

MEETING IS CALLED TO ORDER:

MR. LEVITON: I 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 right outside this door and has been displayed here in the municipal building. In addition, a copy of the notice is and has been available to the public and is on file in the office of the municipal clerk. We are in compliance with the Open Public Meetings Act. Roll call, please.

ROLL CALL

MS. MOENCH: Mr. Shalika?

MR. SHALIKAR: Here.

MS. MOENCH: Mr. Weiss? Not with us. Mr. Harrington? Not here. Ms. Klompus?

MS. KLOMPUS: Here.

MS. MOENCH: Mr. Mantagas?

MR. MANTAGAS: Here.

MS. MOENCH: Mr. Wechsler?

MR. WECHSLER: Here.

MS. MOENCH: Mr. Pochopin?

MR. POCHOPIN: Here.

MS. MOENCH: Ms. Levenson?

MS. LEVENSON: Here.

MS. MOENCH: Ms. Latilla?

MS. LATILLA: Here.

1 MS. MOENCH: Mr. Hughes? Not here. And Chair Leviton?

2
3 MR. LEVITON: Here. Tonight we are down two full members
4 therefore our first two alternates, Mr. Pochopin and Ms. Levenson's
5 votes will count on this first application and going forward if no one
6 walks through that door all evening long. And there are three public
7 hearings this evening, but our first order of business is to accept
8 the minutes from March 6th. Will someone make a motion and will
9 someone second it?

10
11 MR. SHALIKAR: I'll make the motion.

12
13 MR. LEVITON: I've got Mr. Shalikar making the motion and
14 I've got.

15
16 MR. WECHSLER: I will second.

17
18 MR. LEVITON: Mr. Wechsler seconding it. Thank you,
19 gentlemen.

20
21 MS. MOENCH: I'm sorry who made the motion?

22
23 MR. LEVITON: Josh did.

24
25 MR. WECHSLER: He can't.

26
27 MR. SHALIKAR: Oh, I wasn't there.

28
29 MR. LEVITON: Oh yeah.

30
31 MR. WECHSLER: I'll make the motion to accept the minutes
32 from the last meeting.

33
34 MR. LEVITON: And will someone who's eligible please second?

35
36 MR. MANTAGAS: I'll second Mr. Chairman.

37
38 MR. LEVITON: Thank you Mr. Mantagas.

39
40 MS. MOENCH: Thank you.

41
42 **ROLL CALL**

43
44 MS. MOENCH: Okay Mr. Weiss is not here. Mr. Mantagas?

45
46 MR. MANTAGAS: Yes.

47
48 MS. MOENCH: Mr. Wechsler?

1
2 MR. WECHSLER: Yes.

3
4 MS. MOENCH: Mr. Pochopin?

5
6 MR. POCHOPIN: Yes.

7
8 MS. MOENCH: Chair Leviton?

9
10 MR. LEVITON: Yes. Okay, and then the same people are going
11 to be eligible to memorialize the one resolution on tonight's agenda,
12 Mr. Marmero.

13
14 MR. MARMERO: Sure Mr. Chairman. This is the one-year
15 extension that was granted to the applicant primarily due to outside
16 agency issues.

17
18 MR. LEVITON: So, Mr. Marmero I'm confident everyone who has
19 read the minutes from March 6th, they know it was a very terse
20 meeting. Can someone tell me what time we adjourned? I forget.

21
22 MR. WECHSLER: I think it was two minutes after we started.

23
24 MR. LEVITON: I believe 7:31.

25
26 MR. WECHSLER: Exactly.

27
28 MR. LEVITON: But my memory isn't that good, okay. So will
29 someone move to memorialize?

30
31 MR. WECHSLER: I'll make a motion to memorialize ZNE2209EX.

32
33 MR. LEVITON: Thank you Michael and will someone second it?

34
35 MR. POCHOPIN: I'll second it.

36
37 MR. LEVITON: Thank you Daniel.

38
39 MS. MOENCH: I'm sorry who was the second?

40
41 MR. LEVITON: Mr. Pochopin.

42
43 MS. MOENCH: Thank you. Okay.

44
45 **ROLL CALL**

46
47 MS. MOENCH: Okay, Mr. Mantagas?

48

TOWNSHIP OF MANALAPAN
MINUTES

ZONING BOARD MEETING
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1 MR. MANTAGAS: Yes.

2
3 MS. MOENCH: Mr. Wechsler?

4
5 MR. WECHSLER: Yes.

6
7 MS. MOENCH: Mr. Pochopin?

8
9 MR. POCHOPIN: Yes.

10
11 MS. MOENCH: Chair Leviton?

12
13 MR. LEVITON: Yes. Well, we're almost at the public hearings
14 portion of tonight's meeting. I just want to say today's the first day
15 of spring. It's very exciting and I hope everyone's March Madness
16 brackets will go well for them.

17
18 MS. BEAHM: Question.

19
20 MR. LEVITON: Okay. Let us call application ZBE2440. Did we
21 take? We did. Let us call ZBE2440. Mr. Pape on behalf of the Orr's
22 Why don't you come up as well. And our board attorney Mr. Marmero will
23 swear you both in.

24
25 MR. MARMERO: And I'll swear our professionals in too first.
26 So, I'll get our professionals. Do you swear the testimony you will
27 provide tonight will be the truth, the whole truth, and nothing but
28 the truth?

29
30 MS. BEAHM: I do.

31
32 MR. RIZZO: I do.

33
34 MR. MARMERO: Okay and Mr. Pape do you want me to get all
35 your witnesses sworn in at this time?

36
37 MR. PAPE: Sure.

38
39 MR. MARMERO: Okay and who do you have with you?

40
41 MR. PAPE: We have Joseph Primiano, James Higgins, and the
42 applicant.

43
44 MS. MOENCH: If you could just speak into the microphone.
45 Get close to the microphone ---
46

1 MR. MARMERO: Okay and if you'll each raise your right hand.
2 Do you all swear that the testimony you'll provide tonight will be the
3 truth, the whole truth, and nothing but the truth?
4

5 MR. PRIMIANO: I do.
6

7 MR. DIGGINS: I do.
8

9 MR. ORR: I do.
10

11 MRS. ORR: I do.
12

13 MR. MARMERO: Okay go-ahead Mr. Pape.
14

15 MR. PAPE: Thank you. Good evening, Mr. Chair, board
16 members, board professionals. My name is Jared Pape. I'm an attorney
17 with the law firm of Heilbrunn Pape and our office represents the
18 applicants Mr. and Mrs. Orr.
19

20 MR. LEVITON: Let's get Mrs. Orr a chair. Mrs. Orr grab
21 yourself a chair and just come on up and be comfortable and Mr. Pape
22 let me interrupt for a moment. I'm assuming Mr. Orr you're Joanne's
23 son.
24

25 MR. ORR: Yes.
26

27 MR. LEVITON: This board granted the Orr's the variance
28 relief that they needed to build the oversized garage that's on the
29 property.
30

31 MR. ORR: The property next door.
32

33 MR. LEVITON: Next door and I can't tell you what year that
34 was, but I can tell you in probably 2003. I left my five-year-old
35 daughter with your mom before school and she got her on the bus and
36 then she went to school from your house.
37

38 MR. ORR: Oh yeah?
39

40 MR. LEVITON: So, other than that we have no dealings
41 together and there's nothing that lets me believe I need to recuse
42 myself, but I'm going to confirm that. Mr. Marmero?
43

44 MR. MARMERO: No, it's just someone you've known in the
45 past, no legal conflict.
46

47 MS. MOENCH: If you guys could just bring the microphones in
48 closer.

1
2 MR. MARMERO: Sure.

3
4 MS. MOENCH: Thank you.

5
6 MR. LEVITON: Okay, Mr. Pape, tell the board what it is that
7 you're here for this evening, and you can put on your affirmative
8 case.

9
10 MR. PAPE: Thank you. Well, as it sounds like you know, Mr.
11 and Mrs. Orr have been lifelong residents of Manalapan Township, and
12 their family has owned property in this area for nearly a century,
13 dating back to when it was primarily farmland. In fact, Mr. Orr's
14 parents live next door, as was just mentioned. They're seeking to add
15 an addition to the rear of the existing house on the property with
16 some ancillary improvements as well as a pool and a shed to
17 accommodate their growing family. This house was built around 1965,
18 and it was never deemed a pre-existing, non-conforming use. Residences
19 are not permitted in this zone, so we're here seeking a D1 use
20 variance relief, and there's some technical bulk variance relief as
21 well that we'll address in testimony. I also want to address that we
22 had a TRC meeting with the board professionals. There was a request
23 for some wetland information. So, our client hired DuBois
24 Environmental Consultants to go and investigate the property, and they
25 confirmed all of the proposed improvements are well outside of the
26 wetland and buffer area, and that was put in a report that was
27 submitted to this board.

28
29 MR. LEVITON: We have it.

30
31 MR. PAPE: Thank you. Also, I want to make clear that the
32 applicant is requesting to contribute to the Sidewalk and Curbing
33 Capital Contribution Fund in lieu of installing sidewalk, as no
34 sidewalk exists in the area, which is depicted on the exhibit that was
35 passed out in front of you, but we will defer to the board on that
36 matter. So, with that as the introduction, I've asked Mr. Orr to just
37 make a brief statement as to the reason they're looking to do these
38 improvements. He's been sworn, so pass it to Mr. Orr.

39
40 MR. ORR: Yeah, hi, everyone, Tom Orr 88 Highway 33.

41
42 MS. MOENCH: Closer, closer.

43
44 MR. ORR: My wife, Larissa, and I are excited. We both grew
45 up in Manalapan. The property we purchased as Jared mentioned was part
46 of a family history for four or five generations ago. It was farmland
47 for us. Currently my parents live next door. Down the street my
48 grandmother lives and there's some homes that my family built way back

1 when. We're excited for our kids to grow. We continue the tradition
2 and the addition and improvements we're planning on provides some
3 extra space and updates to the home. It's an older home so.

4
5 MR. LEVITON: Thank you Mr. Orr.

6
7 MS. BEAHM: Mr. Chair would you like me to just summarize
8 what we're doing here right now?

9
10 MR. LEVITON: Why don't we let Mr. Higgins put his testimony
11 on the record and then you can address any concerns that you may have.

12
13 MS. BEAHM: Okay.

14
15 MR. LEVITON: Okay.

16
17 MR. PAPE: Our next witness will be Mr. Primiano just to
18 outline the specific improvements. So, if that's acceptable we'll ask
19 him to.

20
21 MS. BEAHM: He's an architect?

22
23 MR. PAPE: Correct.

24
25 MR. LEVITON: Absolutely. Mr. Primiano why don't you come on
26 up and Mr. Marmero will swear you in.

27
28 MR. MARMERO: I've gotten him sworn in, but if you could
29 state your name again for the record sir.

30
31 MR. PRIMIANO: Sure, Joseph Primiano, P-R-I-M-I-A-N-O. I'm a
32 licensed architect in the state of New Jersey and ten other states.
33 I've testified between around a hundred boards in New Jersey all
34 throughout this area in Millstone, Monroe, Marlboro. I've testified
35 before this Board numerous times. I actually used to sit on this board
36 for many years. I used to give Jared's father a hard time.

37
38 MR. MARMERO: I would assume that's sufficient Mr. Chair?

39
40 MR. LEVITON: Yes Mr. Marmero. The board accepts Mr.
41 Primiano's credentials.

42
43 MR. PAPE: Thank you. Mr. Primiano I'm just going to ask if
44 you can identify briefly the existing improvements on the site, what's
45 being proposed, and then from there just to identify the specific bulk
46 variances that are being requested?

47

1 MR. PRIMIANO: Sure. So, currently there's a ranch house
2 with an unfinished basement. It's approximately 1,744 square feet. The
3 applicant is looking to do a rear addition as part of this project.
4 The rear addition is about 999 square feet, so put the total amount of
5 livable space at 2,743, which is a decent living space. Right now, the
6 rooms are smaller. The space is kind of undersized for the Orr's'
7 family. So, they're looking to expand towards the rear to increase the
8 interior room sizes and just get the family a little bit more space,
9 but because of the narrowness of this lot and the zone that it's in,
10 you could see on our site plan that the setback line is literally a
11 line. There's a fifty-foot setback, and the left side line crosses and
12 hits the right-side line. So even if you put something that was
13 literally an inch wide, we would be here in front of the Board because
14 of that setback issue.

15
16 MS. BEAHM: You're talking side yard setback?

17
18 MR. PRIMIANO: Side yard setback, correct. In the front, it
19 complies. It's a seventy-five-foot front yard setback, and the
20 existing is at 112. So, the new variances are for the side yard
21 setback. There's also a gross floor area. There's a minimum that's
22 required in this zone, which is five thousand square feet; existing is
23 at 2,380. After the expansion, it'll be 3,379. So, we're getting
24 closer to compliance, but it would need to be five thousand square
25 feet, which in this case would be excessive, and just they don't need
26 that much space, and then there's also a variance for side yard
27 setback for the accessory structure, which is the pool. So, there's a
28 shed and a pool that's being added, and again, no matter where these -
29 --

30
31 MS. BEAHM: I don't think that's true. The setback for a
32 pool is ten feet.

33
34 MR. PRIMIANO: Then scratch that. We don't need a side yard
35 setback for the pool.

36
37 MS. BEAHM: Okay.

38
39 MR. PRIMIANO: We will take that off. That's a compliant
40 pool. Thank you. So, again all the work that's being requested is
41 taking place towards the rear of the property. So, it won't be visible
42 from the highway. I don't know if you wanted me to go into more
43 specifics.

44
45 MR. PAPE: I think that's all we're asking at this time
46 unless there's any questions from the board.

1 MR. LEVITON: Board members? You're good Mr. Primiano, thank
2 you.

3
4 MR. PRIMIANO: Thank you.

5
6 MR. BOCCANFUSO: Before you leave Mr. Primiano, you had
7 spoken about the pool. Ms. Beahm is correct. It is ten feet to the
8 floor and the associated patio, but I think Mr. Rizzo's report and
9 maybe Jen's report as well identified a shed setback, an accessory
10 structure to the shed.

11
12 MR. PRIMIANO: So, we are proposing a shed. It's twelve by
13 sixteen and we're at 18.2 feet.

14
15 MR. BOCCANFUSO: Okay.

16
17 MR. PRIMIANO: From the side.

18
19 MR. BOCCANFUSO: Great.

20
21 MR. PRIMIANO: Thank you.

22
23 MR. LEVITON: Thank you and we're fortunate in that it's Ms.
24 Beahm herself who writes the ordinances for Manalapan Township and
25 amends them and when she says we're good, we're good.

26
27 MR. PAPE: So, our final witness is Mr. Higgins. He's been
28 sworn, but I'll ask him to put his credentials on the board.

29
30 MR. LEVITON: He won't need to. He's welcome back as always.

31
32 MR. HIGGINS: Thank you. Thank you very much.

33
34 MR. LEVITON: You're welcome.

35
36 MR. PAPE: So, Mr. Higgins I'll pass it to you to provide
37 the necessary proofs for the variance.

38
39 MR. HIGGINS: Surely. Well, you've heard the Applicants
40 proposing to expand an existing single-family residence. It's in the
41 SED-5 zone. Single family residences are not permitted because there
42 is no certificate of non-conformity that anybody knows of on this
43 site. Technically, we're looking for a D1 variance for a use that's
44 not permitted in the zone. Quite frankly, I think the special reasons
45 are self-evident in this instance. First of all, the site is
46 particularly suited for a single-family residence for a number of
47 reasons. The size of the site, at 1.43 acres where five acres would be
48 required for an SED-5 permitted use. The size of the site is much more

1 appropriate. The width of the site is much more appropriate, and quite
2 frankly, the site's been used for a single-family residence for sixty
3 years and the properties on either side are single-family residences.
4 They've been there for approximately sixty years, and the properties
5 to the north of the site are single-family residences and open space
6 associated with single-family residential development. So the site's
7 surrounded by single-family developments so I think in that regard
8 alone it's particularly suited for the use. The site's clearly not
9 appropriate for any of the uses permitted in the SED zone which are
10 all commercial uses or industrial uses. Some of them are very
11 intensive. You can't put anything on the site that complies with the
12 SED zone requirements because of the very narrow width of the site and
13 the small size of the site. So, when I look at all that, I think
14 clearly special reasons exist for the granting of a D1 variance on
15 this site and that generally the courts have determined that the bulk
16 variances are generally subsumed within the D1 variance. So, the bulk
17 variances I think are reasonable for a single-family residence.
18 They're consistent with the other single-family residences in the
19 immediate area of the site. So, I don't see a problem with those
20 variances being granted, and as far as consistency with the master
21 plan and the zoning ordinance. Again, the ordinance requires five
22 acres and you clearly don't have five acres on this site. You have
23 residences on either side of the site that are viable residences that
24 are going to continue to exist. So, I don't think that there's any way
25 this could be reasonably developed for a SED-5 zoning in compliance
26 with the SED-5 zone. So, I look at all that, I think there's special
27 reasons and there's no substantial detriment.

28
29 MR. LEVITON: Thank you Mr. Higgins. Ms. Beahm does he need
30 to put?

31
32 MS. BEAHM: I think that I agree with everything you said. I
33 think that the zoning anticipates a commercial use. Five acres, fifty-
34 foot side yard setbacks, the gross floor area is anticipating a
35 commercial, industrial use not a residential use. So, I take no
36 exception to what they're asking for and I do agree with Mr. Higgins
37 that under Himeji the bulk variances are subsumed within the use
38 variance because this lot in particular is not appropriate, I agree,
39 for commercial development. It's like a bowling alley lot. It's narrow
40 and deep so you're not really going to get and has been developed as a
41 single-family home and I get the fact that there's no official non-
42 conforming status. So technically when the zoning goes into place, an
43 applicant has a year to get that status verified by the zoning officer
44 or they have to come here for whatever ratification, let's just say.

45
46 MR. HIGGINS: Certificate of non-conformity.

47
48 MS. BEAHM: Correct. Had they come here.

1
2 MR. LEVITON: Let me interrupt you.

3
4 MS. BEAHM: I have no doubt that had they come here and
5 requested that, that this board would have given them that status.

6
7 MR. LEVITON: So essentially the only reason that they're
8 here is because they're in the wrong zone.

9
10 MS. BEAHM: The house is on 33 and it's on 33 locals at just
11 before it merges into 33.

12
13 MR. LEVITON: Yeah.

14
15 MS. BEAHM: Business. It's been there. The only reason that
16 they're here is it's a residential use, existing for however long,
17 they're looking to put a modest, one-story addition to make the square
18 footage 2,700 square feet which I think is a modest-sized home.
19 They're here putting the pool and the shed on the plans to get
20 approval as well because if they come back later to put a pool in,
21 they're not permitted. They'd have to come back to us. So, they're
22 here now. They mine as well put it all on the table. I take no
23 exception to anything. I think it's a modest request. It looks like a
24 lot of relief on paper because the site is significantly undersized
25 for the commercial zone. Nothing that they're doing is really
26 exacerbating anything. They're not going closer to the side lot line
27 with the addition. It's staying in line with the existing structure. I
28 take no exception to anything that they're proposing.

29
30 MR. LEVITON: We appreciate your input, Ms. Beahm, but for
31 my own edification, I want to call on Janice for a moment and for
32 Brian. I've been here ten years. Janice, you're nine, I'm fairly
33 certain. You're here nine years?

34
35 MS. MOENCH: Yeah, it'll be ten this year.

36
37 MR. LEVITON: Okay, I'm going on eleven. I don't think I've
38 ever seen anyone ask this board for a certificate of non-conformity.
39 Did Nancy get those requests behind the scenes? Have you ever seen
40 one? Brian, have you?

41
42 MR. BOCCANFUSO: I have not, but it would've needed to
43 happen within a year of the time that the zoning ordinance.

44
45 MR. LEVITON: Yeah, I heard Janice say that, but we've had
46 lots of pre-existing, non-conforming matters appear before this board
47 in the past.

1 MR. BOCCANFUSO: Sure, but to get them legitimized. I mean,
2 it's rare because usually the zoning ordinances went into effect
3 twenty, twenty-five, thirty years ago. People didn't know what they
4 know now. I mean you really would've had to be on top of things to get
5 that certificate. So, it's usually just kind of an existing, non-
6 conforming uses that have continued and then when they want to change
7 things, they end up before us like the applicant is today.

8
9 MS. BEAHM: And the applicant hasn't argued with the status
10 so technically if they had come to the board and gotten that pre-
11 existing status, we'd be at a D2 situation which is a different burden
12 which is can the site accommodate the increase which I think it can,
13 but they did the full D1 proofs and I still agree with Mr. Higgins.
14 So, they went above and beyond, provided us testimony to justify it as
15 a D1 to be safe and make sure that everything is done appropriately. I
16 agree with you. It happens a lot in many towns, but at the end of the
17 day technically if they don't and I think that's Jared what you were
18 saying, right? Technically, we don't have the certificate which is why
19 they put proofs on for D1. They did what they had to do a hundred
20 percent correctly and now should the board act in the affirmative then
21 this applicant now has the right to rely upon the fact they've
22 received the use variance and they can go forward. If they want to put
23 another addition on, this approval if you guys are going to approve it
24 would change the application in the future.

25
26 MR. LEVITON: Thank you for the clarification. Mr. Higgins,
27 Mr. Pape, thank you for your thoroughness. Is there anything further
28 that you want to put on the way of testimony?

29
30 MR. PAPE: We have nothing further.

31
32 MR. LEVITON: Then let's go out to the board and we'll
33 start.

34
35 MR. BOCCANFUSO: Mr. Chairman, before you do that just one
36 thing I can weigh in on. I think it was in Mr. Rizzo's report as well.
37 There is a driveway that services both this property and the
38 neighboring property which I guess is owned by the Orr's' parents. The
39 driveway setback requirement is ten feet. Obviously, this doesn't
40 comply because it straddles the property line. I don't take any issue
41 with the relief, but I think the relief should go on the record. I
42 think it's still subsumed into the D. All the previous discussion and
43 testimony is relevant, but I just want to make sure it's on the record
44 so that if the board acts affirmatively and the applicant seeks to
45 repave or improve the driveway in the future they could do so without
46 having to come back to the board.

1 MR. LEVITON: So, for the public and for new board members
2 the zoning administrator, Mr. Boccanfuso, is taking into consideration
3 another zoning matter. I don't want to call it a problem, but next
4 door the driveway infringes on the front setback and it's probably in
5 the right-of-way off of 33 business.

6
7 MR. BOCCANFUSO: Well, all driveways, almost all driveways,
8 extend into the right-of-way anyway.

9
10 MR. LEVITON: Okay.

11
12 MR. BOCCANFUSO: Otherwise, how else would they get to the
13 street?

14
15 MR. LEVITON: Okay. So, we're going to subsume the relief
16 that that needs to be legitimized into this application.

17
18 MR. BOCCANFUSO: Correct and Mr. Pape do you happen to know
19 if there's an easement in place for that driveway, a shared access
20 easement or anything along those lines?

21
22 MR. PAPE: We looked into it. To our knowledge, we didn't
23 find any easement or agreement. I think it's been that way as far as
24 we know since those properties were constructed.

25
26 MR. BOCCANFUSO: Would you be willing to execute such an
27 agreement? I know your client and their parents live there now that
28 may not always be the case.

29
30 MR. PAPE: To be clear, that side, the parents are on the
31 other side.

32
33 MR. BOCCANFUSO: Okay.

34
35 MR. PAPE: So, we would be open to reaching out to the
36 neighbors to see if they'd be open to.

37
38 MR. BOCCANFUSO: Oh, I'm sorry so the parents don't live on
39 the shared driveway side?

40
41 MR. PAPE: Right, that's what I'm saying.

42
43 MR. BOCCANFUSO: Okay.

44
45 MR. PAPE: The parents are on the other side of the
46 property. So, this would be a different set of neighbors, but we are
47 open to reaching out to them to see if they'd be open to executing

1 some kind of cross-access agreement. Like I said, that arrangement has
2 been in place for.

3
4 MR. HIGGINS: And the other thing is it's a shared driveway,
5 but the two driveways can function independently.

6
7 MR. BOCCANFUSO: Independently.

8
9 MS. BEAHM: So, it's one per --- the width of two driveways.

10
11 MR. HIGGINS: It's just a matter of --- yes, yes, yes, it's
12 just a matter of ---

13
14 MR. RIZZO: Do the driveways touch the entire length?

15
16 MR. HIGGINS: It's two curb cuts. They go in and they meet
17 in the site.

18
19 MR. RIZZO: So, they meet further back.

20
21 MR. HIGGINS: Yeah, yeah, they meet further back, yes.

22
23 MR. RIZZO: Short of getting any easement on the record.

24
25 MR. HIGGINS: It's just been an agreement of convenience
26 between the neighbors and it's worked this way for sixty years.

27
28 MR. RIZZO: But your driveway will continue to function
29 where you don't need to actually cross over the property line to get
30 in and out.

31
32 MR. PAPE: That's correct.

33
34 MR. HIGGINS: Yeah, yes.

35
36 MR. PAPE: Functionally each neighbor just uses their
37 portion of the driveway and the connection really probably more
38 functional for a K turn or something like that, but it's not needed to
39 actually.

40
41 MR. RIZZO: But you have your own turnaround space beyond
42 that point, correct?

43
44 MR. PAPE: Each driveway has its own separate turnaround
45 space, correct.

46
47 MR. BOCCANFUSO: Okay with that said Mr. Chairman, I don't
48 think the easement is necessary. I misunderstood. I thought they both

1 relied on the same access. Maintenance can become a problem that type
2 of thing.

3
4 MR. LEVITON: Thanks Brian.

5
6 MR. BOCCANFUSO: But in this case, they each have their own
7 driveway they just happen to be connected within the property.

8
9 MR. LEVITON: Jordan, anything from you, sir?

10
11 MR. RIZZO: Just one more thing, Mr. Chair, this is my
12 second review letter. Everything from the first one was generally
13 addressed with the resubmission and through testimony. Just the last
14 thing, I guess, is tree removal, and you are removing some trees. So
15 you'll just get the necessary permits you need.

16
17 MR. PAPE: Yes.

18
19 MR. RIZZO: To do that.

20
21 MR. PAPE: We agree.

22
23 MR. RIZZO: That's all I have, thank you.

24
25 MR. LEVITON: Joshua?

26
27 MR. SHALIKAR: No questions, thank you.

28
29 MR. LEVITON: Stacey?

30
31 MS. KLOMPUS: No questions.

32
33 MR. LEVITON: Basil?

34
35 MR. MANTAGAS: No questions Mr. Chairman.

36
37 MR. LEVITON: Michael?

38
39 MR. WECHSLER: No questions Chair.

40
41 MR. LEVITON: Daniel?

42
43 MR. POCHOPIN: I'm good. No questions, thank you.

44
45 MR. LEVITON: Jessica?

46
47 MS. LEVENSON: No questions.

1 MR. LEVITON: Temika?

2
3 MS. LATILLA: I just have a question about the height of the
4 shed. Just to make sure it's compliant.

5
6 MS. MOENCH: I'm not picking her up at all.

7
8 MS. KLOMPUS: She just wants to know the height of the shed.

9
10 MR. MANTAGAS: Does she have a mic?

11
12 MS. BEAHM: I don't think she has a mic.

13
14 MS. LATILLA: I don't remember what the requirement is, but.

15
16 MS. BEAHM: If it's ten feet, then it's compliant.

17
18 MS. LATILLA: Okay.

19
20 MR. RIZZO: Yeah, this is a commercial zone so technically
21 it's a lot higher than that.

22
23 MS. BEAHM: Is there a requirement for a replacement ---
24 commercial zone or it's not applicable ---

25
26 MR. BOCCANFUSO: It depends. What would happen is they'll
27 need a pull tree removal permit. The township forester will look at
28 it. We just modified our ordinance. I'm not exactly sure what the
29 requirements are. In some cases, you have to replace. In some cases,
30 you don't, depends on a number of factors.

31
32 MS. LATILLA: Okay.

33
34 MS. BEAHM: So, Jared you comply with whatever that
35 requirement is?

36
37 MR. PAPE: Yes, and I believe there's two or three trees
38 that are anticipated to be removed. I think they're shown on the plan
39 and we will agree to comply with what was just stated.

40
41 MR. LEVITON: We have the Shade Tree Commission here in
42 town. You both know? Okay, and the applicant already agreed to work
43 with Mrs. Shapiro from the Shade Tree Commission and we thank them for
44 their compliance.

45
46 MR. BOCCANFUSO: Sorry to disappoint you Mr. Chairman, we
47 don't have a Shade Tree Commission anymore.

1 MR. LEVITON: We don't?

2
3 MS. BEAHM: No.

4
5 MR. BOCCANFUSO: We absorbed it into the Environmental
6 Commission.

7
8 MR. LEVITON: It's in the Environmental Commission then. So,
9 they're going to work with Ms. Beth Ann. Is that correct?

10
11 MS. BEAHM: Although they'll --- the permit and the forester
12 will review it. If it's two or three trees I don't necessarily know if
13 it's going to raise to the level --- They've agreed to comply with
14 whatever we require.

15
16 MR. LEVITON: Okay, let me go out to the public and ask if
17 there's anyone in attendance who wants to question any of the expert
18 testimony entered onto the record this evening or address the board
19 for any matters presented to the board. Seeing none, I'll close
20 public. Mr. Marmero, do you require anything further?

21
22 MR. MARMERO: No, but I can sum up the relief that the
23 applicant is seeking for your motion. So, you heard testimony
24 regarding this existing, single-family home which is located in the
25 SED-5 district where residences aren't permitted. The applicant needs
26 the D1 variance and then in addition there are some bulk variances the
27 applicant is looking to subsume. Those would include the lot area bulk
28 variance, the various side yard setback variances that are
29 attributable to the driveway and the existing home. You heard
30 testimony that the side yard setbacks actually overlap, that the lot
31 is so narrow. We heard testimony in the reports regarding the minimum
32 gross floor area variance that's needed. Again, this is a commercial
33 area so a minimum of five thousand square feet is actually needed.
34 Obviously, a home wouldn't meet that minimum, and then you got the
35 minimum improvable lot area, the minimum improvable lot diameter, and
36 the lot frontage variance. In terms of conditions that were discussed,
37 the applicant agreed to get all necessary permits regarding tree
38 removal. Of course, in addition to any other required outside
39 agencies. The only question I think you guys need to consider is the
40 sidewalk contribution. Obviously, there's a requirement for sidewalk.
41 The applicant at the onset did ask to contribute to the sidewalk fund
42 instead so if you were to agree to that, that would be a condition. If
43 not, the condition would be that sidewalk is installed.

44
45 MR. LEVITON: So, you understand that? Let's ask Jennifer
46 what she thinks. Jen?

47

1 MS. BEAHM: So, I think for a single-family homeowner along
2 this stretch that's putting a modest addition, I think imposing the
3 installation of sidewalk, and you know me, I'm always pushing for the
4 installation of sidewalk, I think that this particular application the
5 waiver is appropriate, and the contribution could be utilized in a
6 different location within the township.

7
8 MR. LEVITON: Thank you so much Ms. Beahm. Let me ask
9 someone to make a motion.

10
11 MS. KLOMPUS: I'll make the motion.

12
13 MS. MOENCH: I'm not picking.

14
15 MR. LEVITON: Thank you Ms. Klompus. She moved.

16
17 MS. MOENCH: I need it in the microphone.

18
19 MS. KLOMPUS: I'll make the motion, thank you.

20
21 MR. LEVITON: To approve or to deny?

22
23 MS. KLOMPUS: To approve, sorry.

24
25 MR. LEVITON: Okay.

26
27 MR. SHALIKAR: I'll second the motion.

28
29 MR. LEVITON: Thank you Stacey. Thank you, Josh.,

30
31 **ROLL CALL**

32
33 MS. MOENCH: Mr. Shalika?

34
35 MR. SHALIKAR: Yes.

36
37 MS. MOENCH: Ms. Klompus?

38
39 MS. KLOMPUS: Yes.

40
41 MS. MOENCH: Mr. Mantagas?

42
43 MR. MANTAGAS: Yes.

44
45 MS. MOENCH: Mr. Wechsler?

46
47 MR. WECHSLER: Yes.

TOWNSHIP OF MANALAPAN
MINUTES

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1 MS. MOENCH: Mr. Pochopin?

2
3 MR. POCHOPIN: Yes.

4
5 MS. MOENCH: Ms. Levenson?

6
7 MS. LEVENSON: Yes.

8
9 MS. MOENCH: Chair Leviton?

10
11 MR. LEVITON: Congratulations Orrs. Mr. Orr, my best to your
12 wife.

13
14 MR. ORR: Thank you.

15
16 MR. LEVITON: You're welcome.

17
18 MR. PAPE: Thank you very much.

19
20 MR. LEVITON: You're welcome.

21
22 MR. MARMERO: Congratulations.

23
24 MR. LEVITON: Have a good evening, everyone. By the way, on
25 your way out I'll let you know that your application will be
26 memorialized at our next regular meeting and you will not need to be
27 here at that time.

28
29 MR. ORR: Thank you.

30
31 MR. LEVITON: You're welcome. It's very nice to meet you,
32 Jared.

33
34 MR. BOCCANFUSO: Crazy right?

35
36 MR. LEVITON: Thank you to our professionals as always.
37 They're no longer needed and they've packed up and they're on their
38 way out the door. Mr. Rizzo, Ms. Beahm a pleasure as always.

39
40 MS. MOENCH: Jordan do you have all your stuff right? You
41 have all your stuff from?

42
43 MS. BEAHM: Good night, everybody.

44
45 MR. LEVITON: Okay, next up is ZBE2502, Mr. Cherbini. Hello
46 sir. How are you tonight?

47
48 MR. CHERBINI: Alright, and yourself?

1
2 MR. LEVITON: Pretty good. Make yourself comfortable. Mr.
3 Marmero will swear you in.
4

5 MR. MARMERO: Alright, so if you raise your right hand. You
6 have it raised. Do you swear the testimony that you will provide
7 tonight will be the truth, the whole truth, and nothing but the truth?
8

9 MR. CHERBINI: Yes.
10

11 MR. MARMERO: Okay.
12

13 MR. CHERBINI: Good evening.
14

15 MR. LEVITON: And to you. Tell the board what it is that
16 brings you here this evening and what you need from them.
17

18 MR. CHERBINI: Good evening. I'm the new homeowner at 38
19 Kensington Drive, which is at the corner of Kensington and Tennent
20 Road. When I purchased the house, of course, you wait to get the
21 survey, and you can't change your mind, kind of where we were at that
22 point, and I didn't realize at the time which I should have that
23 Tennent Road has a seventy-five-foot setback for front yard. Well,
24 since it's a corner house, it's got two front yards. So, the seventy-
25 five-foot setback, if you could see, I could give everybody a plan, is
26 straight down the center of my rear of my property. Therefore, putting
27 a fence up, even if it's a three-foot fence, which is allowed in a
28 front yard, would be straight across on a diagonal across my property.
29 What I'm looking for relief tonight is I'm looking to put up, first
30 off, a six-foot fence along the Tennent Road side which is the second
31 front property which is a variance that I would need for over the
32 three foot and that would be a vinyl fence, and then across the front
33 also I'm looking to put the same six-foot fence on the one side. The
34 other side, I believe I'm in compliance, but it's the side on Tennent
35 Road, and then I'm looking across the back which I have a row of
36 arborvitaes that are already there, and I'm going to put a four foot
37 chain-link fence across the back kind of so that my neighbors don't
38 have, my neighbors who have a house like that's their side yard, they
39 wouldn't be looking at a six-foot fence. They're looking at the trees.
40 It wouldn't even come above that. I don't need it. I need it mostly
41 because I have a small dog. It doesn't need a large fence, but we are
42 here to have some privacy in our backyard. Being on Tennent Road
43 already, it's kind of noisy, but we knew that when we bought the home.
44 We just didn't know that getting a fence, I would need to go and get a
45 bulk variance for it. So technically I need it for that and part of
46 the back fence is also, a large part of the back fence, is also within
47 the right-of-way. So, as you could see, there's not a lot of room to

1 do much. I mean if I wanted to put my dog out there, I would have a
2 diagonal fence across my property just to be in compliance.

3
4 MR. LEVITON: So, for the public and for my board, a right-
5 of-way in zoning refers to land set aside for public uses like streets
6 or sidewalks. In this case, I know there are utilities I see on your
7 survey, but they're not where your fence is going to be. The right-of-
8 way runs with Tennent Road. Is that right Brian?

9
10 MR. BOCCANFUSO: I'm not sure that I understand the question
11 Mr. Chair.

12
13 MR. LEVITON: He wants to put the fence in the right-of-way,
14 and I'm trying to.

15
16 MR. CHERBINI: No, I want to put it within the setback, not
17 the right-of-way. The right-of-way is huge. It's a thirty-foot right-
18 of-way, we're nowhere near that.

19
20 MR. LEVITON: It's a thirty-foot right-of-way? I thought it
21 was a hundred-foot right-of-way.

22
23 MR. BOCCANFUSO: Yes, it is a hundred-foot right-of-way. I
24 think what Mr. Cherbini means is they have thirty feet from the curb
25 to the property line.

26
27 MR. CHERBINI: Yeah.

28
29 MR. BOCCANFUSO: So that portion of the right-of-way is
30 thirty feet wide which is rather large. It's not typical.

31
32 MR. LEVITON: Okay. So, I understand now and I still used it
33 as a teachable moment. I hope that it had impact somewhere. Let's go
34 to the board. Josh, what are your thoughts?

35
36 MR. SHALIKAR: I'm going to have to sympathize with you with
37 the lot shape certainly. Why the six-foot vinyl on the right side?

38
39 MR. CHERBINI: It's the privacy. It matches my neighbor. It
40 matches the area. Ultimately, I don't know how it happened in a lot of
41 other areas. I mean I don't always ask questions, but there's a lot of
42 fences that are within this right-of-way in this seventy-five-foot
43 setback and if you go down the road just a little bit, there was
44 actually houses put within the seventy-five-foot setback. So somewhere
45 it was approved when those new homes were built that homes could be
46 within the front of those yards could be less than seventy-five feet,
47 but I still have to comply with the old one.

1 MR. SHALIKAR: Understood. So front side, six-foot vinyl
2 side, right side, six foot vinyl rear is going to be four foot chain-
3 link?

4
5 MR. CHERBINI: Right so it's just a side yard, but we have
6 to call it the two side yards because it faces a corner, side corner.

7
8 MR. SHALIKAR: I don't think I have additional questions Mr.
9 Chairman.

10
11 MR. LEVITON: Temika let's go down to your end.

12
13 MS. LATILLA: I mean, no I'm good.

14
15 MR. LEVITON: Thank you Temika. Jessica?

16
17 MS. LEVENSON: No questions.

18
19 MR. LEVITON: Thanks Jessica. Dan?

20
21 MR. POCHOPIN: That shed sir, was existing?

22
23 MR. CHERBINI: It's gone. It's gone now. That was an issue.
24 Again, during the zoning CO they had to have it removed and they told
25 me well if they try to move it, it's going to come down so I just ---
26 and told them to get rid of it so. I have no shed.

27
28 MR. POCHOPIN: Thank you.

29
30 MR. LEVITON: Thank you Dan. Mike?

31
32 MR. WECHSLER: No, I don't think it's going to interfere
33 with line of sight on Tennent either being very familiar with that
34 turn. I think we're in good shape.

35
36 MR. LEVITON: Thanks Michael. Basil?

37
38 MR. MANTAGAS: No questions Mr. Chairman.

39
40 MR. LEVITON: Stacey?

41
42 MS. KLOMPUS: No questions.

43
44 MR. LEVITON: They're inclined to grant your wishes Mr.
45 Cherbini and I would hate to see a little dog hop a three-foot fence
46 on Tennent Road.

1 MR. CHERBINI: Yeah, yeah, yeah, he's about fifteen pounds
2 and he just need a little running space so, but that's really all
3 we're doing it for. It's crazy how much you spend for your dog.

4
5 MR. LEVITON: So, the Municipal Land Use Law of New Jersey
6 cannot anticipate the amount of traffic that your front yard sees on.

7
8 MR. CHERBINI: I understand.

9
10 MR. LEVITON: Minute by minute basis.

11
12 MR. CHERBINI: I sit on a land use board.

13
14 MR. LEVITON: Oh, you do?

15
16 MR. CHERBINI: Yeah, I do, yes. So, I've sat on Marlboro's
17 for four years. I currently sit on Shrewsbury's land use board. I'm
18 the borough administrator for Shrewsbury. I'm pretty used to doing
19 this. So I've just never been on this side.

20
21 MR. LEVITON: You're Shrewsbury's equivalent of our Tara
22 Lovrich.

23
24 MR. CHERBINI: Yeah, yes.

25
26 MR. LEVITON: You run this building?

27
28 MR. CHERBINI: Yes, exactly.

29
30 MR. LEVITON: And everyone in this building reports to you.

31
32 MR. CHERBINI: Yes, but a smaller level because we're a
33 smaller town, but yeah. We have a lot. I mean listen this is going to
34 be. Here it's a little easier to allow things. In Shrewsbury
35 everybody's a lot closer together. We're much denser. We have four
36 thousand people in two square miles. So, and we have a lot of historic
37 stuff. So every time someone wants to change the color of their house
38 you have to come and get permission from the board, so it's fun.

39
40 MR. LEVITON: Mr. Marmero, do you require anything further?

41
42 MR. MARMERO: No. I mean just to sum it up. Obviously, we'll
43 open to the public, but to sum up what he needs. So, it was a couple
44 of different variances that come into play here, and most of them deal
45 with fence height. In this area and because of where he's at, the
46 fence height would be three feet at least from where he wants to place
47 it, but he's proposing a six-foot fence in two areas and a four-foot
48 fence in another area. Both would require a height variance, and then

1 the fence would also intrude into the setback as well. So those would
2 be the necessary variances this evening.

3
4 MR. LEVITON: Thank you barrister. At this time, I will go
5 out to the public and ask if either of you sitting here this evening
6 want to question Mr. Cherbini about his application or anything he
7 entered onto the record this evening or address the board. Now would
8 be the time. A lot of head shaking in the negative so I'll go out to
9 the board and ask someone to make a motion.

10
11 MR. SHALIKAR: I make the motion to approve the application
12 as is.

13
14 MR. LEVITON: Thank you Mr. Shalika. Will someone second
15 it?

16
17 MR. MANTAGAS: I'll second Mr. Chairman.

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

20
21 **ROLL CALL**

22
23 MS. MOENCH: Mr. Shalika?

24
25 MR. SHALIKAR: Yes.

26
27 MS. MOENCH: Ms. Klompus?

28
29 MS. KLOMPUS: Yes.

30
31 MS. MOENCH: Mr. Mantagas?

32
33 MR. MANTAGAS: Yes.

34
35 MS. MOENCH: Mr. Wechsler?

36
37 MR. WECHSLER: Yes.

38
39 MS. MOENCH: Mr. Pochopin?

40
41 MR. POCHOPIN: Yes.

42
43 MS. MOENCH: Ms. Levenson?

44
45 MS. LEVENSON: Yes.

46
47 MS. MOENCH: Chair Leviton?

48

1 MR. LEVITON: Congratulation's sir.

2
3 MR. CHERBINI: Thank you everybody.

4
5 MR. LEVITON: You're welcome. Good luck with your fence.

6
7 MR. LEVITON: Does anyone need two minutes or five minutes,
8 a bathroom break, or all good? Phone calls to the kids? Okay, then
9 I'll call application ZBE2503. Is it Amer?

10
11 MR. AMER: Yeah.

12
13 MR. LEVITON: Sir, how am I saying that?

14
15 MR. AMER: It's Reda, Reda Amer.

16
17 MR. LEVITON: Reda.

18
19 MR. AMER: Reda R-E-D-A.

20
21 MR. LEVITON: Reda.

22
23 MR. AMER: Just Reda.

24
25 MR. LEVITON: Amer, Mr. Amer, right?

26
27 MR. AMER: Yes.

28
29 MR. LEVITON: Okay.

30
31 MR. AMER: Just Reda's fine.

32
33 MR. LEVITON: Okay Reda.

34
35 MR. AMER: I got to do so many accents so it's not just you.

36
37 MR. LEVITON: What kind of accent is it?

38
39 MR. AMER: I'm Egyptian, so.

40
41 MR. LEVITON: Egyptian?

42
43 MR. AMER: Yes.

44
45 MR. LEVITON: Okay, Mr. Marmero will swear you in, sir.

46

1 MR. MARMERO: Okay if you raise your right hand, we'll get
2 you sworn in. Do you swear that the testimony you will provide tonight
3 will be the truth, the whole truth, and nothing but the truth?
4

5 MR. AMER: I do.
6

7 MR. MARMERO: Okay.
8

9 MR. LEVITON: Get comfortable Reda and tell the Board what
10 you need from us and what brings you here.
11

12 MR. AMER: Well, I bought a house in 2020, 132 Millhurst
13 Road. I did all the permits. I got all the applications to apply to
14 put the second floor. It went to zoning, but for somehow, I think
15 because it was the Covid lockdown, because it was in February. Between
16 emails and phone calls, months passed by, and I never got to respond.
17

18 MR. LEVITON: So, you're saying you came to zoning before
19 Covid, Covid hit, months went by, and you never heard anything?
20

21 MR. AMER: Yeah, between emails and phone calls I was
22 getting the runaround.
23

24 MR. LEVITON: You got the runaround?
25

26 MR. AMER: Yeah, I figure maybe because of the Covid. I
27 couldn't just come here at the time to say what's the problem, if
28 there's anything. Then, by November, I just didn't bother. During that
29 time, I got approval for the septic system, the new septic system, for
30 the addition and stuff like that.
31

32 MR. LEVITON: From the township?
33

34 MR. AMER: From Dana.
35

36 MR. LEVITON: From the construction department or from the
37 health department?
38

39 MR. AMER: Yes, health department. I got approval already at
40 the time in June or July, and the zoning at that time, she was aware
41 of it. So, she said oh I didn't get it so I said, Dina, she did
42 approval that was over a few weeks ago. Then she emailed me back,
43 Suzanne from zoning at the time. She emailed me back. She said oh
44 yeah, I see, I'm sorry I didn't see it. Should be everything is fine.
45 I got the email a couple weeks after that and it said everything well.
46 So, I didn't, in the subject for the email it said everything well ---
47 Millhurst, 132 Millhurst. So, I wasn't paying attention and she said,
48 oh it didn't go through. You have to get more, what do you call it? A

1 survey, put me in a swamp. So, I sent an email. I said I really don't
2 know what's going on.

3
4 MR. LEVITON: You're overwhelmed?

5
6 MR. AMER: Oh my God.

7
8 MR. LEVITON: So, let me try to.

9
10 MR. AMER: Because at the beginning in February, when I
11 submit everything, I have a ---, can you please try to finish
12 everything within the next three months. I really appreciate it if you
13 can help me out so I can have a place to stay. I was staying in a
14 hotel at the time in Seaside. So, I have to travel every time, so.

15
16 MR. LEVITON: I'm going to have to cut you off right their
17 sir. This Board cannot entertain that type of testimony.

18
19 MR. AMER: No, no, it was me going back and forth.

20
21 MR. LEVITON: Yeah, but those personal hardships are things
22 we're precluded from considering. Let me.

23
24 MR. AMER: I understand. I didn't mean to insult.

25
26 MR. LEVITON: It's alright. You're fine, but I'd like to try
27 to bring some clarity if I can between you and me. Maybe we can get
28 there, I just want to back up a little bit.

29
30 MR. AMER: Okay.

31
32 MR. LEVITON: Let's go back to the beginning. You talked
33 about how you came to zoning and you put in the application before
34 Covid.

35
36 MR. AMER: Yes.

37
38 MR. LEVITON: And then it got lost, but when I looked at
39 your application, you had all kinds of problems. You had issues
40 related to not zoning, but to construction. You built everything on
41 the property without permits.

42
43 MR. AMER: Oh, okay. Here is what I mean.

44
45 MR. LEVITON: And now there are issues related to zoning.
46 You have setback issues in the rear with your shed, and on the side
47 with your property. So, we'll get to them all one by one. What is that
48 you want to show us?

1
2 MR. AMER: Oh okay.
3

4 MR. LEVITON: You can't come up and show me because it would
5 be an exhibit that we don't have already. You'd need to submit it to
6 Janice. We'd need to number it. Mr. Marmero would give it a number.
7 We'd mark it. I don't know what you're trying to give us. Before I
8 permit that, tell me what you want to show us.
9

10 MR. AMER: It was meant just to give you an idea of what was
11 going on between me and zoning.
12

13 MR. LEVITON: Correspondence you mean, letters?
14

15 MR. AMER: Yeah between.
16

17 MR. LEVITON: Just tell us.
18

19 MR. AMER: Emails. I figured because of the Covid. So, when
20 I came back a few months ago, I want to settle the matter. So, I came
21 to zoning and I said what happened between zoning and building. First,
22 I went to the mayor's office and she told me to go over there and she
23 would help me out to get everything straightened out. So, Brian here,
24 --- he got everything straightened out. He looked at everything. He
25 said I need a variance for that area and he said about the shed. He
26 said it's supposed to be fifteen feet from one side, ten feet from
27 that side. I said at the time, when she told me, she told me it's
28 going to be ten feet from each side. That's why, but that's why it was
29 like that, and for the back deck, I don't know if you have the
30 picture.
31

32 MR. LEVITON: We do.
33

34 MR. AMER: Okay, for the deck I have it as a landing for the
35 back doors here.
36

37 MR. LEVITON: We've seen it.
38

39 MR. AMER: Oh okay. So, I honest to God I didn't know that I
40 needed a variance for that area because I went straight against the
41 wall. If at that time they told me that I need a variance, I promise I
42 wouldn't even bother with it because I didn't want. I didn't have the
43 time to wait for a variance, but at the time I wasn't aware of it. I
44 didn't even think that I need a variance for that because I went into
45 the cantilever.
46

47 MR. LEVITON: Cantilever in the, yeah.
48

1 MR. AMER: Thirty inches by eight feet eight inches.
2

3 MR. LEVITON: Board members, I'm confident you're all
4 familiar with the application in detail. You've seen Brian's letter.
5 If you have not, I'm going to direct your attention to it now. It's
6 titled, "Memorandum". It's actually a memo to the board, and it's in
7 your file. He has generously given us a way to go back in time. You
8 can't go back. This is a man asking for forgiveness instead of coming
9 to us for permission before. It was a one-level house, a ranch. He
10 went up. The property's probably what we talked about earlier, pre-
11 existing, non-conforming because of its narrowness, the narrowness of
12 the property, and the size of the original house. If he had gone
13 straight up without changing the footprint at all, I believe he
14 would've been okay with the zoning department. Is that correct?
15

16 MR. BOCCANFUSO: That's correct.
17

18 MR. LEVITON: But he didn't. He had the cantilever that he
19 talked about. That's the only part that comes out.
20

21 MR. BOCCANFUSO: Yes, it's a very small cantilever on one
22 corner of the house.
23

24 MR. LEVITON: So, there are ways in Brian's recommendation
25 to grant him the relief that he needs and to legitimize what he seeks
26 in the way of affirmation this evening. However, Brian also recommends
27 that if we're going to go that route, and I support Brian always, I
28 also I'm inclined to not worry about the rear encroachment of the shed
29 five feet into the setback. It's ten feet instead of fifteen because
30 of the small, undersized nature of the lot to begin with. He's not
31 working with a lot. So, the shed to me is de minimis, and also the
32 cantilever is de minimis. So even though it's pre-existing and non-
33 conforming, the part that brings him here this evening is de minimis.
34 So, we are well within our rights to give him the relief that he
35 needs, but we shouldn't lose sight of the fact that he is seeking
36 forgiveness. He has no construction permits, and Brian's note insists
37 that, well he doesn't insist. Brian tells us that even if we grant him
38 relief, he still needs to go to construction and get permitted for
39 everything that he did without permission which is a measure of
40 comfort for us. It insulates us from any guilt feelings that we may
41 have going forward should something unfortunate happen on the
42 property. Also, Brian suggests and I believe we should support the
43 recommendation that Reda needs to install a driveway. It's currently
44 just rocks out there. He's in an area that at one time was very rural,
45 and then I don't know maybe twenty years ago a school popped up next
46 to it. Twenty-five years ago, a school popped up across the street
47 from it, and within the last ten years beautiful homes went up across
48 the street and next door. So, the improvements that were made are in

1 line with what I would've liked to have seen, so I think we should
2 consider Brian's recommendation. I think that it's sound, it's well
3 thought out, and we appreciate the guidance in this matter. The Chair
4 does. Thank you, Mr. Boccanfuso. What are your thoughts? Let's start
5 with Joshua.

6
7 MR. SHALIKAR: So, the approval, I'm sorry the if we were to
8 grant you the relief that you seek it's not a condition. You have to
9 get approval, all the permits and inspections done by the construction
10 department.

11
12 MR. AMER: I went to the construction and they told me to
13 get everything inspected so I got an engineer. I think I'm not sure if
14 I did.

15
16 MR. LEVITON: You don't have. You don't have.

17
18 MR. AMER: A certified letter.

19
20 MR. LEVITON: You don't have to show us. He's just telling
21 you.

22
23 MR. AMER: Oh okay, a certified seal from the engineer. He
24 came and he checked the house, everything and I have documented
25 everything in a flash drive.

26
27 MR. SHALIKAR: Okay.

28
29 MR. AMER: With everything I did before I cover anything
30 just in situation like that.

31
32 MR. SHALIKAR: Okay.

33
34 MR. AMER: And I have a hearing in 27 in Ocean County for
35 the building regarding the permit and stuff like that because of the
36 conflict.

37
38 MS. KLOMPUS: I'm not understanding, I'm sorry.

39
40 MR. SHALIKAR: Can you explain that? Why would you have a
41 hearing in Ocean County?

42
43 MR. AMER: Because the chairman for the building department
44 it's in our building department here.

45
46 MR. BOCCANFUSO: I think I can handle that.

47
48 MR. AMER: And he's the chairman for the Monmouth County.

1
2 MR. BOCCANFUSO: I think I can handle that one. So, there
3 were some fines issued for the work without permits.

4
5 MR. SHALIKAR: Okay.

6
7 MR. BOCCANFUSO: Reda has appealed those which he has a
8 right to. However, some of the employees in our in-house construction
9 department sit on the board appeals for Monmouth County. So, it would
10 obviously be a conflict. For that reason, he has to go to another
11 county.

12
13 MR. SHALIKAR: Thank you.

14
15 MR. BOCCANFUSO: With his appeal. It really has nothing.
16 Yeah, that's fine.

17
18 MR. SHALIKAR: It's okay. I would never have even guessed
19 that. So that's totally fine.

20
21 MR. BOCCANFUSO: There were some fines issued. He's
22 appealing them and that's the process.

23
24 MR. LEVITON: Reda. Reda.

25
26 MR. SHALIKAR: Do we know the height of the shed?

27
28 MR. AMER: I'm sorry?

29
30 MR. SHALIKAR: Have we measured the height of the shed yet?

31
32 MR. AMER: Have I?

33
34 MR. SHALIKAR: The height of the shed. Have we measured that
35 yet?

36
37 MR. AMER: Yes, it's eight feet..

38
39 MR. SHALIKAR: Eight feet so okay, very good. And you are
40 okay with doing the driveway, the turn around on property?

41
42 MR. AMR: Yeah, how long do I?

43
44 MR. LEVITON: You have a year. Brian is that? Albert, what
45 do you think?

46
47 MR. SHALIKAR: You're saying how long in depth or time?
48

1 MR. AMER: How far it goes. It's going to go up to the
2 backyard.

3
4 MR. SHALIKAR: But you're okay with this condition?

5
6 MR. AMER: I have nineteen feet so I guess it's going to be
7 like twelve feet all the way down I guess.

8
9 MR. SHALIKAR: Okay.

10
11 MR. AMER: To the backyard.

12
13 MR. LEVITON: Albert, how long will he have to complete the
14 driveway?

15
16 MR. MARMERO: Typically, you guys do the duration of the
17 variance you're giving now is one year. How long do you want him to
18 complete that driveway? That's not tied to that. I mean that's really
19 up to you. It's really just a thought of what would be reasonable? I
20 mean the outset of a year sounds reasonable to me.

21
22 MR. AMER: I would do that before that. I can apply to do it
23 before that I'm just saying the timeframe.

24
25 MR. LEVITON: That's good then. Brian, any thoughts?

26
27 MR. BOCCANFUSO: I think it should be done before a
28 certificate of occupancy is issued. If that's years, I don't think
29 it's years down the road because the construction is essentially done.
30 The reasoning he doesn't have a CO yet is because he doesn't have
31 permits or inspections or approvals. So that could all happen pretty
32 quickly, but I would be in favor of not approving a CO until the
33 driveway is completed. It's a safety issue.

34
35 MR. MARMERO: And if you were to occupy prior to review, I
36 think Brian's right, we tie it to the CO.

37
38 MR. LEVITON: We can do that?

39
40 MR. MARMERO: Yeah.

41
42 MR. LEVITON: You understand Reda?

43
44 MR. AMER: Yeah, I will try to do driveway.

45
46 MR. SHALIKAR: Can we make that a condition of approval?

47

1 MR. LEVITON: Okay, that's a safety matter because of your
2 proximity to I guess it's a tertiary road. I don't know. It's a
3 tertiary road. My engineer, my administrative slash engineer.

4
5 MR. BOCCANFUSO: It's a county highway.

6
7 MR. LEVITON: It's a county highway, very dangerous to back
8 out onto it.

9
10 MR. AMER: I understand.

11
12 MR. LEVITON: Okay.

13
14 MR. AMER: I was planning to do it either way.

15
16 MR. LEVITON: Okay well now.

17
18 MR. AMER: It's just now I'm going to rush it.

19
20 MR. LEVITON: Now you understand it's being tied to your
21 certificate of occupancy? You get that?

22
23 MR. AMER: Okay, I got it.

24
25 MR. LEVITON: Okay.

26
27 MR. AMER: I understand.

28
29 MR. LEVITON: Okay. Temika? Take the mic and speak into it
30 because someone's going to transcribe this later and they're going to
31 listen to it.

32
33 MS. LATILLA: I just, the chain-link fence, is that
34 existing? You didn't put that up?

35
36 MR. AMER: The one in the front?

37
38 MS. LATILLA: The fence on the right side.

39
40 MR. AMER: The fence?

41
42 MS. LATILLA: Yes.

43
44 MR. AMER: It's pre-existing.

45
46 MS. LATILLA: It's been existing? Only because it appears to
47 be over the property line at the front end of that property. I'm not
48 sure if we need to mention that or notate that just because it does

1 seem to go over. Other than that, I have no other comments. I mean I
2 think you said you're working with the construction official and in
3 lieu of sections he's willing to entertain photographs ---
4 certifications, right? So as long as you move forward with that to
5 make sure the structures safe, I have no other comments.

6
7 MR. LEVITON: Thank you Temika. Jessica?

8
9 MR. AMER: Can I? Is there need for driveway? Do I need to
10 have it at most twelve feet?

11
12 MR. BOCCANFUSO: I'll address that with you. Let's let the
13 board members ask whatever questions and comments they have. We'll get
14 to that.

15
16 MR. AMER: Oh okay.

17
18 MS. LEVENSON: I don't have any questions. I do agree with
19 the conditions of getting permits that are necessary. I agree with
20 that.

21
22 MR. LEVITON: Thank you Jessica. Dan?

23
24 MR. POCHOPIN: Yes, thank you Mr. Chairman. So just a little
25 clarification, the illustrations that you forwarded to the board. Is
26 that the old house?

27
28 MR. AMER: Yeah.

29
30 MR. POCHOPIN: Okay, that's the old house. This is the new
31 shed? I believe Mike is holding.

32
33 MR. AMER: That's the new shed.

34
35 MR. POCHOPIN: New shed. That's all the way in the back and
36 the color gray on this illustration?

37
38 MR. AMER: That's correct, yes.

39
40 MR. POCHOPIN: Okay, so you're going to address all the
41 concerns that all the board members about construction permits and
42 all?

43
44 MR. AMER: Okay.

45
46 MR. POCHOPIN: Along with the fence setbacks and the shed's,
47 etc.? And just another question, this seems to be on the not the side
48 of the driveway.

1
2 MR. AMER: Yeah.
3
4 MR. POCHOPIN: This is the opposite side of the house,
5 correct?
6
7 MR. AMER: Okay.
8
9 MR. POCHOPIN: Is that a sump pump drain?
10
11 MR. AMER: No, that's septic. The septic system is over
12 there.
13
14 MR. POCHOPIN: That pipe coming out?
15
16 MR. AMER: Oh no that's for the drainage for the basement.
17
18 MR. POCHOPIN: The sump pump?
19
20 MR. AMER: Yeah, yeah, yeah, the sump pump. I'm sorry.
21
22 MR. POCHOPIN: Okay so you ---
23
24 MR. AMER: I wasn't sure what you. I thought the pipe coming
25 from the side.
26
27 MR. POCHOPIN: That's okay.
28
29 MR. AMER: Oh okay.
30
31 MR. POCHOPIN: Yeah, I'm trying to clarify too.
32
33 MR. AMER: Thanks.
34
35 MR. POCHOPIN: So that looks as if it's six feet or so only
36 on that side where it comes down.
37
38 MR. AMER: Yeah, that's pre-existing. The setback for the
39 house itself, that's all pre-existing. One side is nineteen, fifty-
40 five inch, I think.
41
42 MR. POCHOPIN: Okay.
43
44 MR. AMER: Nineteen feet five inches. I'm not sure and the
45 other size is six fifteen, six feet, fifteen.
46
47 MR. POCHOPIN: Okay. Have you ever seen any pooling water or
48 anything on heavy rain storms where the sump pump?

1
2 MR. AMER: Oh no, no.

3
4 MR. POCHOPIN: No?

5
6 MR. AMER: No.

7
8 MR. POCHOPIN: Any neighbors?

9
10 MR. AMER: No, all the neighbors have been happy that when I
11 built the house.

12
13 MR. POCHOPIN: Okay.

14
15 MR. AMER: You know Covid everybody stayed home they only
16 see some guys working, that was me.

17
18 MR. POCHOPIN: Very good, very good.

19
20 MR. AMER: I did all the work by myself, with me and my son.

21
22 MR. LEVITON: You're very handy.

23
24 MR. AMER: Yeah, well I work construction.

25
26 MR. LEVITON: Michael?

27
28 MR. WECHSLER: I have no questions regarding the zoning or
29 what he's asking for.

30
31 MR. LEVITON: Thank you Mr. Wechsler. Mr. Mantagas?

32
33 MR. MANTAGAS: My main concern is I know during construction
34 there's inspection site times. Framing gets inspected, electrical gets
35 inspected, plumbing gets inspected. That was totally not inspected and
36 you did the construction yourself, you're saying right?

37
38 MR. AMER: Yeah, actually I've been doing that. I'm a
39 contractor also.

40
41 MR. MANTAGAS: Right, but you did everything yourself?

42
43 MR. AMER: I did everything, but.

44
45 MR. MANTAGAS: Complete? Framing, electrical?

46

1 MR. AMER: Yes, and before I cover anything I have it all
2 with videos. I have a video with everything to show up to code, and I
3 got the engineer. He came and he looked at the video.

4
5 MR. MANTAGAS: But there's no township inspectors involved,
6 building inspectors?

7
8 MR. AMER: No because everything was held in zoning and I
9 couldn't do nothing at the time.

10
11 MR. LEVITON: Basil, you understand. He will not get a
12 certificate of occupancy until and such a time as the construction
13 department goes out, checks his work, signs off on it.

14
15 MR. MANTAGAS: Right, I understand that, but my question is
16 how do they inspect the framing now when the walls closed and the
17 sheet is on the outside? How are they inspecting the integrity of the
18 building?

19
20 MR. LEVITON: Don't know, but Temika has.

21
22 MS. LATILLA: Well, he said that the construction ---
23 certifications from ---

24
25 MS. MOENCH: She needs to have a microphone because ---.

26
27 MR. MANTAGAS: So, you had certain engineers check off on
28 your --- and sign off on that?

29
30 MR. AMER: I did. I did that. I had an engineer sign off for
31 everything in the house.

32
33 MR. MANTAGAS: Electrical, plumbing?

34
35 MR. AMER: On January the 25th. He came with a couple of
36 guys and they check everything. They check all the flash drive with
37 all the work I did before the sheet rock, before anything.

38
39 MR. LEVITON: We don't need to focus heavily on it because
40 it's not really our purview.

41
42 MR. MANTAGAS: Right, right I understand that, but my
43 problem is somebody that just totally disregards the laws, the
44 construction laws of the town because you blame Covid. That's not just
45 poor excuse in my eyes, but my whole issue is sometimes things take
46 longer, I understand. There's red tape involved, right? There was a
47 whole thing going on that was Covid, but you totally disregarded that
48 and blamed it on the zoning board that didn't get back to you. So

1 that's my problem with this whole situation, but then we're in this
2 situation now. We want to resolve it. So, the building department will
3 inspect everything and give you the certificate of occupancy.

4
5 MS. LATILLA: If they agree with everything he provides. ---

6
7 MR. MANTAGAS: Right and if it's not safe.

8
9 MR. AMER: I'm going to comply with the driveway.

10
11 MR. LEVITON: You're going to have to put in the driveway
12 and you're going to comply with everything that construction tells
13 you, yes.

14
15 MR. AMER: On twenty-seven I have a hearing like that.

16
17 MR. LEVITON: Yes, that's here nor there as it relates to
18 these proceedings. Basil, we appreciate your thoughts.

19
20 MR. MANTAGAS: Okay, thank you.

21
22 MR. LEVITON: We share them. We share them.

23
24 MR. MANTAGAS: Okay.

25
26 MR. LEVITON: Ms. Klompus?

27
28 MS. KLOMPUS: I think I would just like to see, and if it
29 can happen, a timeline like a deadline date because being that he
30 didn't do any of the follow up this would just insure that happens or
31 I don't know what happens, but a fine or something.

32
33 MR. LEVITON: Yeah, we really have no control over that
34 either. We know he's going to settle the matters related to the fines
35 he's got, and then he's going to reconcile the work that's been done
36 with construction here in town.

37
38 MS. KLOMPUS: But he needs to do the zoning before he can do
39 construction, correct?

40
41 MR. LEVITON: No, after tonight if this board is inclined to
42 grant the relief that he seeks, he will be done with zoning, but he
43 will never.

44
45 MS. KLOMPUS: Well then can we say something like the work
46 of making the driveway has to be done within a year?

1 MR. LEVITON: We are. We are actually tying it to the
2 certificate of occupancy which could come within a month's time. Our
3 attorney and our administrator have recommended that he not be granted
4 a CO without the driveway being completed. So he understands the
5 imperative nature of the driveway. It's important and that it's going
6 to be a condition of any relief that we grant him.

7
8 MS. KLOMPUS: Okay.
9

10 MR. MANTAGAS: I have one more question for Mr. Amer. You're
11 going to be living in this house? This is your primary residence?
12

13 MR. AMER: I've been living.
14

15 MR. MANTAGAS: You've been living? You're living in this
16 house?
17

18 MR. AMER: Since 2020.
19

20 MR. LEVITON: Don't tell us that. That's a problem. With no
21 CO, you cannot be living in that house. This board takes exception to
22 that statement and we're going to defer to our attorney on the matter.
23

24 MR. MARMERO: I mean again you're here to legitimize and
25 deal with the items before you. I mean this is on the public record so
26 I mean it is something that the township's aware of. You guys don't
27 have enforcement there, but other authorities do.
28

29 MR. LEVITON: Brian, at the administrative level, is there
30 awareness of this matter?
31

32 MR. BOCCANFUSO: I was not aware, but I can't speak for the
33 construction department.
34

35 MR. LEVITON: Brian, what are your recommendations going
36 forward now?
37

38 MR. BOCCANFUSO: Okay, so just to clarify a couple of
39 things. First of all, with regard to the construction without permits
40 and inspections obviously it's a concern. I think the board
41 unanimously is concerned with it and rightly so. I'm concerned with it
42 as well. However, I think our chairman summarized it well when he said
43 that's really not our purview. We're here to review the zoning aspects
44 of the application; the setback requirements, the deviation from the
45 zoning regulations, and so forth. If the applicant gets the necessary
46 relief that he needs tonight, the way that the process will move
47 forward from here is the first thing he'll have to do is submit for a
48 zoning permit which he started to in 2020 as he described, had some

1 back and forth with the zoning officer at the time, and the trail went
2 cold. So, he'll have to go back and revisit, submit for a zoning
3 permit. What he will do is he'll submit a permit application with a
4 survey markup, probably the exact one that's before you tonight except
5 that it's going to show the dimensions and geometry of the driveway.
6 That as I understand it would be required if an approval is granted.
7 One thing with regard to the driveway that I want to get to, we need
8 to talk about the setbacks which is something that came up on one of
9 the previous applications, but I'll circle back to that. I just want
10 to go through the process with you so you all understand it. So, he'll
11 submit for a zoning permit application. When an applicant goes before
12 the zoning board and gains an approval, the zoning permit application
13 review is usually a pretty straightforward process. My department's
14 really just going to be looking for it for consistency with your
15 approval. So, let's say its approval gets approved by zoning. Now the
16 entire permitting application goes to the construction department. Now
17 is when he has to deal with all of the work that was done without
18 inspections, without approvals, without permits, and so forth. One of
19 the ways that the construction department may resolve that issue is
20 through third-party certifications which Reda has said he has. Another
21 way is if they want to see framing and electric, he will have to open
22 the walls. That's going to be up to them. They will make that
23 determination when the time comes based upon the information that's
24 available to them and so on and so forth. It's their call. It's not
25 within our purview. It's not my area of expertise, but those folks are
26 highly qualified. They're going to get what they need to ensure that
27 the township is protected, that Mr. Reda, that Reda, is protected, and
28 the occupants or visitors to the home are protected, and the house
29 meets all applicable codes. To put it shortly, he's going to do
30 whatever they tell him he has to do. I think that they have to balance
31 being able to visually observe the things that they're supposed to
32 versus kind of not making someone destroy something that's already
33 finished. It's a balancing act for them, but they have to do it. Once
34 that's all done, the conversations will start about a certificate of
35 occupancy which the way things are going tonight if there's an
36 approval, it sounds like the board would be amenable to a condition
37 whereby the driveway would have to be completed before the certificate
38 of occupancy is issued. So, I'll communicate that condition to the
39 construction department. Typically, on a new single-family home,
40 zoning would have to sign off before a CO. This is an addition so I
41 don't know if we would require it, but in this case, I'll make sure
42 that we check that the driveway is done consistent with the zoning
43 permit that's approved, and that's the way the process would work.
44 Once the CO is issued, that's confirmed that everything's compliant
45 with the zoning board approval, compliant with the zoning permit, and
46 compliant with all applicable building codes and requirements. Now
47 with regard to the driveway itself, the setback requirement is ten

1 feet. Now, Reda I think you said you were thinking about a twelve foot
2 wide driveway. Is that right?

3
4 MR. AMER: Yeah, I wasn't sure how the width of the
5 driveway.

6
7 MR. BOCCANFUSO: So, the driveway proper has to be at least
8 ten feet, but we're going to require a K-turn area. You can put it in
9 the front or the back, whatever you want to do. What we're going to
10 need is we're going to need to see it on a plan, but the question I
11 have for you is so the house is roughly nineteen and a half feet from
12 the property line. How far or how close will the driveway be to the
13 property line? Can you work with five feet, four feet from the
14 property line?

15
16 MR. AMER: From the property line?

17
18 MR. BOCCANFUSO: Yes.

19
20 MR. AMER: I think I can center it out a couple of feet like
21 three, four feet from here, and four feet from here, and ---

22
23 MR. BOCCANFUSO: So you want to center it you're saying?

24
25 MR. AMER: I'm going to center it.

26
27 MR. BOCCANFUSO: Okay. So if it's roughly ten-foot wide
28 driveway, you would have about four and a half feet on each side. So
29 if the board considers a variance for a four-foot driveway setback
30 that mean four feet from the property line, maybe five feet from the
31 house is that something you can live with?

32
33 MR. AMER: Yeah.

34
35 MR. BOCCANFUSO: Okay.

36
37 MR. AMER: Because basically when I park it's all the way in
38 the back. It used to be a parking spot.

39
40 MR. BOCCANFUSO: Okay and you're going to have to do
41 something similar to that now so that you don't have to back out onto
42 Millhurst Road. Yeah we need to have a turnaround area there for
43 safety.

44
45 MR. AMER: Oh I don't back out, no, no. I do the K thing.

46
47 MR. BOCCANFUSO: Perfect. Okay, so it sounds like Reda's
48 agreeable to a four-foot setback. I would not have any issue with that

1 conditioned upon the language that was in my memorandum talking about
2 that area between the driveway and the property line being finished in
3 such a way that runoff isn't going onto the neighboring property. So,
4 if the board's receptive to that relief, I wouldn't take any objection
5 to it.

6
7 MR. LEVITON: Thanks Brian. Reda, you're going to have to
8 remember and it'll be in the resolution that we enact at our next
9 regular meeting. It's a four-foot encroachment into the setback and
10 someday down the road when you look to sell your property, if you're
11 not compliant with that, you're going to have a problem. So, you have
12 to let your contractor know, it's only four feet. Don't cross it.

13
14 MR. AMER: Alright.

15
16 MR. LEVITON: Okay.

17
18 MR. SHALIKAR: Can we make it a condition of approval that
19 the driveway is reviewed post construction before we issue the ZCO?

20
21 MR. LEVITON: Ask our attorney and ask into the mic.

22
23 MR. SHALIKAR: Mr. Marmero, so being that we have already
24 something tied to the ZCO, can we tie this as well that we have to
25 inspect the driveway to ensure that it complies with the setback?

26
27 MR. MARMERO: Yeah, I don't see why not is that's something
28 that the board and you guys have pretty --- on conditions and if
29 that's concerning then sure.

30
31 MR. LEVITON: Yeah, I'm okay with it. Josh, tell them what
32 you want.

33
34 MR. SHALIKAR: Yeah so being that we already have something
35 tied to the ZCO, I'd like to have before we issue the ZCO, the
36 driveway is inspected to ensure that it does comply with the four-foot
37 side yard setback. Are we okay with that? That way it doesn't fall on
38 the seller.

39
40 MS. KLOMPUS: Wait a minute, so how can we trigger that?

41
42 MR. BOCCANFUSO: So first you're saying ZCO or CO?

43
44 MR. SHALIKAR: Sorry CO, I'm sorry I meant CO.

45
46 MR. BOCCANFUSO: That's fine I just want to make sure we're
47 all on the same page. If you want post-construction confirmation, the
48 way it would be done with a survey because if we go out there and

1 inspect it, the property line is invisible. There are landmarks you
2 can try to rough it out, approximate it, but it's very difficult to
3 know with any degree of accuracy or precision.

4
5 MR. SHALIKAR: That's fine.

6
7 MR. BOCCANFUSO: If you're concerned or your focus is on
8 making sure that it's built with a compliant setback, the way to do it
9 is to require an updated survey once the driveway's completed, all
10 construction is completed, and that will tell the story as to where
11 everything is.

12
13 MR. SHALIKAR: Great. So I would like for an updated survey.
14 If you guys in agreement to that I think we can make that into a
15 condition.

16
17 MS. KLOMPUS: Yes.

18
19 MR. SHALIKAR: Chairman?

20
21 MR. LEVITON: I have no problem with that as a condition.

22
23 MR. SHALIKAR: Okay.

24
25 MR. MARMERO: The one question I have Brian, he went and
26 through the construction process and what'll happen when they go out
27 there, we did hear from the applicant that he's living there. Do you
28 know how that you treat that issue? I mean again it's not really our
29 purview. Our resolution is going to read that he has to comply with
30 all conditions of any other permits, outside agencies, and approvals
31 so by nature of the language of our resolution it's going to be clear
32 that you really shouldn't be living there. Do you know how they treat
33 that ---

34
35 MR. BOCCANFUSO: I have seen and issued summons, fines. Not
36 summons they would issue typically a fine. The issue is you can't
37 revoke the CO because there is no CO.

38
39 MR. MARMERO: Right.

40
41 MR. BOCCANFUSO: So, the penalty becomes financial. I know
42 that Mr. Amer has already received some fines. That's why he's going
43 through the appeal process, but I think that was largely for failure
44 to obtain permits. Occupancy without a CO is something different.

45
46 MR. MARMERO: And you guys being the board seem to be tying
47 the driveway to the CO which makes sense because it's a safety issue
48 and you don't want him to be there without the driveway being paved if

1 he's there. Again, it's not really your purview. You're doing the best
2 you can I think to improve the situation, but just be aware. I mean
3 this board can't do anything about you being there without a CO, but
4 other agencies in town can, and they very well might.

5
6 MR. LEVITON: Well, we can't compel you Reda to do anything,
7 but I'm very concerned about it because I'm a very small risk taker,
8 very small, and with you living in the home that you built without
9 oversight or supervision or.

10
11 MR. AMER: I know what you mean.

12
13 MR. LEVITON: What do you call those things? Permits,
14 without permits, could potentially be a dangerous building that you're
15 living in, and you're living in it unlawfully. You have no authority
16 to be living in that building. So, I'm going to recommend that our
17 attorney sends a letter to the township attorney to this effect, to
18 insulate me from any potential guilt because I would kick myself if I
19 didn't say anything. It has to be said. I'll entertain your thoughts
20 in a moment.

21
22 MS. MOENCH: He doesn't have a temporary, Brian?

23
24 MR. LEVITON: Does he have a temporary CO and is he
25 permitted to live in there with a temporary CO?

26
27 MS. MOENCH: I'm asking.

28
29 MR. BOCCANFUSO: I don't know.

30
31 MR. LEVITON: Albert? Is he permitted with a temporary CO to
32 live there? Obviously.

33
34 MR. MARMERO: With the ZCO, he can be there, yes.

35
36 MR. LEVITON: Okay so I still want you to send a note to the
37 town to Mr. McLaughlin, our township attorney, and I want him to be
38 forced out of that home if he's there unlawfully. Because if something
39 happens, I'm concerned that this board heard from the applicant's
40 mouth itself that he's living there without a CO, and we didn't do
41 anything, and that I believe that our actions will potentially
42 insulate us from any liability and certainly from personal guilt.

43
44 MR. MARMERO: Sure, I think that's fair. Any decision you
45 make tonight we'll do the best that you as a board can do to improve
46 the situation and I think now that you know that information ---
47
48

1 MR. LEVITON: And I heard the applicant testify that he was
2 living in a hotel and it was a hefty commute, and I'm sensitive to it,
3 but this board cannot consider financial hardships. So now I'll ask
4 you, what are your thoughts?

5
6 MR. AMER: Okay, I will move out.

7
8 MR. LEVITON: You will move out.

9
10 MR. AMER: Yeah, yeah.

11
12 MR. LEVITON: You'll move out A.S.A.P. We have a compliance
13 officer.

14
15 MR. AMER: I'm not sleeping there.

16
17 MR. LEVITON: You shouldn't be in that home at all.

18
19 MR. AMER: Okay, just do for you because you said you will
20 feel guilty so I'm just I don't want you to feel guilt.

21
22 MR. LEVITON: Now I don't want you to conflate the matters.
23 I don't want the board to conflate the matter. Zoning is separate from
24 your living and the building and that you're there unlawfully should
25 not impact on what these proceedings are about this evening, and
26 that's granting you relief.

27
28 MR. AMER: I promise you I'm not going to sleep there. I
29 will move out.

30
31 MR. LEVITON: For your addition, your shed, and your deck.
32 So, having said that, let's ask, is there anything further that you
33 want to ask of Reda?

34
35 MR. POCHOPIN: Yes Mr. Chair I would just like to reiterate.
36 I know you were here for permission and forgiveness so to speak, but
37 just to be clear that you said you work construction. So, in
38 construction, --- our concern and I'm glad we kind of stepped out of
39 the realm, but now that we heard this and thank you for complying with
40 moving out because of the safety. Even though you had engineers. I'm a
41 contractor myself and I took pictures before they closed up, but they
42 could've missed something, and then it's up to our construction with
43 all the weight on us, the whole board. You heard everybody here. The
44 safety concern is main, and here's the other thing you need to
45 remember moving forward sir is when you do these things without
46 permits because of Covid or whatever it was like one of my associates
47 said. You might have to comply with the new current codes, and that
48 can cost a lot more if you wait. So, just moving forward if anything

1 ever happens, or at least you know take care of it right away because
2 the code doesn't stop where you start four years ago or five years
3 ago. Okay? That's all I wanted to say, thank you.

4
5 MR. AMER: That's true. Oh no I agree with you.

6
7 MR. LEVITON: Anyone else?

8
9 MR. POCHOPIN: Thank you Mr. Chairman.

10
11 MR. LEVITON: You're welcome, Dan.

12
13 MR. WECHSLER: I just have a question on the setbacks. Six
14 foot, eighteen inches or six foot 1-8, what is the minimum setbacks on
15 that property? Left hand side.

16
17 MR. BOCCANFUSO: On the left? It looks like 6.18 feet.

18
19 MR. WECHSLER: Right.

20
21 MR. BOCCANFUSO: So that'd be six feet, two inches.

22
23 MR. WECHSLER: Right so what is the minimum allowable
24 setback?

25
26 MS. MOENCH: What's the zone?

27
28 MR. NBOCCANFUSO: Fifteen feet? I think, hang on.

29
30 MS. MOENCH: R20?

31
32 MR. MARMERO: Yeah, fifteen feet. Yeah, the application
33 where you issued the denial, it says side fifteen feet required, but
34 6.18 feet is provided.

35
36 MR. WECHSLER: Okay, so we're getting a zoning request for
37 him being over on that side of the property as well?

38
39 MR. BOCCANFUSO: Well, no, that was the existing dwelling.

40
41 MR. WECHSLER: Okay.

42
43 MR. BOCCANFUSO: So, he went, kind of going back to where we
44 started. He can go straight up. So, in that portion of the house, he
45 went straight up, but for the small eight and a half by two and half
46 foot cantilever in the back right corner, he could've just went
47 straight up with the house, and not needed any variances. He just
48 pulled a zoning permit. He still would've had an issue with the deck

1 and the shed, but the house itself, the relief surrounding the house
2 itself was driven solely by that small cantilever addition.

3
4 MR. WECHSLER: Got you, thank you.

5
6 MS. LATILLA: Wait sorry just so I can understand, making
7 sure I understand this. The existing dwelling, yes that isn't that
8 what we're seeking relief for, but he still went up, right? So he
9 still adding a second story which is still not compliant with the side
10 yard setback.

11
12 MR. BOCCANFUSO: Correct. It is still not compliant. It just
13 doesn't require relief.

14
15 MR. MARMERO: Yeah.

16
17 MR. BOCCANFUSO: Because if he went straight up, again
18 except for that little cantilever, say he didn't do that. He would've
19 been able to go straight up and maintain that 6.18-foot non-compliant
20 setback not needing any relief.

21
22 MS. LATILLA: Okay.

23
24 MR. BOCCANFUSO: Because the ordinance contains a provision
25 where you can if you have a one-story dwelling and it's non-
26 conforming, you can go straight up and not need any relief. That's it
27 though. It's straight up, absolutely no footprint expansion even
28 cantilevers.

29
30 MR. LEVITON: He changed the footprint. He can't change the
31 footprint.

32
33 MS. LATILLA: Yeah, he can go up, okay. Understood, thank
34 you.

35
36 MR. LEVITON: Anyone else?

37
38 MR. BOCCANFUSO: There is one setback question which we
39 haven't touched on yet. Mr. Amer, I'm showing you this picture that
40 you submitted with your package of the front of the existing house.
41 Above the front door, there's a roof overhang. You can kind of see it
42 both by the shadow and the outline of the house.

43
44 MR. AMER: Yeah, it's again for the landing.

45
46 MR. BOCCANFUSO: Sure, I understand what it is and what it's
47 for. It's kind of to give you, probably keep you out of the elements
48 to some extent when you're going in the front door, but do you know

1 the dimensions of that because it may trigger the need for an
2 additional front setback?

3
4 MR. AMER: Three by five. It covers the landing.

5
6 MR. BOCCANFUSO: Okay. So, is it five feet wide and three
7 feet off the house? Is that what you're saying?

8
9 MR. AMER: Yeah, about yeah.

10
11 MR. BOCCANFUSO: Okay.

12
13 MR. MARMERO: So, he's got 67.35, he needs seventy-five so
14 he should be okay.

15
16 MR. BOCCANFUSO: He needs. He's less.

17
18 MR. MARMERO: Okay.

19
20 MS. KLOMPUS: I think the dimensions are on one of the.

21
22 MR. BOCCANFUSO: It's hard because the house is askew. I
23 mean the easy way to do it is said plus or minus 64 feet.

24
25 MR. MARMERO: Right, yeah.

26
27 MR. BOCCANFUSO: So, it's difficult to tell the exact
28 dimensions.

29
30 MS. KLOMPUS: It's not on one of the drawings?

31
32 MR. BOCCANFUSO: I'm sorry?

33
34 MS. KLOMPUS: It's on one of the drawings.

35
36 MR. BOCCANFUSO: Is it?

37
38 MS. KLOMPUS: He's got, which one is. Sorry let me pull it
39 back up, Arc Design Studio plan. Unless I'm in the wrong one? No, I'm
40 in the right one. There are three floor plans, and then it says second
41 floor A102.

42
43 MR. MARMERO: Oh yeah.

44
45 MR. LEVITON: Stacey, you have to speak up.

46
47 MS. KLOMPUS: It's A102 with the --- drawing.
48

1 MR. BOCCANFUSO: Oh, right here.

2
3 MS. KLOMPUS: It says new additions, second floor living
4 area, then you see the overhang with the dimensions.

5
6 MR. BOCCANFUSO: Yeah, that is definitely a better picture,
7 but I can't get the dimensions off of it unfortunately. So I think
8 we're left with Reda's testimony. It's difficult to tell the exact
9 setback either way because the house is askew and it's difficult. I
10 think if the board were to consider, you have 67.35 feet to that front
11 right corner. If the overhang extends three or four feet from the
12 front of that house, we're talking.

13
14 MR. LEVITON: Just say four, say four.

15
16 MR. BOCCANFUSO: Okay, so we're talking plus or minus 64
17 feet.

18
19 MR. LEVITON: Albert's building it in right now. We're good.

20
21 MR. MARMERO: Yeah, we'll just use that as the front setback
22 variance.

23
24 MR. LEVITON: That's fine. Thank you, Brian.

25
26 MR. BOCCANFUSO: I'm not that concerned with inches. What
27 I'm concerned is getting it on the record that we granted them,
28 considered some type of relief.

29
30 MR. LEVITON: Thank you Brian. Thank you, Stacey. Reda, you
31 want to say something? Into the mic sir, into the mic.

32
33 MR. AMER: Will I be able to just get the permit for the
34 driveway tomorrow? If I go or am I going to wait for anything?

35
36 MR. LEVITON: Brian, will construction issue him a permit
37 for the driveway tomorrow?

38
39 MR. BOCCANFUSO: No, well he can't get any permits until his
40 resolution is memorialized in a couple of weeks. Assuming an approval
41 and I don't want to be presumptuous, but if the application is
42 approved what's going to happen is, at the next meeting the board will
43 memorialize the resolution, basically formalize the approval.

44
45 MR. LEVITON: Make it legal.

46
47 MR. BOCCANFUSO: Yeah. The day after that, you can come into
48 the zoning department for first, your zoning permit which I'll go

1 through everything, myself or Janice, or somebody in the department,
2 will go through what you need, but you can get your first your zoning
3 permit, and then you'll be over to construction. The zoning permit
4 will cover the dimensions, geometry, and setback of the driveway.
5 Construction will not be concerned with that at all. They're looking
6 strictly at the house itself.

7
8 MR. LEVITON: At this time, I'm going to go out to the
9 public. Seeing none, I'm going to close public. Albert, do you require
10 anything further?

11
12 MR. MARMERO: No, I mean we heard a lot of different
13 testimony this evening. Just to be clear, the variances that are being
14 requested and required, the applicant is doing an expansion.
15 Obviously, he's building up, but he's going out slightly because of
16 that cantilever so that requires a variance because it's a non-
17 conforming expansion onto a non-conforming building. We heard about
18 the front setback relief that is required, and because of that
19 overhang that we were just discussing, the front setback variance ---
20 will need to be plus or minus 64 feet. We have heard about the
21 required side setback variance relief, and then we have a variance
22 that would be necessary again because the lot is a pre-existing, non-
23 conforming lot. In this zone, a 20,000 square foot lot would be
24 required. His existing lot is 10,087 square feet so anything he's
25 doing is going to necessitate that variance as well again, and then we
26 heard testimony even though it's in the application regarding the
27 shed. That he needs setback relief as well, and then in terms of
28 conditions that were discussed. Obviously, the applicant would need to
29 secure all necessary construction permits because the work was done
30 without construction permits. The applicant has agreed to pave the
31 driveway consistent with Brian's memorandum. That driveway would need
32 to be paved prior to issuance of a certificate of occupancy. The
33 applicant agreed that a four-foot driveway setback would be sufficient
34 for what he wants to do. Based on the concerns from the board, we
35 would install a condition as well that we would need a post-
36 construction survey of the driveway to confirm the location of the
37 driveway, and then there was some concern expressed about what the
38 applicant stated about residing at the property at this time without a
39 CO or TCO which again is not really a zoning issue, but it's something
40 that's been placed on the record and made public. So, we will make
41 sure the township is aware of that through a letter from my office,
42 and I think that was all the conditions that were placed on the
43 record.

44
45 MR. LEVITON: Thank you counselor.

46
47 MR. MARMERO: Sure.

1 MR. LEVITON: Will someone move to affirm or to reject the
2 application?

3
4 MR. SHALIKAR: I'll make a motion to approve the application
5 with all the stipulated conditions.

6
7 MR. LEVITON: Thank you Mr. Shalika. Will someone second
8 that?

9
10 MS. KLOMPUS: I'll second it.

11
12 MR. LEVITON: Thank you Ms. Klompus.

13
14 **ROLL CALL**

15
16 MS. MOENCH: Mr. Shalika?

17
18 MR. SHALIKAR: Yes.

19
20 MS. MOENCH: Ms. Klompus?

21
22 MS. KLOMPUS: Yes.

23
24 MS. MOENCH: Mr. Mantagas?

25
26 MR. MANTAGAS: No.

27
28 MS. MOENCH: Mr. Wechsler?

29
30 MR. WECHSLER: No.

31
32 MS. MOENCH: Mr. Pochopin?

33
34 MR. POCHOPIN: No.

35
36 MS. MOENCH: Ms. Levenson?

37
38 MS. LEVENSON: Yes.

39
40 MS. MOENCH: Chair Leviton?

41
42 MR. LEVITON: Yes. What is the count?

43
44 MS. MOENCH: One, two, three, four. One, two three. It's a
45 yes.

46
47 MR. LEVITON: Reda, congratulations.
48

1 MR. AMER: Oh, thank you.

2
3 MR. LEVITON: You need to move out. You squeaked by here
4 tonight by the skin of your teeth, and you need to move tonight. This
5 board wants to separate the fact that you're there unlawfully from the
6 improvements that you made without asking for permission. They are
7 nice improvements, and we wish you well going forward.

8
9 MR. AMER: Thank you.

10
11 MR. LEVITON: You're welcome. Good luck to you sir.

12
13 MR. AMER: I have a place to stay.

14
15 MR. LEVITON: Very good.

16
17 MR. AMER: So that's why when I raised my hand it's just to
18 tell you I'm not staying there tonight.

19
20 MR. LEVITON: Move forth with, go, okay. Alright at this
21 time, I'm going to go out to the public and ask if there's anyone in
22 attendance who wants to address this board regarding non-agenda items.
23 Seeing none, I will close public, and I will ask you all not to get
24 up, but I do want an adjournment. So that Janice can turn off the
25 machine. Someone move to adjourn, please.

26
27 MR. WECHSLER: I'll move to adjourn sir.

28
29 MR. LEVITON: Thank you Michael. We are in adjournment.

30
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32 *****
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