

1 **MEETING IS CALLED TO ORDER:**

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3 MR. LEVITON: Okay I'm going to call this meeting to order
4 and ask you to stand for a flag salute.

5

6 **SALUTE TO THE FLAG**

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

17

18 **ROLL CALL**

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20 MS. MOENCH: Mr. Shalika?

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22 MR. SHALIKAR: Yes.

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24 MS. MOENCH: Mr. Mantagas?

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26 MR. MANTAGAS: Here.

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28 MS. MOENCH: Mr. Wechsler is absent. Mr. Pochopin?

29

30 MR. POCHOPIN: Here.

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32 MS. MOENCH: Ms. Klompus? Absent. Mr. Harrington? Absent.

33 Mr. Weiss? Absent. Ms. Levenson?

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35 MS. LEVENSON: Here.

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37 MS. MOENCH: Ms. Latilla? Absent. Mr. Hughes is not with us.
38 And Chair Leviton?

39

40 MR. LEVITON: I am here. Thank you, Ms. Moench. Okay our
41 first order of business is to accept the minutes from February 19th
42 and will someone move to do so?

43

44 MR. POCHOPIN: I make a move to accept it.

45

46 MR. LEVITON: Thank you Mr. Pochopin and will someone second
47 Dan's motion?

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1 MR. SHALIKAR: I will second it.

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3 MR. LEVITON: Thank you Mr. Shalikar.

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5 **ROLL CALL**

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7 MS. MOENCH: Mr. Shalikar?

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9 MR. SHALIKAR: Yes.

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11 MS. MOENCH: Mr. Pochopin?

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13 MR. POCHOPIN: Yes.

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15 MS. MOENCH: Ms. Levenson?

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17 MS. LEVENSON: Yes.

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19 MS. MOENCH: Chair Leviton?

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21 MR. LEVITON: Yes. Next, we need to memorialize two
22 resolutions. Mr. Marmero, the first one is ZBE2541.

23
24 MR. MARMERO: Sure Mr. Chairman. That resolution does apply
25 to 5 Falcon Drive. In that application the applicant was seeking to
26 construct a rear patio, a pavilion as he replaced the front porch and
27 walkway. It was also discovered that the existing shed, while
28 permitted, did not receive a zoning permit. So that was rolled into
29 the application as well.

30
31 MR. LEVITON: Will someone make a motion?

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33 MR. SHALIKAR: I make a motion to approve the resolution.

34
35 MR. LEVITON: Thank you Josh Shalikar and will someone
36 second it?

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38 MR. POCHOPIN: I'll second it.

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40 MR. LEVITON: Thank you Mr. Pochopin.

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42 **ROLL CALL**

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44 MS. MOENCH: Mr. Shalikar?

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46 MR. SHALIKAR: Yes.

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48 MS. MOENCH: Mr. Pochopin?

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MR. POCHOPIN: Yes.

MS. MOENCH: Ms. Levenson?

MS. LEVENSON: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Yes, and next up is 2209EX2.

MR. MARMERO: Sure, and as you remember this is the second one-year extension that was granted to this applicant. This applicant previously received use variance and bulk variance relief along with preliminary final site plan approval. The applicant explained that there was a delay in NJDEP approvals, but also indicated that they now have received that permit which will allow them to finalize the other approvals.

MR. LEVITON: Thank you counselor. Will someone move to memorialize?

MR. POCHOPIN: I'll make a motion.

MR. LEVITON: Thank you Mr. Pochopin. Will someone second that?

MR. SHALIKAR: I'll second.

MR. LEVITON: Thank you Mr. Shalikar.

ROLL CALL

MS. MOENCH: Mr. Shalikar?

MR. SHALIKAR: Yes.

MS. MOENCH: Mr. Pochopin?

MR. POCHOPIN: Yes.

MS. MOENCH: Ms. Levenson?

MS. LEVENSON: Yes.

MS. MOENCH: Chair Leviton?

1 MR. LEVITON: Yes. If you are here tonight for application
2 2529 that is being carried until March 19th. There will be no need for
3 the applicant to notice again. This serves as notice to the public. No
4 testimony will be taken this evening which brings us to our only
5 application on tonight's agenda. We have the Pospelov's in front of
6 us. Mr. and Mrs. Pospelov, am I butchering your name? How does one say
7 it?

8
9 MRS. POSPELOV: Pospelov.

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11 MR. LEVITON: Pospelov. Instruct me please. I don't want to.

12 MRS. POSPELOV: Pospelov.

13
14 MR. LEVITON: Pospelov, okay. Come on up. Take your time. I
15 know ambulation is not easy. Tonight Mr. Marmero is going to swear you
16 in before you take a seat. So, if you'll just raise your right hand.

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

21
22 MR. POSPELOV: Yes.

23
24 MR. MARMERO: Alright.

25
26 MR. LEVITON: Ma'am will you be testifying this evening?
27 Would you like to come up?

28
29 MR. POSPELOV: She doesn't speak English clearly.

30
31 MR. LEVITON: Then that'll be a no, okay. Make yourself
32 comfortable. Take a seat. We're here tonight about your shed, your
33 deck, your sunroom, and the expansion of your patio. You've seen the
34 memorandum from our administrator Mr. Boccanfuso. There were six areas
35 of concern that I'd like you to address when you talk to the board.
36 Tell us what it is that you need tonight, why you were denied.

37
38 MR. POSPELOV: I did write a letter. I don't know if it was
39 posted. I sent it over to the township to advise that memorandum
40 questions, but --- also I have copies of it.

41
42 MR. LEVITON: Sure, you can disperse them. Our Board
43 secretary Ms. Moench will mark them. Mr. Marmero, you don't have a
44 problem with that do you sir?

45
46 MR. MARMERO: No, I haven't seen it, but if there's
47 something that he wants to distribute you can mark it as exhibit A1.

1 MR. LEVITON: If it's a letter and English is not his
2 primary language, I think it'll be beneficial if we have it in front
3 of us.

4
5 MR. BOCCANFUSO: Mr. Pospelov's English is just fine, Mr.
6 Chairman. I have received and reviewed the letter. I think the easiest
7 way to handle it quite frankly would be for him to simply read it into
8 the record, and then in kind of layperson's terms discuss what he
9 wants to do, address the hardship criteria that he's relying upon or
10 whatever criteria he's relying upon for the variances and I think
11 he'll be just fine. I certainly will pass these around so that you
12 guys can read along, but just reading it into the record I think will
13 get the job done.

14
15 MR. LEVITON: I have no problem with that and I appreciate
16 his recommendation.

17
18 MS. MOENCH: Are we marking this as exhibit A1?

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20 MR. LEVITON: So we won't mark it, but we encourage you to
21 read it to us.

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23 MR. BOCCANFUSO: You don't want to mark it? It's up to you.

24
25 MS. MOENCH: Do we need to mark it? It's just basically his
26 testimony.

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28 MR. BOCCANFUSO: It's really just going to be testimony so
29 Janice is not going to mark it, but you can read along if you'd like.

30
31 MR. LEVITON: That's fine.

32
33 MS. MOENCH: Thank you.

34
35 MR. LEVITON: So, you know what, Mr. Pospelov before you get
36 into your rationales and your reasons, why don't you just tell the
37 Board why it is that you're here tonight. What brings you here? What
38 are you requesting from the Board?

39
40 MR. POSPELOV: Long story short, my property is triangle-
41 shaped

42
43 MR. LEVITON: One more thing I don't want to cut you off,
44 but the microphone needs to be very close to your mouth the way mine
45 is. The proceedings here tonight are being recorded and then later
46 they're transcribed and available to the public. So, we need to make
47 sure every word is captured by the recording device. Thank you, sir.

48

1 MR. POSPELOV: My property is shaped like a piece of pie.
2 So, the back side of the lot is quite --- and doing anything on the
3 property anywhere you go, it creates a problem. So, I have an existing
4 deck, but there's a couple issues I want to address. Existing deck
5 starts in middle of nowhere. It's not even with the house. So, it's
6 set back in order to offset that corner of the deck if I extend it.
7

8 MR. LEVITON: You're getting ahead of yourself. You're here
9 because you were not permitted to expand your deck. That's one of the
10 reasons.
11

12 MR. POSPELOV: Yes, one of the reasons.
13

14 MR. LEVITON: What's another reason?
15

16 MR. POSPELOV: Also, this deck is, I want to have a roof on
17 the deck. The main reason is I have solar panels on the back and this
18 year was a really big problem because the solar panels when the snow
19 falls on it, it collects.
20

21 MR. LEVITON: So, you aren't permitted to put the roof on
22 the deck either?
23

24 MR. POSPELOV: I want to put the roof underneath. This year
25 I have that situation. Luckily nobody got injured, but at one point
26 especially for snowstorm it was collected then it's melted. It became
27 ice and at one point the whole sled, entire house sled right down like
28 a slide.
29

30 MR. LEVITON: So, you need a roof, you need an expansion of
31 your deck. What else are you looking for?
32

33 MR. POSPELOV: The roof is going to be on top of expansion.
34

35 MR. LEVITON: On the deck, what else do you need?
36

37 MR. POSPELOV: I want to put the shed on the back of the
38 property. So again, the problem is because of the shape is anywhere
39 you put it is going to be either right in the middle of the property
40 then I'm going to lose the whole backyard. There's nothing there.
41

42 MR. LEVITON: So, you were denied the shed because wherever
43 you put it or where you plan to put it, it encroached into a side
44 setback.
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46 MR. POSPELOV: Correct.
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48 MR. LEVITON: And what else do you need?

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MR. POSPELOV: And there is not a problem with the pool. I have existing pool that was built with the house and what happened now one side of the pool wall, it keeps falling down. For now, it's over three inches off the level and the previous owner of this house, they were trying to address that and replace the whole entire concrete patio trying to get the support, but it's still falling down. The reason behind it, the only reason I ---

MR. LEVITON: Before you get to the reason, tell us what you need. I'm not sure what you need. I want you to ---

MR. POSPELOV: So, what I need. The reason why it's happening because the stormwater, the rain water, goes underneath of the pool and.

MR. LEVITON: So, you want to bolster the concrete and you were denied the right to do that?

MR. POSPELOV: I don't want to touch the concrete, but what I want to do. It's wooden chips between my fifteen feet and neighbor there's wooden chips and the water goes through there, goes underneath the pool, washes my natural ground there.

MR. LEVITON: So, what do you want to do that Mr. Boccanfuso didn't allow or the township ordinance didn't allow?

MR. POSPELOV: So.

MR. LEVITON: Forgive me Brian.

MR. POSPELOV: I was going to put the pavers.

MR. LEVITON: You want to put pavers around the pool where the woodchips are and that too is a problem because it encroaches into the side setback so you were denied.

MR. POSPELOV: Not around the pool just between my existing pool patio and my neighbor so I can take that water.

MR. LEVITON: The pool patio and the neighbor so you need permission from this Board, relief, for the pavers around the pool, the expansion of the deck, the coverage of the deck, and what am I forgetting? Someone helps me out.

MR. POCHOPIN: The roof. Was it the roof?

MR. LEVITON: I got the roof.

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MR. BOCCANFUSO: The shed.

MR. LEVITON: Oh, right and the shed. Thank you, Brian. So why don't we take, we'll take these issues one at a time and I'll let you go in whatever order you'd like. You can tell me about any one of those things and why we should grant you the relief that you need.

MR. POSPELOV: Okay thank you.

MR. LEVITON: Okay, you're welcome.

MR. POSPELOV: The property condition, we just went over it. I would say the first one is a patio extension and structure.

MR. LEVITON: Okay so the patio. You're looking to explain now why this board should grant you the right to cover your woodchips and encroach into the side setback with the new pavers. Is that what we're going to talk about?

MR. POSPELOV: Yes.

MR. LEVITON: Okay.

MR. POSPELOV: Can I, I don't know. I was going to ---

MR. LEVITON: We have that.

MR. MANTAGAS: We have a copy.

MR. LEVITON: We have that.

MR. POSPELOV: You have a copy of this?

MR. LEVITON: If you want to reference it.

MR. POSPELOV: So, it's probably going to be easier if I, there's a patio, the existing deck.

MR. LEVITON: Just for the record, hold on a second. Mr. Pospelov is now referencing the survey that he's holding up that the board already has and it was prepared by Morgan Engineering in July of '21 Go ahead sir.

MR. POSPELOV: I just want to make sure there's no confusion. I'm talking about the wooden deck that's --- and the patio on the back of the pool. So, the wooden deck is over here. This is an existing and what I'm doing here is just extension.

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2 MR. LEVITON: Well right now we're going to talk about the
3 pavers I thought.
4
5 MR. POSPELOV: Yeah.
6
7 MR. LEVITON: Okay.
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9 MR. POSPELOV: I thought there was a confusion.
10
11 MR. LEVITON: No confusion.
12
13 MR. POSPELOV: So, this is the pavers right here.
14
15 MR. LEVITON: Yes.
16
17 MR. POSPELOV: So, the pavers, the whole point is there's
18 two things. To my neighbor's property is about eight inches lower than
19 my property and it's pitched to my property. So anytime it's heavy
20 rain over here it's like a lake on my neighbor's property and it sits
21 there and eventually when it goes down and absorbed by the soil. So go
22 in soil and washing to underneath my pool. So, my pool is vinyl pool
23 with stainless steel panels around and how built. I submitted a
24 picture. So, this picture is existing conditions. So, what happens is
25 there's a difference.
26
27 MR. LEVITON: I need to find it and let the record reflect.
28
29 MR. POSPELOV: It's sketch number one.
30
31 MR. LEVITON: Okay. So, Mr. Pospelov is referring to sketch
32 number one. Give me a second. I don't seem to see it. It doesn't mean
33 we weren't given it. Can anybody else put their finger on it?
34
35 MR. POCHOPIN: I don't think we have that one.
36
37 MR. POSPELOV: I can pass it along.
38
39 MR. LEVITON: It needs to be marked into evidence then.
40 Brian, while she's looking for that, on your denial when he's talking
41 about pavers, what number is that?
42
43 MR. BOCCANFUSO: I'm sorry Mr. Chairman. I didn't hear what
44 you said.
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46 MR. LEVITON: On your denial.
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48 MR. BOCCANFUSO: Yeah.

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MR. LEVITON: What number correlates to the pavers he's talking about?

MR. BOCCANFUSO: That would be four. It's a patio because it's a flat patio that's less than six inches above grade. It's treated as an accessory structure which has a fifteen foot setback requirement. Mr. Pospelov is looking for roughly half a foot.

MR. LEVITON: And he has half a foot. I got it.

MR. POCHOPIN: Yeah.

MR. BOCCANFUSO: So, I think Janice is marking this exhibit.

MR. LEVITON: Yes.

MR. BOCCANFUSO: I know it was emailed to us, but it didn't make its way into the file. So, once she gets it marked, we'll pass it around so you can look at what it is he's trying to show you.

MR. LEVITON: Thank you for the clarification and thank you Ms. Moench. Mr. Pospelov, while they're doing that I've got to tell you want to build right up to the fence. You've got a half a foot where fifteen feet is required and that's a real heavy lift for you tonight. The relief you seek under law stipulates that you only need three affirmative votes. You only need three of the members to say yes. Yeah, but that's a heavy lift a half a foot. This board has a problem with zero lot lines in the past. It has no bearing on your case tonight. I'm just letting you know.

MR. POSPELOV: Can I clarify a little?

MR. LEVITON: You can tell us whatever you want.

MR. POSPELOV: The variances, so six inches is pretty much, realistically it's probably not six inches because existing conditions I have wooden beams as a retaining wall.

MR. LEVITON: You're referencing another exhibit.

MS. MOENCH: That's in the Google Drive if you look at the pictures.

MR. LEVITON: I have the pictures.

MS. MOENCH: The last picture on.

1 MR. BOCCANFUSO: There was a set of twelve, I think.

2
3 MR. LEVITON: I only had three pictures. Oh wait, wait,
4 wait. I see it. I see the railroad ties.

5
6 MS. MOENCH: Yes.

7
8 MR. LEVITON: Okay.

9
10 MR. POSPELOV: So, the existing property has, my property is
11 on the right hand side. So, the neighbor's property is probably eight
12 inches lower. So existing beams creating a retaining wall, so what I'm
13 proposing I want to replace these two rotten woods with brick. So, I
14 don't know if I need the variance for that particular, but if I
15 replace it, it's probably already a foot over here even if at the time
16 when they replace it it's already a foot from my neighbor's property.

17
18 MR. LEVITON: Well.

19
20 MR. POSPELOV: And from there I was going to go with not the
21 solid concrete, but I was going to go with brick pavers.

22
23 MR. LEVITON: So, the ordinance doesn't say anything about
24 how the accessory structure is constructed. It doesn't talk about
25 railroad ties, pavers, or concrete. It only talks about how far away
26 from your property line it needs to be. It needs to be fifteen feet
27 and you're proposing a half a foot. That's the issue. Not how high it
28 is above grade or why you were denied. You were denied because of the
29 encroachment into the setback. So, on a technicality this board isn't
30 going to question the judgment of our administrator, but if you want
31 to justify the lot line encroachment. We're here and objective. We'll
32 listen to your rationale.

33
34 MR. POSPELOV: So, my main problem with the water ripping
35 underneath the pool and shifting the wall, so the pool is already it's
36 still intact for now, but it keeps moving. So, it's a danger to damage
37 the pool and get paver pool. So, it's a liner pool. If the wall
38 breaks, all the water is going to go to my basement, my neighbor's
39 basement. The other thing is if I don't address that, my foundation
40 for my house is only twelve feet away, and if you see the other
41 pictures of existing how the concrete slabs around the pool get
42 settled and now it's already an inch since the last repair three, four
43 years ago. It's already an inch down and this wall if you see it, it's
44 like three inches off.

45
46
47 MR. LEVITON: So, I'm sensitive to the plight that you're
48 experiencing. I do feel badly for you. However, you're expecting this

1 board to take on your testimony for fact that changing the existing
2 conditions will stop that, and also you don't provide for us a plot
3 plan that shows that what you do will not cause runoff into your
4 neighbor's property. I'm not comfortable taking it on faith or on your
5 word. I need to see an engineer's report. Mr. Boccanfuso, you're our
6 township engineer. You were at one time this board's engineer. Is it
7 unfair for this board to expect something in the way of professional
8 testimony to ensure that what he is asking to do won't create a
9 problem for a neighbor?

10
11 MR. BOCCANFUSO: I don't necessarily know that the board
12 would. I mean listen, it's up to you. You guys' vote, I do not. But I
13 think that you could condition an approval on evidence and plans and
14 information being provided that's sufficient to confirm that there's
15 no adverse drainage impact on a neighbor. Now putting aside, the
16 concerns that this board has commonly had with zero or approximately
17 zero foot setbacks, if we talk specifically about the potential
18 negative impact of a zero foot setback one of the big ones is
19 drainage. Right? You want to be sure that someone doesn't build a
20 patio that extends up to or very nearly up to an adjacent property
21 line and thereby creates a drainage impact on a neighbor and that can
22 happen a couple of ways. It can happen either from the runoff that
23 falls on the patio itself if that patio is pitched towards the
24 neighbor's property. Now in this case, Mr. Pospelov's survey markup
25 that he submitted which I think he was showing us in the exhibit
26 indicates that the proposed patio, proposed non-conforming patio would
27 actually be pitched towards the pool and I believe the proposal is,
28 and I think that Mr. Pospelov will talk a little bit about this in a
29 bit here, he would like to pitch that patio towards his pool and
30 install some type of drainage like a trench drain or a deck drain, or
31 something like that to catch the runoff from that portion of the patio
32 and direct it towards the rear of his property. I believe that's the
33 intent. Assuming that's done and we can certainly condition any
34 approval on it if the board approves it and then there's a zoning
35 permit that would have that same condition that the patio is pitched
36 away from the neighboring property line as it is shown on the survey
37 markup. The other way that this type of improvement can cause an
38 adverse drainage impact is by blocking runoff patterns from the
39 neighboring property. So, if runoff was coming from the neighboring
40 property going towards Mr. Pospelov's property, an improvement that
41 goes up to or nearly up to the property line could potentially block
42 that natural or existing runoff pattern and create ponding on the
43 upstream side or the neighboring side. In this case, again I think Mr.
44 Pospelov's intent, at least based on the letter that he submitted, is
45 to install some type of drainage improvement along that outer edge of
46 the patio as well. So that would largely mitigate any drainage impact,
47 any runoff that was coming from the neighboring property and heading
48 towards his property. So I think that assuming what I've described is

1 correct and consistent with what the intent is and what would be done
2 if the application is approved, I think that would and could
3 successfully mitigate any drainage impact. Now he still has to address
4 the positive criteria to your satisfaction. I think there is a
5 hardship here with the shape of the lot, but I don't agree that
6 there's a topographic hardship or that the real hardships that he's
7 facing with his pool, while they are certainly hardships, they're not
8 planning hardships. There are other ways that it could be addressed
9 without the board giving him the relief that he's seeking, but
10 speaking specifically about drainage which I think is the major
11 negative impact that you need to be concerned with on that patio, I
12 think there are ways to mitigate it and prevent it from causing
13 problems on the neighbor's property and I think what he is proposing
14 while I would want to see the details as far as a permit, I think
15 those could effectively address those issues.

16
17 MR. LEVITON: Has he characterized your issues well?

18
19 MR. POSPELOV: That's exactly what is represented on the
20 sketches and how I wanted.

21
22 MR. LEVITON: Then I have enough information regarding this
23 issue. Let's see what the board thinks.

24
25 MR. SHALIKAR: I don't have questions due to Mr.
26 Boccanfuso's statement. I'm curious why you would need to have that
27 depth of paver from the original concrete. Is there a need for that?
28 To have pavers going all the way to the fence to the retaining wall.

29
30 MR. POSPELOV: My pavers is going to be exactly where it is
31 existing grade as I cannot lower it because my pool height is even
32 with my patio.

33
34 MR. SHALIKAR: With the patio, I understand. I understand
35 that.

36
37 MR. POSPELOV: And my neighbor is below.

38
39 MR. SHALIKAR: Right.

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41 MR. POSPELOV: Nothing I can do with his property.

42
43 MR. SHALIKAR: I understand that. I'm saying typically we
44 like to offer ideas. Right? So that we can meet somewhere with your
45 testimony that makes more sense. As the chairman said, we're not a
46 fan, and it's not about just your case, it's about many others, of
47 bringing pavers to the property line. It just doesn't typically work
48 out. In this case, you proposed two drains. I think they're a

1 phenomenal idea. There's ways to cover drains that doesn't have to be
2 paver going to your fence line.

3
4 MR. POSPELOV: I need to catch the water so the water's not
5 going in ground so I need the paver pitched into my property. I
6 already have an existing pipe going out. It's about thirty, forty feet
7 into the property. I was just going to install a trench gutter in
8 between my existing concrete patio and the pavers. So all the pavers
9 is going to go into that trench and go. Along with that, I'm going to
10 take the water, the drain water from my neighbor's property that is
11 lower and gets into my property as well so that will take all the
12 water that collects there now.

13
14 MR. SHALIKAR: Understand that.

15
16 MR. POSPELOV: And it's going to go into my property. It's
17 going to go all the way in the back.

18
19 MR. SHALIKAR: I understand that. The proposed depth or the
20 width of the pavers are to be how many feet?

21
22 MR. POSPELOV: Overall?

23
24 MR. SHALIKAR: Overall, yes, from the existing concrete.

25
26 MR. POSPELOV: It's about twelve, twelve and a half feet.

27
28 MR. SHALIKAR: Twelve and a half feet. So that's where I'm
29 personally struggling is the need for it to be twelve and a half feet
30 to build a catch basin into the drain.

31
32 MR. POSPELOV: I have to go all the way to the back of my
33 neighbor's to take his water to me. That's why I want to cover all the
34 way and I'm going to have to replace the existing wall.

35
36 MR. SHALIKAR: I understand that.

37
38 MR. POSPELOV: Because it's already rotted out, and now it's
39 started to falling on his property.

40
41 MR. SHALIKAR: I can see what you're trying to engineer. I
42 can understand that. I don't know personally if that's necessary to
43 bring it all the way back to the property line to be successful there.
44 I mean I would need a contingency or at least a stipulation from an
45 engineer to say that this is absolutely needed for me to be in favor.
46 I'm struggling with the need for it to be twelve feet wide to
47 accomplish your objective. I don't know if that's necessary. That's
48 just my personal feeling. ---

1
2 MR. LEVITON: What do you think?

3
4 MR. POSPELOV: If I do let's say for example if I do five
5 feet so it's not going to do anything. It's going to stay exactly
6 where it is now. I need to go all the way back to catch all the water
7 to come down. Otherwise water is there. It's still, my property is
8 twelve feet. Right? My neighbor's property is about another twenty,
9 twenty-five feet, so all that water comes and sits there between our
10 properties.

11
12 MR. SHALIKAR: Right, right, but.

13
14 MR. POSPELOV: I want to take that water, I want to go all
15 the way down. I want to install drains, get underneath the brick and
16 go into my property and go away.

17
18 MR. SHALIKAR: Your intent is to put a drain.

19
20 MR. POSPELOV: If I do five feet it's still not going to
21 address my neighbor's water.

22
23 MR. SHALIKAR: I understand. Your intent is to put two
24 drains in. Right?

25
26 MR. POSPELOV: I have two existing drains. So this one ---

27
28 MR. SHALIKAR: Are you putting in another drain?

29
30 MR. POSPELOV: No, no, no.

31
32 MR. SHALIKAR: Because it says, number three says
33 installation of.

34
35 MR. POSPELOV: So if you have this pipe, that's what I have
36 up to here.

37
38 MR. SHALIKAR: Okay.

39
40 MR. POSPELOV: The blue line. So my existing drain, there's
41 a channel across the property right here and the pipe goes all the way
42 back here.

43
44 MR. LEVITON: Mr. Pospelov you're referencing the survey and
45 he's showing a pipe that runs parallel to the pool in between the pool
46 and the house and then one's perpendicular to the back of his property
47 along the lot line. Continue.

48

1 MR. SHALIKAR: I apologize if I'm confused because on your
2 explanation here. Your letter here says installation of a drainage
3 catch basin between. So you're looking to leverage the existing pipe
4 that you put in and create channels that go to the existing pipes?
5

6 MR. POSPELOV: In between the pavers and concrete patio I
7 was going to install a drainage gutter, the trench. So that's going to
8 be from here to here, catch all the water.
9

10 MR. LEVITON: Mr. Pospelov, let's bring this to a conclusion
11 without going around and around. He doesn't think you need to go all
12 the way to the property line to achieve your objective. Basil?
13

14 MR. MANTAGAS: Hi Mr. Pospelov. I also have a problem with
15 you going all the way up to the property line. Half an inch to me is
16 not acceptable.
17

18 MR. LEVITON: Half a foot.
19

20 MR. MANTAGAS: Excuse me, half a foot. Also, your testimony
21 is hinged on the pool itself, the problem with the pool. Did you ever
22 confer with a pool company? Did they ever advise you on what the
23 problem is with the pool? It could be groundwater. Is there pumps
24 underneath the pool? It could be a whole different issue.
25

26 MR. POSPELOV: My house is twelve feet away from the pool.
27

28 MR. MANTAGAS: Right.
29

30 MR. POSPELOV: My basement doesn't even have a sump pump.
31

32 MR. MANTAGAS: But did you ever confer with a pool company
33 for this problem? That's my question.
34

35 MR. POSPELOV: This pool was repaired about four years ago,
36 five years ago for the same issue. It was opened up. I contacted
37 multiple pool companies.
38

39 MR. MANTAGAS: And they're saying that's from the runoff?
40 Down into the bottom of your pool?
41

42 MR. POSPELOV: They tell me it's rainwater going underneath
43 the pool. I don't know if you know the structure, how the pool is
44 built. So pretty much it's gravel.
45

46 MR. MANTAGAS: Right.
47

1 MR. POSPELOV: On one side that holds up and the concrete
2 patio on top holds up the wall. So what happened is my natural ground,
3 the subgrade, is beach sand. It's literally beach sand. If you take
4 it, it just runs right out. So this is all beach sand. Imagine it gets
5 water and the beach sand gets washed into the gravel. That's how the
6 whole thing gets loose because two structures gets into one and that's
7 how the wall is losing support and it's falling out.

8
9 MR. MANTAGAS: What I'm saying is you don't know if this is
10 going to solve that problem. You're doing all this work, what if it
11 doesn't solve your problem? That's what I'm saying to you. Because if
12 you didn't confer with an engineer or a pool expert because ---

13
14 MR. POSPELOV: I'm an engineer.

15
16 MR. MANTAGAS: Because I ---

17
18 MR. POSPELOV: I'm an engineer myself.

19
20 MR. MANTAGAS: Because pools they usually have pumps
21 underneath a liner to deal with groundwater or water that gets
22 underneath the pool to pump it out. So I don't know what your pool is
23 like or what the issue is.

24
25 MR. LEVITON: What kind of engineer are you?

26
27 MR. POSPELOV: I'm an electrical engineer.

28
29 MR. LEVITON: So you're an electrical engineer. Mr. Mantagas
30 makes a good point. You don't even know and you personally don't have
31 the expertise to guarantee that the work that you're proposing will
32 solve the drainage problem and help maintain the integrity of the pool
33 walls. There's no guarantee.

34
35 MR. SHALIKAR: Can I ask a question?

36
37 MR. LEVITON: Yeah.

38
39 MR. SHALIKAR: How deep are your drains now?

40
41 MR. POSPELOV: About eight, eight to ten inches below the
42 grade.

43
44 MR. SHALIKAR: Eight to ten inches, but the groundwater for
45 the pool that's probably forcing the wall is probably deeper than
46 eight to ten inches I would imagine.

47
48 MR. POSPELOV: I didn't get your questions.

1
2 MR. SHALIKAR: I'm just going to go back to my point. I
3 would need someone.

4
5 MR. POSPELOV: The pool is about at that shallow end is
6 about thirty inches deep.

7
8 MR. SHALIKAR: Three and a half, four feet? Yeah that makes
9 sense. I personally need to have a professional.

10
11 MR. MANTAGAS: Also I have a question on the retaining wall.
12 What is the purpose of the retaining wall right now? Why was it put
13 in, that railroad tie that you were talking about?

14
15 MR. POSPELOV: The retaining wall, there's an elevation
16 difference between my property and my neighbor's property.

17
18 MR. MANTAGAS: Right.

19
20 MR. POSPELOV: And this retaining wall has been there since
21 probably the house was built.

22
23 MR. MANTAGAS: So you're proposing to put up instead of
24 wood, you're going to put up brick or block?

25
26 MR. POSPELOV: Yeah that block wall, take that wood out.

27
28 MR. MANTAGAS: So that would block any water trying to get
29 under or around or whatever. Anything solid would stop the water from
30 running where it wants to go to.

31
32 MR. POSPELOV: Retaining water is nothing to do with the
33 water. Retaining wall is just going to hold the ground falling into my
34 neighbor's property.

35
36 MR. MANTAGAS: Right, but what I'm saying is wood is porous
37 and it's not solid so water will get underneath there.

38
39 MR. POSPELOV: Okay.

40
41 MR. MANTAGAS: By you putting in a block wall or brick wall
42 whatever you want, it's going to stop like a dam.

43
44 MR. POSPELOV: That's incorrect. So if I do brick like this,
45 it may, but I'm doing, you know those retaining wall bricks. It's made
46 for it. It's not solid. It doesn't have any water in between. It just
47 stacks one on top of the other. Its retaining wall brick.

48

1 MR. MANTAGAS: Right so that's basically.

2
3 MR. POSPELOV: That's made for it.

4
5 MR. LEVITON: It is, but as our administrator had pointed
6 out, Mr. Boccanfuso, advised this board that increasing the impervious
7 coverage, putting those pavers down could divert water to other areas.
8 He cited that as a second problem, changing the direction of runoff
9 and creating problems elsewhere. Am I correct Brian?

10
11 MR. BOCCANFUSO: Yes I mean generally it can. The blocks
12 that are being proposed, it looks like an Allan Block-type of product.
13 So if water was directed to them to Mr. Pospelov's point, they would
14 not stop water. Water would still get through those. That's the reason
15 he's proposing the secondary drain at the base of those Allan Blocks.
16 But to Mr. Shalika's point, I think that that drainage system at the
17 base of the blocks would work equally well at half a foot or four or
18 five feet or some other distance. I think he could still realize that
19 benefit of having a drainage system that intercepts surface runoff
20 whether it's right on the property line or some other distance from
21 it. I think that's the part that at least Mr. Shalika is struggling
22 with. Maybe he wasn't getting across clearly, but I think I understood
23 it. I think that was the point that Josh was trying to make.

24
25 MR. SHALIKAR: That is the point.

26
27 MR. LEVITON: I understood. Did you understand Mr. Pospelov?
28 The point that Mr. Shalika has made and that was just echoed by Mr.
29 Boccanfuso?

30
31 MR. POSPELOV: I understand it. If you want to go three
32 feet, but my point is even if I install the drainage, it's still going
33 to be some area where it's going to get the rain and the water and
34 it's going to go underneath the pool.

35
36 MR. LEVITON: You're going to have to understand we're nice
37 people, we're neighbors of yours. We all live here and we volunteer to
38 do this, but we have a problem collectively over time with zero lot
39 lines and when you hear that there are objections to going right up to
40 the property line, you should take them to heart. Let's go on down the
41 line. Dan?

42
43 MR. POCHOPIN: Yes, so I agree with most of the members on
44 the board sir. In summary, it seems to be a topography issue. I know
45 with the distance you're struggling. I'm facilities engineer also;
46 master electrician and I have some experience with pools. So that
47 issue with your --- why Josh is concerned, not going all the way
48 because then that's going to affect your neighbor looking from the

1 back of the house to the left side where you have the wood chips. What
2 they have is what you have. I've seen you're doing a nice job with
3 your footings and the sono tubes. That's the way I built my pool. On
4 those structures on the side there, it's a steel-structured pool.
5 Correct?

6

7

MR. POSPELOV: Mmm.

8

9

MR. POCHOPIN: And then a vinyl liner? So, you put the sono
10 tubes there, you would just have to break up those sides or maybe put
11 pavers on that side, but that's how you stop that. First of all, it's
12 a drainage issue. So not only is there a drainage issue that we're all
13 talking about on that side. Okay? So, I see proposed drain; you said
14 you want to put another one. That's great, but even if the drainage
15 gets clogged or the topography is still a little off and then your
16 neighbor's might, the flow of it, where it flows in, where the swale
17 is. That's all these houses so that could still affect that and your
18 pool would still sink, those slabs there without reinforcement
19 underneath, and on the other side if you look from the back of your
20 house on the front picture here, on this side here sir. So, this issue
21 over here where you're extending your deck and putting on, the middle
22 picture here. If you look on the opposite side, that's going towards
23 your other neighbor. So, my concern is when you put a roof on now over
24 that deck, you're going to have a lot more water because your pool, I
25 mean your deck now is a wood structure. So, the water goes right
26 through it when it rains and it goes into the ground and this will
27 help that now. Right? From maybe your basement, I would look at the
28 basement also, but that's not the issue here. So now you have a
29 drainage issue on the opposite side that nobody's even thought about
30 right now. So, I hope you have proposed plans on with the roof right
31 now and more excessive not going through in that area. Maybe not flood
32 your basement out anymore, but now might go more towards the other way
33 with the roof on. That's just something to consider.

34

35

MR. LEVITON: That's a great point. We'll come to the roof
36 in a couple of minutes.

37

38

MR. POCHOPIN: And that's all I have right for now.

39

40

MR. LEVITON: Ms. Levenson?

41

42

43

MS. LEVENSON: Hi. Thank you for your testimony. It really
44 helped explain all your documents you made. I just have a question
45 about A2. This exhibit that was just passed around and just
46 understanding where the pavers meet the pool. It says here that that's
47 where the catch basin is. Is that going to be exposed? Is this going
48 to be a hole?

1 MR. POSPELOV: Can I come by?
2

3 MS. LEVENSON: Right here where the catch basin arrow goes
4 to.
5

6 MR. POSPELOV: Can I come by? I don't see it from here.
7

8 MS. LEVENSON: I'll bring it to you. No, no you stay.
9

10 MR. POSPELOV: So, this is the drainage being ---
11

12 MR. LEVITON: Is that being picked up Janice?
13

14 MR. POSPELOV: Side of the pool.
15

16 MR. LEVITON: Mr. Pospelov.
17

18 MS. MOENCH: No.
19

20 MR. LEVITON: You got to return to the mic. And Jessica if
21 you're going to speak from there, it's okay. You can stay, but into
22 the mic.
23

24 MR. POSPELOV: That's the concrete patio at the pool,
25 existing right now.
26

27 MR. LEVITON: We're not getting sir, right up by your mouth
28 please.
29

30 MR. MANTAGAS: Put the microphone right to your mouth.
31

32 MR. POSPELOV: On the left side is an existing concrete
33 patio. On the right side, that's proposed brick patio. In between it's
34 going to be a channel that's going to catch the water coming, running
35 down the patio. This is an additional drainage pipe from my neighbor's
36 side. So, it's going to take the water collection from here, run into
37 the drain. This water is going to run down the patio, come down the
38 drain, and it's on survey. That's where that channel is going to be
39 and it's going to pick up existing pipe from here going all the way
40 down. So, all this water from me, my neighbor is going to come into
41 this channel, run down along the channel, and going outside on the
42 backyard there.
43

44 MS. LEVENSON: I'm just going to sit down so I can ---.
45

46 MR. LEVITON: Okay, so for the record Ms. Levenson had
47 questions about the runoff and Mr. Pospelov clarified by using the
48 survey and exhibit 2A to address her concerns.

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MS. LEVENSON: Yes. My follow up question though to that is so I completely understand how the water's going to be pitched. That catch basin, is that going to be just an empty space then waiting for the water to come in or is that going to be covered?

MR. POSPELOV: It's kind of like a grate on top. It comes with the cover, yeah.

MS. LEVENSON: There's going to be a grate?

MR. POSPELOV: Yes absolutely.

MS. LEVENSON: Oh okay. I was confused by this drawing if it was just going to be an empty hole between the pavers.

MR. POSPELOV: No, no it's going to be a grate all the way along the pavers.

MS. LEVENSON: Okay.

MR. POSPELOV: Yes, it's going to be covered. Nothing is going to fall. It's just going to catch the water.

MS. LEVENSON: Okay. I imagine that being a tripping hazard until you explain that there is a grate.

MR. POSPELOV: Yeah, I mean it's a standard building-proof material so saying like at Home Depot you can see those are like five, six feet long, four inches wide. So, what I want to put in between the patio is four inches because it's going to catch the water. It's going to get the grates. It's going to be covered.

MR. LEVITON: Mr. Pospelov, are you finished? I'm sorry.

MS. LEVENSON: No, I think all of this adding up to this plan for your drainage. I think I'm echoing Josh's thoughts here that having an engineer, an expert providing a little more.

MR. LEVITON: Assurances.

MR. POCHOPIN: Detail.

MS. LEVENSON: Detail or a report or a study, a water study that explains how this is going to work and that this would in fact work would be helpful for me to have read here. I'm not an engineer. I'm not in pool construction, but looking at this and your plan is very detailed and obviously, clearly a lot of thought has gone into

1 this plan, but as a homeowner myself I'm starting to think well what
2 other options were available other than this that maybe you tried or
3 could've tried before this system's put in place. So that's my
4 thoughts at this time.

5
6 MR. LEVITON: So, we're going to move onto another issue,
7 but before we go ahead, I just want to point out to you. You're a
8 bright man. You know that there are five of us. You need three
9 affirmative votes, three yeases, and when we come to the end of the
10 hearing and when we take a vote on your four different issues, this
11 one particular one with the lot line could derail your whole
12 application. So, between now and the time we take a vote I want you to
13 think about that and maybe make an alternative proposal that doesn't
14 include an encroachment into the setback at a zero foot point. Let's
15 move on to the shed.

16
17 MR. POSPELOV: Can I just withdraw all this and we
18 reschedule? I'm going to get a professional engineer and it seems to
19 be we're having a problem to understand each other, what intent is.
20

21 MR. LEVITON: I don't think. I'm going to allow you to do
22 that of course, but I don't think we have a problem understanding each
23 other. We understand you. We have a need to protect your neighbors and
24 the community. On your testimony alone, it is very difficult for this
25 board to grant you the permission to make changes that could adversely
26 affect the neighborhood and your neighbors specifically.

27
28 MR. BOCCANFUSO: Mr. Chairman, as you alluded to Mr.
29 Pospelov is obviously a smart man. You don't get to be an engineer by
30 not being smart. So, I think he's picking up what you're putting down.
31

32 MR. LEVITON: Yeah.

33
34 MR. BOCCANFUSO: And I want to commend him for recognizing
35 that and offering to perhaps consult with somebody and come back, but
36 there are other issues and other relief that's needed here. So, I
37 think we should give him the courtesy and the board the courtesy as
38 well of going through the whole proposal. So, if there are other
39 questions or issues to be vetted out, he can address them all if and
40 when he comes back.

41
42 MR. LEVITON: Absolutely.

43
44 MR. BOCCANFUSO: Instead of coming back and saying oh you
45 guys had a question about the shed. I wish I had known. I could've
46 been prepared to talk about that when I came back. So, let's continue
47 and then if we get to the end of it and Mr. Pospelov feels like his
48 best course of action is to carry this to another night when he can

1 perhaps consult with somebody that might be able to better allay the
2 concerns that you as board members have and address the questions that
3 you have, great. But let's make sure that we give him all the
4 direction and all the questions that we might have so he can be
5 prepared.

6
7 MR. LEVITON: That's very nice of you Mr. Boccanfuso. Let's
8 go onto the shed. Tell us about the shed.

9
10 MR. POSPELOV: Can I, just one more comment about the pool.

11
12 MR. LEVITON: Yeah, absolutely.

13
14 MR. POSPELOV: So, this pool was being fixed twice by the
15 licensed pool companies and none of it fixed it. So that's the only
16 option I have. That's why I'm trying to get the rainwater and this
17 stormwater out of the way.

18
19 MR. LEVITON: We understand.

20
21 MR. POSPELOV: I did take some whatever I could. I did take
22 a survey. I talked to two different contractors who already worked on
23 this pool and exactly the same thing repeats over six, seven years
24 period.

25
26 MR. LEVITON: We understand. From our perspective, in five
27 years the new homeowner after you sell the property perhaps will be
28 sitting there telling us this pool's been fixed three times and
29 nothing has fixed it. We don't know without that professional engineer
30 to tell us this is going to do the job. We don't know. Okay, moving on
31 to the shed.

32
33 MR. POSPELOV: So, the shed is --- propose it's going to be
34 about twenty feet from the back side, but I'm looking for the relief
35 from both sides. I guess I'm looking for the relief of one foot from
36 my neighbor's side and five feet from this side. That's other neighbor
37 on the left side. There's no practical, there's no other way where you
38 can put the shed. Unless you put it right in the middle and then I
39 don't even have any backyard at all. My kids play soccer, and there's
40 no room even to play for kids.

41
42 MR. LEIVTON: Okay so unfortunately my computer has passed
43 away and I don't know what the encroachment is. How many feet are you
44 proposing? Fifteen feet is required, and how many feet does the shed
45 encroach into the side setback?

46 MR. POSPELOV: One foot from one end, five feet from the
47 other.

48

1 MR. LEVITON: Okay, so I can tell you that the Municipal
2 Land Use Law of New Jersey allows for a zoning board to grant you
3 relief when the irregular shape of the property that you've already
4 testified to renders it inutile. So, I'm going to be inclined to
5 support that placement of your shed. I don't know how the rest of the
6 board feels, but let's take a look. Do you have any issues, board?
7

8 MR. POCHOPIN: There's a neighbor on one side to the back of
9 the shed there? Where that shed is going to be. Only on one side?
10

11 MR. POSPELOV: Yes, one neighbor on this side.
12

13 MR. POCHOPIN: On that side.
14

15 MR. POSPELOV: But all here it's kind of wooded area.
16 There's nothing there. No fences, anything.
17

18 MR. POCHOPIN: Okay.
19

20 MR. POSPELOV: This is not a neighbor. It's far away, but
21 the fence it just goes right here. This is all wooded area.
22

23 MR. POCHOPIN: Very good, thank you.
24

25 MR. POSPELOV: I think I have a picture.
26

27 MR. POCHOPIN: That's okay. That's all I wanted to know.
28

29 MR. BOCCANFUSO: Mr. Pospelov, I have one question with
30 regard to the shed. So, the sketch that you provided and the
31 application that you submitted, this is in the application documents,
32 yup, indicates that it's ten feet by fourteen feet with the door and
33 some windows on the fourteen foot side, and that fourteen foot side
34 will be basically facing your pool and your house.
35

36 MR. POSPELOV: Correct.
37

38 MR. BOCCANFUSO: With the ten foot side parallel to that
39 side property line. So, along the ten foot side will the roof eaves
40 extend any further beyond that dimension? If so, they would be closer
41 to the property line than one foot and although setbacks from the
42 zoning standpoint are measured from the facade of the structure not
43 from the roof overhang, I just want to be sure that we don't have a
44 situation where the roof is potentially overhanging your neighbor's
45 fence.
46

47 MR. POSPELOV: The roof is not overhanging on the right hand
48 side where I have one foot. So, you're probably correct.

1
2 MR. BOCCANFUSO: The overhangs are on the fourteen foot
3 side.

4
5 MR. POSPELOV: It overhangs on twenty feet in the back, but
6 the little corner of the left side of its maybe going to fall maybe
7 we're talking about instead of five feet maybe it's going to be four
8 foot six inches.

9
10 MR. BOCCANFUSO: Okay.

11
12 MR. POSPELOV: It's just a little tiny corner of that
13 because the property is shaped like this.

14
15 MR. BOCCANFUSO: So, the entirety of that ten foot side
16 that's proposed to be one foot from that property line.

17
18 MR. POSPELOV: It's pretty much.

19
20 MR. BOCCANFUSO: The roof and everything will be one foot.

21
22 MR. POSPELOV: It's going to be flat, yes.

23
24 MR. BOCCANFUSO: It's going to be flat, okay. Alright so I
25 mean I think the board should note that the roof is pitched front and
26 rear not towards that one foot side setback. Is there a reason that
27 you went one and five instead of let's say two and four? I know it's
28 not exact geometry because of the way it's laid out. I recognize you
29 probably want to be able to get a lawn mower back there so you can cut
30 behind it.

31
32 MR. POSPELOV: Yeah, I want to get some access from the left
33 hand side in the back.

34
35 MR. BOCCANFUSO: Maybe you store it, use storage back there
36 or something.

37
38 MR. POSPELOV: Not the storage but.

39
40 MR. BOCCANFUSO: But my only concern is that with that one
41 foot it's going to be really tough to get on the side there if you
42 need to weed whack, do any maintenance, or anything like that.

43
44 MR. POSPELOV: I was going to put fabric on there.

45
46 MR. BOCCANFUSO: Okay. The engineering issues are addressed.
47 If the board's comfortable with it, I don't take any exception. I
48 think there certainly is a hardship there.

1
2 MR. LEVITON: Any other concerns?

3
4 MR. MANTAGAS: That was my thought, just maintenance around
5 that side where you're not going to be able to access.

6
7 MR. POSPELOV: I'm going to get the access from the front
8 and also, I have a pass around so I can access from the back and from
9 the left, from the right and left, from back and front.

10
11 MR. MANTAGAS: So, you don't have any room to move it just a
12 drop away? So, you could get back there. That's just for your ease and
13 maintenance and if you have to get something back there, you're going
14 to have to take the panel of the fence off and move the shed. That's
15 what you have to think about, but there's no forgiving coming a little
16 bit further into the five foot side?

17
18 MR. POSPELOV: I can probably switch it over to right side
19 make instead of five feet, I can make like four foot six instead of
20 one foot.

21
22 MR. MANTAGAS: That would probably be more beneficial.

23
24 MR. POSPELOV: What my dilemma was I was going to make it a
25 little bit wider on one hand so I can have free access for the lawn
26 mower in the back.

27
28 MR. MANTAGAS: Right, right.

29
30 MR. POSPELOV: You know what I mean?

31
32 MR. MANTAGAS: Right, okay.

33
34 MR. POSPELOV: At the same time, I understand what your
35 point, but at same time I want to keep access on back and go around.

36
37 MR. MANTAGAS: Right, the more access on that side.

38
39 MR. POSPELOV: So, I can mow the grass in back.

40
41 MR. MANTAGAS: Okay thank you.

42
43 MR. LEVITON: Anyone else?

44
45 MR. SHALIKAR: Yeah, if I could just. It might be a silly
46 question. You have the fourteen foot setback obviously facing the
47 property or the house. Is there any thought of putting the door on the
48 ten foot side and giving yourself a whole lot more room?

1
2 MR. POSPELOV: No because the property pitched like this. If
3 I put door on that left, the door's going to be bumped right into the
4 fence. I'm not going to have an access. The whole point of it, I want
5 to keep lawn mower in there, the tractor. I want to be able to drive
6 in because if I do it from the left hand side there's no room to open
7 the door. I can probably walk in myself, but to get the lawn mower in
8 there is probably impossible.

9
10 MR. SHALIKAR: Okay, thank you.

11
12 MR. LEVITON: Tell us about the addition and the crawl space
13 underneath it.

14
15 MR. POSPELOV: Okay. As I told you before, the roof, the
16 existing patio is kind of out of commission already. So, I need to get
17 it repaired anyway, but at the same time I want to extend it and make
18 it even with the house. So, it's going to look better and it's easier
19 and I want to put the roof that will protect me from falling slab I
20 think it's going to be a good improvement anyway for the property as
21 well. Not only, but the main purpose of the roof is just for the
22 safety because if the ice falls. My roof is pitched almost forty
23 degrees. If the slab falls, it falls the whole house just jumps like
24 that. That's the reason why I want to put the roof on.

25
26 MR. LEVITON: What about under the deck?

27
28 MR. POSPELOV: Say that again.

29
30 MR. LEVITON: Under the deck.

31
32 MR. POSPELOV: Under the deck is just going to be crawl
33 space. I want to put the access door by code, it has to be. I want to
34 put an access door, but I don't want to have a door sticking. I could
35 probably put it on front of it, but it's really --- My yard is almost
36 nothing. It's all pitched and pitched like this, pitched like that,
37 angled like this. So, I want to put it on the back and that's probably
38 the entrance and I saw Brian's comments. The entrance probably needs
39 your approval as well. So, I searched a couple of options. If I put
40 this type of an access door, I did not submit it, but if I can pass it
41 over. So, it's probably the smallest I found is fifteen inches off the
42 property. So, I'm probably going to be forty inches wide by fifteen
43 inches out of the property. It's going to make me ten feet on one
44 corner, ten feet to my neighbor's property.

45
46 MR. BOCCANFUSO: Is that from the nearest point of the
47 stairs?

48

1 MR. POSPELOV: Yes.

2
3 MR. BOCCANFUSO: Say the top of the stairs going down?

4
5 MR. POSPELOV: Yeah. If you're looking at the angle, it's
6 the closest to the angle.

7
8 MR. BOCCANFUSO: Okay and is there, obviously you're going
9 to need some type of retaining wall as you go down the stairs. Do
10 those extend above grade at all in any meaningful way? A couple of
11 inches, couple of feet.

12
13 MR. POSPELOV: I know you're familiar. Can I pass these
14 along?

15
16 MR. BOCCANFUSO: I think that's a good idea because is that
17 a Bilco door?

18
19 MR. MANTAGAS: Yeah it's a Bilco.

20
21 MR. POSPELOV: This will represent what is likely.

22
23 MR. BOCCANFUSO: Do you want to give it to Janice so she can
24 mark it?

25
26 MR. POSPELOV: It's going to cover from the water getting
27 underneath the house and it's going to take the water out.

28
29 MR. POCHOPIN: Steve, ---

30
31 MR. LEVITON: Go ahead Dan.

32
33 MR. POCHOPIN: Sir, so I see that with the sunroom, the deck
34 proposal and the roof it's just going to be access and entrance from
35 just the way it is now? From stairs outside? No door being put into
36 the house?

37
38 MR. POSPELOV: So, the idea is I was going to do a three
39 season room. So, I have two sliding doors, existing two sliding doors
40 and if you look, I should probably show you this.

41
42 MR. POCHOPIN: Yeah, I see them.

43
44
45 MR. POSPELOV: I don't have the numbers, but section one.
46 These are two existing doors I have now on the outside of the house.

47
48 MR. POCHOPIN: Oh okay.

1
2 MR. POSPELOV: So that's going to be an access and one side
3 is going to be closed from two sides. And that side is going to be
4 open just the deck and fence around.
5
6 MR. POCHOPIN: Is that this picture you're referring to?
7 This is coming up on the deck.
8
9 MR. POSPELOV: Can I come up?
10
11 MR. POCHOPIN: You can just show to me. You can show it to
12 me from there.
13
14 MR. POSPELOV: So, this.
15
16 MR. LEVITON: Mr. Pospelov, the microphone.
17
18 MR. MANTAGAS: You got to go find the mic.
19
20 MR. POSPELOV: Section one, these two doors, existing doors,
21 on outside of my house going onto the patio.
22
23 MR. POCHOPIN: Gotcha.
24
25 MR. POSPELOV: Did you find it?
26
27 MR. POCHOPIN: Yes, I'm looking at it. You're going to keep
28 those? The steps are on one side here right next to those doors.
29
30 MR. POSPELOV: Yes.
31
32 MR. POCHOPIN: This way it is in the picture from the old
33 picture and then coming up then you're going to have the two doors
34 there.
35
36 MR. POSPELOV: Yes.
37
38 MR. POCHOPIN: Okay.
39
40 MR. SHALIKAR: They're that way.
41
42 MS. MOENCH: Where - - - A1 and A2?
43
44 MS. LEVENSON: Oh, they're right.
45
46 MR. MANTAGAS: They're down here.
47
48 MS. MOENCH: Can you pass them down? Thank you.

1
2 MR. LEVITON: Is there anything else you want to tell us?
3
4 MR. POSPELOV: You got the, I'm sorry.
5
6 MR. LEVITON: It's okay. Take your time.
7
8 MR. MANTAGAS: I have a couple of questions Mr. Chairman.
9
10 MR. LEVITON: While he's looking, go ahead.
11
12 MR. MANTAGAS: Okay. Underneath, in that crawl space you're
13 going to put storage under there? What is the whole idea? Just to get
14 access under there?
15
16 MR. POSPELOV: It's just to have an access because it's
17 required by the code. There's no storage.
18
19 MR. MANTAGAS: Right.
20
21 MR. POSPELOV: Just under four feet even or it depends on
22 what the slab is. If I did four inch slab it's about between forty-
23 eight and fifty inches. I don't think it's going to be even forty-
24 eight inches, just about forty-eight. There's no enough space even for
25 the storage.
26
27 MR. MANTAGAS: Right and also the roof that you proposed to
28 install, what is it made out of? What is it?
29
30 MR. POSPELOV: I'm planning to regular shingles.
31
32 MR. MANTAGAS: Asphalt shingles?
33
34 MR. POSPELOV: Yeah.
35
36 MR. MANTAGAS: Okay. No more questions, thank you.
37
38 MR. LEVITON: Anyone else?
39
40 MS. LEVENSON: I have another question.
41
42 MR. LEVITON: Okay.
43
44 MS. LEVENSON: In your letter that you passed around, you
45 noted that there's a gas line there. Are you keeping that?
46

1 MR. POSPELOV: It's an existing gas line on the open side of
2 the back, of the patio. If you're looking at the, one second, drawing.
3 If you're looking at ---
4

5 MS. LEVENSON: I only ask.
6

7 MR. POSPELOV: Let's say four dash one. It's pretty much
8 existing gas line's right here. So that's probably, I have a grill
9 there now. I'd love to keep that grill in place. That's a rolling
10 grill. Nothing solid or nothing major or nothing permanent.
11

12 MS. LEVENSON: My only question and this might be for Brian.
13 Is there any codes regarding having grills underneath an overhang?
14

15 MR. POCHOPIN: I think it's ten feet. That's something that
16 Brian probably knows about.
17

18 MR. BOCCANFUSO: No, I don't know that. That's not my area
19 of expertise.
20

21 MS. LEVENSON: Okay.
22

23 MR. BOCCANFUSO: It's also something that's not within our
24 jurisdiction. So, if we approve it and it doesn't comply with the
25 building codes you won't be able to do it.
26

27 MS. LEVENSON: Okay.
28

29 MR. BOCCANFUSO: And regardless of what we say on it, he
30 would need to comply with the construction codes.
31

32 MS. LEVENSON: Okay. Thank you, that was my only question.
33

34 MR. BOCCANFUSO: Yeah, there's no getting around it.
35

36 MR. LEVITON: Mr. Pospelov, I have no problem with your
37 deck. You need fifteen feet. You're proposing thirteen. I'm going to
38 regard that as de minimis. I have no problem with that whatsoever.
39 Your property is irregularly-shaped and the law doesn't allow for such
40 irregularities. Our ordinance can be overridden by this board due to
41 the irregular shape of your property and I have no problem with your
42 shed or with your deck. I do have a problem with the pavers going
43 right up to the fence, and if you're going to get an engineer to
44 support your theory that's all well and good, but I'm still going to
45 have a problem with a zero lot line. I can't speak for other members
46 of this board, but you're never going to win me over with a zero lot
47 line. So you may want to and you may right here now decide you don't
48 need to come back another time. You're going to modify or amend your

1 application in the moment and go home with the approvals that you need
2 for everything. Well, you can come back, but you're still going to
3 have problems with a zero lot line. I'm speaking personally and from
4 experience. So, I'm going to throw the ball to you and ask what is it
5 that you want to do.

6
7 MR. POSPELOV: Can I ask a question?

8
9 MR. LEVITON: Of course.

10
11 MR. POSPELOV: Do I need the variance to replace existing
12 retaining wall?

13
14 MR. LEVITON: You mean the railroad ties?

15
16 MR. POSPELOV: Yeah.

17
18 MR. LEVITON: No.

19
20 MR. POSPELOV: So, if I do.

21
22 MR. LEVITON: Wait.

23
24 MR. BOCCANFUSO: Yeah, as long as it's under three feet
25 which it does appear to be well under three feet, it does not require
26 a zoning permit and therefore he could do it just whenever he wants
27 without permits.

28
29 MR. LEVITON: Kudos to Janice.

30
31 MR. POSPELOV: So, then the next question is if I do replace
32 the retaining wall so my pavers break is going to be one foot from my
33 neighbor's property because we have to allow this space for the
34 retaining wall.

35
36 MR. LEVITON: One foot, half a foot, either way when you
37 talk about a one foot abutment to a property line or half a foot, it's
38 just too close.

39
40 MR. BOCCANFUSO: And Mr. Chairman.

41
42 MR. LEVITON: Yeah.

43
44 MR. BOCCANFUSO: In reviewing zoning permit applications, if
45 you have a defined edge of a structure such as a retaining wall at the
46 outer edge of the patio, we measure that as part of the patio. So, the
47 setback would be from the facade of the wall. He could replace the
48 wall itself, but if he put the patio up to it, we would measure from

1 wherever that face of the wall is which it sounds like is six inches,
2 less than a foot in that ballpark, up to the property line. That's
3 where the measurement would start.

4
5 MR. LEVITON: I look to you for the direction that this
6 hearing is going to take now.

7
8 MR. POSPELOV: My biggest problem is I need to get that
9 resolved. If anybody can advise, somebody who can help me to resolve
10 the pool issue, I will take it.

11
12 MR. LEVITON: We can't. We don't know. We don't have the
13 expertise.

14
15 MR. POSPELOV: That's the point. I really struggle to get
16 these permits. I want to get going now, but at the same time the pool
17 issues it's causing the problem and danger to my pool, to my
18 neighbor's.

19
20 MR. LEVITON: I'm sympathetic, really, I am. It's not
21 applicable here tonight. What is applicable is the distance your
22 pavers are from the fence. That's the issue. That's what we deal with
23 here.

24
25 MR. MANTAGAS: If you're going to put a drainage pipe where
26 you say you're going to put it, why do you have to have pavers up to
27 it? Why can't you just have that drainage pipe right there and move
28 the pavers back? You still have that pipe to get rid of the water.
29 It's not going to pool if you have a pipe.

30
31 MR. POSPELOV: I need to get the water into the pipe.

32
33 MR. MANTAGAS: Right, but I'm saying.

34
35 MR. POSPELOV: If I don't have the pavers.

36
37 MR. MANTAGAS: It's going to go to the lowest point. It's
38 going to follow if it pools it's going to get it to the pipe without
39 the pavers. You don't need the pavers.

40
41 MR. POSPELOV: I didn't get what you're saying.

42
43 MR. SHALIKAR: I think what he's trying to do. I understand
44 what you're trying to do. You're trying to create a way for the water
45 to run into your trench.

46
47 MR. POSPELOV: Correct, yes.

48

1 MR. SHALKAR: I understand that. What I don't understand
2 personally is the reason why I asked the question how deep that trench
3 is. Right, because you don't know the impact of what that surface
4 waters, that underground water is impacting the wall of your pool. You
5 don't know that. So, you don't know if eight inches is enough, ten
6 inches is enough. Two feet is required. You don't know that
7 information.

8
9 MR. POSPELOV: I didn't get what you are asking.

10
11 MR. SHALIKAR: So, the depth of your drain currently is
12 eight inches, you said.

13
14 MR. POSPELOV: That drain that goes along the.

15
16 MR. SHALIKAR: Yeah, next to your pool.

17
18 MR. POSPELOV: And goes outside into backyard, yes.

19
20 MR. SHALIKAR: You have a pool wall. You have a drain.

21
22 MR. POSPELOV: Yes.

23
24 MR. SHALIKAR: That's here. I guess the question from an
25 engineering perspective, I would like to know from a professional is
26 how deep does that drain actually have to be to be effective. So in my
27 perspective, A. I'm not okay with it going up the fence line, but B.
28 more from an engineering or practicality perspective I would love to
29 know how deep that drain actually has to be in order for it to be
30 effective so the water does go into the drain and go off and that
31 there's no more water pushing. If water's going under the existing
32 drain today, it's useless. It doesn't serve a purpose.

33
34 MR. POSPELOV: So, the whole purpose is to catch the water
35 on top and get it.

36
37 MR. SHALIKAR: I understand that.

38
39 MR. POSPELOV: There's no water underneath the drain. Even
40 if your drain is six inches below, if the surface water gets into the
41 drain and go out so there's no water coming in underneath the pool.
42 That's the whole idea of catching the water up there rather than.

43
44 MR. SHALIKAR: I understand. I understand what you're
45 saying. I truly do understand what you're saying. I feel like a
46 professional opinion would help you in two ways. Number one to confirm
47 what you're saying and number two to possibly give you creative
48 alternatives to not have twelve feet of pavers going to the fence line

1 where I'm telling you the board is unfavorable for it to go to the
2 fence line.

3
4 MR. LEVITON: Yeah, if you have a professional come in or
5 one helps you on the outside, you're going to need to have testimony
6 that says that your plan is warranted, that it will be successful, and
7 that it must go to the property line. If you can't get someone to
8 testify to that, you're going to have a problem. I will be objective.
9 I will listen and if I'm told by a professional that it has to be
10 those twelve feet, that it has to go to the zero lot line I may be
11 amenable to grant you the relief that you seek, but it's very unlikely
12 that that's going to happen. I've never seen it happen. You may decide
13 now, but let's bring this to an end. You may decide to amend your
14 application, ask for a five foot encroachment, and then we can be done
15 with this matter and you can go home and begin your work. Or you can,
16 at your expense, get help from a professional, but he better well come
17 back and testify to the fact that that project absolutely must go to
18 the property line or that it won't work or you'll never get my
19 support.

20
21 MR. SHALIKAR: Or we vote on it as is now.

22
23 MR. LEVITON: That's a third option. We'll just take your
24 application, someone will make a motion, and we'll vote on it as it
25 is. So you have three options. One, come back, get your ducks in
26 order. Two, make an alternative proposal or three, we'll take a vote
27 on the application as it currently is before us. But you need to make
28 that decision.

29
30 MR. POSPELOV: Let's say if I go with your suggestion, if I
31 don't go to the property line. What is the minimum I could get?

32
33 MR. LEVITON: This is not a negotiation. I've already
34 suggested I would be comfortable with five feet. I've approved
35 applications in the past for five feet. The board collectively has
36 done that. We almost always reject zero lot line proposals.

37
38 MR. POSPELOV: I'll come back with engineer.

39
40 MR. LEVITON: Okay, remember it's still going to be a hard
41 sell. The encroachment onto the lot line is the big issue, not the
42 efficacy of the proposal, but we respect your decision. We wish you
43 well and we thank you for your time. So, we're going to have to come
44 up with a date for this hearing to be carried.

45
46 MR. MARMERO: Well part of that I think will be a function
47 of when that material is submitted. I would imagine the applicant will

1 be subject to a professional submits something to you guys, and then
2 schedule that meeting.

3
4 MR. LEVITON: So, we're going to give him a time frame.

5
6 MR. BOCCANFUSO: Janice and I, we're having a quick sidebar.
7 I mean we are looking at the second, well actually the only meeting in
8 April which is at the end of April. So that would give Mr. Pospelov
9 nearly two months to get his ducks in a row. We do currently have a
10 commercial application tentatively scheduled for that meeting. So,
11 this matter would go first. Hopefully, it can be resolved quickly for
12 better or for worse, and that obviously assumes that Mr. Pospelov's
13 can get everything together by then. Of course, if he can't, he can
14 simply let Janice know and we can carry it again on the record to a
15 date beyond that.

16
17 MS. MOENCH: The next date would be May.

18
19 MR. BOCCANFUSO: Well, I mean listen a lot can happen
20 between now and it may be May, it may be June.

21
22 MS. MOENCH: --- right now would be May 25th.

23
24 MR. BOCCANFUSO: Right.

25
26 MR. LEVITON: How does that sound to you? The end of April?

27
28 MS. MOENCH: You're not bifurcating.

29
30 MR. POSPELOV: It shouldn't take me long. So, I'm trying to
31 get it addressed so for me I don't think it's going to take a long
32 time. Whether I can or can't, I should get an answer quick. So, if
33 there's nothing sooner than April, it is what it is.

34
35 MR. BOCCANFUSO: No, we only have one more meeting in March
36 and that's completely full and then the next meeting is that second
37 April meeting because of the holiday we don't have an early April
38 meeting.

39
40 MR. LEVITON: This meeting and our time tonight ran an hour
41 and fifteen minutes. I'm hoping that it'll be expedited when you come
42 back. Let's address the issue right away. We're going to tackle it and
43 dive right in. Okay?

44
45 MR. POSPELOV: I'm going to jump on it as soon as tomorrow.
46 I've a couple thoughts who can I approach.

47
48 MR. LEVITON: That's fine.

1
2 MR. BOCCANFUSO: And Mr. Chairman.

3
4 MR. LEVITON: Yeah.

5
6 MR. BOCCAFUSO: I did misspeak a little bit. I want to
7 clarify. Our meeting is not the end of April. It's the middle of
8 April. It's actually the 16th. I was mixing up our planning board and
9 zoning board dates.

10
11 MR. LEVITON: So that would be the date.

12
13 MR. BOCCANFUSO: So, it's not close to two months. It's a
14 month and change. It's April 16th would be the next meeting.

15
16 MR. LEVITON: He's indicated that he has people that he can
17 tap for support.

18
19 MR. BOCCANFUSO: Yes, I did hear that.

20
21 MR. LEVITON: And that it can happen rather quickly. And
22 with that, we thank you. We wish you well and we'll see you soon.

23
24 MR. POSPELOV: May I ask a question?

25
26 MR. LEVITON: Yes, of course.

27
28 MR. POSPELOV: If I decided to withdraw the patio, then I'm
29 still going to come to the meeting for April 16th?

30
31 MR. LEVITON: You can do that. You can withdraw the patio
32 and we'll take the rest of your application and call a vote on that.

33
34 MR. BOCCANFUSO: Here's where I would caution you Mr.
35 Pospelov. If that's what you're, if you're not sure about the patio
36 and you withdraw it now and let's say the board approves the variances
37 for the shed and the deck, then you decide you want to do the patio.
38 You need to re-submit application fees. You need to basically start
39 over from scratch. It would be kind of a little bit inefficient. If
40 you decide to carry to April 16th and you speak with some folks and
41 you say you know what it's just not going to work, you can come back
42 on the 16th and say look, the patio is just not going to work. I want
43 to withdraw it. I think we're talking a two to three minute meeting.
44 You come in. The board votes and from what I'm hearing you would
45 probably be quickly approved. So, I personally if you want to
46 investigate a little bit, I don't really see the harm in coming back,
47 carrying the meeting tonight, and coming back on the 16th. It sounds

1 like a long way away, but it'll be here before you know it. It's five
2 weeks.

3
4 MR. POSPELOV: You answered my question. So, I don't want to
5 drop it now. I want to talk to the engineer, and then he's going to
6 tell me he wants to help me, then I will restructure.

7
8 MR. BOCCANFUSO: Right.

9
10 MR. MARMERO: Yeah, and just come back for the other relief
11 or tell us ---

12
13 MR. BOCCANFUSO: Right so you can come back on the 16th. You
14 can make your case for the patio with your engineer, with any
15 supporting documents that he might be able to provide you, or say you
16 know what I hear what you guys said. I talked to an engineer. He
17 agrees with you. Forget the patio. Let's go with these other things,
18 and then I think it's really quick at that point.

19
20 MR. POSPELOV: Okay.

21
22 MR. LEVITON: At this time, I'm going to go out to the
23 public and ask if there's anyone who wants to address the board, on
24 non-agenda items. Now would be the time. Seeing none, I'll close
25 public. Mr. Boccanfuso, anything further from you sir?

26
27 MR. BOCCANFUSO: The only thing I have is we were supposed
28 to have as I think everybody knows another application on tonight.
29 Because we don't have a full board this evening and fortunately, we
30 knew in advance we weren't going to have seven voting members. We were
31 able to tell the applicant, who needs a D variance, that if they came,
32 they would be rolling the dice because they need five affirmative
33 votes, whether there's five or seven voting members. So, with that
34 said, it's just really important that everybody tries to be here at
35 the next meeting. I mean it's important that you guys try to be here
36 for every meeting and I get we all have other obligations. Obviously,
37 family and health and those types of things come first, but it's
38 important. These applicants have a lot at stake and we really got to
39 try to get them in and hear the applications. We got a queue of
40 applications lined up and we've had to carry this one tonight. So it
41 would be pretty embarrassing if we had to do it again. Make every
42 effort to be here is the long and short of it.

43
44 MR. LEVITON: So, I appreciate that, but I would like to
45 take this opportunity to just talk to you about that D variance
46 because typically when we see D variances, they're from commercial
47 applications and they're use variances. So, a use variance is a heavy
48 lift. They need five affirmative votes. For C variances, the bulk

1 variances, they just need a plurality. Four of the seven members is
2 enough to approve a request for a variance relief, but the D variance
3 that this applicant was requesting wasn't from a commercial
4 application. It was a resident and it was an F.A.R. issue. It was a
5 floor to area ratio issue and F.A.R. was on tonight's memorandum.
6 Brian referenced it in the addition that this man proposed. Because,
7 as Brian pointed out and I'm confident that you all read that his
8 proposed addition will brings him right up to the limit, and then
9 anything further than that would cross over and violate the ordinance
10 that talks about F.A.R., and I want to talk about it for two more
11 minutes to explain to you that F.A.R., floor area ratio, is a massing
12 issue. So, you take a small piece of property, you can't build a
13 monstrosity on top of it. It's too much mass. The property can't
14 sustain it. That's why it's a D variance. So, in the real world, the
15 applicant that carried to the next meeting likely would've gotten
16 everyone's affirmative vote and it would've been two seconds like any
17 other residential application, but because it was the D variance it's
18 a heavier lift and to be fair to them, we alerted them to the bare
19 quorum that we were able to muster.

20

21 MS. MOENCH: --- comes back --- .

22

23 MR. LEVITON: Yes.

24

25 MR. POCHOPIN: What was that? I'm sorry.

26

27 MS. MOENCH: So, when he comes back.

28

29 MR. LEVITON: When this man, when Mr. Pospelov comes back,
30 members who weren't in attendance tonight.

31

32 MR. MANTAGAS: They're going to listen to the tape.

33

34 MR. LEVITON: They're going to listen to the tape, and then
35 they're going to be able to.

36

37 MR. BOCCANFUSO: Be eligible to vote.

38

39 MR. LEVITON: Yeah.

40

41 MR. POCHOPIN: Thank you I didn't know that.

42

43 MR. LEVITON: Albert, any thoughts?

44

45 MR. MARMERO: No just something that Janice said if they
46 listen to recordings - - - signed certification verifying as they can
47 certainly vote on that application. What Brian said regarding the
48 other one which requires five affirmatives. So anytime that there's

1 not a full quorum then you have the ability to carry that. So that's
2 certainly something ---

3
4 MR. LEVITON: And will someone move to adjourn?

5
6 MR. SHALIKAR: I make a motion.

7
8 MR. LEVITON: And we're in adjournment. Janice anything from
9 you?

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