, this is a survey I received when I
2 bought the house.

3
4 MR. LEVITON: And it's written on there that it was in 1983
5 it was drawn up. Did you color it? Is that what?

6
7 MR. MCKENNA: I colored it to show where I put grass, where
8 I put stone, where I put black top, where I put the patio, and where
9 there still is grass left. I didn't take all the grass away. I have a
10 whole backyard fifty almost by a hundred still landscaping back there.
11 I didn't do it to get rid of trees or anything like that. I did it
12 just to make it more livable and accessible.

13
14 MR. LEVITON: So, Mr. McKenna, this board appreciates your
15 contrition and we appreciate the improvements that you make to your
16 property. It improves the loveliness of town for lack of a better
17 word.

18
19 MR. MCKENNA: Right.

20
21 MR. LEVITON: However, this board by law needs to look at
22 these improvements as if they were not. As if you were asking
23 permission to do them, not forgiveness for having done them. So we're
24 going to take a look at it with that perspective and I will ask you to
25 take a look at the pictures you submitted and talk to the board about
26 them. Let's start with number one. Number one appears to be where the
27 driveway was. I don't know and I'd like you to speak to it.

28
29 MS. MOENCH: Do you have the pictures in front of you?

30
31 MR. MCKENNA: I have some of them.

32
33 MS. MOENCH: Okay because I numbered them for you guys so he
34 might not know what you're referring to.

35
36 MR. MCKENNA: So, if it's this picture here, if it's this
37 picture here.

38
39 MR. LEVITON: That's not the one. That's number three. Okay,
40 you're going to talk to the board. Explain to the board what number
41 one looks like and the one you're holding.

42
43 MS. MOENCH: Number three was the existing. Why don't we
44 give Mr. McKenna the pictures because you guys have them on the Google
45 Drive?

46
47 MR. MANTAGAS: Yeah, I have them on the Google Drive.

48

1 MS. KLOMPUS: Yeah, we can see them. I think number three
2 was his existing and number two is what he turned.

3
4 MR. MARMERO: Yeah.

5
6 MR. LEVITON: To me it's within a foot. I don't like when
7 it's a foot, but that doesn't mean you should vote the way.

8
9 MS. KLOMPUS: Yeah, one and two looks like now, three would
10 be existing.

11
12 MS. MOENCH: Yeah, so this is what they're looking at. I
13 just need these back, but this is what they're looking at. Okay, so
14 they're numbered.

15
16 MR. MCKENNA: Okay.

17
18 MS. MOENCH: Okay honey.

19
20 MR. MCKENNA: Okay so number one we're talking about?

21
22 MR. LEVITON: Please.

23
24 MR. MCKENNA: On number one where that walkway is.

25
26 MR. LEVITON: Yes.

27
28 MR. MCKENNA: That used to be the black top driveway.

29
30 MR. LEVITON: Yes, that's what I assumed.

31
32 MR. MCKENNA: That needed to be fixed. It needed to be
33 ripped out and everything else.

34
35 MR. LEVITON: Where we see in that picture, the actual black
36 top driveway that's all new?

37
38 MR. MCKENNA: That's all new, yes. So what I did is I ripped
39 it out because it went up to the front step. I never ripped the stoop
40 out. The stoop and the steps are still there. So what I did is I took
41 that out and I made that walkway with the grass going up to where the
42 gardening area was where the stoop was.

43
44 MR. LEVITON: And then when we see picture number two which
45 has garbage pails in the street, two cars on the driveway, and we see
46 the brown house next door.

47

1 MR. MCKENNA: Yeah, I'm looking for it, one second. Number
2 seven, five, six.

3
4 MS. MOENCH: Did they steal one?

5
6 MR. MCKENNA: I don't see number two.

7
8 MR. LEVITON: It's okay you don't need the picture, just let
9 me ask you about it, but I'm referencing number two for the record.

10
11 MR. MCKENNA: I may have it. It's got a garbage pail you
12 said?

13
14 MR. LEVITON: No, it's okay. You don't need it because you
15 can answer the question. Everything about the driveway that we can see
16 as it is today is brand new.

17
18 MR. MCKENNA: Yes.

19
20 MR. LEVITON: Okay.

21
22 MR. MCKENNA: That was grass at one time. So what I
23 basically did is I took the driveway from one side of the house and
24 brought it to the other side of the house.

25
26 MR. LEVITON: And we see, our picture number three appears
27 to be what the house looked like prior to you making any improvements.

28
29 MR. MCKENNA: Yes.

30
31 MR. LEVITON: Okay now I come to the backyard. Four is a
32 picture of your deck.

33
34 MR. MCKENNA: That was there.

35
36 MR. LEVITON: That was there. Five is what you've done with
37 the patio.

38
39 MR. MCKENNA: With the pavers right.

40
41 MR. LEVITON: Pavers and six has the open gate that shows
42 the driveway leading into the backyard.

43
44 MR. MCKENNA: Correct. Now if you see the open gate where it
45 leads to the yard, you see the white on there is all stone.

46
47
48 MR. LEVITON: Yes.

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MR. MCKENNA: So that's between my neighbors and mine so it's a drainage.

MR. LEVITON: Yes, I understand. May I ask Mr. McKenna, what is it that identified this as a problem? Why are you before us this evening? How did it come to the attention of the zoning officer?

MR. MCKENNA: To come here?

MR. LEVITON: Yes.

MR. MCKENNA: I received a letter in my mailbox.

MR. LEVITON: I know so I'll have to ask Brian then. Was there a complaint Brian?

MR. BOCCANFUSO: No, it was a periodic observation. Our code enforcement department drives around town and noticed the ongoing construction with no permits; flat patio, driveway construction, and the like. So a notice of violation was sent. I believe actually two were sent and then Mr. McKenna called me and that kind of started the process.

MR. LEVITON: That is amazing. Thank you for that.

MR. MCKENNA: I called him immediately.

MR. BOCCANFUSO: Well second letter, I wouldn't say immediately.

MR. MCKENNA: You received the first one, because you did mention it to me. I was going to send you out another letter if I didn't hear from you in two days.

MR. BOCCANFUSO: In short order it didn't rise to the level of a summons fortunately so.

MR. LEVITON: Okay so Mr. McKenna you need to put on the record what the problem with the patio is. Let's start there. What kind of relief are you looking for from this board as it relates to the patio only?

MR. MCKENNA: Only the patio only. I'm asking the board if we could leave it the way it is because I could get more use out of my yard plus before I did the patio it was all uneven. It had grass there and weeds, but there was puddles there.

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MR. LEVITON: It's a lovely patio Mr. McKenna. Is it encroaching on the side setback?

MR. MCKENNA: It's encroaching on the setback from the side setback.

MR. LEVITON: So, we need to define for the record what the encroachment is. How many feet, how many inches, do you know?

MS. MOENCH: That's in Brian's e-mail. That's in Brian's denial, remember? With the application.

MR. MCKENNA: I'm trying to make sure I'm getting the correct one.

MR. LEVITON: Of course, take your time sir, and Ms. Moench thank you. It'll be the first one there, number one.

MS. MOENCH: I don't have my glasses on, but ---

MR. MCKENNA: Okay so on here it says porch patio and similar structure is under the code and not more than six feet above grade shall conform to the requirements of the structure and 95-51 requires the setback says R4 zone is five feet where I am set back only at two feet.

MR. LEVITON: Okay so you are encroaching three feet into the setback. Mr. Marmero you've got that?

MR. MARMERO: I do.

MR. LEVITON: Okay, then let's talk about then I want to skip to the shed. We'll come back to the driveway. It's not number two it's number three where you're looking Mr. McKenna. Let's put that on the record. What type of problem does the shed have? What kind of relief does the board need to give you?

MR. MCKENNA: Well, the shed when I bought the house, they received some kind of variance for it and I was told that if I touched it then I would have to come and ask for a variance.

MR. LEVITON: Yes.

MR. MCKENNA: So, I'm doing nothing with the shed at all.

MR. LEVITON: Okay so for the board then his shed needs to be five feet from the property line. He's two feet, however, he has an

1 easement on his property. That has to do with the Western Monmouth
2 Utilities I believe and so through that avenue he got permission to
3 keep the shed. So, no matter what he's keeping the shed, but if we
4 grant relief then if the shed gets taken down they could put it back
5 up. So, I don't know about the rest of you, I have an opinion. I'm
6 going to keep it to myself for now, but now that that's on the record
7 let's talk about the driveway.

8
9 MR. BOCCANFUSO: Mr. Chairman just before we do that I just
10 want to make sure the record is clear.

11
12 MR. LEVITON: Please.

13
14 MR. BOCCANFUSO: There is an easement.

15
16 MR. LEVITON: Yes.

17
18 MR. BOCCANFUSO: There has been an approval granted by the
19 WMUA, sanitary sewer easement for the shed. However, the issue with
20 the shed is that it does not comply with the zoning. What Mr. McKenna
21 was describing is when he purchased the property the shed was
22 permitted to remain as existing non-conforming because it had been
23 there for over ten years. It's a provision in our ZCCO process whereby
24 if an improvement is non-conforming and let's say permits were granted
25 for it, but it doesn't comply it can be permitted to remain if it can
26 be proven that it's been there for ten years. Now that provision only
27 allows it to remain. You can't improve it. You can't replace it. If
28 you upgrade it you have to bring it into compliance. If it burns to
29 ash it has to be rebuilt within a compliant location. So, if the board
30 denies the relief necessary for the shed, the shed could still stay
31 there. It doesn't need to be removed or relocated at this time until
32 it's rebuilt. If the board grants the relief, it basically legitimizes
33 the existing non-conforming condition and then the shed could be
34 upgraded, repaired. It can be rebuilt if it's destroyed. A new shed
35 can be put in that exact same location. So that's the issue with the
36 shed. It was a situation where that had nothing to do with the code
37 enforcement violation. It was just when the application came in, we
38 said Mr. McKenna is coming in for these other items, let's put it on
39 the report. Let the board consider it and if they feel it's
40 appropriate to grant the relief, great. If not, so be it that's fine
41 too.

42
43 MR. LEVITON: Brian what can you tell this board about sheds
44 in that development? The properties are on smaller size lots there,
45 it's Bucks Head.

46
47 MR. BOCCANFUSO: Yeah, this development is challenging. Many
48 of the, particularly the driveways, but also sheds and other accessory

1 structures don't comply with the applicable setback requirements and
2 that goes back to in some cases the original construction in this
3 development. So I think this is probably something that the township
4 committee may want to look at as far as the setback requirements
5 particularly with driveways. Driveways are required to be ten feet
6 from any property line, but many of the properties in this development
7 are only forty feet wide so it's very challenging to comply. In this
8 case, I don't know that Mr. McKenna could rely on that justification
9 because he moved his driveway from one side of the property to the
10 other. We're going to hear his testimony on the driveway here shortly,
11 but I think there is an argument for accessory structure setback
12 requirements in this zone by virtue of the very, very small lots. I
13 mean the houses, they're certainly modestly sized and even with a
14 modestly sized house, it makes it very challenging to put accessory
15 improvements that people would commonly want to enjoy their homes with
16 their families.

17
18 MR. MCKENNA: If you see the ---

19
20 MR. LEVITON: Just a second sir. Mr. Marmero, will you
21 include that in your year-end report? Do you understand the full?

22
23 MR. MARMERO: I will now because Brian brought it up. It
24 sounds like what we're talking about is in this particular
25 neighborhood, due to the lot size that really almost any kind of
26 accessory structure or any other improvement. Brian brought up
27 driveways and sheds are pretty difficult because of the setback
28 requirements and the smaller lot size so it sounds like perhaps the
29 recommendation would be in the future maybe to shrink down the setback
30 requirements a bit to allow people in this neighborhood or in this
31 community to have some of these improvements.

32
33 MR. BOCCANFUSO: I mean at least for the driveways I would
34 say. I think if I'm not mistaken that sheds are limited to a hundred
35 square feet in this zone which is a five foot setback requirement from
36 the side and rear so that really isn't all that difficult to comply
37 with.

38
39 MR. LEVITON: It's what motivated me to ask you, sheds. I
40 know see now that's subjective, but I think its accessory structures
41 in general should be re-thought. Five feet is a lot when you're forty
42 feet wide, I think, but that's just me. Alright, Mr. McKenna, we
43 interrupted you.

44
45 MR. MCKENNA: All I was trying to say is on this picture
46 here this is where the original driveway was.

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48 MR. LEVITON: He's referencing number.

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MR. MCKENNA: Number three.

MR. LEVITON: Three.

MR. MCKENNA: So that's practically up against my neighbor on the other side's property line. You could see the fence is back here in it. That's where my driveway started so all I thought was if I take it to the other side I was doing the proper thing.

MR. LEVITON: We understand so I will put the encroachment on the record. You need it to be ten feet from your property line. You are within one foot of the property line.

MR. MCKENNA: Right and that means?

MR. LEVITON: Well, it means you need variance relief or you need to cut it back one or the other and that'll depend on what this board's going to do.

MR. MARMERO: And I guess the applicant's testimony is that if it goes back to the other location.

MR. LEVITON: Yeah so, he indicates he is between a rock and a hard place. We understand and he's sorry that he made the moves without permission he didn't know. We get it. Bob?

MR. GREGOWICZ: I had a question regarding the driveway, but Brian cleared it up for me so no questions.

MR. LEVITON: No questions from Bob, and Josh?

MR. SHALIKAR: Do we know how far it was on the other side to the property line?

MR. BOCCANFUSO: Based upon the survey that was submitted it was, looks like 4.6 feet.

MR. LEVITON: It wasn't compliant there either.

MR. BOCCANFUSO: It was not compliant. It was half of what it needed to be at that location.

MR. SHALIKAR: And this might be a silly question, sorry Brian. Are the other properties in the area, are they all also not compliant?

1 MR. BOCCANFUSO: There are very few properties in this
2 development that are compliant driveways. Almost all of them are non-
3 compliant. Most of them are at least a few feet. I mean here we're
4 talking one foot or less and I'm not trying to sway the board or
5 anything.

6
7 MR. SHALIKAR: No, no, no. I'll be quite honest I'm not
8 comfortable with one foot. Right? Four feet in a property lot of this
9 size does make a big difference in my opinion, but that's just my
10 opinion. But alright thank you, no further questions.

11
12 MR. BOCCANFUSO: Yeah, it was 4.6 feet and what I would say
13 is that if you re-surface a driveway in Manalapan it does require a
14 zoning permit. If an applicant comes in to repair or replace their
15 driveway and it's an existing, non-compliant driveway that was
16 original to the home, we allow them to replace what we call like for
17 like. You could basically replace it even though it's existing, non-
18 conforming as long as it was original to the home. If a previous
19 homeowner came in and we see this quite a bit, they widened it or they
20 put a turnaround in without getting permits and that doesn't comply
21 you can't then go ahead and replace that unless.

22
23 MR. SHALIKAR: Yeah, that makes total sense.

24
25 MR. BOCCANFUSO: So, had Mr. McKenna come in for a permit to
26 replace his driveway in its pre-existing location even though it does
27 not comply it would've been 4.6 feet, we would have, assuming that,
28 that was original to the home we would have granted him the zoning
29 permit to do that.

30
31 MR. SHALIKAR: Okay, thank you Brian.

32
33 MR. BOCCANFUSO: Yup.

34
35 MR. LEVITON: Anything else Josh?

36
37 MR. SHALIKAR: No.

38
39 MR. LEVITON: Michael?

40
41 MR. WECHSLER: Thank you Mr. Chairman. Mr. McKenna, any
42 other properties, have they flipped their driveway to the other side
43 in the area?

44
45 MR. MCKENNA: That flipped their driveway?

46
47 MR. WECHSLER: By you, have any of your neighbors flipped
48 their driveways?

1
2 MR. MCKENNA: Well, no since I've done mine, I've got
3 compliments on it and everything else, but since I've done mine all
4 around the neighborhood, around on Deer Way, there's two houses that
5 are right next to each other that just did paved driveways attached to
6 each other. One house is here. One house is here, and they're both
7 attached down the middle. There's no foot in between them. You drive
8 up. You drive in their driveway. You drive in their driveway and it's
9 attached. They're all paved. I mean everybody is practically doing the
10 same thing. My mistake was I didn't do my due diligence and come down
11 and say hey am I allowed to do this. I just thought it was upgrading
12 the home and making the home look better which I did get compliments
13 on and everybody is starting to actually keep up with their property.
14 My wife put lights around it. They also are now too putting lights
15 around it. It was just to beautify the home more and then the backyard
16 was only so I could get use out of my backyard. Like I said, going
17 back from behind my house to where you said that shed is, that's all
18 grass, all grass on the left side of my house. I didn't take any of
19 that grass out. I only took the grass out where the original deck was
20 underneath there. So, I could use that deck and the patio and I did
21 put stone down there. I contacted my neighbor and I told him what I
22 was doing. He hasn't had a problem with drainage since I've done it,
23 okay. The driveway I only did it like that because I have a truck I go
24 to work with, my wife has a car. I have to get up each morning and
25 move her car out and then move my car out. So, I didn't think it was
26 an issue once I spoke to my neighbor and the landscaper said no. The
27 driveway you're doing, you're not cutting into the curb. So again,
28 that was my fault, but that was the reason to do it. The other side,
29 the driveway, it wasn't where it had to be repaired and recovered. It
30 was destroyed. I mean if you look at the pictures, I mean it had to be
31 ripped up and I just tried to make it more I guess prettier,
32 beautiful, to upgrade it. I even made a walkway going across from
33 walkway to driveway so there was no hazard, trip hazard, or anything
34 for anybody that does pull into my house. That was a basic.

35
36 MR. WECHSLER: It definitely makes it look better, but my
37 other concern was I know parking is an issue in that area. How does
38 it, taking away eight feet, affected parking for your neighbors?
39

40 MR. MCKENNA: There's none because nobody parks in the
41 street. I have a rounded curb area. It's not a regular curb cut so
42 it's round to the curb. Nobody parks in the street, very rarely like
43 the woman right across the street. She's got a couple of kids; she
44 parks in the street. If I do park my car on the street that garbage
45 trucks can't get through or anybody else. So, I have to park in my
46 driveway which everybody else parks in their driveway on the block.
47 It's not really a street parking driveway street. They basically park
48 in their driveways.

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MR. WECHSLER: Gotcha, I got nothing else.

MR. LEVITON: Thank you Mr. Wechsler, Basil?

MR. MANTAGAS: Hi Mr. McKenna. Thank you, Mr. Chairman. So, you did it to gain more real estate for your cars to make them park side by side?

MR. MCKENNA: Well to make them.

MR. MANTAGAS: Your old driveway, you couldn't park two cars side by side?

MR. MCKENNA: I couldn't park them side by side. I'd have to park one all the way in which went to my front door.

MR. MANTAGAS: So, your new driveway's wider than the old driveway?

MR. MCKENNA: Yes, yes.

MR. MANTAGAS: Okay also and your patio now you said you bought the house in January?

MR. MCKENNA: I bought the house in January.

MR. MANTAGAS: So, you did all this work within the last few months?

MR. MCKENNA: Yes, yes.

MR. MANTAGAS: And on the back patio, it seems like you covered almost the whole area back there. There's no grass at all. It's all pavers. Where does the water run off?

MR. MCKENNA: The water runs off where you see that first of all it's pitched to the front of the house and.

MR. MANTAGAS: So, it runs towards the front then the driveway.

MR. MCKENNA: The driveway which would go down to the street or pitch it to my backyard where my grass is, but I also put that white stone down there so it does not pitch into my neighbor's yard and I cause him hazard.

1 MR. MANTAGAS: The neighbor's alright with this up to the
2 fence line?

3
4 MR. MCKENNA: Alright with that. He's not here, but he gave
5 me a letter that I did submit, but I know it's hearsay. Okay, but I
6 did submit a letter that my both neighbors on each side said they had
7 no problem with the improvements that I was doing or encroaching on
8 their property or anything.

9
10 MR. MANTAGAS: Okay thank you, no more questions.

11
12 MR. LEVITON: Before I go to Mr. Harrington, Basil I
13 appreciate that line of questioning and you know I also, I appreciate
14 the design and the work that you've put in. It's beautiful Mr.
15 McKenna, but we do have the benefit of having Mr. Boccanfuso here.
16 He's an engineer. I presume you're not an engineer. Are you Mr.
17 McKenna?

18
19 MR. MCKENNA: No.

20
21 MR. LEVITON: Okay so, Mr. Boccanfuso he testified Mr.
22 McKenna has testified more than once he put the stone down to mitigate
23 runoff to the neighbor's house. Is that an effective measure to ensure
24 that the neighbor doesn't get any runoff?

25
26 MR. BOCCANFUSO: It could be, but without knowing all the
27 details including topography, specifications of the stone, how deep,
28 which way it's pitched it's hard to say that it definitely is. I mean
29 what I will tell you is that oftentimes putting a stone perimeter,
30 commonly known as an infiltration trench, around an impervious area
31 can be an effective way to mitigate a drainage impact, but if it
32 doesn't have sufficient capacity it will fill up relatively quickly
33 during an intense storm and just overflow at the lowest point. Without
34 topography, I can't say where that is. I can also say that while this
35 improvement is relatively new and we haven't had any of our real
36 doozies of a rainfall since this has happened. Maybe one, but I don't
37 think any. I have not received any complaints. Now the letters that
38 Mr. McKenna referenced, they are hearsay. The board can't consider
39 them, but I have not received any drainage complaints and the
40 neighbors were noticed if they had a major issue with it. With what's
41 going on, they have an opportunity to appear or hire counsel to appear
42 on their behalf. I see some folks in the audience here. I don't know
43 if we're going to hear from them before the end of proceedings here.

44
45 MR. LEVITON: We will get to them Mr. Boccanfuso. Of course,
46 it's incumbent of me to tell you Mr. McKenna that this board
47 appreciates the approval that you got from your neighbor, but it needs
48 to concern itself with posterity and future neighbors as well. It's

1 just another thing to consider, another layer as part of your
2 application. Let's go on to Mr. Harrington.

3
4 MR. HARRINGTON: Thanks Mr. McKenna for coming in. The only
5 question I have is how deep is that new driveway? Is it as deep as the
6 old driveway?

7
8 MR. MCKENNA: Yeah, they dug down I believe.

9
10 MR. HARRINGTON: No, no I'm not talking depth of the --- I'm
11 talking the actual deep from street to the house.

12
13 MR. MCKENNA: Oh yes, yes, yes, yes.

14
15 MR. HARRINGTON: So, they're both the same?

16
17 MR. MCKENNA: Yeah, yeah, I didn't go past where it was,
18 yes.

19
20 MR. HARRINGTON: Okay so they're essentially ---

21
22 MR. MCKENNA: From street to home, yes they're the same
23 length.

24
25 MR. HARRINGTON: The same length?

26
27 MR. MCKENNA: Yes.

28
29 MR. HARRINGTON: Whether it's the old one or the new one?

30
31 MR. MCKENNA: Whether it was the old one or the new one.

32
33 MR. HARRINGTON: You just basically widened it and put it on
34 the other side?

35
36 MR. MCKENNA: Yes, the only thing I could say is when I
37 ripped it up, I just felt it was better than having not come out my
38 front door, walk into my car. It made it inconvenient to come out of
39 my house with a grocery, company, or anything else because if you put
40 two cars in a driveway you were stepping down the steps and walking
41 into a car. You had no room to walk down a path. So that's what made
42 me actually say hey you know what let's get it out of the way and I'll
43 put a walkway so people will walk safely into my home. That was my
44 idea.

45
46 MR. LEVITON: His testimony is a little confusing. It should
47 be clarified. He said he needed longer, then he said no it's the same

1 length. Which one is it? The driveway, is it longer? Is the new one
2 longer or is it the same length as the older one?
3

4 MR. MCKENNA: It's the same length if you come from the
5 street to the home. If you come width wise it is wider.
6

7 MR. LEVITON: When I look at the pictures, I see where you
8 put grass where the driveway used to be where your front door is and
9 the fence seems to be at least two feet from the fascia back and on
10 the other side of the house where the driveway is currently located,
11 the driveway goes back flush with the fence. So, unless the fence on
12 the left and the right side of your house aren't even then your
13 driveway is longer.
14

15 MR. MCKENNA: I thought you meant because when you go up the
16 driveway goes straight to right where the window is, but there's a
17 couple of trees there. I just thought you meant the driveway area
18 there. I apologize.
19

20 MR. LEVITON: Well Mr. Harrington asked, I don't know.
21

22 MR. HARRINGTON: I was looking from the street to the length
23 of the actual
24

25 MR. MCKENNA: I apologize about that. I apologize. It may be
26 two to three feet longer without that garden area that's underneath my
27 front window where it originally was. I thought you were talking about
28 from street to window with everything that was there. I apologize
29 about that.
30

31 MR. HARRINGTON: That's alright. And is there a reason when
32 you look at the driveway and if you look to the right of the new
33 driveway, you have the white rock.
34

35 MR. MCKENNA: Right.
36

37 MR. HARRINGTON: And then you have obviously a bush or
38 ornamental there. I understand maybe not wanting to go into that one
39 area, but if we move that in just a little bit, that driveway, would
40 that have given us the room?
41

42 MR. MCKENNA: Well, that was there already. Those trees if
43 you see there, they're cut that originally was there. It was mulch all
44 around the property. I didn't do any of the gardening around there.
45 That was there.
46

47 MR. HARRINGTON: You just wanted to leave that alone.
48

1 MR. MCKENNA: Yeah so, I just went around that. You
2 understand? So, on the side where you're talking about right over
3 here. This bush here?

4
5 MR. HARRINGTON: Yeah.

6
7 MR. MCKENNA: And along those bushes right behind there
8 which are here, those were there already.

9
10 MR. HARRINGTON: Yeah, yeah.

11
12 MR. MCKENNA: So, I just went around whatever was there. The
13 mulch and I just added instead of mulch I added the rocks.

14
15 MR. HARRINGTON: Okay.

16
17 MR. SHALIKAR: I think what Mr. Harrington is asking if in
18 order to remove that bush and move the driveway in to take the place
19 of the bush, you'd gain probably about three feet and you would
20 provide a little bit more clearance between the property lines. I
21 think that's what you were asking, right?

22
23 MR. HARRINGTON: Which I believe would probably satisfy a
24 little bit of what everyone's looking for.

25
26 MR. SHALIKAR: Yes.

27
28 MR. HARRINGTON: Make a little bit of room.

29
30 MR. SHALIKAR: Does that make sense to you? I just want to.

31
32 MR. MCKENNA: Yes, it makes sense, but then it comes in to
33 taking this tree out because this tree has no roots in it.

34
35 MR. HARRINGTON: Yeah, I mean.

36
37 MR. MCKENNA: That's why I didn't do that. So, if I come
38 straight down it comes straight down and this tree here there's all
39 roots there. So, then I would be taking down a tree without being
40 asked.

41
42 MR. HARRINGTON: Yeah, no I see exactly --- I didn't see
43 that. I didn't look at picture one.

44
45 MR. LEVITON: Anything else John?

46
47 MR. HARRINGTON: No, I'm okay at this point.

48

1 MR. LEVITON: Thank you Mr. Harrington, Ms. Klompus?
2

3 MS. KLOMPUS: Thank you. That was my same question and if
4 there was anything on the house or in that area any equipment --- or
5 anything that would eliminate you being able to move over behind that
6 bush?
7

8 MR. MCKENNA: Move over would be that tree that asked me to
9 there, there's a gas meter there. The gas meter there and that tree. i
10 would have to cut into that tree which would probably kill it.
11

12 MS. KLOMPUS: Okay and on your neighbor's, side is this side
13 a door to their backyard or is this a straight piece of fence? Do they
14 enter their backyard from next to your cars?
15

16 MR. MCKENNA: Well, next to my car back here. So, their
17 front of their house is on the complete opposite side. They have
18 another doorway I believe over here. This here is a door, but it's to
19 a laundry room.
20

21 MS. KLOMPUS: No on the fencing is that a door or is it just
22 a straight piece?
23

24 MR. MCKENNA: On the fence?
25

26 MS. KLOMPUS: Yeah, that fence piece here. Is that a door?
27

28 MR. MCKENNA: There's two fences there, fence on my side and
29 fence on his side. A gate you're talking about, right?
30

31 MS. KLOMPUS: Yes.
32

33 MR. MCKENNA: Yeah, he has a gate and I also have a gate.
34

35 MS. KLOMPUS: Right is that a door into his backyard or is
36 it just straight fencing? Do they enter their backyard from right next
37 to your car?
38

39 MR. MCKENNA: Yeah so, they can from there. They can from
40 the other side. They have a couple entrances there and a couple doors
41 there. I think they have a little garden area right after mine and
42 like I said since we had all this rain and everything else, I've
43 knocked on his door and asked him that. Did you receive any water that
44 are bothering you please if anything knock on my door, let me know
45 because I did before. Before I even decided, I didn't want anybody to
46 think hey this guy is coming here claiming his property. You know what
47 I mean? Or property line, I asked him. I spoke and I asked my
48 neighbors and discussed it with them and like I said if there's any

1 problems, please come to me immediately and we've had rain and he's
2 got a little garden there. He has not come over and said there's been
3 any problems or issues. He was going to come tonight. He's a fireman,
4 unfortunately he couldn't make it. He's in Long Island so, but he said
5 if he had to come, he'll come and he wasn't able to make it.

6
7 MS. KLOMPUS: Thank you.

8
9 MR. LEVITON: Okay thank you Mr. McKenna. At this time, I'm
10 going to go to the public. There are people in our audience and ask if
11 any of you want to come up and talk to the board. Okay I'm getting
12 no's. Mr. McKenna before we do anything further just let me ask you,
13 has there been a collection of water in your backyard? Have you seen
14 anything in your grassy areas? When it rained have you seen any
15 flooding in your backyard? Any collection of water, any muddiness?

16
17 MR. MCKENNA: No, the only time I did see it was with that
18 one picture that I showed you of my backyard, the side yard because
19 everything is pitched to the back of where the town is. The town is
20 right behind me.

21
22 MR. LEVITON: Yeah.

23
24 MR. MCKENNA: But on the side yard, of course I have that
25 picture.

26
27 MR. LEVITON: He's talking about the easement.

28
29 MR. MCKENNA: That's where it was. I could walk down there
30 trying to look for it in the backyard. Right here, so in that side
31 picture when it rains.

32
33 MR. LEVITON: He's referencing picture number four by the
34 way.

35
36 MR. MCKENNA: Yeah, number four. When it rained it took
37 three days before I could walk out to the yard because there were
38 potholes from that. See I had a larger dog, whether he dug it or
39 whatever else. So, one way or another I either had to grade it out,
40 re-sod it, or whatever and I thought to clean this the easiest way to
41 do it is what I did.

42
43 MR. LEVITON: Okay Mr. Marmero, any concerns sir?

44
45 MR. MARMERO: No, I mean so you've heard the presentation
46 which indicates that there's a few different variances that we're
47 dealing with. Let's start with you have the porch structure which is
48 in the backyard. There the setback requirement would be five feet. The

1 applicant has about two feet that we're looking at. We have the
2 driveway issue where the requirement would be a ten-foot setback to
3 the side yard line. Here we have a setback of less than one foot and
4 then we have the shed issue which is protected due to the ZCCO
5 program. It is all in the documents the board can consider granting a
6 variance for the location of the shed. Again, as you intimated it
7 Chairman if a variance is granted the shed could be rebuilt If it was
8 destroyed, the shed could be improved upon. If no variance is granted
9 for the shed it's still going to remain. It just can't be touched in
10 any way because of the ZCCO program.

11
12 MR. LEVITON: So, does anybody have thoughts about that? Do
13 you want to discuss it?

14
15 MR. WECHSLER: I just have a question for clarification. Mr.
16 McKenna is here because the zoning officer brought this to his
17 attention that it wasn't properly done? There were no permits to it,
18 is that why?

19
20 MR. LEVITON: I'd like to have a brief discussion about the
21 shed and the variance relief sought regarding it. Mr. McKenna didn't
22 bring it to our attention. We identified it as a problem and put it on
23 the application as a courtesy, but if we do nothing, if we don't grant
24 relief, if someone moves to not include the shed, he still gets to
25 keep it. It won't matter to him. Does anybody have feelings or
26 thoughts about that? I came in and I did have thoughts about it. I
27 didn't want to grant relief for the shed, but to be honest because of
28 the nature of the shallowness of the land and its placement, I've
29 changed my mind on it. So, if anybody's inclined to move to accept the
30 application then I would hope that they include the shed as part of
31 the relief that's being sought and maybe we should talk about the
32 driveway before a motion is made as well. Just want to get an
33 understanding about where you are. I'd hate for the motion to be made
34 and then present Mr. McKenna with this is what needs to be done
35 because if a motion is made in favor of the application and then it's
36 denied he'd have to bring that driveway back into conformity which is
37 nearly impossible. So we should have an idea about where we're going
38 with it and the plan in the absence of a favorable decision. Stacey,
39 any thoughts? Let's start down there.

40
41 MS. KLOMPUS: On the shed or on the driveway?

42
43 MR. LEVITON: No, on the driveway yeah. It encroaches into
44 the setback nine feet and it almost abuts the neighbor's property.

45
46 MS. KLOMPUS: Right in my opinion I feel it should be moved,
47 but at the same time I don't want him to have to rip out the whole

1 tree and remove everything that's going to be with that tree. When I
2 thought it was the little bush then I saw that it could be moved over.

3
4 MR. MCKENNA: What are you talking about? The big tree I'm
5 talking about.

6
7 MS. KLOMPUS: I know, right. From the initial talking about
8 it I didn't understand about the tree. I just thought with the bush we
9 can remove the little bush and move it over. That's just what I'm
10 thinking.

11
12 MR. LEVITON: John?

13
14 MR. HARRINGTON: I think Mr. McKenna brought up a great
15 point by moving the driveway over which is kind of what I was angling
16 for.

17
18 MR. LEVITON: So, you've got two votes on your side so far
19 Mr. McKenna.

20
21 MR. HARRINGTON: It kind of makes Shade Tree happy.

22
23 MR. LEVITON: We're a seven-member board. We have two
24 alternates and everyone's vote counts tonight. Mr. Harrington, Ms.
25 Klompus your votes are just as important as everyone else's and Mr.
26 McKenna only needs a plurality. He needs three. He needs four so to
27 approve. Basil where do you stand?

28
29 MR. MANTAGAS: I don't have a problem with the shed so much.
30 My biggest problem is with the pavers in the back. The driveway is
31 close to the property line which is not a good thing, but I don't
32 think that's such a bad thing because he had the driveway on the other
33 side, and now he actually gained a parking space. So, he doesn't put
34 one car in the street, but my concern is the runoff of the water where
35 there was all grass at one time. Was that ground leveled at any point?

36
37 MR. MCKENNA: No and when I did do the pavers, I did
38 concrete when I was younger and everything else, but I made sure they
39 pitched away from my neighbors and they pitched out to my backyard and
40 out to the front yard.

41
42 MR. MANTAGAS: But how was it originally pitched, the land?

43
44 MR. MCKENNA: It wasn't. It was all over the place so it
45 flooded to be honest with you.

46
47 MR. MANTAGAS: Which way did it go originally? Did it go
48 towards the back or the front?

1
2 MR. MCKENNA: The first time it soaked into the grass. The
3 first time that it rained it took three days for my yard to dry out,
4 for me to let my dog out, or for me to walk from my yard to the front
5 of the house. So, when I did the pavers, I figured the pavers would
6 alleviate the problem and we could pitch it out to the front of the
7 house. Let it run down the driveway the way it normally does or to my
8 backyard where I have almost a hundred feet of grass and then I only
9 put the stone there so if any water did runoff into my neighbors that
10 stone would soak it up and it wouldn't cause a problem for them.
11 That's basically and like I said I have not had a complaint from my
12 neighbor about any kind of water. I told him if there is you let me
13 know right away. I'll pull it up. I'll do whatever you need to do to
14 correct the problem with you. Like I said, he's not here
15 unfortunately, but he signed he had no issues with it. Since we've
16 been doing this there hasn't been any complaints about it.

17
18 MR. MANTAGAS: My other issue is you not knowing you had to
19 get a permit. If you would've came to find out we wouldn't be here
20 right now.

21
22 MR. MCKENNA: Right.

23
24 MR. MANTAGAS: And you would've known what the laws are and
25 the zoning laws. There are zoning laws for a reason. That's why people
26 don't do things that they're not supposed to do. Go up to somebody's
27 property line and water runoff, there's a lot of different factors.

28
29 MR. MCKENNA: This is my first time living in New Jersey. I
30 moved out of New York into here. When I did speak to the gentlemen, I
31 had three contractors out there. They told me that I did not need it
32 because it was landscaping. If I did concrete that was permanent with
33 rebar and everything else, then I wasn't allowed, but being that it
34 was pavers. Pavers could be picked up. They could be moved. All these
35 sorts of stuff and then I wasn't cutting into the curb because on the
36 front of my house, it's rounded. In other words, for the drainage to
37 go down so there's no curb. You drive above it, everybody does.

38
39 MR. MANTAGAS: So originally the curb was flat?

40
41 MR. MCKENNA: There's no curb cut.

42
43 MR. MANTAGAS: There was no curb?

44
45 MR. MCKENNA: There's no curb on the whole block, on the
46 whole block. So that's what I was told.

47

1 MR. MANTAGAS: Yes, yes I know how the block is right,
2 right.

3
4 MR. MCKENNA: So that's what I was told. Like I said again
5 my apologies I should've come down and asked, but I assumed they were
6 contractors. They said they were licensed. I assumed they knew what
7 they were talking about and I thought it was only the landscaping.

8
9 MR. MANTAGAS: Okay no more questions.

10
11 MR. LEVITON: Michael?

12
13 MR. WECHSLER: Yes Mr. Chairman so I seem to have a problem
14 with the driveway. I don't have a problem with the shed, but the
15 driveway seems to have gone from a necessity of having a driveway to a
16 convenience of now having a double wide driveway that's a little bit
17 longer. I would've been fine taking that driveway and rebuilding it in
18 the same spot and at that point if he made it a little bit wider at
19 least it was in the same spot. Now the driveway's been flipped to the
20 other side of the property, lengthened, and now a walkway was built.
21 So as much as it is good looking, it now just opens us up to anybody
22 else wanting to make any other changes to their property now that we
23 set a precedent of allowing a double wide driveway and a single
24 walkway. So that's my issue.

25
26 MR. LEVITON: So that won't be a problem because every case
27 is judged on its own merits. We have the flexibility to do that. Just
28 laying that out there, but I appreciate your thoughts and your
29 reasons. Joshua?

30
31 MR. SHALIKAR: Mr. Marmero, is safety a hardship?

32
33 MR. MARMERO: Yeah, safety we have used as hardships before.
34 We've heard testimony about locations of decks and the ability of
35 someone coming out of the house and that's why it had to be there.
36 We've heard testimony before about traffic on roadways and necessities
37 that create hardships so sure.

38
39 MR. SHALIKAR: Thank you.

40
41 MR. LEVITON: Mr. Shalikal.

42
43 MR. SHALIKAR: I'm not a fan of the driveway. I just have to
44 get it on record. Right? I'm a proponent of safety. You said a few
45 things in your testimony that in my opinion resonated quite well. Even
46 though I'm not a fan of the driveway so I'm definitely in favor of
47 your thoughts on moving and why you moved it. I do see the benefit of
48 coming out of your house to a walkway instead of hitting a car. I do

1 see the benefit of having the driveway so it can have a two-car
2 capacity. I think the future, one day you will sell, and I'm sure the
3 neighborhood would and the future owner of the house would appreciate
4 that. Instead of having a double stack moving out, bad weather, having
5 unnecessary reason to go outside, slip on a single car to move cars,
6 etc., etc. So the driveway for me is a pass. The pavers in the
7 backyard, I understand that you haven't had any flooding or pooling
8 yet, but as our township administrator has said earlier, we have not
9 had any rain events that have been substantial. I worry that when we
10 do and we do, there will be flooding. At that point you're going to
11 have to rip it all out and try to make appeasements of some sort. Is
12 there any way that you can add underground drainage where the rocks
13 are? So I'm not asking you to demolish the pavers, but can you add a
14 drain under those rocks that could go towards the back of the property
15 as a preventative measure?

16
17 MR. MCKENNA: Yes, I - - - but I can take those rocks up.
18 The first course of break up, put a PVC pipe, regular French drain,
19 bring it out to my backyard, yes, I can.

20
21 MR. SHALIKAR: Brian is that a condition that makes sense? I
22 don't want to talk for the sake of talking. I'm just trying to prevent
23 future headaches.

24
25 MR. BOCCANFUSO: Yeah, I think it does. To my point earlier,
26 stone can provide benefit, but without knowing the details,
27 specifications and so forth it's hard to say whether it will.

28
29 MR. SHALIKAR: Sure.

30
31 MR. BOCCANFUSO: But providing a four- or six-inch
32 perforated pipe underneath that stone, piping it out towards the back
33 of the property and putting in some type of pop-up emitter or
34 discharge that certainly would work in my opinion. If you had a heavy
35 rainfall event or a lot of runoff and again we've heard Mr. McKenna's
36 testimony, but we don't have the benefit of topography here to know
37 exactly how it would pitch. Any contractor who knows what they're
38 doing and in fairness this does appear to be nice work knows that you
39 would pitch it at least away from the house. Right? So assuming that's
40 the case maybe there's front and backward pitch as well. A lot of
41 runoff would get into that stone, be collected by the pipe if there's
42 an overflow, gets discharged back towards the rear of the property
43 where if you notice beyond the rear lot line there's an exempted
44 Township of Manalapan property that is likely vacant. So certainly, I
45 think that would mitigate any potential drainage impact. I'm having a
46 hard time really getting the consensus for what the board is thinking
47 with regard to the driveway, but if the board is just really not in
48 favor of this less than one foot setback and would be more comfortable

1 with a couple of feet that drain could be extended to alongside the
2 driveway as well. I don't really know where you are at collectively on
3 the driveway issue, but if it's really just we acknowledge there's a
4 hardship here and ten feet is just completely unreasonable. You're
5 generally okay with the driveway, but less than one foot is too much
6 and I'm not putting words in your mouth. Again, I don't know where
7 you're at with it, but if that's the case and you're okay with a
8 couple of feet perhaps that drainage improvement could be extended to
9 pick up that as well.

10
11 MR. LEVITON: I love how you connected safety to the
12 hardship and I'm not sure either where you stand on the driveway. It
13 was difficult to tell.

14
15 MR. SHALIKAR: That might've been done on purpose.

16
17 MR. LEVITON: Well, done son.

18
19 MR. SHALIKAR: I'm indifferent with the drainage to the
20 front. Brian, I could see the benefit, but.

21
22 MR. WECHSLER: It looks like it's pitched to the front.

23
24 MR. SHALIKAR: I think it's pitched enough I would say. So,
25 the new driveway is pitched enough I would as a condition ask for a
26 minimum of six-inch pipe.

27
28 MR. MCKENNA: On the?

29
30 MR. SHALIKAR: Along the pavers going to the back of the
31 property to prevent headaches, future headaches.

32
33 MR. MARMERO: To me your condition then would be fair to say
34 underground drainage within the stone that surrounds the paver patio
35 that's satisfactory to the township engineer?

36
37 MR. SHALIKAR: Yes, thank you.

38
39 MR. MCKENNA: Center of it or where I have the stone?

40
41 MR. SHALIKAR: I couldn't have said it better myself. Where
42 the stone is.

43
44 MR. MCKENNA: Where the stone is, right? Take the stone up,
45 put a six-inch pipe.

46

1 MR. SHALIKAR: Yeah, and if you have to move the first
2 course, so be it, but at minimum you'll clear and have adequate
3 drainage.

4
5 MR. MCKENNA: Where that - - - I understand.

6
7 MR. SHALIKAR: Yeah, the shed I have no problems with. It's
8 fine, it's two and a half feet. I'm in favor of the driveway to make
9 it clear Mr. Chairman.

10
11 MR. LEVITON: Outstanding, thank you.

12
13 MR. SHALIKAR: No further questions or comments from me.

14
15 MR. LEVITON: Thank you for the clarification. Bob, he has
16 enough support.

17
18 MR. GREGOWICZ: Whatever concerns I have, were put to rest
19 after hearing from the board and the professionals so I'm fine.

20
21 MR. LEVITON: Okay. Mr. McKenna, I'm also not in favor of
22 the one-foot encroachment and because they're in a generous mood, I'm
23 going to be able to vote no on your resolution, on your application,
24 but you're going to get it because you have the four votes that you
25 need out of the seven. So, we're going to ask Mr. Marmero if he needs
26 anything else.

27
28 MR. MARMERO: No, but just to sum up the relief there's a
29 lot of different things going on, but the applicant provided
30 testimony. Again, just to reiterate we're dealing with the pavers in
31 the back where the five-foot setback would be needed. The applicant
32 has a setback of plus or minus two feet. We're dealing with the
33 driveway that we talked about which would need the ten-foot setback
34 where we're dealing with less than one foot, and then we're dealing
35 with the location of the shed which as we discussed has a setback of
36 2.5 feet where five feet is required. That shed is going to stay
37 regardless because of the ZCCO program, but if that is included within
38 the variance relief then the applicant is able to improve it or
39 rebuild it if there's some type of issue, and then in terms of
40 conditions. One of the conditions that was discussed outside of the
41 normal conditions that are attached is just that there be underground
42 drainage within the stones that surrounds the paver patio with such
43 underground drainage being satisfactory to the township engineer.

44
45 MR. LEVITON: Will someone make a motion?

46
47 MR. SHALIKAR: I'll make the motion to approve the
48 application with the conditions that have been cited.

1
2 MR. LEVITON: Will someone second that?

3
4 MR. MANTAGAS: I'll second it Mr. Chairman.

5
6 MR. LEVITON: Thank you Mr. Shalikar and thank you Mr.
7 Mantagas.

8
9 **ROLL CALL**

10
11 MS. MOENCH: Mr. Gregowicz?

12
13 MR. GREGOWICZ: Yes.

14
15 MS. MOENCH: Mr. Wechsler?

16
17 MR. WECHSLER: No.

18
19 MS. MOENCH: I'm sorry did you say? I couldn't hear.

20
21 MR. WECHSLER: No.

22
23 MS. MOENCH: Mr. Shalikar?

24
25 MR. SHALIKAR: Yes.

26
27 MS. MOENCH: Mr. Mantagas?

28
29 MR. MANTAGAS: Yes.

30
31 MS. MOENCH: Mr. Harrington?

32
33 MR. HARRINGTON: Yes.

34
35 MS. MOENCH: Ms. Klompus?

36
37 MS. KLOMPUS: Yes.

38
39 MS. MOENCH: Chair Leviton?

40
41 MR. SHALIKAR: On this pause, go ahead Steve.

42
43 MR. LEVITON: Yes, congratulations.

44
45 MR. MCKENNA: Thank you so much.

46
47 MR. LEVITON: I appreciate the way the property looks. I
48 appreciate his hard work.

1
2 MR. MCKENNA: I'll tell you one thing; I'm not touching that
3 shed unless I come back to you.

4
5 MR. LEVITON: Good luck sir going forward. At this time, I'm
6 going to go out to the public for anything other than agenda items.
7 Seeing none, I'll close public. Brian you are good to go. We will
8 memorialize your approval at our next regular meeting and right after
9 that'll happen, you'll be able to go to work and.

10
11 MR. MCKENNA: Make the changes.

12
13 MR. LEVITON: Yeah.

14
15 MR. MCKENNA: Yes, and the only change I do have to make we
16 all discussed so I'm on the right page is the six inch pipe,
17 perforated pipe, down the pavers.

18
19 MR. SHALIKAR: The fence line.

20
21 MR. MCKENNA: The fence line, right, and then down by the
22 pavers and put stone back on top of it and then we'll be okay.

23
24 MR. LEVITON: And Brian.

25
26 MR. MCKENNA: And bring it to my yard instead of the front.

27
28 MR. BOCCANFUSO: Here's what you'll have to do Mr. McKenna
29 when the resolution, some point after the resolution is memorialized
30 which should be in a couple of weeks.

31
32 MS. MOENCH: He doesn't know what the resolution means.

33
34 MR. BOCCANFUSO: What's up?

35
36 MS. MOENCH: He doesn't know the resolution.

37
38 MR. BOCCANFUSO: Okay, the board's approval is going to be
39 documented with what's called a resolution. It's a six, or seven-, or
40 eight-page document that our attorney is going to prepare. That will
41 be formalized at the next, most likely, at the next meeting. Once
42 that's done and you have a copy of it, you're now going to need to
43 submit for zoning permits for all of this stuff that's already there.
44 The zoning permits that now you know you should've got in the first
45 place. So now that you'll have a board approval, you'll need to get
46 zoning permits for those. In order to submit those zoning permits
47 you're going to need to submit a plan similar to what you've submitted
48 already. However, that plan is also going to need to show what you're

1 doing with the drainage improvements that we discussed here tonight.
2 You're going to submit that to the zoning department with the
3 application form. There's a fee that goes with it, it's \$150.00.
4 Myself, I'm sorry a hundred dollars for residential, a hundred
5 dollars. Myself or any of the girls in the department can help you
6 through the process when that time comes as long as what you're doing
7 is consistent with the proceedings here tonight and the language
8 that's going to be in the resolution. We will review it and approve it
9 and then you're good to go and install the drainage improvements,
10 alright.

11
12 MR. MCKENNA: Thank you everybody. Thank you for your help.

13
14 MR. LEVITON: Good night, folks.

15
16 MR. MCKENNA: Enjoy your holidays.

17
18 MR. LEVITON: You as well.

19
20 MR. MCKENNA: Thank you.

21
22 MR. LEVITON: Thank you sir. Albert, any news on litigation?

23
24 MR. MARMERO: No, nothing on my end.

25
26 MR. LEVITON: Brian, anything coming down the pike of
27 interest?

28
29 MR. BOCCANFUSO: Not really, potentially, but nothing that's
30 certain at this point. Janice and I had an interesting meeting today
31 with an application that I don't even think you would remember. It
32 goes back to 2009. Were you on the board in 2009?

33
34 MR. LEVITON: That pre-dates me.

35
36 MR. BOCCANFUSO: Okay so, we'll see. It's the Buddhist
37 temple on Gordons Corner Road.

38
39 MR. LEVITON: Oh dear.

40
41 MR. BOCCANFUSO: I don't know if any of you are familiar
42 with it.

43
44 MR. LEVITON: Right next to Taylors Mills.

45
46 MR. BOCCANFUSO: Yes, they're considering modifying their
47 site. It's in the very, very early stages at this point so we'll see.
48 They would like to provide a small facility for visitors. It was

1 originally in 1999 a zoning board application, we're not sure why yet,
2 we have a little bit of homework to do, but because the original
3 application was to the zoning board, we would retain jurisdiction and
4 they would be coming in for an amended site plan. So, it'll be an
5 interesting one for sure. I don't know that it's going to be.

6
7 MS. MOENCH: Brian and I meditated today.

8
9 MR. BOCCANFUSO: Yes, Janice and I did a site visit today.
10 We feel very spiritual after that. It was quite nice. It's really a
11 nice property. I don't know if you've ever been there, but it's very
12 nice.

13
14 MR. LEVITON: And Shoprite is planning board?

15
16 MR. BOCCANFUSO: That is a planning board application, yes.

17
18 MR. LEVITON: Not coming here whatsoever.

19
20 MR. BOCCANFUSO: It is not. I mean I think you all are aware
21 at this point we do have a pending application for a billboard on the
22 Toll Brothers property, but.

23
24 MR. LEVITON: Yeah, only I know they don't know.

25
26 MR. BOCCANFUSO: Okay it's pending, but we don't really know
27 where it's going at this point when we're going to hear it, if at all.
28 We'll see.

29
30 MR. LEVITON: They were scheduled to appear before us. They
31 asked for us to carry it. Jennifer doesn't believe that they even
32 have, that we have jurisdiction to even hear it because for them to
33 have gone before the planning board they had to agree according to
34 Jennifer to get rid of those things in the first place. Now they want
35 to come here and ask if they can keep it and at their last planning
36 board meeting the developer asked for permission to extend his
37 building into a new phase and it was granted, but as a condition they
38 had to take the billboards down and they still object to the removal
39 and said that that wasn't the proper forum to decide that issue.

40
41 MS. MOENCH: You don't know that for sure.

42
43 MR. LEVITON: Well, that's what was reported in the paper,
44 and that's where I get my information and that's what I'm relaying to
45 you.

46
47 MR. BOCCANFUSO: Yes, I believe the recent planning board
48 approval for phase two of the development which really should've just

1 been a formality. I think it was conditioned, specifically
2 conditioned, on the removal of the billboard, but the applicant I'm
3 not sure what Jen's opinion on it is as far as jurisdiction is
4 concerned. What I will say is it's not a permitted use so if they are
5 going to process this is the correct board to go to because they would
6 need a D variance.

7

8 MR. MARMERO: Both boards really. It sounds like to me they
9 have to go to the planning board to get rid of that condition.

10

11 MR. BOCCANFUSO: If they're successful, if they're
12 successful here after I think they do have to go back to the planning
13 board to amend that condition.

14

15 MR. MARMERO: Oh yeah.

16

17 MR. BOCCANFUSO: Yeah, and I don't want to get too much into
18 it because it's a pending application, but we'll see. It's pending. We
19 may hear it, we may not. I don't know. It's going to be a challenging
20 case for them. I will say that. It's tough. A use variance should be,
21 they're always a challenge.

22

23 MR. LEVITON: They know, they know it's a hard lift and it's
24 on them.

25

26 MR. BOCCANFUSO: Well said.

27

28 MR. LEVITON: Okay.

29

30 MS. KLOMPUS: How about Shoprite? Anything new?

31

32 MR. BOCCANFUSO: Yeah, it's pending for the planning board.
33 It has nothing to do with this board at all. So the information that
34 I'm providing to you would be the same that I'd provide to any members
35 of the public. It's a pending application. We are having a
36 professional, a technical review committee meeting with them next week
37 and they're hopeful to be heard before the end of the year, possibly
38 in November with their first public hearing. We'll see what happens so
39 it's proceeding.

40

41 MR. LEVITON: You live near there.

42

43 MS. KLOMPUS: I'm in ---.

44

45 MR. LEVITON: Sure.

46

47 MS. KLOMPUS: I mean the traffic is terrible as it is

48

1 MR. MANTAGAS: They can't fix the road right. They finished
2 paving the road and everything is open now.

3
4 MS. KLOMPUS: Yeah. It's not even that, it's Tennent Road. I
5 can handle that traffic.

6
7 MR. MARMERO: Yeah, Tennent's always backed up.

8
9 MS. KLOMPUS: You literally have to leave my house like a
10 half hour before you need to be.

11
12 MR. MANTAGAS: When it's rush hour, oh yeah.

13
14 MR. LEVITON: Is there a different way for you to get to
15 Wegmans? Do you have to go through that Main Street area?

16
17 MS. KLOMPUS: I don't go on 33. I go Route 9 all the way
18 around or I take the drive through Englishtown.

19
20 MR. MARMERO: Oh, Englishtown is bad.

21
22 MR. SHALIKAR: Englishtown is worse than Tennent.

23
24 MS. KLOMPUS: I go on Waze, see how bad it is, and time for
25 me to leave.

26
27 MR. LEVITON: Bob lives off ---

28
29 MS. KLOMPUS: That's why it was a joke when they said they
30 were going to have the kids walk to school --- From my house my kids
31 would have had to walk down that road. They're all looking at their
32 phones --- It's terrible.

33
34 MR. LEVITON: 3-1 Los Angeles.

35
36 MR. GREGOWICZ: If the Dodgers win the series, the Yankees
37 have no chance.

38
39 MR. LEVITON: If the Dodgers win.

40
41 MR. GREGOWICZ: If the Dodgers beat the Mets, there's no way
42 the Yankees are going to beat the Dodgers.

43
44 MR. WECHSLER: Oh no way. You do know I have to vote right?

45
46 MR. LEVITON: No way.

47
48 MR. WECHSLER: I'm just saying.

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MR. LEVITON: John Harrington has stood up.

MR. HARRINGTON: I've got to go to the restroom.

MR. SHALIKAR: That's a good way to adjourn the meeting,
right there because of Bob.

MR. LEVITON: Meeting is adjourned.

MR. SHALIKAR: Alright Bob.

MS. MOENCH: Did anybody adjourn?

MR. LEVITON: I adjourned it.
